



Cambridge City Smoke Control Areas, (SCA's), Enforcement & Fee Policy

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1.0 Introduction

There is enforcement action local authorities can take in smoke control areas under Schedule 1A of the Clean Air Act 1993(as amended by the Environment Act 2021).

Only authorised fuels should be burnt in association with chimneys of any buildings in these areas who have a smoke producing appliance, alternatively they should use a Defra approved appliance – this is known as an ‘exempt appliance’.

When smoke is emitted from a chimney in a smoke control area of which there are 3 in Cambridge City, the local authority can issue a financial penalty, ranging from £175 up to a maximum of £300 per notice, to the person responsible where they are found to be not following the above requirements.

Government guidance references the need for local authorities to develop and document their own policy on how much to charge those responsible for smoke emissions in smoke control areas.

2.0 Legislation & Government Guidance

The Government brought in a Clean Air Act in 1993, which was amended as part of the Environment Act 2021 (S.73):

[Clean Air Act 1993 \(legislation.gov.uk\)](#)

[Environment Act 2021 \(legislation.gov.uk\)](#)

Regard has been had to this legislation and [Government guidance](#) when preparing this policy and associated financial penalty fee matrix.

3.0 Scope of the Policy & Enforcement

Cambridge City has three declared SCA's covering the west and centre of the city as shown the Smoke Control Area Map which can be found on the [Smoke pollution](#) page of the Council's website. These SCA's were declared following implementation of early clean air legislation that was brought in by the government in England owing to health concerns for citizens linked to the London Smog of 1952.

Schedule 1A of the Clean Air Act 1993, (as amended by the Environment Act 2021) details enforcement action local authorities can take currently, where proportionate / necessary against an occupier(s) of any building within a smoke control area found to be breaching smoke control rules.

The purpose of this policy is to set out how the authority will enforce this.

For the purposes of the Act a "relevant chimney" means—

(a) a chimney of a building to which a smoke control order in England applies,

or

(b) a chimney which serves the furnace of any fixed boiler or industrial plant to which a smoke control order in England applies.

The Person(s) liable for such chimneys within the smoke control areas in the city must therefore either burn **smokeless fuel** or burn fuel within a **Defra exempt appliance**. Details of authorised fuels and exempt appliances in England can be found on the [Department of Environment, Food & Rural Affairs](#), (Defra), website.

For the purposes of the Act a "person liable", in relation to a relevant chimney, means—

(a) if the chimney is the chimney of a building, the occupier of the building, or

(b) if the chimney serves the furnace of any fixed boiler or industrial plant, the person having possession of the boiler or plant.

Notice of intent

Where the Council is satisfied, on the balance of probabilities, that on a particular occasion smoke has been emitted from a 'relevant chimney' within one of its smoke control areas, they may issue the person(s) liable with a warning / improvement notice in the first instance.

If the person(s) liable were to continue to emit smoke from said chimney, then the Council could issue them with a notice of intent informing them that the local authority proposes to impose a financial penalty between the minimum legislative amount of **£175** and the maximum amount of **£300**.

The person(s) issued with a notice of intent have the right to object to the imposition of a financial penalty within the period of 28 days beginning with the day after that on which the notice was given. Any objection would need to be made in writing to the Council and would need to include copies of any supplementary evidence detailing why they believe this proposed course of action to be unreasonable.

The grounds of objection are—

- (a) that there was no emission of smoke from the chimney on the occasion specified in the notice of intent.
- (b) that the chimney was not a chimney to which a smoke control order applied on the occasion specified in the notice of intent.
- (c) that the person to whom the notice of intent was given was not a person liable in relation to the chimney on the occasion specified in the notice of intent.
- (d) that there are other compelling reasons why the financial penalty should not be imposed.

Where a person objects on ground (c), the objection must include the name and address of the person who was the person liable on the occasion specified in the notice of intent (if known).

Where the Council has issued a notice of intent to a person(s), they may impose a financial penalty on the person(s) within—

- (a) the period of 56 days beginning with the day on which an objection is made under paragraph 4, or
- (b) if no such objection is made, the period of 56 days beginning with the day after the day on which the 28-day objection period ended.

If the Council decides not to impose a financial penalty on a person(s) or does not decide to impose a financial penalty on the person(s) within the period specified, they must give a notice to that person that informs the person that a financial penalty will not be imposed.

Final notice

The Council may impose a financial penalty by a final notice given to that person(s).

A final notice must specify—

- (a) the amount of the financial penalty,
- (b) the reasons for imposing the penalty,
- (c) information about how to pay the penalty,
- (d) the period for payment of the penalty, and

(e) information about rights of appeal.

The final notice must require the financial penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given.

Withdrawal or amendment of notices

The Council may at any time—

- (a) withdraw a notice of intent or a final notice, or
- (b) reduce the amount of the financial penalty specified in a final notice.

Appeals

A person(s) on whom a financial penalty is imposed by a final notice may, within the period of 28 days beginning with the day after that on which the notice was given, appeal against the notice to the First-tier Tribunal.

The grounds for an appeal under this paragraph are that the decision to impose the financial penalty was—

- (a) based on an error of fact,
- (b) wrong in law, or
- (c) unreasonable.

If a person appeals, the final notice is suspended until the appeal is finally determined or withdrawn.

On an appeal under this paragraph the First-tier Tribunal may—

- (a) quash the final notice,
- (b) confirm the final notice,
- (c) vary the final notice by reducing the amount of the financial penalty, or
- (d) remit to the local authority the decision whether to—
 - (i) withdraw or confirm the final notice, or
 - (ii) vary the final notice by reducing the amount of the financial penalty.

PLEASE NOTE - If there are further smoke emissions from a relevant chimney after issue of a notice of intent, the Council can issue additional notices for each incident with the penalty for these detailed within the fee matrix, Appendix 2 of this policy.

4.0 Calculating the financial penalty.

When determining a financial penalty, the council will use a fee matrix as a guide to determine appropriate and proportionate penalty (amounts as a percentage of the maximum). This fee matrix is contained within Appendix 2 of this policy.

5.0 Recovery of financial penalties

If a person who has been deemed in breach does not pay a financial penalty imposed on them, the Council may ultimately take them to court to recover the money.

In proceedings for the recovery of a financial penalty, a certificate signed by or on behalf of the person with responsibility for the financial affairs of the Council, stating that payment of the financial penalty was not received by a given date will be used as evidence of the non-compliance with the penalty notice.

The Council can retain any income from financial penalties issued.

Appendix One – Exemptions

The smoke control area rules do not apply to smoke from:

- steam trains.
- Road steam vehicles, for example traction engines, steamrollers, steam-powered cars, and lorries.
- Vessels, i.e. moored vessels.
- Smoke from outdoor burning, this includes barbecues, chimineas and pizza ovens which are outside and not in a building.

Currently there are also certain fireplaces associated with Cambridge University Colleges that are specified as exempt within The City of Cambridge Smoke Control Order 1961.

Appendix 2 – Cambridge City SCA Financial Penalty Fee Matrix

Where the Council decides to impose a financial penalty, they have discretion to decide the amount of penalty between the minimum legislative amount **£175** and the maximum amount of **£300** and will do so as follows considering how serious the offence is and if it is a repeat offence:

Offence Category	Fine Amount
If the liable person(s) has ignored a formal warning, which has previously been issued in the first instance in line with the policy and have breached the smoke control rules again.	£175.00 – (Minimum amount as defined in the Act)
If the liable person(s) has breached the smoke control rules for a second time, after an initial formal warning and primary fine.	£225.00
If the person(s) liable has breached the regulations for a third time, after a warning, primary and secondary fines, <u>or</u> They are continuously breaching the regulations despite previous fines.	£300.00 per notice of intent – (Maximum amount as defined in the Act)