

**Notice of a public  
Decision Session - Executive Member for Environment and Climate  
Emergency**

**To:** Councillor Kent (Executive Member)

**Date:** Tuesday, 18 March 2025

**Time:** 10.00 am

**Venue:** West Offices - Station Rise, York YO1 6GA

**AGENDA**

**Notice to Members – Post Decision Calling In:**

Members are reminded that, should they wish to call in any item\* on this agenda, notice must be given to Democratic Services by **4:00pm on 25 March 2025**.

\*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent, which are not subject to the call-in provisions. Any called in items will be considered by the Corporate Services, Climate Change and Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00 pm on Friday, 14 March 2025**.

**1. Apologies for Absence**

To receive and note apologies for absence.

**2. Declarations of Interest** (Pages 7 - 8)

At this point in the meeting, the Executive Member is asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of

Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

*[Please see attached sheet for further guidance for Members].*

**3. Minutes** (Pages 9 - 12)

To approve and sign the minutes of the Decision Session held on 19 November 2024.

**4. Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the Committee.

**Please note that our registration deadlines are set as 2 working days before the meeting, in order to facilitate the management of public participation at our meetings.** The deadline for registering at this meeting is **5:00pm on Friday 14 March 2025.**

To register to speak please visit [www.york.gov.uk/AttendCouncilMeetings](http://www.york.gov.uk/AttendCouncilMeetings) to fill in an online registration form. If you have any questions about the registration form or the meeting, please contact Democratic Services. Contact details can be found at the foot of this agenda.

**Webcasting of Public Meetings**

Please note that, subject to available resources, this meeting will be webcast including any registered public speakers who have given their permission. The meeting can be viewed live and on demand at [www.york.gov.uk/webcasts](http://www.york.gov.uk/webcasts).

During coronavirus, we made some changes to how we ran council meetings, including facilitating remote participation by public speakers. See our updates ([www.york.gov.uk/COVIDDemocracy](http://www.york.gov.uk/COVIDDemocracy)) for more information on meetings and decisions.

**5. Consultation on a York wide Smoke Control (Pages 13 - 60)  
Area**

This report outlines proposals to manage the burning of the most polluting solid fuels and the appliances they are burnt in across City of York Council's (CYC) administrative area, and outlines a proposed public consultation on a York wide Smoke Control Area to cover the whole of the CYC's administrative area.

**6. Urgent Business**

Any other business which the Executive Member considers urgent under the Local Government Act 1972.

Democracy Officer: Reece Williams  
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For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
  - Business of the meeting
  - Any special arrangements
  - Copies of reports and
  - For receiving reports in other formats
- Contact details are set out above.

### Reasonable Adjustments and Alternative formats statement

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Ta informacja może być dostarczona w twoim własnym języku. (Polish)

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یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

### Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) <b>OR</b> Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) <b>OR</b> Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

## City of York Council

Committee Minutes

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Meeting	Decision Session - Executive Member for Environment and Climate Emergency
Date	19 November 2024
Present	Councillor Kent (Executive Member)
Officers in Attendance	Mike Southcombe – Environmental Protection Manager Shaun Gibbons – Head of Carbon Reduction

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**10. Apologies for Absence (10:00am)**

No apologies for absence were received.

**11. Declarations of Interest (10:01am)**

At this point in the meeting, the Executive Member was asked to declare if he had any personal interests not included on the Register of Interests or any prejudicial or disclosable pecuniary interests that he might have had in relation to the business on the agenda. None were declared.

**12. Minutes (10:01am)**

Resolved: That the minutes of the decision session held on 15 October 2024 be approved and signed by the Executive Member as a correct record.

**13. Public Participation (10:01am)**

It was reported that there had been no registrations to speak at the session under the Council's Public Participation Scheme.

#### **14. Enforcement Policy for Smoke Emissions within Smoke Control Areas (SCAs) (10:01am)**

The Environmental Protection Manager presented the report and noted that the recommendations as set out in the report would support the delivery of the fourth Air Quality Action Plan (AQAP4) which had been approved by Executive on 18 July 2024.

The Environmental Protection Manager reported that local authorities had always had powers over smoke control areas and complaints, but that key changes had been made which had made the process quicker through revisions made in the Clean Air, and Environment Acts 2021.

In response to questions from the Executive Member the Environmental Protection Manager confirmed that the proposal within the report was not to ban heating with solid fuels, but to ensure fuels and appliances which were used complied with new legislation.

Resolved: That the Executive Member adopted the 'Civil Penalties for Smoke Emissions within Smoke Control Areas Policy' in accordance with the following:

- The inclusion of 'Civil Penalties for Smoke Emissions within Smoke Control Areas Policy' at Annex A of the report with statutory minimum penalty of £175 for first offence and statutory maximum penalty of £300 for any repeat offence.
- That authority be delegated to the Director of Transport, Environment & Planning to issue warning letters, notices of intent, final notices and to consider objections received under Schedule 1A of the Clean Air Act in accordance with the Policy at Annex A of the report and the procedural flowchart at Annex B of the report.

Reason: The outlined policy and penalty regime is in line with DEFRA guidance and the revised Clean Air Act, introduced in response to new national air quality targets introduced through the Environment Act 2021.

The policy would enable consistency in approach with other UK authority areas and would act as a deterrent to burning non-authorised fuels (or using non-exempt appliances) in smoke control areas which contribute to air pollution and especially fine particulate concentrations across the city which impact human health.



## **15. Update of Climate Change Action Plan (10:06am)**

The Head of Carbon Reduction presented the report and noted that the Climate Change Action Plan was due to be refreshed this year, and that 28 actions from the previous plan had been recorded as completed.

The Executive Member noted that within the plan the highlighting of the importance of carbon reduction in being moved under a sole directorate was a positive step, and the Head of Carbon Reduction noted that collaboration between council services and partners was a positive step in ensuring carbon reduction was a shared issue.

Resolved: That the Executive Member approved the refreshed Climate Change Action Plan and revert to biennial updates of the plan.

Reason: The updated action plan is more in-line with current Council actions and those that can be achieved in the next few years. The updated Action Plan covers both mitigation and adaptation actions, providing a more comprehensive reflection of activity to support our climate change objectives.

A biennial update reduces the resource requirements on the team and will allow for a more detailed revision, with full consultation and continuous improvement of the Action Plan.

## **16. Annual Carbon Emissions Report 2023/24 (10:13am)**

The Head of Carbon Reduction presented the report and noted that recorded corporate emissions had increased, and that this could partly be explained by the increasing efficiency of carbon data recording tools.

In response to questions from the Executive Member, the Head of Carbon Reduction confirmed that:

- The council was still on track to meet targets to be net zero by 2030, but that there were challenges surrounding this, for example in relation to HGV fleets, which would need to be tackled.

- One barrier to reducing carbon emissions was regarding the financing of decarbonising heating systems, in that many older buildings in York had restrictions on renovating the systems which were currently in place.

Resolved: That the Executive Member approved the Annual Emissions Report for publication.

Reason: To monitor progress against the Council's ambition to be net zero by 2030.

## **17. York Emissions Inventory Report 2024 (10:18am)**

The Head of Carbon Reduction presented the report and noted that the data evidenced within the report related to previous years due to the time constraints of receiving the data. Consequently, efforts taken this year to reduce emissions would not be demonstrated within the data seen in this report.

In 2021/22 a 5% increase in emissions was seen on the previous year which could be linked to the increase of residents going back to work following pandemic restrictions. However, emissions levels had not reverted to pre-2020 levels following the lifting of these pandemic restrictions.

It was reported that similar data had been seen in other areas of the country, and that further action was required to meet net zero targets.

Resolved: That the Executive Member approved the York Emissions Inventory Report for publication.

Reason: To provide transparency of progress against the ambition for York to be net zero by 2030 in line with the Council Plan's Key Performance Indicator.

Cllr Kent, Executive Member

[The meeting started at 10.00 am and finished at 10.22 am].



<b>Meeting:</b>	Decision Session - Executive Member for Environment and Climate Emergency
<b>Meeting date:</b>	18 March 2025
<b>Report of:</b>	James Gilchrist, Director of Transport, Environment and Planning
<b>Portfolio of:</b>	Councillor Jenny Kent, Executive Member for Environment and Climate Emergency

## **Decision Report: Consultation on a York Wide Smoke Control Area (SCA)**

### **Subject of Report**

1. Burning solid fuels is one of the most polluting methods of domestic heating. Wood burning has increased in popularity in recent years for aesthetic as well as practical and economic reasons. Burning of solid fuels, however, is a major contributor to a type of pollution called fine particulate matter (PM<sub>2.5</sub>) both indoors and outdoors. It is estimated that long-term exposure to PM<sub>2.5</sub> was a contributory factor to the cause of death in 4.6% of deaths or 1 in every 22 deaths in York in 2022<sup>1</sup>.
2. This report outlines proposals to manage the burning of the most polluting solid fuels and the appliances they are burnt in across City of York Council's (CYC) administrative area. The report outlines a proposed public consultation on a York wide Smoke Control Area (SCA) to cover the whole of CYC's administrative area, which will replace the current piecemeal orders (see Annexes A and C) which cover only 14% of CYC's area. SCAs are areas where people and businesses must not emit smoke from a chimney attached to a building. In addition, only authorised fuels (e.g. smokeless fuels)<sup>2</sup> can be burnt in a SCA, unless they are burnt in an exempt appliance (e.g. approved by Department for Environment, Food and Rural Affairs (DEFRA) for use in a smoke

<sup>1</sup> <https://fingertips.phe.org.uk/profile/public-health-outcomes-framework/data#page/3/gid/1000043/pat/6/par/E12000003/ati/302/are/E06000014/iid/93861/age/230/sex/4/cat/-1/ctp/-1/yr/1/cid/4/tbm/1> Latest data available is 2022.

<sup>2</sup> <https://smokecontrol.defra.gov.uk/fuels.php?country=england>

control area). Controlled solid fuel (e.g. wood) for use in a building, fireplace, fixed boiler or industrial plant to which a smoke control area applies must not be sold to a homeowner, unless it is burned in an 'exempt' appliance.

3. The proposed York wide SCA will not ban domestic solid fuel burning but will require all residents to take responsibility for the fuel they burn, so as to minimise smoke and outdoor and indoor air pollution. The proposals would mean that any new wood burning stove installations in York would need to be DEFRA approved. Such stoves have passed tests to confirm that they are capable of burning an 'unauthorised' or inherently smoky solid fuel, such as wood, without emitting smoke. Locations outside the current SCAs account for approximately 35% of the properties in York using solid fuel for secondary heating (i.e. to supplement other forms of heating, for example gas central heating) (see Annex A, Figure A2). There may be a small number of households outside the existing SCAs that are burning wood fuel as a primary heating source and therefore may be required to upgrade or modify their appliances to comply with smoke control requirements, should all of York be designated an SCA.
4. The proposals would complement CYC's DEFRA funded '[Fuel for Thought](#)' campaign, initially launched in November 2023, to raise awareness of the links between burning solid fuels, pollution and health. Research undertaken to inform this campaign revealed a knowledge gap about smoke control areas: people were unaware of whether they live in a smoke control area or the legal consequences of not complying with the rules around burning solid fuels. The proposals would ensure consistency across York and that all future development sites are subject to smoke control requirements; reduced PM<sub>2.5</sub> levels in York would support national priorities for reducing pollution from domestic solid fuel burning, as outlined in The Air Quality Strategy for England (2023)<sup>3</sup>.
5. The Executive Member is asked to note the background information provided in the report and approve a statutory consultation on the revocation of CYC's existing SCAs (which were made by a smoke control order on or after 13<sup>th</sup> November 1980) and a new order to designate the whole of CYC's administrative area as a SCA. The Executive Member is also asked to delegate authority to Director of Transport, Environment and Planning, in consultation with the Director of Governance to make an order to

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<sup>3</sup> <https://www.gov.uk/government/publications/the-air-quality-strategy-for-england>

revoke the existing Smoke Control orders made before 13<sup>th</sup> November 1980 ('Pre-1980s Orders') and to seek confirmation of the order in accordance with the procedure set out in Schedule 5 of the Clean Air Act 1993 which includes publication of the order and consideration by the Secretary of State.

## Benefits and Challenges

6. The proposed SCA expansion will ensure a consistent approach 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<sup>4</sup>). A citywide SCA 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<sub>2.5</sub>) concentrations across the city, which impact human health.
7. Keeping the existing SCA boundaries, which exclude a number of existing residential areas, may mean that CYC is not considered to be using best endeavours to implement local measures to reduce particulate emissions in line with revised PM<sub>2.5</sub> targets introduced through the [Environment Act 2021 \(EA 2021\)](#). Responsibility for meeting national PM<sub>2.5</sub> targets lies with central government, but local authorities are expected to contribute to achieving the targets through local action to tackle sources under their influence.
8. National PM<sub>2.5</sub> targets include an annual mean concentration target of 10µg/m<sup>3</sup> (to drive action in the worst-polluted areas) and a population exposure reduction target (that requires concentrations to be driven down everywhere, including where they are already below 10µg/m<sup>3</sup>, as is the case in York). As a regional pollutant, PM<sub>2.5</sub> travels long distances and increases background levels across a wide area, it is therefore important that all local authorities across the UK act collaboratively to reduce PM<sub>2.5</sub> to improve health.

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<sup>4</sup> Estimated figure based on Local Plan housing allocations. Includes ST1a/b British Sugar / Manor School site combined allocation of 1200 dwellings, some of which fall within existing SCA boundary. Exact figure with and without ST1 is between 8346 and 9546 additional homes.

## Policy Basis for Decision

9. The proposed SCA expansion will contribute to the Council's Local Air Quality Management (LAQM) responsibilities under the [Environment Act 1995](#) (as amended by the Environment Act 2021) (EA 1995) and will ensure consistency across the city when dealing with smoke emissions across all current and future residential areas. CYC's [Fourth Air Quality Action Plan](#) (AQAP4), adopted by CYC's [Executive](#) in July 2024, includes a commitment to review the existing SCA boundary, which aligns with national priorities to tackle solid fuel burning in SCAs as outlined in the [Air Quality Strategy for England \(2023\)](#). This strategy states that local authorities should keep the boundaries of existing SCAs under review and are expected to enforce restrictions which apply within those areas. A revised enforcement approach to dealing with SCA contraventions, incorporating civil penalties, was approved by the Executive Member for Environment and Climate Emergency on [19 November 2024](#).
10. The proposed SCA expansion will complement CYC's other air quality improvement activities and emission reduction policies to ensure a robust response to fine particulate (PM<sub>2.5</sub>) pollution. Proposals support CYC's carbon reduction programme and embed the council plan's commitment to build healthy and sustainable communities.
11. Good air quality reduces absence from work and education due to air pollution related illnesses. A healthy York population is critical to achieving the economic aspirations of the city. Air pollution damages buildings as well as human health. Improving air quality will help to protect the city's many historic buildings and create a cleaner environment for visitors to York.

## Financial Strategy Implications

12. The proposals have no specific financial implications for CYC. The process of consultation, revoking existing orders, setting up the new order and publicising new requirements can all be managed within existing resource. Operationally, any enforcement activities associated with investigating complaints will be undertaken using current staff in Environmental Protection. Increased public awareness of the rules around SCAs as a result of the consultation may potentially result in an increased number of complaints.

## Recommendation and Reasons

13. The Executive Member is asked to:

- a) agree the proposed public consultation on a draft order to expand the Smoke Control Area (“SCA”) to cover the whole of CYC’s administrative area (and associated revocation of historical orders covering the existing area). This would include the publication of a notice and draft Smoke Control Area order for comment, both of which will be subject to consultation and advice from the Director of Governance;
- b) delegate authority to the Director of Transport, Environment and Planning, in consultation with the Director of Governance, to make an order to revoke the existing Smoke Control orders made before 13th November 1980 (‘Pre-1980s Orders’) <sup>5</sup> and to seek confirmation of the order in accordance with the procedure set out in Schedule 5 of the Clean Air Act 1993 which includes publication of the order and consideration by the Secretary of State.

### Reasons:

A wider SCA would:

- act as a deterrent to burning non-authorised fuels (or using non-exempt appliances) in smoke control areas which contribute to air pollution and especially PM<sub>2.5</sub> concentrations across the city which impact human health.
- ensure consistency in CYC’s approach to dealing with smoke emissions across all current and future residential areas (currently undeveloped).
- ensure clarity for the public in terms of the rules for burning solid fuels (which are currently different depending on the area of York and in some cases even on the same street).

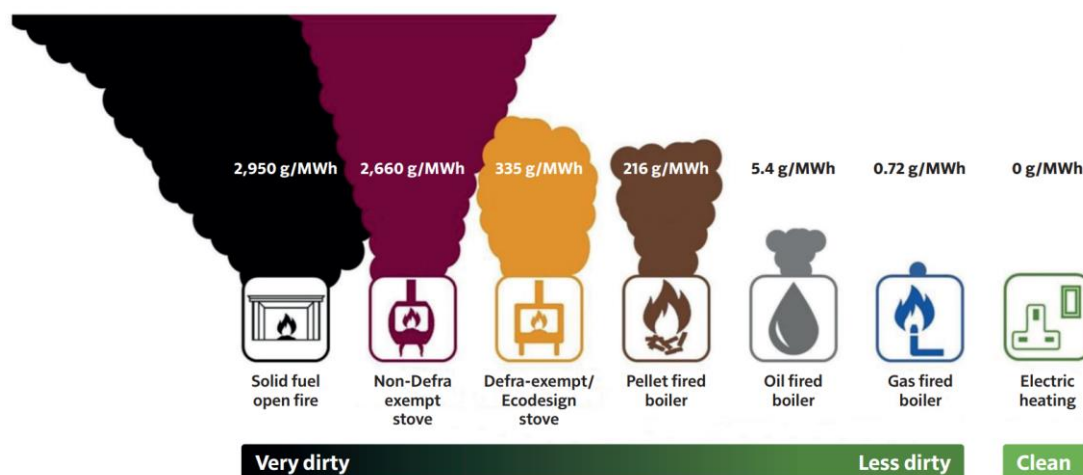
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<sup>5</sup> For Smoke Control Orders made before 13<sup>th</sup> November 1980, Part 3 of Schedule 5 to the Clean Air Act 1993 applies, which requires a revocation order to be made by CYC, publicised, and subsequently confirmed with or without modifications by the Secretary of State following public consultation.

## Background

14. The burning of solid fuels such as wood, usually in homes, emits particulate matter (PM), nitrogen dioxide (NO<sub>2</sub>) and other pollution that damages local air quality. Domestic combustion of wood is one of the largest single primary emission sources of fine particulate matter (PM<sub>2.5</sub>), comprising nearly a third (31%) of PM<sub>2.5</sub> emissions across York and over twice that produced by road traffic<sup>6</sup>.
15. There is a substantial difference in pollution from various open fire and stove designs, which is also affected by the age of the appliance, how well it is maintained and the type of fuel burned (including the moisture content of wood fuels). In urban areas, burning wood has the potential to significantly worsen local air quality<sup>7</sup>. It should be noted that the sale of traditional bituminous house coal (retail packaged or loose, bulk supply) was banned in England from May 2023.

**Figure 1:** Comparison between the most and least polluting forms of domestic heating<sup>8</sup>



Source: Chief Medical Officer's annual report 2022: Air Pollution

<sup>6</sup> Source apportionment work undertaken by CYC as part of the development of the draft Air Quality Action Plan (AQAP4). Emissions data obtained from National Atmospheric Emissions Inventory (NAEI).

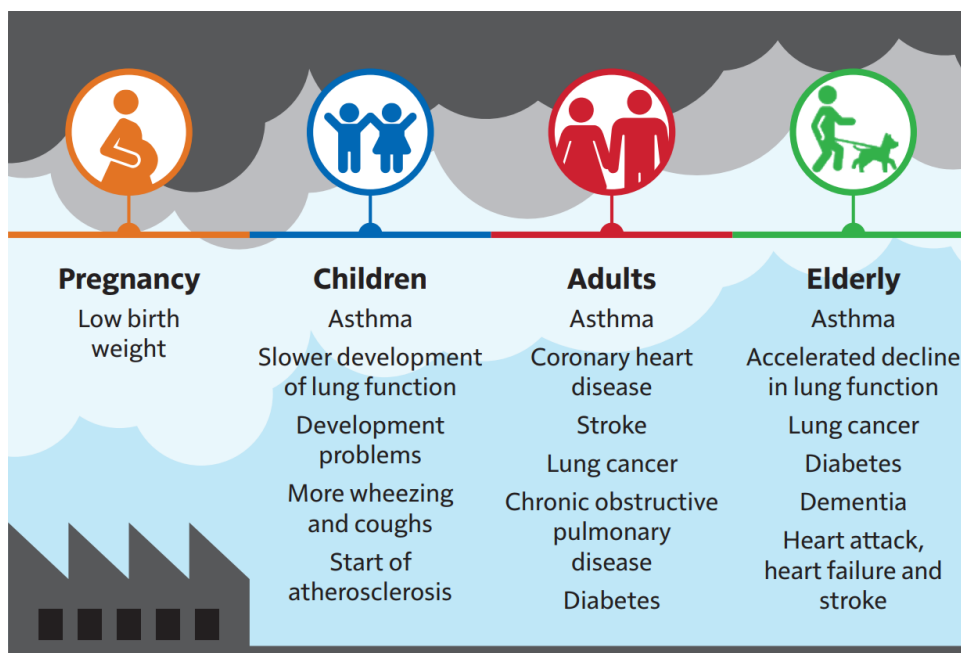
<sup>7</sup> Chief Medical Officer's Annual Report 2022: Air Pollution. Available online at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1121599/executive-summary-and-recommendations-air-pollution.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1121599/executive-summary-and-recommendations-air-pollution.pdf)

<sup>8</sup> Note: The air pollution emissions will also depend on the age of the appliance, how it is maintained and used and the fuel burned (for example, dry or wet wood). The following definitions were used: Solid fuel open fire: wood burned in an open fire. Non-Defra-exempt stove: wood in a conventional stove. Defra-exempt/Eco-design stove: wood in an advanced/eco-labelled stove. Pellet fired boiler: wood in pellet stoves and boilers. Oil fired boiler: fuel oil in a medium (>50kWth <1MWth) boiler. Gas fired boiler: natural gas in a small (≤50kWth) boiler.



16. Local authorities have a role in implementing local measures to ensure ongoing reductions in PM<sub>2.5</sub> for which there are no 'safe' limits. Emissions of very fine particles present in smoke are particularly harmful to health as their size means they can get deep into the lungs and enter the bloodstream to be transported around the body. Whilst the most vulnerable people in society are hit hardest, including children, older people and those already in poor health, everybody is at risk. The mortality burden of air pollution within the UK is equivalent to 29,000 to 43,000 deaths per year at typical ages<sup>9</sup>. Between 2017 and 2025, the total cost to the NHS and social care of air pollution (where there is robust evidence for an association) is estimated to be £1.6 billion for PM<sub>2.5</sub> and NO<sub>2</sub> combined<sup>10</sup>.

**Figure 2:** The health impacts of air pollution



Source: Chief Medical Officer's annual report 2022: Air Pollution

<sup>9</sup> Defra. Air quality appraisal: damage cost guidance, January 2023

<sup>10</sup> Public Health England. Estimation of costs to the NHS and social care due to the health impacts of air pollution: summary report, May 2018

17. CYC launched a DEFRA funded communication campaign in November 2023 entitled 'Fuel for Thought' aiming to raise awareness of the links between burning solid fuels, pollution and health. An evaluation of the campaign showed that:
  - 57% of people found the campaign clear and easy to understand and 47% of respondents considered the campaign to be effective. These are considered good results, despite the challenges of launching a campaign during a cost-of-living crisis and rising energy bills.
  - Following the campaign, 34% of people said they used their stoves less than in previous years, with concerns about air pollution inside / outside the home and health impacts being cited by some respondents alongside cost of living/cost of fuel and weather conditions.
  - A greater proportion of people associated particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>) with air pollution in York post-campaign, compared with pre-campaign. Resources developed for the campaign specifically mentioned fine particulate matter (PM<sub>2.5</sub>), which may have contributed to this increased awareness.
  - A greater proportion of people were aware of or had seen publicity in relation to the government's 'Burn Better' campaign post-campaign (37%) compared with pre-campaign (14%). More people were familiar with the 'ready to burn' logo post-campaign (32%) compared with pre-campaign (13%) and most knew what it meant when asked. Materials developed for the local campaign made reference to quality assured 'ready to burn' fuels and correct stove maintenance procedures and as such have reinforced national messaging from DEFRA.
18. Resources developed for the 'Fuel for Thought' campaign will be used for ongoing seasonal campaign work to improve awareness further and encourage continued behavioural change to reduce pollution.
19. There are currently multiple SCA orders applicable to York, declared from the late 1960s. These orders cover 80% of York's residential properties but only 14% of CYC's administrative area. The current SCA boundary is shown at Annex A; it does not include some areas inside the outer ring road such as areas of Fulford, Heslington, Clifton Moor, New Earswick, Monks Cross or most areas and village locations outside the outer ring road, including Skelton, Poppleton, Earswick, Strensall, Stockton on the Forest, Dunnington, Copmanthorpe and Bishopthorpe.

20. It is an offence to emit smoke from a chimney attached to building within a SCA. In a SCA you can only burn authorised fuel or a 'smokeless' fuel, unless you use an appliance approved by Defra (also known as an 'exempt' or 'DEFRA approved' appliance). Unauthorised fuels, such as wood, can only be burned in 'exempt' appliances. Households using an exempt appliance or authorised 'smokeless' fuel should not produce significant smoke so would not be subject to enforcement action.
21. The proposed changes do not apply to bonfires as these are covered by different legislation<sup>11</sup>. CYC's approach to dealing with smoke from bonfires is outlined at <https://www.york.gov.uk/BonfiresAndSmoke>
22. The Environment Act 2021 introduced a requirement for new national air quality targets<sup>12</sup>, including an annual target for fine particulate PM<sub>2.5</sub> of 10µg/m<sup>3</sup> (to address hotspot areas) and a population exposure reduction target (to ensure ongoing improvement in pollution across the whole of the UK, including where they are already below 10µg/m<sup>3</sup> ).
23. Whilst monitoring has shown that concentrations of PM in York are within the current UK health-based air quality objectives, DEFRA acknowledge that there no 'safe' levels<sup>13</sup>. It is also important to note that PM<sub>2.5</sub> travels long distances and increases background levels across a wide area, it is therefore important that all local authorities across England act to reduce PM<sub>2.5</sub> and improve health. The Committee on the Medical Effects of Air Pollutants (COMEAP) maintain that, based on the available evidence, PM<sub>2.5</sub> pollution can have harmful effects on people's health at lower concentrations than previously thought and that reducing annual mean concentrations beyond objective levels would have additional public health benefits<sup>14</sup>.

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<sup>11</sup> While it is an offence under the Environmental Protection Act 1990, to 'emit smoke, fumes or gases which are a nuisance', there are no byelaws prohibiting bonfires and no permitted 'lighting up times'. SCAs only apply to smoke from chimneys, caused by burning inside the house; they do not apply to gardens.

<sup>12</sup> <https://www.legislation.gov.uk/uksi/2023/96/contents/made>

<sup>13</sup> <https://laqm.defra.gov.uk/faqs/faq141/>

<sup>14</sup>

[https://assets.publishing.service.gov.uk/media/623075a3d3bf7f5a89aecec3/COMEAP\\_WHO\\_AQG\\_-\\_Defra\\_PM2.5\\_targets\\_advice\\_2\\_.pdf](https://assets.publishing.service.gov.uk/media/623075a3d3bf7f5a89aecec3/COMEAP_WHO_AQG_-_Defra_PM2.5_targets_advice_2_.pdf)

24. Central Government has responsibility for meeting national PM<sub>2.5</sub> targets, but local authorities have a key role in implementing local measures to deliver air quality targets and ensuring ongoing reductions in fine particulate matter. The Government's 'Air Quality Strategy: framework for local authority delivery' provides clear direction that local authorities should use their powers to reduce PM<sub>2.5</sub>.
25. The proposed SCA expansion will provide a mechanism to manage both the burning of the most polluting solid fuels and the appliances in which they are burned. It will assist in reducing PM<sub>2.5</sub> levels in CYC's area, complement wider air quality improvement measure being implemented by CYC and will contribute to national emission reduction targets. Ultimately, the proposal will also result in longer-term positive public health impacts.
26. A city wide SCA will also help support the enforcement of new regulations controlling the types of fuels that can be legally sold for domestic burning (Air Quality (Domestic Solid Fuels Standards) (England) 2020)<sup>15</sup> via the provision of an effective, consistent and 'level playing field' approach to tackling smoke pollution.

## Consultation Analysis

27. Research undertaken prior to CYC's 'Fuel for Thought' campaign revealed a knowledge gap around the topic of smoke control areas; people didn't know if they lived in a SCA and if they did, were not aware of the rules around the burning of solid fuels. To coincide with the declaration of the new SCA, officers will ensure that residents are informed of the changes and what this means for them, via the consultation process with additional publicity through CYC's communications channels. CYC will also engage with solid fuel suppliers within York to update them of boundary changes (it is an offence to buy or sell an 'unauthorised fuel' for use in a SCA unless it is used in an 'exempt' appliance).

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<sup>15</sup> <https://www.legislation.gov.uk/uksi/2020/1095/contents/made>

28. Schedule 1 of the Clean Air Act 1993<sup>16</sup>, outlines the process of implementing a new SCA and revoking any Smoke Control Orders which were made on or after 13<sup>th</sup> November 1980. In summary, a statutory consultation is required, this involves publication of a notice stating that the local authority proposes to make the order (and outlining its general effect) and specifying where a copy of the order can be obtained. The notice must be published in the London Gazette and in a local newspaper for two consecutive weeks. The consultation period shall not be less than 6 weeks from the date of the last publication of the notice. Throughout the consultation period, copies of the notice should be placed in several places in the relevant area(s) to ensure people who are affected are aware of the proposal.
29. Any objections received must be considered by the Council during the consultation process. If any objections are received and not withdrawn, the council cannot make the order without first considering the objection. In the event that the council resolves to make the new smoke control order it **cannot come into effect for at least 6 months after the order is made**. This date may be postponed, subject to a resolution to that effect being passed and suitable publicity in line with that set out in Schedule 1. When a local authority in England has made an order, the authority must inform the Secretary of State that it has done so.
30. Consultation will be undertaken with CYC Legal Services in the preparation of the draft order, revocation of existing orders and proposed consultation process to ensure compliance with statutory guidance and legislation.

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<sup>16</sup> <https://www.legislation.gov.uk/ukpga/1993/11/schedule/1>

31. Part 3 of Schedule 5 to the Clean Air Act 1993 sets out the process that applies for the revocation of existing Smoke Control Orders that were made prior to 13 November 1980. This process requires a revocation order to be made and publicised in the Gazette and a local newspaper for two weeks. Any objections are sent to and considered by the Secretary of State. Any objections received to the making of the order may be heard by way of representation at local inquiry or in person to an appointed representative. The order may then be confirmed with or without modifications by the Secretary of State. Alternatively, the Secretary of State may decide not to confirm the order. Revocation orders shall come into effect no less than six months after they are confirmed.
32. The Clean Air Act 1993 sets out the individual process for revoking existing orders and creating new orders. The aim is to align the dates of the orders coming into operation to avoid gaps in enforcement. The process of revoking of existing orders and creating a new order is expected to take approximately 12 months.

## **Options Analysis and Evidential Basis**

33. The Executive Member is asked to note the background information provided in the report and to approve a statutory consultation on the revocation of CYC's existing SCA Orders made on or after 13<sup>th</sup> November 1980 and the making of a new order to designate the whole of CYC's administrative area as a SCA. The Executive Member is asked to delegate authority to Director of Transport, Environment and Planning, in consultation with the Director of Governance to make an order to revoke the existing Smoke Control orders made before 13<sup>th</sup> November 1980 which will be processed in accordance with the statutory procedure for publication and confirmation of an order as set out in Schedule 5 of the Clean Air Act 1993.

### **Option A**

- **A1:** Approve a statutory consultation on the revocation of CYC's existing SCAs (made by way of order on or after 13<sup>th</sup> November 1980) and the making of a new order to designate the whole of CYC's administrative area a SCA.

- **A2:** Delegate authority to Director of Transport, Environment and Planning, in consultation with the Director of Governance to make an order to revoke the existing Smoke Control orders made before 13th November 1980 which will be processed in accordance with the statutory procedure for publication and confirmation of an order as set out in Schedule 5 of the Clean Air Act 1993.
- Proposals would provide a mechanism to control the burning of the most polluting solid fuels and the appliances they are burnt in. Proposals would ensure consistency across CYC's administrative area, would ensure that all future development sites are subject to SCA requirements, would assist in reducing fine particulate PM<sub>2.5</sub> levels in York and would align with national priorities for reducing pollution from domestic solid fuel burning as outlined in The Air Quality Strategy for England. The approach considered proportionate and would demonstrate that CYC is actively taking steps to reduce particulate emissions within its area for the protection of public health.

### **Option B**

- **B1:** Do not approve a consultation on the revocation of CYC's existing SCAs (made by way of order on or after 13th November 1980) and the making of a new order to designate the whole of CYC's administrative area a SCA.
- **B2:** Do not delegate authority to Director of Transport, Environment and Planning, in consultation with the Director of Governance to make an order to revoke the existing Smoke Control orders made before 13th November 1980 which will be processed in accordance with the statutory procedure for publication and confirmation of an order as set out in Schedule 5 of the Clean Air Act 1993
- This option would retain the existing orders, which exclude 20% of CYC's existing residential addresses (and all currently undeveloped areas).

- It may be considered that CYC is not using best endeavours to implement local measures to reduce particulate emission in line with revised PM<sub>2.5</sub> targets introduced through the Environment Act 2021. CYC officers would be unable to enforce smoke emissions in accordance with the Clean Air Act in areas not covered by the wider SCA and would offer no means of controlling the burning / selling of the most polluting solid fuel and the appliances in which they are burned in those areas currently outside the SCAs.

## **Organisational Impact and Implications**

34. The various implications of this report are summarised below.

### **Financial**

35. There are no significant budget implications aside from officer time in setting up the new order, advertising the new order and publicising new requirements. Publicity will be mainly online and use CYC social media channels but may also involve placement of hard copies of notices in affected areas.
36. Operationally, any enforcement activities associated with responding to complaints, witnessing emissions, issuing warning letters or fines will be undertaken using current staff in Environmental Protection. Increased public awareness of the rules around SCAs may result in increased complaints of smoke. Enforcement action would be taken when it is proportionate and in the public interest to do so, in accordance with CYC's enforcement policy.
37. CYC was allocated £11.7k funding from DEFRA in both 2023 and 2024 for the new burdens associated with the enforcement and management of smoke control areas, as introduced by the Environment Act 2021. This funding was provided to every local authority with one or more confirmed smoke control areas.

### **Human Resources (HR)**

38. There are no HR implications contained within this report. If in future additional resources are required to investigate and enforce an increase in the number of smoke complaints these would be resourced in accordance with normal council policy.



## Legal

39. The council has discretion under Section 18(1) of the Clean Air Act 1993<sup>17</sup> to declare the whole or any part of its area to be a SCA, 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<sup>18</sup>
40. Schedule 1 of the Clean Air Act 1993<sup>19</sup> 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 (and their delegated officers) may authorise, with or without modification, the making of the smoke control order, which shall come into effect no less than six months after it is made.
41. The making of an order is open to challenge by way of judicial review.
42. 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<sup>20</sup> applies, which requires a revocation order to be made, publicised and subsequently confirmed with or without modifications by the Secretary of State. Any objections received to the making of the order may be heard by way of representation at local inquiry or in person to an appointed representative. Revocation orders shall come into effect no less than six months after they are confirmed.

## Procurement

43. There are no procurement implications.

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<sup>17</sup> <https://www.legislation.gov.uk/ukpga/1993/11/section/18>

<sup>18</sup> Ibid

<sup>19</sup> <https://www.legislation.gov.uk/ukpga/1993/11/schedule/1>

<sup>20</sup> <https://www.legislation.gov.uk/ukpga/1993/11/schedule/5/part/III>

## Health and Wellbeing

44. Measures to reduce emissions and improve air quality support CYC's health and wellbeing priorities which aim to tackle health inequalities, promote healthy lifestyles and place specific emphasis on good health and wellbeing during the key formative early years of life. The proposals complement other CYC measures to tackle pollutant emissions / smoke from domestic solid fuel burning to improve public health. CYC Public Health support the measures outlined and the recommendations made.

## Environment and Climate action

45. The proposal to expand the SCA will complement CYC's other air quality improvement activities and emission reduction policies to ensure a robust response to fine particulate (PM<sub>2.5</sub>) pollution.
46. CYC has a key role in creating an environment where people make sustainable choices about the way they live and work. CYC has a responsibility to seek opportunities to minimise carbon emissions from all activities. Actions to address solid fuel burning support CYC's carbon reduction programme.
47. Wood burning can have a negative impact on the climate, due to the high emissions of CO<sub>2</sub>, methane and black carbon compared to other fuels and the time taken for forests to regrow and reabsorb the carbon<sup>21</sup>. This is a change from the historical classification of wood as a low-carbon or carbon-neutral fuel. In addition, wood sourced for free often has characteristics that make it especially bad for the environment and human health, such as being chemically treated.
48. Recent guidance, published by the Institution of Environmental Sciences' Environmental Policy Implementation Community (EPIC) in Sept 2024<sup>22</sup> highlights that the declaration and enforcement of smoke control areas is an effective mechanism to integrate action on both local air quality and climate change.

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<sup>21</sup> Fuller, G. (2022) '[Pollutionwatch: wood fires are bad for planet, more evidence shows](#)', The Guardian

<sup>22</sup> <https://www.the-ies.org/resources/integrating-action-air-quality>

## Affordability

49. Research undertaken for CYC in March 2022 analysed household Energy Performance Certificates (EPCs) for 53,720 households<sup>23</sup> across York. Solid fuel was identified as a source of heating<sup>24</sup> for 8% of these households (4302 locations). Outside the current SCA boundary, 3% of households (1,611 locations) used solid fuels, although only 0.2% (98 locations) used a solid fuel as the main source of heating. Other locations outside the SCA boundary utilised solid fuels to supplement other main heating methods.
50. Of the 98 households outside the SCA that used solid fuels as a main source of heating, it was estimated that around 39 locations are burning wood fuels and therefore may be required to upgrade appliances to comply with smoke control requirements, should the SCA boundary be extended to the CYC boundary. These properties may or may not be using DEFRA approved appliances already. Where stoves are not DEFRA approved, they can remain in place, but people would have to burn smokeless fuels, or upgrade their appliances where this is not possible. Some stoves can be modified to become DEFRA approved with a manufacturer supplied kit<sup>25</sup>. CYC would assist any affected residents by signposting to relevant sources for advice on suitable upgrades.
51. The proposals would have no direct implications for the 80% of York residents already covered by the existing SCA as they are already subject to smoke control regulations. 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 *purchase* 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 for people who are reliant upon foraged wood as a source of fuel. CYC would continue to signpost residents and businesses to

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<sup>23</sup> EPCs existed for approximately 60% of residential properties in York

<sup>24</sup> Vast majority used solid fuels as a secondary heating source, to supplement gas-fired central heating, for example (Annex A shows the distribution of households using solid fuels for secondary heating)

<sup>25</sup> Kits modify the stove's air vents preventing them from being fully closed down and therefore preventing 'slumbering' which can send part-burned combustibles e.g. soot, into the air.

energy efficiency upgrade grants and advice services to mitigate any detrimental impacts on fuel poor households<sup>26</sup>.

## **Equalities and Human Rights**

52. An Equalities Impact Assessment has been carried out and can be found at **Annex D**.
53. Vulnerable people, including older people, children, pregnant women and those with respiratory and other illnesses, are more likely to be adversely affected by poor air quality. However, enforcement of smoke control area regulations will improve general air quality across York and will therefore benefit everyone.
54. 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 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.

## **Data Protection and Privacy**

55. The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.

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<sup>26</sup> Current examples of support - CYC's current [Home Upgrade Grant](https://www.york.gov.uk/news/article/1530/over-1-million-extra-support-secured-for-york-residents) scheme is a grant exclusively reserved to help homes which have off-gas heating systems to become more energy efficient and save residents money. Financial support to help residents cope with the cost of living crisis is also available, see <https://www.york.gov.uk/news/article/1530/over-1-million-extra-support-secured-for-york-residents>

## **Communications**

56. Environmental Protection will work with CYC Marketing and Communications to address any press or public interest in the proposals. Publicity will be mainly online and will use CYC social media channels. CYC's website will be updated to reflect any changes made to the SCA boundary and CYC will continue to undertake seasonal campaign work to raise awareness of smoke emissions and impacts on health.

## **Economy**

57. Reducing emissions and improving air quality will reduce exposure to harmful air pollutants which can increase the symptoms of chronic and acute illnesses increase the risk of hospital admissions and in some case result in premature death. Good air quality reduces absence from work and education due to air pollution related illnesses. A healthy York population is critical to achieving the economic aspirations of the city.
58. Air pollution damages buildings as well as human health. Better air quality will help to protect the city's many historic buildings and create a cleaner environment for the millions of visitors to York each year. York's built and natural environment underpins people's quality of life and attracts millions of visitors to the city each year. Protecting and enhancing these environments for existing and future generations is a key priority for the council and our residents.

## **Property**

59. The geographic boundary of any new Smoke Control Order will be reflected on CYC's Geographic Information System (GIS) and therefore reflected in any 'Local Land Charges' search.
60. Any CYC properties included within the new boundary would be subject to the requirements of the Smoke Control Order.

## **Risks and Mitigations**

61. CYC's approach to improving air quality is evidence based, proportionate and targeted. CYC may face challenge to the proposals or formal objections to the new SCA order, which will be considered on a case-by-case basis in accordance with guidance.

## Wards Impacted

62. The majority of areas within the outer ring road as well as all of Haxby and Wigginton are already covered by the existing SCA. A map showing the SCA boundary can be viewed at <https://www.york.gov.uk/SmokeControlAreas>. The proposed new SCA boundary would cover the whole of CYC's administrative area and as such would affect all wards.

## Contact details

For further information please contact the author of this Decision Report.

### Author

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<b>Job Title:</b>	Environmental Protection Manager
<b>Service Area:</b>	Public Protection
<b>Telephone:</b>	01904 551514
<b>Report approved:</b>	Yes
<b>Date:</b>	18 February 2025

### Background papers

- **Environment Act 2021** – available online at:  
<https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted>
- **Environment Act 2021 (Explanatory Notes)** – available online at:  
[https://www.legislation.gov.uk/ukpga/2021/30/pdfs/ukpgaen\\_20210030\\_en.pdf](https://www.legislation.gov.uk/ukpga/2021/30/pdfs/ukpgaen_20210030_en.pdf)
- **Clean Air Act 1993** – available online at:  
<https://www.legislation.gov.uk/ukpga/1993/11/contents>

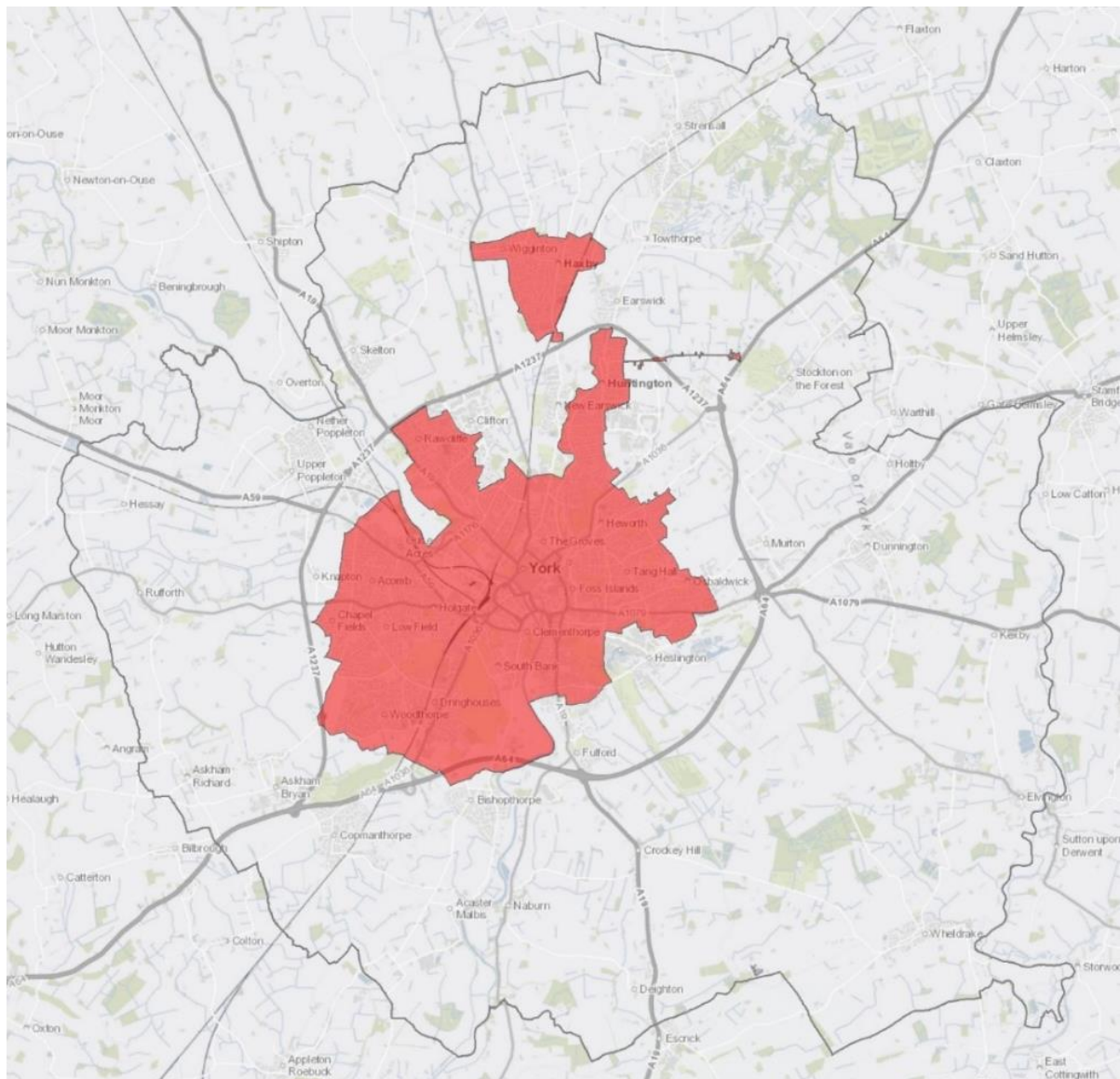
### Annexes

- **Annex A** – Boundary of existing smoke control area and distribution of homes that have solid fuel appliances
- **Annex B** – Proposed smoke control area (extended to CYC boundary)
- **Annex C** – List of smoke control orders to be revoked
- **Annex D** - Equalities Impact Assessment (EIA)

## List of Abbreviations Used in this Report:

<b>DEFRA</b>	Department of Environment Food and Rural Affairs
<b>CYC</b>	City of York Council
<b>µg/m<sup>3</sup></b>	Micrograms per cubic metre
<b>NO<sub>2</sub></b>	Nitrogen dioxide
<b>NO<sub>x</sub></b>	Nitrogen oxides
<b>PM</b>	Particulate Matter
<b>PM<sub>10</sub>/PM<sub>2.5</sub></b>	Particulate Matter up to 10 microns / 2.5 microns
<b>SCA</b>	Smoke Control Area
<b>CAA 1993</b>	Clean Air Act 1993
<b>EA 1995</b>	Environment Act 1995
<b>EA 2021</b>	Environment Act 2021
<b>LAQM</b>	Local Air Quality Management
<b>COMEAP</b>	Committee on the Medical Effects of Air Pollutant
<b>EPC</b>	Energy Performance Certificate

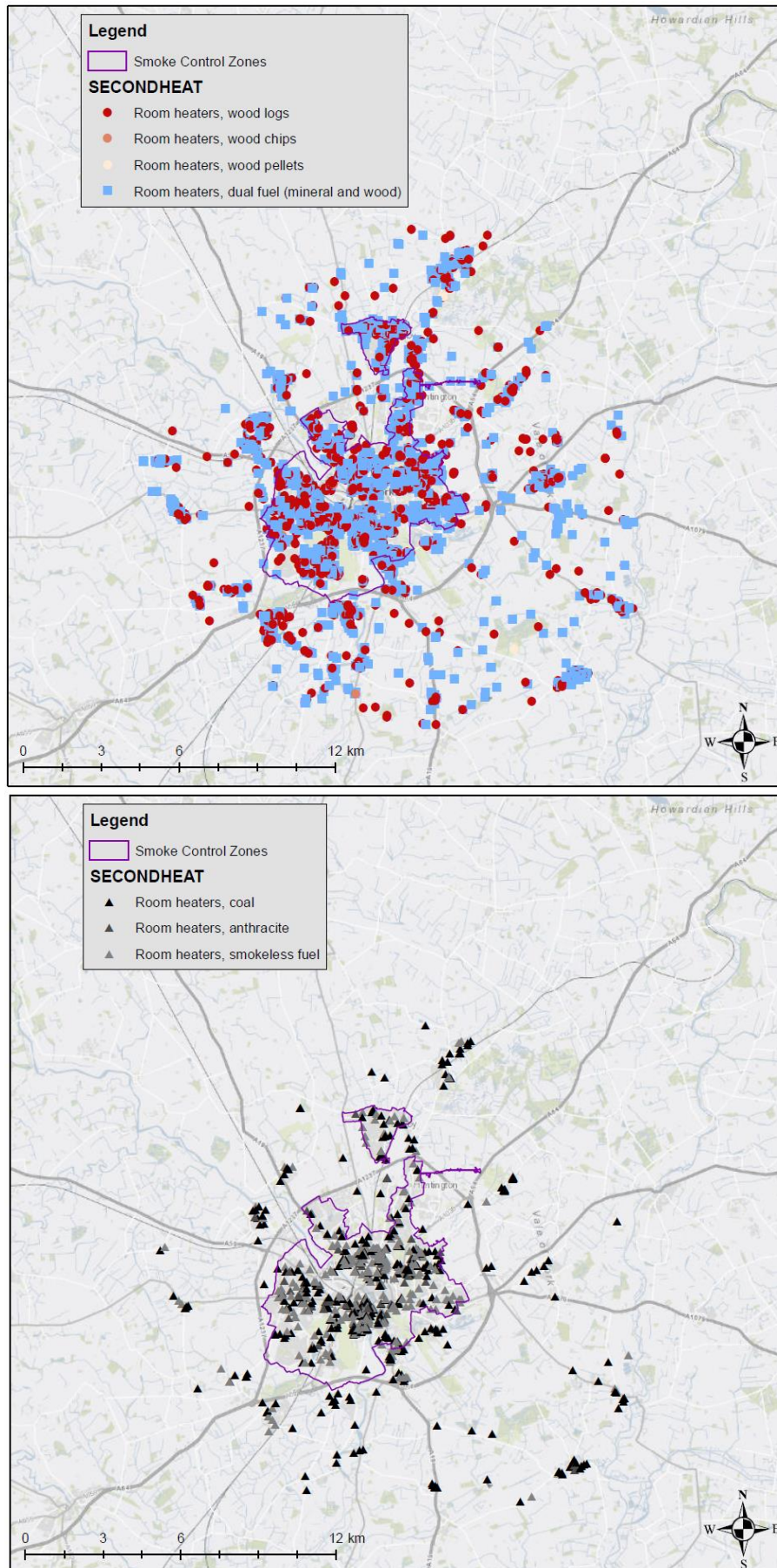


**Figure A1: Boundary of Existing Smoke Control Area (SCA)**

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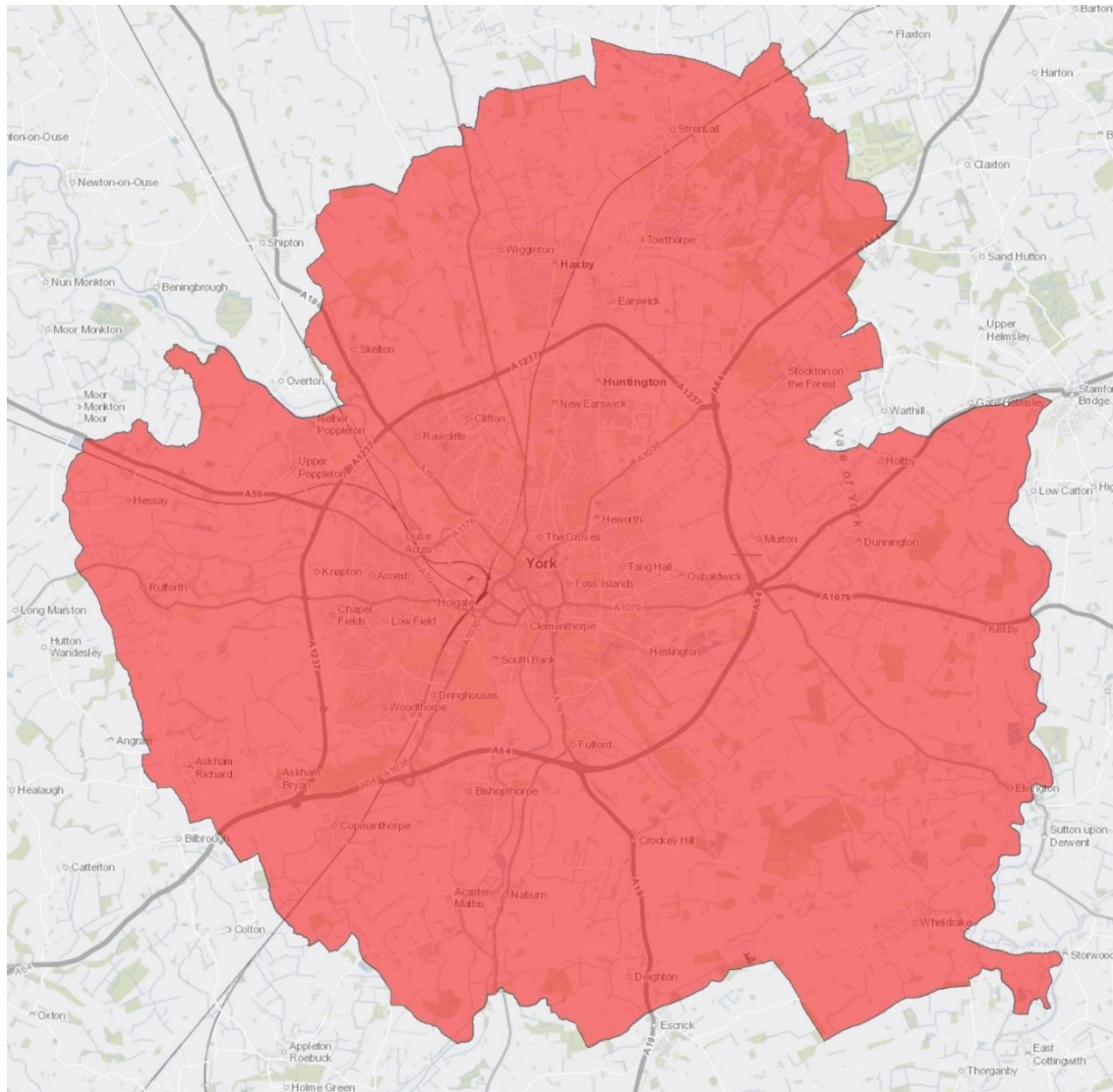


Area covered by CYC's existing Smoke Control Orders

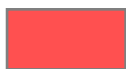
**Figure A2:** Distribution of homes that have solid fuel appliances



**Figure B1: Proposed smoke control area (extended to CYC boundary)**



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Area to be included in the proposed CYC Smoke Control Area 2024

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**Table C1:** List of smoke control orders to be revoked

<b>Name</b>	<b>Date of Operation</b>
The City of York (No. 1) Smoke Control Order, 1968	1 <sup>st</sup> July 1970
The City of York (No. 2) Smoke Control Order, 1970	1 <sup>st</sup> November 1971
The City of York (No. 3) Smoke Control Order, 1972	1 <sup>st</sup> July 1974
The City of York (No. 4) Smoke Control Order, 1973	1 <sup>st</sup> November 1974
The City of York (No. 2 Smoke Control Order, 1970) Variation Order, 1974	1 <sup>st</sup> January 1975
The City of York (No. 5) Smoke Control Order, 1974	1 <sup>st</sup> November 1976
The City of York (No. 6) Smoke Control Order, 1976	1 <sup>st</sup> November 1977
The City of York (No. 7) Smoke Control Order 1978	1 <sup>st</sup> November 1979
The City of York (No. 8) Smoke Control Order 1978	1 <sup>st</sup> November 1980
The City of York (No. 6) Smoke Control (Variation) Order 1979	23 <sup>rd</sup> May 1980
The City of York (No. 9) Smoke Control Order 1983	1 <sup>st</sup> November 1984
The City of York (No. 10) Smoke Control Order 1984	1 <sup>st</sup> April 1985
The City of York (No. 11) Smoke Control Order 1985	1 <sup>st</sup> July 1986
The City of York (No. 12) Smoke Control Order 1986	1 <sup>st</sup> July 1987
The City of York (No. 13) Smoke Control Order 1986	1 <sup>st</sup> July 1987
The City of York (No. 14) Smoke Control Order 1987	1 <sup>st</sup> September 1988
The City of York (No. 15) Smoke Control Order 1987	1 <sup>st</sup> September 1988
The City of York (No. 16) Smoke Control Order 1989	1 <sup>st</sup> April 1990
Clifton Without and Rawcliffe (No. 1) Smoke Control Order 1991	1 <sup>st</sup> October 1992
Haxby & Wigginton (No. 1) Smoke Control Order, 1969	1 <sup>st</sup> November 1969
Haxby & Wigginton (No. 2) Smoke Control Order, 1969	1 <sup>st</sup> November 1969
Haxby & Wigginton (No. 3) Smoke Control Order, 1969	1 <sup>st</sup> November 1969
Haxby & Wigginton (No. 4) Smoke Control Order 1988	1 <sup>st</sup> October 1989
Haxby & Wigginton (No. 5) Smoke Control Order 1989	1 <sup>st</sup> October 1990
Heworth Without (No. 1) Smoke Control Order 1993	27 <sup>th</sup> March 1995
The Huntington (No. 1) Smoke Control Order 1973	1 <sup>st</sup> March 1974
Huntington (No. 2) Smoke Control Order 1992	22 <sup>nd</sup> March 1993
Osbaldwick (No. 1) Smoke Control Order 1993	27 <sup>th</sup> March 1995

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**City of York Council**  
**Equalities Impact Assessment**

**Who is submitting the proposal?**

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

## Step 1 – Aims and intended outcomes

1.1	<b>What is the purpose of the proposal?</b> 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<sub>2.5</sub>) concentrations across the city, which impact human health.</p>



<b>1.2</b>	<b>Are there any external considerations?</b> (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>
<b>1.3</b>	<b>Who are the stakeholders and what are their interests?</b>
	<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-authorised fuels in a SCA is an offence. Any smoke control area boundary changes would be communicated to such businesses.</p>

1.4	<p><b>What results/outcomes do we want to achieve and for whom?</b> 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"> <li>• ensure consistency in CYC's approach to dealing with smoke emissions across all current and future residential areas</li> <li>• 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)</li> <li>• act as a deterrent to burning non-authorised fuels (or using non-exempt appliances) which contribute to air pollution and especially fine particulate (PM<sub>2.5</sub>) concentrations across the city, which impact human health.</li> <li>• complement other transport related measures being implemented in York to reduce emissions and improve air quality.</li> <li>• Improve public health</li> </ul> <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

<b>2.1</b>	<p><b>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?</b> 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>
<b>Source of data/supporting evidence</b>	<b>Reason for using</b>

Proposed consultation activities for the legal process of smoke control area order revocation / expansion	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 13 <sup>th</sup> November 1980) will also be subject to approval by the Secretary of State, prior to any new order coming into effect.
Consultation activities for AQAP4	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 22 <sup>nd</sup> November 2023 and 4 <sup>th</sup> 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 18 <sup>th</sup> July 2024.

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 ' <a href="#">Fuel for Thought</a> ' 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 ' <a href="#">Burn Better, Breathe Better</a> ' 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	<b>What are the main gaps in information and understanding of the impact of your proposal? Please indicate how any gaps will be dealt with.</b>
<b>Gaps in data or knowledge</b>	<b>Action to deal with this</b>
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.

<b>4.1</b>	<b>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?</b> Remember the duty is also positive – so please identify where the proposal offers opportunities to promote equality and/or foster good relations.		
<b>Equality Groups and Human Rights.</b>	<b>Key Findings/Impacts</b>	<b>Positive (+) Negative (-) Neutral (0)</b>	<b>High (H) Medium (M) Low (L)</b>
<b>Age</b>	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
<b>Disability</b>	People with respiratory illnesses are more adversely affected by poor air quality.	+	M
<b>Gender</b>	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



<b>Gender Reassignment</b>	No impacts identified	0	-
<b>Marriage and civil partnership</b>	No impacts identified	0	-
<b>Pregnancy and maternity</b>	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
<b>Race</b>	No impacts identified	0	-
<b>Religion and belief</b>	No impacts identified	0	-
<b>Sexual orientation</b>	No impacts identified	0	-
<b>Other Socio-economic groups including :</b>	<b>Could other socio-economic groups be affected e.g. carers, ex-offenders, low incomes?</b>		
<b>Carer</b>	No impacts identified	0	-
<b>Low income groups</b>	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.		
<b>Veterans, Armed Forces Community</b>	No impacts identified	0	-
<b>Other</b>	N/A	-	-
<b>Impact on human rights:</b>			
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.

<b>High impact</b> (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.
<b>Medium impact</b> (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
<b>Low impact</b> (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	<b>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?</b>
	<p>Proposals have the potential to reduce concentrations of fine particulate matter (PM<sub>2.5</sub>) / 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	<b>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:</b>
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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 quality 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

<b>8. 1</b>	<p><b>How will the impact of your proposal be monitored and improved upon going forward?</b></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"> <li>• Ongoing monitoring of air pollution across York to determine positive impacts in terms of reduced concentrations of fine particulate matter (PM<sub>2.5</sub>) and associated public health benefits.</li> <li>• Request for advice / smoke complaints received / enforcement activity undertaken (with any local enforcement policy and penalty definition subject to regular review).</li> <li>• 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.</li> </ul>



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