

Brighton & Hove City Council

Overview & Scrutiny

Agenda Item 14

Subject: Solid Fuel Burning (Domestic and Commercial)

Date of meeting: 1st October 2024

Report of: Corporate Director, City Services

Contact Officer: Name: Luke Proudfoot
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Ward(s) affected: (All Wards);

Key Decision: No

For general release

1. Purpose of the report and policy context

1.1 Place Overview and Scrutiny Committee members requested information on the risks of solid fuel, and actions being taken to mitigate these risks ahead of the winter heating season, to inform the O&S committee's work programme.

2. Recommendations

2.1 Place Overview & Scrutiny Committee notes the contents of the report.

2.2 Place Overview & Scrutiny Committee welcomes the planned actions around raising awareness of the risks associated with solid fuel burning and investigating instances of wood-burning in building fireplaces and stoves, as outlined in paragraph 3.8 of the report.

3. Context and background information

3.1 Solid fuel (mostly coal) used to be the most popular form of heating for homes in the UK, but from the 1960s natural gas central heating grew in popularity and is now used by almost all commercial and domestic users. However, since the 1990s solid fuels, especially wood logs and pellets, are increased in popularity as supplementary heating and as a feature in the living room.

3.2 This resurgence in burning solid fuels has implications in terms of nuisance to communities, as well as environmental and health impacts due to the release of particulate matter. This is particularly so where inappropriate materials are burnt and where unsuitable appliances are used.

3.3 Appendix 1 includes more information around the use of solid fuel burning including air quality, environmental impacts, health impacts, and fire safety.

- 3.4 The Cabinet Member directly responsible for this matter, in the context of air quality and regulatory services, is the Cabinet Member for Net Zero and Environmental Services, and responsibilities for managing the effects of solid fuel burning are shared by a number of officers/teams within the City Services Directorate. These are Regulatory Services (covering Environmental Health and Trading Standards) and the Principal Air Quality Officer (covering policy and air quality monitoring) within City Transport.
- 3.5 Officers have been working closely with the Cabinet Member for Net Zero and Environmental Services on wood-burning and smoke control in the city. This has resulted in a planned change in approach to raise awareness of the issues, especially in advance of winter 2024/25, and to seek to ensure that any reports of smoke from wood-burning in buildings that are of concern to residents are investigated and followed up in line with the requirements set out in the relevant legislation/regulations.
- 3.6 The council has responsibilities around the sale of solid fuel, the sale of appliances to burn wood, and in responding to complaints about smoke being produced from wood burning.
- In terms of the sale of fuel, Trading Standards has received one complaint since regulations were introduced in 2022. This was investigated and an advice letter sent, but the business ceased trading, so no further enforcement was required. Open source research has identified no dedicated wood or solid fuel sellers operating in Brighton & Hove. Trading Standards Officers carrying out routine inspections of premises have been advised to look out for the sale of any solid fuels to ensure compliance with the regulations.
 - In terms of the sale of appliances, open source research since 2023 has identified that city businesses are only selling Defra approved appliances allowed to be sold for use in a Smoke Control Area, if used appropriately.
 - In terms of complaints about smoke, the council has received around 500 complaints in the past 5 years. However, the great majority of complaints have been about bonfires, with only 12 complaints (2.4%) about smoke from a building chimney. The council has a range of enforcement options, potentially including fixed penalty notices, abatement notices and prosecution. However, there is a hierarchy of enforcement and the first step unless immediate action is necessary and proportionate will be to provide advice and then a warning to businesses or residents. To date, fixed penalty notices have not been served or further enforcement measures taken as in the majority of cases there can be an informal resolution by advice and negotiation as per the regulatory continuum and the Enforcement Policy.
- 3.7 Appendix 2 includes more detailed information on the relevant legislation and powers and enforcement options for both the Trading Standards Team and the Environmental Protection Team within Smoke Control Areas and all other areas.

3.8 The proposed actions include:-

- Messages and communications to raise awareness of the health impacts of burning solid fuels by developing a communications and messaging strategy that draws on good practice and material from other agencies and local authorities with a focus on asking people not to burn solid fuels unnecessarily
- An enforcement pilot within the existing Smoke Control Areas
- Assessing the outputs from new sources of data, with a specific focus on particulates from solid fuels, to help inform future actions

3.9 For regulatory standard monitoring of particulates in the city there are now six locations managed by a number of organisations. The sites are Preston Park (DEFRA), North Street (BHCC), Lewes Road (BHCC), Hollingdean Road (BHCC), A259 Wellington Road (BHCC) and Falmer (University of Brighton). A new citywide real-time monitoring network for air quality is being established and is due to be launched during October. These networks include twenty sensors located away from main roads which will help understand the role of fires as opposed to particulates derived from other sources. This will provide a significant increase in additional data and evidence about pollutants, including particulate levels. The aim is to assist in a greater understanding of the areas where burning activities are occurring and will assist in indicating where further resources and action, including any decisions by Cabinet, may be necessary.

3.10 Public access to the new data will also assist in providing residents with greater and more accurate indications of pollution levels. The aim is to enable people to make decisions on a daily basis, related to travel and heating choices, especially if someone in the household suffers from health conditions that may be worsened by pollution. Normally people or groups that are most vulnerable to airborne pollution are not the ones operating the polluting activities.

4. Analysis and consideration of alternative options

4.1 Not applicable for this report.

5. Community engagement and consultation

5.1 Not applicable for this report.

6. Financial implications

6.1 The Government has provided funding to every local authority with one or more Smoke Control Areas. This is to assist them in managing the additional work required because of new legislative 'burdens' associated

with the enforcement and management of Smoke Control Areas, as introduced by the Environment Act 2021. The funding from DEFRA of £11,710 (x2) was received at the beginning of 2024. Thus far this has been used in proactive Trading Standards work supporting enforcement in the form of visits to sales outlets across the city and for the Environmental Protection team dealing with smoke nuisance complaints.

- 6.2 The relevant changes made under the Environment Act 2021 are:
- Changing the offence for emitting smoke from a chimney of a building in a SCA from a criminal to a civil penalty to streamline enforcement
 - Extending the system of statutory nuisance to private dwellings in SCAs
 - Introducing a duty on retailers to notify customers of the offence of buying controlled fuels for use in SCA at the point of sale which LAs will need to enforce.
- 6.3 Consideration is being given to the options available to use this funding to help meet the requirements of the Act.

Name of finance officer consulted: Michael Bentley Date consulted:
17/09/24

7. Legal implications

- 7.1 Statutory Nuisance regulation under the Environmental Protection Act 1990 is the first legislation that comes into effect when Environmental Health respond to domestic or commercial smoke complaints, and it applies throughout England.
- 7.2 The Air Quality (Domestic Solid Fuels Standards) Regulations 2020 are the same throughout England. BHCC, Trading standards have carried out checks on wood and manufactured fuels being sold by local retailers.
- 7.3 Smoke Control Areas (SCAs) were declared following the Clean Act 1968, in Brighton from 1974. This legislation has since been amended by the 1993 Clean Air Act and the Environment Act 2021. Only Defra exempt appliances can be used in a local authority SCA. It is an offence to emit any smoke from a building chimney in an SCA. A case could be considered to be more serious, if frequent and persistent dark smoke from the same chimney in a residential area.
- 7.4 Building Regulation 2010, certification relating to the installation of solid fuel burning appliances
- 7.5 Highways Act 1980, 161A danger or annoyance of fire and smoke on land not forming part of the Highway, including smoke impairing vision of road users
- 7.6 Tenancy agreements and landlord responsibility regarding home safety and need to have working smoke and carbon monoxide alarms

Name of lawyer consulted: Rebecca Sidell Date consulted (17/09/24

8. Equalities implications

- 8.1 None specifically for this report. There are concerns that people experiencing economic inequalities may turn to solid fuel and refuse burning as a potentially cheaper alternative to gas heating.

9. Sustainability implications

- 9.1 None specifically for this report although the use of solid fuel burners will have significant impact on sustainability as their use will emit Carbon Monoxide [CO] Carbon Dioxide [CO₂] and Particulate Matter PM₁₀ and PM_{2.5} smaller than ten and two and a half micrometers. The improper use of solid fuel burners will release additional PM_{2.5} and potentially other pollutants and harmful substances. Coal, Manufactured Solid Fuels and wood may need to be imported long distances to reach the point of use. Kiln dried wood requires another combustion process prior to delivery. Building regulations require an air vent in the room where there is a solid fuel burning stove, and this reduces the building insulation standard. Reducing the amount of burning can help work towards future home heating standards and improved, building energy performance certification.
- 9.2 Sales of log wood for fires/stoves in residential properties within the city continue to present a significant risk in terms of the spread and impacts of Elm Disease to a large proportion of the Council's tree stock. Elm logs are imported into the city then sold and distributed as firewood causing Elm Disease outbreaks, and tree loss, as a result of the disease carrying Elm Bark Beetle using the logs as habitat and with the potential to reproduce in significant numbers on very little material,

10. Health and Wellbeing Implications:

- 10.1 Gas and particulate pollution is adverse for health. Respiratory and coronary smoke impacts due to solid fuel burning are most likely evenings and weekends during the winter. This risk is increased where this happens amongst high population density.

11. Conclusion

- 11.1 The committee is asked to note the report on solid fuel burning to inform any further work that they might wish to add to the work programme.

Supporting Documentation

1. Appendices

1. Information on the use of solid fuel burners

2. Relevant legislation and enforcement