

DECISION RECORD ¹

Officer Key Decisions are subject to the Council's Call-In Procedure (Part 4 of the Council's Constitution [Part 4e - Overview and Scrutiny Procedure Rules](#))

Subject: Smoke Control Policy	
Staff Contact: Geoff Hammond	Cabinet Member: Rob Broom
Tel: 01438 242908	Portfolio: Environment

1. **Decision**

To approve the adoption of the Smoke Control Area Policy & Procedure (dated June 2025, Version 1).

2. **Reasons for the decision**

Stevenage Borough Council has a statutory duty to enforce the provisions of the Clean Air Act 1993 (as amended) with respect to emissions of smoke from the chimneys of relevant buildings situated within the Smoke Control Orders that are in force within the Borough. Schedule 1A of the aforementioned Act sets out the provisions for imposing financial penalties on persons liable for smoke emissions in contravention of a Smoke Control Order. Statutory guidance on the enforcement of these provisions states that local authorities should develop and document their own policy on the implementation of financial penalties. Accordingly, the Smoke Control Area Policy and Procedure has been developed for this purpose and to set out how officers will investigate suspected contraventions of Smoke Control Orders in the Borough.

3. **Alternative options considered and rejected ²**

In the absence of a policy determining how the financial penalty provisions under the aforementioned Act will be implemented, the Council may be found not to be compliant with the related statutory guidance if it attempted to issue financial penalties without a policy being in place that details how they will be issued, including a consistent means of determining the level of fines to be set. Complaints of smoke emissions from the chimneys of domestic or commercial premises may otherwise be investigated as potential statutory nuisances under Section 79 of the Environmental Protection Act (EPA) 1990. However, the threshold for enforcement action using this legislation would be higher, as it would be necessary to demonstrate that smoke emissions amount to a nuisance at common law or are prejudicial to health, whereas enforcement of the Clean Air Act 1993 would require the Council to demonstrate only that emissions of smoke have occurred from the chimney of a relevant building. In addition, sanctions under the EPA 1990 would be limited to prosecution with no option to issue financial penalties. Therefore, in the absence of an appropriate policy allowing the Council to enforce the provisions of Section 1A of the Clean Air Act 1993, effective enforcement of the Smoke Control Orders applicable in the Borough would be constrained.

4. **Consultation**

Decision Record

DECISION RECORD

(a) Comments of Cabinet Member^{3 4}

Councillor Speller and Councillor Broom (respectively as former and current portfolio holder for the Environment) have been consulted and support the policy.

(b) Comments of other consultees⁵

None.

5. **Following consultation with, and the concurrence of the Cabinet Member, I am proceeding with the proposed decision.**

Signed: Alex Robinson

Title: Assistant Director – Planning & Regulation

Date: 14th July 2025

6. **PLEASE RETURN COMPLETED/SIGNED FORM TO DEMOCRATIC SERVICES FOR PUBLICATION**

¹ for guidance see Borough Solicitor's note "Taking Decisions"

² details of any alternative options considered and rejected by the officer at the time the decision was made

³ record any conflict of interest declared by any Cabinet Member consulted. If a Cabinet Member declares a conflict of interest DO NOT PROCEED without seeking advice from the Borough Solicitor

⁴ If the matter has general significance for the Council and/or is, or is likely to be, controversial, then the officer shall consult the appropriate Cabinet Member before proceeding. In some cases it will be necessary to consult more than one Cabinet Member, and in some cases the Leader of the Council will need to be consulted

⁵ If the matter has local significance, but no general significance for the Council and no controversial aspects, the officer shall consult or inform the local member in writing (or by e mail) and proceed. It is essential that all officers responsible for delivering services ensure that local members are kept well briefed on issues affecting their areas.