

# Smoke Control Guidance

This guidance will be set out on webpages on GOV.wales

## **Webpage 1**

### **Smoke Control Area Guidance for Homes and Businesses**

#### **Smoke Control Area FAQs**

##### **What are smoke control areas?**

Smoke control areas are areas in which certain rules apply to reduce air pollution from burning solid fuels such as coal and wood. The relevant pieces of legislation are the Clean Air Act 1993 and the Environment (Air Quality and Soundscapes) (Wales) Act 2024 ('the legislation').

A smoke control area is an area where people and businesses must not:

- emit smoke from a chimney of a building. This includes outdoor buildings that have a chimney, such as summerhouses.
- buy or sell unauthorised fuel for use in a smoke control area unless it's used in an 'exempt' appliance (appliances which are approved for use in smoke control areas).

##### **Why do we have smoke control areas?**

Smoke control area rules are in place in certain parts of the country to reduce air pollution from burning solid fuels. Air pollution is one of the biggest environmental risks to public health. Burning solid fuels is a major contributor to a type of pollutant called fine particulate matter, which is present in smoke. These tiny particles can damage your lungs and other organs, and harm the health of you, your family and the wider community.

##### **What type of properties are subject to the legislation?**

All properties that emit smoke from a chimney of a building, or a chimney which serves the furnace of any fixed boiler or industrial plant, and lie within a smoke control area are subject to the legislation. This includes residential properties.

##### **Where are the smoke control areas in Wales?**

Currently there are smoke control areas in four local authorities in Wales. These are Flintshire, Newport, Swansea and Wrexham. To check whether your property is within a smoke control area, please visit this website:

<https://datamap.gov.wales/maps/wales-smoke-control-areas-map/>

##### **What if my property isn't covered by a smoke control area?**

Local authorities can create new smoke control areas at any time, following engagement with citizens and stakeholders. If you think there is a problem with smoke pollution in your area, you can encourage your local authority to create a smoke control area to tackle the problem.

Even if you do not live in a smoke control area, you should always consider less polluting ways of heating your home to help the environment and the health of you and your neighbours.

### **Do I need to change my fireplace/stove if I live in a smoke control area?**

There is no requirement to change your fireplace or stove, so you can comply with the legislation without needing an expensive upgrade. However, there are limitations on what types of solid fuels you can use in older appliances. For example, you are not allowed to burn wood in an open fireplace or an older stove if you live in a smoke control area. See more below.

### **What if I want to install a new stove?**

We encourage you to look for other, less polluting ways of heating your home, but if solid fuel is your only option, look for the Ecodesign standard which ensures the appliance meets strict standards for emissions and efficiency.

### **How can I limit smoke emissions?**

If solid fuel is your only option, consider switching to a less polluting fuel and follow best practice examples of burning more efficiently such as <https://www.hetas.co.uk/burn-better/>.

You should also ensure that your appliance is installed correctly, operated in accordance with the manufacturer's instructions, and properly maintained. We advise that your chimney is maintained by a certified professional chimney sweep each year.

### **What can I burn in a smoke control area?**

You can burn the following fuels in a smoke control area:

- 'Smokeless' fuels: anthracite, semi-anthracite, gas and low volatile steam coal.
- Authorised/certified manufactured solid fuels, which you can find on the following website: <https://smokecontrol.defra.gov.uk/fuels.php?country=wales>.
- Dry wood, but only if you use an appropriate exempt appliance. You cannot burn wood in an open fireplace in a smoke control area. You can check if your appliance is exempt by searching on the following website: <https://smokecontrol.defra.gov.uk/appliances.php?country=wales> You must only use the types of fuel that the manufacturer says can be used in the appliance.

### **What could happen if I do not follow the rules?**

If you buy or receive controlled (unauthorised) solid fuels, and do not have an exempt appliance in which to burn them, you will be breaking the law and could face a fine up to £1,000.

If you do not use the right fuel and/or appliance, resulting in smoke emissions from your chimney, you may receive a fine of up to £300 for each offence. Further information on smoke control area rules can be found here: [insert new link on gov.wales](#). You can first be issued with an Improvement Notice, explaining the rules and offering advice on the impacts of pollution from solid fuel burning and how to minimise your emissions. If the smoke emissions persist, you can be issued with a Notice of Intent. You would then have 28 days in which to offer reasonable grounds for objection and if this is not accepted, you can be issued with a Final Notice.

## **Webpage 2**

### **Smoke Control Guidance for Local Authorities**

#### **FAQs for Local Authorities**

##### **What are the benefits of having a Smoke Control Area?**

Poor air quality contributes to the development of numerous diseases including cancer, heart disease and asthma; children, the elderly and those with respiratory issues are particularly at risk.

Domestic and commercial burning of solid fuels is estimated to be the largest source of particulate matter, specifically PM<sub>2.5</sub> in Wales, which, when breathed, can irritate lungs and cause long term harm to health.

Smoke control is a useful tool when used as part of a holistic approach to local air quality management. The new civil sanctions regime introduced by the Environment (Air Quality and Soundscapes) (Wales) Act 2024 reduces the burden of proof to facilitate quicker intervention by local authorities to tackle smoke emitted within their Smoke Control Areas.

You can offer an advice-led approach to encourage compliance without the need for a financial penalty, though this option is available if the advice is not followed.

##### **What is a smoke control area?**

A smoke control area is an area where people and businesses must not:

- emit smoke from a chimney of a building. This also includes outdoor buildings that have a chimney, such as summerhouses.
- buy or sell unauthorised fuel for use in a smoke control area unless it's used in an 'exempt' appliance (appliances which are approved for use in smoke control areas)

The relevant pieces of legislation are the Clean Air Act 1993 and the Environment (Air Quality and Soundscapes) (Wales) Act 2024 ('the legislation').

##### **What fuel can be used in a smoke control area?**

Homes and businesses can burn the following fuels in a smoke control area:

- 'Smokeless' fuels: anthracite, semi-anthracite, gas and low volatile steam coal.
- Authorised/certified manufactured solid fuels, which you can find on the following website: <https://smokecontrol.defra.gov.uk/fuels.php?country=wales>

- Dry wood, but only when using appropriate exempt appliance. Wood cannot be burned in an open fireplace in a smoke control area. You can check if your appliance is exempt by searching on the following website: <https://smokecontrol.defra.gov.uk/appliances.php?country=wales>. You must only use the types of fuel that the manufacturer says can be used in the appliance.

## **How to create a new Smoke Control Area**

You may declare the whole or any part of your authority to be a smoke control area. Before creating a smoke control order, you must consult on your proposals with those affected by the change and take into consideration any comments before proceeding. You can choose to make exclusions when creating a smoke control order, such as a type of fireplace or building.

Whilst not captured within the legislation, we would recommend that you also undertake an analysis of the benefits and impacts of creating a smoke control area. This analysis could include such things as the number of homes and businesses affected, how many properties may be non-compliant at the time of the introduction or how positive the impact on local air quality may be. The costs of this analysis would need to be factored into your decision.

There are specific steps you must follow, as detailed in the legislation. Guidance is available under 'Create, vary or revoke a Smoke Control Area' [[insert link](#)].

## **How to vary an existing Smoke Control Order**

You may vary an existing order, for example, to extend its boundaries or exclude certain buildings. You must consult on your proposals with those affected by the change and take into consideration any comments before proceeding.

Detailed guidance is available under 'Create, vary or revoke a Smoke Control Area' [[insert link](#)].

## **How to revoke an existing Smoke Control Order**

You may revoke an existing Smoke Control Order, for example if you want to replace it with a single smoke control order to cover your entire authority. You must consult on your proposals with those affected by the change, but the rules are slightly different for older orders. If your order was made on or after 13 November 1980, objections can be raised direct to the local authority. If made before 13 November 1980, objections must be made direct to Welsh Ministers and they will decide whether a local inquiry or a meeting with an appropriate person is required. You must take into consideration any objections before you proceed with the revocation.

Detailed guidance is available under 'Create, vary or revoke a Smoke Control Area' [\[insert link\]](#).

### **How to enforce the Civil Sanctions?**

In the vast majority of cases, if a person is burning an authorised fuel or using an exempt appliance then smoke will not be emitted and so a civil penalty cannot be issued. If smoke is emitted then you will be able to take action but you are not compelled to do so. More information can be found in the 'Civil Sanctions' factsheet. [\[insert link\]](#)

You need to collect photographic or video evidence of smoke being emitted from a chimney. This can be captured direct by your officers or from evidence submitted by citizens. To facilitate this, you may wish to provide this function on your website. You must provide this evidence when enforcing the legislation.

We recommend you adopt an advice-led approach and always use this as your first option, to raise awareness of how domestic solid fuel burning contributes to poor air quality in Wales and how it can adversely impact the health of the occupants and their neighbours. Consider sharing examples of best practice or other behavioural change tools to inform occupants of the dangers of poor burning practices and the harm this can do to the health and wellbeing of them and their neighbours.

Templates are available for you to send to residents and businesses when enforcing the legislation. [\[insert link\]](#)

### **Does a local authority have to offer financial support when creating a new smoke control order?**

In most cases, no. The provision for reimbursement of adaptation costs for pre-1964 homes was removed from the legislation by the Environment (Air Quality and Soundscapes) (Wales) Act 2024.

Two sections of the Clean Air Act 1993 relating to adaptation costs have been retained. Section 24 requires you to reimburse adaptation costs where you have specifically required the work and you can reclaim a proportion of these costs from Welsh Ministers. Section 26 gives you the discretionary power to pay for adaptations to religious and charitable buildings.

### **What are the rules for selling and acquiring fuels in a smoke control area?**

It's illegal to sell and buy unauthorised fuels for use where a smoke control order applies, unless it's for an exempt appliance, in a building, fireplace, or a fixed boiler /

industrial plant. The list of authorised fuels in Wales can be found on the following website: <https://smokecontrol.defra.gov.uk/fuels.php?country=wales>

For the buyer, there is a maximum fine of £100. For the retailer, the level of fine will be decided by the court. You should also check that retailers are taking action to inform customers about these rules.

More information can be found in the 'Acquisition and Sale of Unauthorised Fuels' factsheet. [\[insert link\]](#)

### **Are vessels included in the scope?**

No, vessels in Wales are not covered by the legislation.

### **Are there other ways of communicating the message?**

Whilst not a requirement of the legislation, we recommend you inform your Land Registry of your smoke control areas. This will help communicate the existence of smoke control orders via solicitor-led searches for prospective land or building purchases.

## **Webpage 3**

### **Smoke Control Area Guidance for Local Authorities**

#### **Creating, varying, or revoking a smoke control order**

This guidance sets out the requirements for creating, varying, or revoking a smoke control order in accordance with the Clean Air Act 1993.

You can **create** a smoke control order in your area, which will mean that people and businesses must not:

- emit a substantial amount of smoke from a chimney
- buy or sell controlled (unauthorised) solid fuel for use in a building, fireplace, fixed boiler or industrial plant to which a smoke control area applies, unless it's used in an exempt appliance. A list of exempt appliances for use in Wales can be found here:  
<https://smokecontrol.defra.gov.uk/appliances.php?country=wales> You must only use the types of fuel that the manufacturer says can be used in the appliance.

For further information on smoke control area enforcement, please visit: *insert link on gov.wales when available*

A list of the approved fuels for use in a smoke control area can be found here:  
<https://smokecontrol.defra.gov.uk/fuels.php?country=wales>

A smoke control order may be revoked or varied by a subsequent order.

You can **vary** an existing smoke control order in your area by a subsequent order, for example, if you wish to:

- change the smoke control area boundaries
- exempt certain buildings, fireplaces, or classes of building or fireplace, or vary any existing exemptions.

You can also **revoke** your smoke control order by a subsequent order.

#### **Creating a smoke control order**

The procedure for making a smoke control order is set out in [Schedule 1 to the Clean Air Act 1993](#).

Before making a smoke control order, it is a legal requirement to publish a notice in the London Gazette and at least once in each of two consecutive weeks in a local newspaper.

It is also a legal requirement to post the notice for a period of not less than six weeks. Throughout the consultation period you must keep copies of the notice posted in several places in the relevant area to ensure people who will be affected are aware of the proposal. Examples are doctors' surgeries, leisure centres, libraries,



etc. Additionally, the notice should be published on the local authority's website if it has one.

The notice must:

- state that you propose to establish a smoke control order, and explain what this means for residents and businesses;
- specify a place in the relevant area where a copy of the order and of any map or plan can be reviewed by any person free of charge at all reasonable times for no less than six weeks from the date of the last publication of the notice; and
- state that in that period any person who will be affected can object by writing to the local authority.

You must consider any objections before bringing your proposal into effect (see below) and the order must come into effect no less than six months after it is made. You can delay the coming into effect of your order by publishing a notice in the London Gazette and at least once in each of two consecutive weeks in a newspaper circulating in the relevant area.

When you have made the order, you must inform the Welsh Ministers and provide the date on which the order is to come, or came, into operation. The order will then be added to DataMapWales (this final step is not a legal requirement).

### **Varying or revoking a smoke control order that was made on or after 13 November 1980**

To make an order varying or revoking a smoke control order that was made on or after 13 November 1980, you must follow the same steps as for creating a new order (see above) as set out in [Schedule 1 to the Clean Air Act 1993](#)<sup>1</sup>.

If the only provision is to vary an existing order to exempt the following from your smoke control area rules:

- specific buildings or types of buildings
- specific fireplaces or types of fireplaces

then it can come into effect on or at any time after the date it is made.

If the order makes any other variation or revocation, the smoke control order must come into effect no less than six months after it is made.

All other steps, as indicated in 'Creating a smoke control order' must be taken.

### **Varying or revoking a smoke control order created before 13 November 1980**

The procedure is slightly different for varying or revoking a smoke control order that was made before 13 November 1980. In this case, [Part 3 of Schedule 5 to the Clean Air Act 1993](#)<sup>2</sup> applies.

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

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/1993/11/schedule/5>

You must follow the same steps as for creating a new order (see above) and **in addition**, the order varying or revoking a smoke control order made before 13 November 1980 can only take effect **after it has been confirmed by the Welsh Ministers**. Any objections must be directed to the Welsh Ministers (see below for objections).

If you wish to vary or revoke a smoke control order created before 13 November 1980, you must first make an order to that effect, and then publish a notice in the London Gazette and at least once in each of two consecutive weeks in a local newspaper. The notice must:

- state that you have made an order varying or revoking a smoke control order, which will take effect if confirmed by the Welsh Ministers, and explain what this means for residents and businesses;
- specify a place in the relevant area where a copy of the order, and of any map or plan referred to in it, can be inspected by any person free of charge at all reasonable times for no less than six weeks from the date of the last publication of the notice. Examples are doctors' surgeries, leisure centres, libraries, etc; and
- state that in that period any person who will be affected can object to the confirmation of the order by writing to the Welsh Ministers (this differs from orders made on or after 13 November 1980).

It is also a legal requirement to publish the notice for a period of not less than six weeks. The most appropriate place may be the local authority's website if it has one or in public places such as doctors' surgeries, leisure centres, libraries, etc.

Please inform the Welsh Ministers in advance of your intent to vary or revoke an order made before 13 November 1980, so they can be prepared for any objections.

Your letter/email should include the following information:

- a statement confirming that the procedure for varying or revoking a smoke control order has been carried out in accordance with the requirements of the Clean Air Act 1993;
- a copy of the notice(s); and
- details of where and when the notices were published.

Once the Welsh Ministers have received this information and if no objections are made, or if every objection made is withdrawn, the Welsh Ministers may confirm the order in writing within 28 days, either with or without modifications. These 28 days commence once the period of not less than six weeks from the date of the last publication of the notice has expired. (See below for objections.)

An order can come into effect on or at any time after the date it is confirmed by the Welsh Ministers, if the only provision is to vary an existing order to exempt the following from your smoke control area rules:

- specific buildings or types of buildings
- specific fireplaces or types of fireplaces.

An order making any other variation to, or revoking, a smoke control order must come into effect no less than six months after it is confirmed.

You will need to write to the Welsh Ministers for consent if you wish to delay the coming into effect of an order for more than 12 months or for periods amounting in all to more than 12 months.

When you have made the order, you must inform the Welsh Ministers and provide the date on which the order is to come, or came, into operation. The order will then be amended or removed from DataMapWales (this final step is not a legal requirement).

## **Objections**

When creating, varying or revoking smoke control orders made on or after 13 November 1980, you must provide contact details of how objections can be raised to your local authority when you publish your notice, and each objection must be given consideration before the smoke control order can be made.

When you have made the order, you must inform the Welsh Ministers and provide the date on which the order is to come, or came, into operation. The order will then be amended or removed from DataMapWales (this final step is not a legal requirement).

When varying or revoking smoke control orders made before 13 November 1980, the rules are different and objections must go direct to the Welsh Ministers.

You must provide contact details to which objections can be raised to the Welsh Ministers when you publish your notice:

Email: [AirQualityPolicy@gov.wales](mailto:AirQualityPolicy@gov.wales)

Postal address: Air Quality Policy, Welsh Government, Cathays Park, Cardiff, United Kingdom CF10 3NQ

If no objection is made to the Welsh Ministers within the period of not less than six weeks from the date of the last publication of the notice, or if every objection made is withdrawn, the Welsh Ministers may, if they think fit, confirm the order either with or without modifications. The Welsh Ministers will confirm the order in writing within 28 days, starting from the last day of the period of not less than six weeks from the date of the last publication of the notice.

If any objections are received, the Welsh Ministers will either:

- arrange for a local inquiry to be held or
- give the objectors an opportunity to make representations in person before an appointed person.

The Welsh Ministers will decide the appropriate course of action, according to the number of objections received. The Welsh Ministers may appoint a person to hold an inquiry which would be subject to the rules regarding witnesses, documents and costs as set out in section 250 of the [Local Government Act 1972](#).

After considering the objection and the report of the person who held the inquiry or the appointed person, the Welsh Ministers may confirm the order with or without modifications

## Webpage 4

### Smoke Control Area Guidance for Local Authorities

#### Civil Sanctions Factsheet

This factsheet sets out the **civil sanctions' regime** in accordance with Schedule 1A of the Clean Air Act 1993, as amended by the Environment (Air Quality and Soundscapes) (Wales) Act 2024 which came into effect on [insert date once commencement order agreed, likely to be spring 2025].

The main change brought forward in recent legislation is the switch from criminal to civil sanctions for the offence of emitting smoke from a chimney of a building in a Smoke Control Area.

We recommend you adopt an **advice-led approach** and always use this as your first option, to raise awareness of how domestic solid fuel burning contributes to poor air quality in Wales and how it can adversely impact the health of the occupants and their neighbours. Consider sharing examples of best practice or other behavioural change tools to inform occupants of the dangers of poor burning practices and the harm this can do to the health and wellbeing of them and their neighbours.

The Clean Air Act 1993 had exceptions to the criminal sanctions in relation to the emission of smoke when using an appliance or fuel authorised by the Welsh Ministers. These exceptions (often referred to as **defences**) have been removed to facilitate quicker intervention to tackle smoke emissions.

The **civil standard** means a lower level of proof is required to determine whether the law has been broken. i.e. you must apply the balance of probabilities rather than beyond all reasonable doubt. However, you must collect evidence to prove that smoke is being emitted from the chimney.

You need to collect photographic or video **evidence** of smoke being emitted from a chimney. This can be captured direct by your officers or from evidence submitted by citizens. To facilitate this, you may wish to provide this function on your website. You must provide this evidence when enforcing the legislation.

Civil monetary **penalties** can be levied but should be used as a last resort, when other methods of engagement and behaviour change techniques have failed.

The steps you should follow are:

- Speak to the householder or business and offer advice.
- Issue an improvement notice. This is not a legal requirement but supports the Welsh Ministers' advice-led approach to reducing smoke emissions and is highly recommended. You may supplement this initial letter with advice leaflets, if available.
- If the emissions continue, issue a notice of intent.
- Issue a final notice with a financial penalty.

You may give a notice by:

- handing it to the person responsible.
- leaving it at the person's address.
- sending it by post to the person at their address.
- emailing it to the person (if you have their consent).

You can issue a financial penalty to any of the following for smoke emissions in a smoke control area:

- the occupier of the building with the chimney – for example, the homeowner or the tenant.
- the owner of the fixed boiler or industrial plant that the chimney serves.

Templates are available for you to send to residents and businesses when enforcing the legislation. [\[insert link\]](#)

### **Financial penalty amount**

The financial penalties range from a minimum of £175 to a maximum of £300 for each notice of intent you send. You should develop and document your own policy on how much to charge those responsible for smoke emissions, and considerations should be given to the seriousness or repetition of the offence.

You can keep any income received from the financial penalties. It's good practice to keep a record of financial penalties collected. The information might include the:

- number of financial penalties issued.
- number of financial penalties collected.
- amount collected.

## **Webpage 5**

### **Smoke Control Area Guidance for Local Authorities**

#### **Acquisition and Sale of Unauthorised Fuels**

This factsheet sets out the Acquisition and Sale of Unauthorised Fuels in a smoke control area, in accordance with the Clean Air Act 1993, as amended by the Environment (Air Quality and Soundscapes) (Wales) Act 2024.

It's illegal to buy and sell unauthorised fuels for use where a smoke control order applies, unless it's for an exempt appliance, in a building, fireplace, or a fixed boiler / industrial plant. The list of authorised fuels in Wales can be found on the following website: <https://smokecontrol.defra.gov.uk/fuels.php?country=wales> The list of exempt appliances in Wales can be found on the following website: <https://smokecontrol.defra.gov.uk/appliances.php?country=wales>

You can prosecute an acquirer of fuel if they break this rule with a fine not exceeding level 3 on the standard scale (£1,000).

You can prosecute a retailer if they break this rule and the level of fine will be decided by the court. You should also check that retailers are taking action to inform customers about these rules for example, by putting a sign next to the fuels or tills, or a message when paying online.

Under the legislation, a retailer can use any of the following as a defence if they can prove reasonable grounds for believing—

- (a) that the building was not one to which the smoke control order in question applied, or
- (b) that the fuel was acquired for use in—
  - (i) a fireplace that was, at the time of the delivery, an exempt fireplace, or
  - (ii) a boiler or plant to which the smoke control order did not apply.

**Please note this example document has been provided to assist local authority enforcement activities. Local authorities should take their own legal advice on use of this example document.**

## **Example Template 1 - Improvement Notice**

[Council details/logo]

[Date]

Insert name (if known)  
and address of property

### **IMPROVEMENT NOTICE Clean Air Act 1993 (as Amended)**

#### **Improvement Notice following Emission of Smoke from a Chimney in a Smoke Control Area**

Dear Householder (add name if known)

I am writing to inform you that smoke was observed from your chimney on xxx [date of incident] and we are in receipt of photographic and/or video evidence. As you live in a smoke control area, it is against the law to release smoke from your chimney. SCHEDULE 1A of the Clean Air Act 1993, as amended by the Environment (Air Quality and Soundscapes) (Wales) Act 2024 makes provision for financial penalties in relation to the emission of smoke in smoke control areas in Wales.

**The purpose of this improvement notice is to make you aware of the smoke control area rules and inform you that you may be fined if smoke is observed from your chimney again.**

Smoke control area rules are in place in certain parts of the country in order to reduce air pollution from burning solid fuels. Air pollution is the biggest environmental risk to public health. Burning solid fuels is a major contributor to a type of pollutant called fine particulate matter, which is present in smoke. These tiny particles can damage your lungs and other organs, and harm the health of you, your family and the wider community.

You can burn the following fuels in a smoke control area:

- 'smokeless' fuels: anthracite, semi-anthracite, gas and low volatile steam coal.

- Authorised/certified manufactured solid fuels, which you can find on the following website: <https://smokecontrol.defra.gov.uk/fuels.php?country=wales>
- Dry wood, but only if you use an appropriate exempt appliance. You cannot burn wood in an open fireplace. You can check if your appliance is exempt by searching on the following website: <https://smokecontrol.defra.gov.uk/appliances.php?country=wales> You must only use the types of fuel that the manufacturer says can be used in the appliance.

You should also ensure that your appliance is installed correctly, operated in accordance with the manufacturer's instructions, and properly maintained. We advise your chimney is maintained by a certified professional chimney sweep each year. There are many resources available to help you burn more efficiently, such as <https://www.hetas.co.uk/burn-better/>

As long as you follow these rules, no further action will be taken. However, if you do not use the right fuel and/or appliance, resulting in smoke emissions from your chimney, you may receive a fine of up to £300. Further information on smoke control area rules can be found here: [insert new link on gov.wales](#)

Signature

Date



**Please note this example document has been provided to assist local authority enforcement activities. Local authorities should take their own legal advice on use of this document.**

## **Example Template 2 - Notice of Intent**

[Council details/logo]

[Date]

Insert name [if known]

and address of property

**Clean Air Act 1993 (as Amended)**

### **NOTICE OF INTENT TO ISSUE FINANCIAL PENALTY FOR EMISSION OF SMOKE IN SMOKE CONTROL AREA**

Dear Householder [add name if known],

**I am writing to inform you of our intent to issue you with a penalty notice of £xxx [enter an amount between £175-£300] following smoke emissions from the chimney of your address on xxx [enter date and time].**

- Your address falls in a smoke control area - see the interactive map for information: <https://datamap.gov.wales/maps/wales-smoke-control-areas-map/>.
- We attach the following evidence of smoke emissions at the address and date above [attach any evidence you have e.g., photograph of smoke emissions, link to video].
- This is following the Improvement Notice issued on xxx [insert date].

As [the occupier(s) of the building] [the person(s) having possession of the boiler or plant], you are the person(s) liable for the emission of smoke within the smoke control area. Therefore, we intend to issue you with a financial penalty under Schedule 1A of the Clean Air Act 1993, as amended by the Environment (Air Quality and Soundscapes) (Wales) Act 2024, in prohibition of smoke being released from a chimney within a smoke control area.

We will issue you with a penalty of £xxx [enter an amount between £175-£300]. You have the right to object to this penalty within 28 days, starting from the day after this notice was given. You should write to the following address and include any supporting evidence: xxx [include contact details]. Reasonable grounds for objection are:

- there was no smoke emitted from the chimney at the time given in this Notice of Intent

- a smoke control order did not apply to the chimney at the time given in this Notice of Intent
- you were not responsible for the chimney at the time given in this Notice of Intent. In this case, you must provide the name and address of the person who was liable at the time (if you know)
- there are other compelling reasons why the financial penalty should not be imposed

Smoke control area rules are in place in order to reduce air pollution from burning solid fuels. Air pollution is the biggest environmental risk to public health. Burning solid fuels is a major contributor to a type of pollutant called fine particulate matter, which is present in smoke. These tiny particles can damage your lungs and other organs, and harm the health of you and your family.

You can burn the following fuels in a smoke control area:

- ‘smokeless’ fuels: anthracite, semi-anthracite, gas and low volatile steam coal.
- Authorised/certified manufactured solid fuels, which you can find on the following website: <https://smokecontrol.defra.gov.uk/fuels.php?country=wales>
- Dry wood, but only if you use an appropriate exempt appliance. You cannot burn wood in an open fireplace. You can check if your appliance is exempt by searching on the following website: <https://smokecontrol.defra.gov.uk/appliances.php?country=wales> You must only use the types of fuel that the manufacturer says can be used in the appliance.

You should also ensure that your appliance is installed correctly, operated in accordance with the manufacturer’s instructions, and properly maintained. We advise your chimney is maintained by a certified professional chimney sweep each year.

Signature

Date

**[remember to INCLUDE evidence establishing the emission of smoke with this letter]**

**SCHEDULE 1A of the Clean Air Act 1993, as amended by the Environment (Air Quality and Soundscapes) (Wales) Act 2024: PENALTY FOR EMISSION OF SMOKE IN SMOKE CONTROL AREA IN WALES**

**19E Clean Air Act 1993: Schedule 1A makes provision for financial penalties in relation to the emission of smoke in smoke control areas in Wales.”**

**In this Schedule—**

**“Relevant chimney” means—**

- a) a chimney of a building to which a smoke control order in Wales applies, or
- b) a chimney which serves the furnace of any fixed boiler or industrial plant to which a smoke control order in Wales applies.

**“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.

**Please note this example document has been provided to assist local authority enforcement activities. Local authorities should take their own legal advice on use of this example document.**

## **Example Template 2a - Objection Response**

[Council details/logo]

[Date]

Insert name

and address of property

### **OBJECTION RESPONSE**

#### **FINANCIAL PENALTY FOR EMISSION OF SMOKE IN SMOKE CONTROL AREA**

Dear xx [insert name],

Following the Notice of Intent of Financial Penalty for Emission of Smoke in Smoke Control Area, issued on xxx [date issued] for the above address and your subsequent letter of objection dated xxx [insert date], we are writing to inform you of the outcome of the objection.

The following decision has been made:  
[Chose 1 option]

[Option 1] You did not object to the Notice of Intent issued on [date issued] within 28 days and you must pay a financial penalty of £xxx [insert amount as stated in the Notice of Intent letter] for releasing smoke from a chimney within a smoke control area.

[Option 2a] You objected within the relevant period, but we do not accept the reason(s) for your objection. You claim there was **no smoke emitted** from the chimney at the time given in the Notice of Intent. However, we provided photographic/video evidence to the contrary that clearly shows smoke emissions from your property at the date and time indicated in the Notice of Intent. You must pay a financial penalty of £xxx [insert amount as stated in the Notice of Intent] for releasing smoke from a chimney within a smoke control area.

[You can immediately issue Template 3 – Final Notice.]

[Option 2b] You objected within the relevant period, but we do not accept the reason(s) for your objection. You claim a **smoke control order did not apply** to the chimney at the time given in the Notice of Intent. Your address falls within a smoke control area, as indicated on the interactive map we shared with you in the Notice of Intent.

<https://datamap.gov.wales/maps/wales-smoke-control-areas-map/> You must pay a financial penalty of £xxx [insert amount as stated in the Notice of Intent] for releasing smoke from a chimney within a smoke control area.

[You can immediately issue Template 3 – Final Notice.]

[Option 2c] You objected within the relevant period but claim you were **not responsible** for the chimney at the time given in the Notice of Intent. In this case, you must provide the name and address of the person who was liable at the time (if you know).

[You must issue Template 2 – Notice of Intent to given name.]

[Option 2d] You objected within the relevant period, but we do not accept the reason(s) for your objection. You claim there were **compelling reasons** why the financial penalty should not be imposed. However, we do not agree these reasons are a suitable defence against the offence of releasing smoke from a chimney within a smoke control area. You must pay a financial penalty of £xxx [insert amount as stated in the Notice of Intent] for releasing smoke from a chimney within a smoke control area.

[You can immediately issue Template 3 – Final Notice.]

[Option 3a] You objected within the relevant period and we accept the reason for your objection. We agree there was **no smoke emitted** from the chimney at the above address at the time given in the Notice of Intent. No further action will be taken.

[Option 3b] You objected within the relevant period and we accept the reason for your objection. A **smoke control order did not apply** to the chimney at the above address at the time given in the Notice of Intent. No further action will be taken.

[Option 3c] You objected within the relevant period but were **not responsible** for the chimney at the time given in the Notice of Intent. You have given the name and address of the person who was liable at the time. No further action will be taken.

[Option 3d] You objected within the relevant period and we accept the reason for your objection. You claim there were **compelling reasons** why the financial penalty should not be imposed and we agree. No further action will be taken.

Signature

Date

**Please note this example document has been provided to assist local authority enforcement activities. Local authorities should take their own legal advice on use of this example document.**

## **Example Template 3 - Final Notice**

[Council details/logo]

[Date]

Insert name

and address of property

### **FINAL NOTICE**

#### **CLEAN AIR ACT 1993 (AS AMENDED)**

#### **FINAL NOTICE OF THE FINANCIAL PENALTY FOR EMISSION OF SMOKE IN SMOKE CONTROL AREA**

Dear ...[insert name],

Following the Notice of Intent of Financial Penalty for Emission of Smoke in Smoke Control Area, issued on [date issued] for [insert address], we are writing to inform you that you must pay a financial penalty of xxx [insert amount as stated in the Notice of Intent] for releasing smoke from a chimney within a smoke control area.

We are imposing this penalty as you [choose one]:

- did not object to the Notice of Intent issued on [date issued] within 28 days
- objected within the relevant period but, as set out in our Objection Response issued on xxx[insert date], we did not accept the reasons for your objection.

You can pay this penalty by [insert information on how to pay]

You must pay this financial penalty within 28 days. Failure to do so may result in payment being enforced through the courts.

You have the right to appeal within the 28-day period, starting on the day after this notice was given. You can appeal the financial penalty if it was based on a factual error, based on a legal error or unreasonable. You need to appeal to the first-tier tribunal. Details of first tier tribunal and process can be found here:

<https://www.gov.uk/courts-tribunals/first-tier-tribunal-general-regulatory-chamber>

For the tribunal to consider your appeal it must be received before xxx [insert date - 29 days beginning with the day after that on which this notice is given] and your grounds of appeal are that the decision to impose the financial penalty was:

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

Signature

Date