

City of York Council
Equalities Impact Assessment

Who is submitting the proposal?

Directorate:		Environment, Transport and Planning	
Service Area:		Public Protection	
Name of the proposal :		Consultation on a York-wide Smoke Control Area (SCA) Order	
Lead officer:		Mike Southcombe	
Date assessment completed:		31.01.2025	
Names of those who contributed to the assessment :			
Name	Job title	Organisation	Area of expertise
Andrew Gillah	Principal Environmental Protection Officer	CYC	Environmental Protection / Air Quality
Mike Southcombe	Environmental Protection Manager	CYC	Environmental Protection / Air Quality

Step 1 – Aims and intended outcomes

1.1	What is the purpose of the proposal? Please explain your proposal in Plain English avoiding acronyms and jargon.
	<p>The Executive Member is asked to approve a consultation on the revocation of City of York Council's (CYC's) existing smoke control areas and a new order to designate the whole of CYC's administrative area as a smoke control area (SCA). This is a measure outlined in CYC's Fourth Air Quality Action Plan (AQAP4).</p> <p>SCAs are places where people and businesses must not emit substantial amounts of smoke from a chimney attached to a building. In addition, only authorised smokeless fuels can be burnt in an SCA, unless a DEFRA approved 'exempt' appliance is used (in which case, dry wood can be burnt).</p> <p>Proposals will ensure a consistent approach throughout York to dealing with smoke emissions across all current and future residential areas (incorporating up to 9546 future homes not currently included within the existing SCA boundary) and will provide clarity for the public over whether premises are within or outside an SCA. A city-wide smoke control area would act as a deterrent to burning non-authorised fuels (or using non-exempt appliances) which contribute to air pollution and especially fine particulate (PM_{2.5}) concentrations across the city, which impact human health.</p>

1.2	Are there any external considerations? (Legislation/government directive/codes of practice etc.)
	<p>The council has discretion under Section 18(1) of the Clean Air Act 1993 to declare the whole or any part of its area to be a smoke control area, via a smoke control order. A smoke control order may be revoked or varied by a subsequent order as per Section 18(3) of the Clean Air Act 1993.</p> <p>Schedule 1 of the Clean Air Act 1993 outlines the procedure that CYC must follow to make a smoke control order, including publicising its intention to make the order and how objections may be made. Once any objections have been considered, if delegation is approved, the Director of Transport, Environment and Planning will authorise confirmation of the smoke control order, which must come into effect no less than 6 months after it is made.</p> <p>The existing smoke control orders covering areas of York were made on various dates from 1968 to 1993. To revoke a smoke control order that was made on or after 13th November 1980, local authorities must follow the same steps as for making a new order. However, the procedure is different for revoking a smoke control order that was made before 13th November 1980. In this case, Part 3 of Schedule 5 to the Clean Air Act 1993 applies, which requires a revocation order to be confirmed by the Secretary of State.</p> <p>DEFRA have produced best practice guidance for local authorities on declaring, varying, or revoking smoke control orders that would be followed throughout the process.</p>
1.3	Who are the stakeholders and what are their interests?
	<p>Local residents and businesses who burn wood and other solid fuels. The proposed city-wide SCA will not ban domestic solid fuel burning (including wood) but will require all residents/businesses to take responsibility for the fuel they burn so as to minimise smoke and air pollution (outdoor and indoor). Local fuel merchants would also have an interest in the project as delivery of non-authorized fuels in a SCA is an offence. Any smoke control area boundary changes would be communicated to such businesses.</p>

1.4	<p>What results/outcomes do we want to achieve and for whom? This section should explain what outcomes you want to achieve for service users, staff and/or the wider community. Demonstrate how the proposal links to the Council Plan and other corporate strategies and plans.</p>
	<p>The Executive Member is asked to approve a consultation on the revocation of CYC's existing smoke control areas and a new order to designate the whole of CYC's administrative area a smoke control area.</p> <p>Should these proposals be implemented in the future, they will:</p> <ul style="list-style-type: none"> • ensure consistency in CYC's approach to dealing with smoke emissions across all current and future residential areas • ensure clarity for the public in terms of the rules for burning solid fuels (which are currently different in across different areas of York and in some cases even on the same street) • act as a deterrent to burning non-authorised fuels (or using non-exempt appliances) which contribute to air pollution and especially fine particulate (PM_{2.5}) concentrations across the city, which impact human health. • complement other transport related measures being implemented in York to reduce emissions and improve air quality. • Improve public health <p>A review of CYC's smoke control area boundary is a proposal included within CYC's Fourth Air Quality Action Plan (AQAP4). AQAP4 outlines the action CYC will take to further improve air quality in York over the next 5 years, to go beyond health-based Air Quality Objectives in all areas of the city and to work towards meeting stricter World Health Organisation (WHO) Guidelines. AQAP4 is fully aligned to the Council Plan and reflects ambitions contained within our 10-Year Strategies covering climate, health and wellbeing and the economy. Measures within AQAP4 have been considered in terms of affordability to the public and each measure balanced against a potential adverse economic impact.</p>

	<p>AQAP4 supports the aims of the council's Health and Wellbeing Strategy by minimising and reducing public exposure to air pollution and raising public awareness about the impacts of air pollution on health. AQAP4 will also continue to ensure that new developments provide a safe and healthy environment for occupants, support active travel initiatives and help to address health inequalities in the city.</p> <p>AQAP4 additionally embeds the council's commitment to healthy and affordable (energy-efficient) homes and has been developed to complement CYC's Climate Change Strategy and support the guiding principles of our Economic Strategy, which aims to build inclusive, healthy and sustainable communities. AQAP4 provides a framework for air quality improvement activities and emission reduction policies. Many AQAP4 measures directly support CYC's carbon reduction programme and complement measures to reduce pollution from combustion across the city.</p> <p>AQAP4 contains measures relating to the Local Plan that will build upon previous actions delivered as part of earlier AQAPs for the city. These include the continued development of Low Emission Planning Guidance, to formalise the approach for assessing and mitigating the emissions impacts of new development. Ensuring that only the cleanest appliances and fuels can be used on existing and future residential sites will maximise public health outcomes across the city.</p>
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Step 2 – Gathering the information and feedback

2.1	<p>What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights? Please consider a range of sources, including: consultation exercises, surveys, feedback from staff, stakeholders, participants, research reports, the views of equality groups, as well your own experience of working in this area etc.</p>	
Source of data/supporting evidence		Reason for using

<p>Proposed consultation activities for the legal process of smoke control area order revocation / expansion</p>	<p>The report to the Executive Member seeks approval to commence the process of consultation on the proposal to expand the smoke control area order (including revocation of old orders). This is subject to a mandatory period of consultation activities to gather feedback from affected residents / businesses. Proposals will be advertised in the London Gazette, local press, CYC website and social media channels and via hard copies of notices placed around York in line with statutory requirements. All comments and any objections received will be considered as part of the process. Revocation of old smoke control orders (pre 13th November 1980) will also be subject to approval by the Secretary of State, prior to any new order coming into effect.</p>
<p>Consultation activities for AQAP4</p>	<p>Feedback from interested local organisations and bodies (e.g. residents and local businesses) was gathered as part of a widespread consultation on AQAP4 undertaken between 22nd November 2023 and 4th February 2024. The process of reviewing the smoke control area boundary is referenced within this document as a specific measure. The consultation showed that 68% of consultees ‘supported’ or ‘strongly supported’ measures to reduce emissions from non-transport sources, including domestic combustion activities. The consultation approach was discussed with CYC’s Access Officer and consultation materials were circulated directly to members of the York Access Forum and wider disabled community to provide opportunities for feedback on the measures proposed within AQAP4. AQAP4 was approved by CYC’s Executive on 18th July 2024.</p>

CYC Research	Research undertaken has analysed household Energy Performance Certificates (EPCs) for 53,720 households across York. Solid fuel was identified as a source of heating for 8% of these households (4302 locations). Outside the current SCA boundary, 3% of households (1,611 locations) used solid fuels, with 0.2% (98 locations) using a solid fuel as a main source of heating. Of the 98 households outside the SCA that used solid fuels as a main source of heating, it is estimated that around 39 locations are burning wood fuels and therefore <i>may</i> be required to upgrade appliances to comply with smoke control requirements (if stoves cannot burn smokeless fuels or be modified to do so).
CYC's ' Fuel for Thought ' campaign (including survey work and focus group activities)	This campaign reinforced existing CYC strategies aimed at reducing emissions and exposure and complemented and reinforced messaging delivered through the national ' Burn Better, Breathe Better ' campaign. As such, this aligned with the national Clean Air Strategy objective of delivering action to reduce emissions at home. Baseline public awareness of issues relating to the burning of solid fuels in York was established via online pre-campaign survey work and in-person focus groups held across different areas of York. These activities helped to shape the messaging and creative route for CYC's awareness campaign. CYC did notice an increase in contact with the council during the campaign and immediately following the campaign. This included requests for information about smoke control areas and the regulations around sales of solid fuels. However, this also included some negative comments around the cost-of-living crisis and objection to CYC providing advice to residents on how they should heat their homes.
Various academic and government research papers and policy documents	DEFRA's National Air Quality Strategy outlines that air quality interventions should be designed in a way which takes account of the disparities in exposure to and impacts from poor air quality. The strategy

	outlines that local authorities have a duty to publish air quality information regularly and transparently. The government launched the Air Quality Information System review. The remit of the two-year review is to provide a series of actionable, evidence-based improvements which could be made to the government's provision of air quality information.
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Step 3 – Gaps in data and knowledge

3.1	What are the main gaps in information and understanding of the impact of your proposal? Please indicate how any gaps will be dealt with.
Gaps in data or knowledge	Action to deal with this
Proposals <i>may</i> increase the number of smoke complaints received by Public Protection, which would need to be investigated / enforced. This could add to existing workload pressures.	CYC has developed a new enforcement policy in line with recent changes to the Clean Air Act 1993 (made under the Environment Act 2021). These changes have strengthened and streamlined provisions for local authorities to tackle pollution from domestic solid fuel burning. CYC will only take enforcement action when it is proportionate and in the public interest to do so, in accordance with the Council's enforcement policy. There may be reasons why a financial penalty would not be imposed for smoke control contraventions (for example hardship, if proven), and these may include issues relating to inequalities. Such reasons will be assessed on a case-by-case basis in consultation with relevant CYC departments, including Legal Services.
Number of fuel poor households who may be using open fires or burning cheap wood as a secondary source of heat (rather than using electricity, gas or oil). Proposals would mean that people could only purchase clean seasoned 'ready to burn' wood to burn in exempt stoves or use 'smokeless' fuel in open fires. This could be more expensive for people who are reliant upon foraged wood as a source of fuel.	Information on this aspect will be gathered through the consultation. CYC would continue to signpost residents and businesses to energy efficiency upgrade grants and advice services to mitigate any detrimental impacts on fuel poor households.

Step 4 – Analysing the impacts or effects.

4.1	Please consider what the evidence tells you about the likely impact (positive or negative) on people sharing a protected characteristic, i.e. how significant could the impacts be if we did not make any adjustments? Remember the duty is also positive – so please identify where the proposal offers opportunities to promote equality and/or foster good relations.		
Equality Groups and Human Rights.	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
Age	Whilst air pollution can be harmful throughout life and across all age groups, some people are more affected because they are exposed to higher levels of air pollution in their day to day lives, live in polluted areas, or are more susceptible to air pollution related health issues. Young children and older people (65 and older) are considered vulnerable to the impacts of air pollution. (Age impacts may also be a consideration in relation to lack of access to digital technology to obtain air quality information that will help to reduce exposure). Proposals will aim to reduce indoor and outdoor air quality impacts associated with domestic solid fuel burning and thus will have a positive impact on vulnerable age groups.	+	M
Disability	People with respiratory illnesses are more adversely affected by poor air quality.	+	M
Gender	Poor air quality is likely to adversely affect the health of the most vulnerable such pregnant women. Impact on pregnant women (and women of childbearing age) due to the impact of air pollution on premature births, reduced birth weights and reduced lung function in children. The proposals aim to mitigate these effects so will have a positive impact.	+	M

Gender Reassignment	No impacts identified	0	-
Marriage and civil partnership	No impacts identified	0	-
Pregnancy and maternity	Poor air quality is likely to adversely affect the health of the most vulnerable such as pregnant women. Pregnant women are more likely to suffer from pregnancy complications including low birth weights and pre-term birth in areas of high air pollution. The proposals aim to mitigate these effects so will have a positive impact.	+	M
Race	No impacts identified	0	-
Religion and belief	No impacts identified	0	-
Sexual orientation	No impacts identified	0	-
Other Socio-economic groups including :	Could other socio-economic groups be affected e.g. carers, ex-offenders, low incomes?		
Carer	No impacts identified	0	-
Low income groups	Fuel poor households who may be using open fires or burning cheap wood as a secondary source of heat (rather than using electricity, gas or oil) could be affected by the proposals. Proposals would mean that people could only <i>purchase</i> clean seasoned wood to burn with a moisture content of less than 20% (carrying the 'ready to burn' logo, where retail packaged) in exempt appliances, or use an authorised / smokeless fuel. This could be more expensive	-	L

	for people who are reliant upon foraged wood as a source of fuel. It should be noted that foraged wood can still be burnt in exempt appliances, assuming it is appropriately dried / seasoned (so moisture content is below 20%) and combustion produces no visible smoke (after an agreed light up period). CYC would continue to signpost residents and businesses to energy efficiency upgrade grants and advice services to mitigate any detrimental impacts on fuel poor households.		
Veterans, Armed Forces Community	No impacts identified	0	-
Other	N/A	-	-
Impact on human rights:			
List any human rights impacted.	N/A	-	-

Use the following guidance to inform your responses:

Indicate:

- Where you think that the proposal could have a POSITIVE impact on any of the equality groups like promoting equality and equal opportunities or improving relations within equality groups
- Where you think that the proposal could have a NEGATIVE impact on any of the equality groups, i.e. it could disadvantage them

- Where you think that this proposal has a NEUTRAL effect on any of the equality groups listed below i.e. it has no effect currently on equality groups.

It is important to remember that a proposal may be highly relevant to one aspect of equality and not relevant to another.

High impact (The proposal or process is very equality relevant)	There is significant potential for or evidence of adverse impact The proposal is institution wide or public facing The proposal has consequences for or affects significant numbers of people The proposal has the potential to make a significant contribution to promoting equality and the exercise of human rights.
Medium impact (The proposal or process is somewhat equality relevant)	There is some evidence to suggest potential for or evidence of adverse impact The proposal is institution wide or across services, but mainly internal The proposal has consequences for or affects some people The proposal has the potential to make a contribution to promoting equality and the exercise of human rights
Low impact (The proposal or process might be equality relevant)	There is little evidence to suggest that the proposal could result in adverse impact The proposal operates in a limited way The proposal has consequences for or affects few people The proposal may have the potential to contribute to promoting equality and the exercise of human rights

Step 5 - Mitigating adverse impacts and maximising positive impacts

5.1	Based on your findings, explain ways you plan to mitigate any unlawful prohibited conduct or unwanted adverse impact. Where positive impacts have been identified, what is been done to optimise opportunities to advance equality or foster good relations?
<p>Proposals have the potential to reduce concentrations of fine particulate matter (PM_{2.5}) / smoke associated with burning wet wood and other non-authorised fuels. There would be opportunities for all affected residents / businesses to provide comments in relation to the proposals as part of the statutory consultation activities outlined in the Clean Air Act 1993; this would include low-income groups / poor fuel households. As previously outlined, CYC would continue to signpost residents and businesses to energy efficiency upgrade grants and advice services to mitigate any detrimental impacts on fuel poor households. CYC will only take enforcement action when it is proportionate and in the public interest to do so, in accordance with the Council's enforcement policy. There may be compelling reasons why a financial penalty would not be imposed for smoke control contraventions (for example hardship, if proven), and these may include issues relating to inequalities. Such reasons will be assessed on a case-by-case basis in consultation with relevant CYC departments, including Legal Services.</p>	

Step 6 – Recommendations and conclusions of the assessment

6.1	Having considered the potential or actual impacts you should be in a position to make an informed judgement on what should be done. In all cases, document your reasoning that justifies your decision. There are four main options you can take:
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- **No major change to the proposal** – the EIA demonstrates the proposal is robust. There is no potential for unlawful discrimination or adverse impact and you have taken all opportunities to advance equality and foster good relations, subject to continuing monitor and review.

- **Adjust the proposal** – the EIA identifies potential problems or missed opportunities. This involves taking steps to remove any barriers, to better advance equality or to foster good relations.

- **Continue with the proposal** (despite the potential for adverse impact) – you should clearly set out the justifications for doing this and how you believe the decision is compatible with our obligations under the duty

- **Stop and remove the proposal** – if there are adverse effects that are not justified and cannot be mitigated, you should consider stopping the proposal altogether. If a proposal leads to unlawful discrimination it should be removed or changed.

Important: If there are any adverse impacts you cannot mitigate, please provide a compelling reason in the justification column.

Option selected	Conclusions/justification
No major change to the proposal	No potential for unlawful discrimination has currently been identified and any potential adverse impacts will be appropriately mitigated as outlined in this document. The process is subject to a statutory consultation as outlined in the Clean Air Act, during which any objection comments will be fully considered. Opportunities to advance equality and foster good relations will be sought throughout this project and as part of AQAP4's wider delivery.

Step 7 – Summary of agreed actions resulting from the assessment

7.1	What action, by whom, will be undertaken as a result of the impact assessment.		
Impact/issue	Action to be taken	Person responsible	Timescale
Impact on existing residential areas outside existing SCA boundary	Follow statutory consultation process as outlined in the Clean Air Act, during which any comments will be fully considered. CYC will endeavour to go beyond statutory requirements in terms of this consultation process.	CYC Public Protection (with input from CYC Legal Services)	DEFRA guidance suggests that the time period required to revoke existing orders and consult on and set up a new order is approximately 12 months. This is subject to discussion with CYC Legal Services.
Implementation of a revised enforcement procedure for new SCA in line with changes made to Clean Air Act 1993	Enforcement policy and penalty definition previously approved by Executive Member for Environment and Climate Emergency. CYC will only take enforcement action when it is proportionate and in the public interest to do so, in accordance with the Council's enforcement policy	CYC Public Protection (with input from CYC Legal Services)	Enforcement procedure will be followed for all smoke control breaches within the Smoke Control Area. This will extend to the wider area, if approved, following consultation.

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Step 8 - Monitor, review and improve

8. 1	<p>How will the impact of your proposal be monitored and improved upon going forward?</p> <p>Consider how will you identify the impact of activities on protected characteristics and other marginalised groups going forward? How will any learning and enhancements be capitalised on and embedded?</p>
	<ul style="list-style-type: none"> • Ongoing monitoring of air pollution across York to determine positive impacts in terms of reduced concentrations of fine particulate matter (PM_{2.5}) and associated public health benefits. • Request for advice / smoke complaints received / enforcement activity undertaken (with any local enforcement policy and penalty definition subject to regular review). • The CYC webpages and publicly available GIS maps will be full updated with information for the public and other relevant stakeholders. Revised SCA boundaries will also be communicated to CYC's Local Land Charges team and solid fuel merchants.

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