

If Brighton & Hove City Council were to consolidate and expand existing Smoke Control Areas (SCAs), the legislative pathway is governed by the **Clean Air Act 1993**, as amended by the **Environment Act 2021**. Here's a breakdown of your legislative options, actions required, and indicative timescales:

1. Legislative Basis

- **Clean Air Act 1993**: Empowers local authorities to declare SCAs.
- **Environment Act 2021**: Modernised enforcement powers and streamlined the process for declaring or amending SCAs.

2. Key Steps to Declare or Amend a Smoke Control Area

- **Contact BHCC legal team** to ensure that declaration satisfies legal requirements
- **Contact Secretary of State** to set-out Local Authority intentions
- **Evidence Gathering**
- **Air Quality Monitoring**: Use existing or new data to justify the expansion.
- **Health Impact Assessment**: Optional but strengthens the case/focus on Social Determinants of Health and inequalities
- **Public Complaints and Enforcement Data**: Demonstrates need and supports public interest.

B. Drafting the Order

- Prepare a **Smoke Control Order** under Section 18 of the Clean Air Act.
- The order must define the geographical boundaries and specify the restrictions (e.g., only DEFRA-approved appliances and fuels).

C. Public Consultation: Your Voice

- **Minimum 6 weeks** statutory consultation / representation

Notify:

- Residents and businesses
- Local stakeholders (e.g., stove retailers, chimney sweeps)
- DEFRA (for advice and compliance)

D. Council Approval

- Present the draft order and consultation feedback to the relevant council committee (e.g., Environment, Transport & Sustainability Committee).
- Secure formal approval.

E. Notification and Publication

- Publish the confirmed order in the **London Gazette** and local press.
- Notify DEFRA and update the national smoke control area register.

F. Implementation

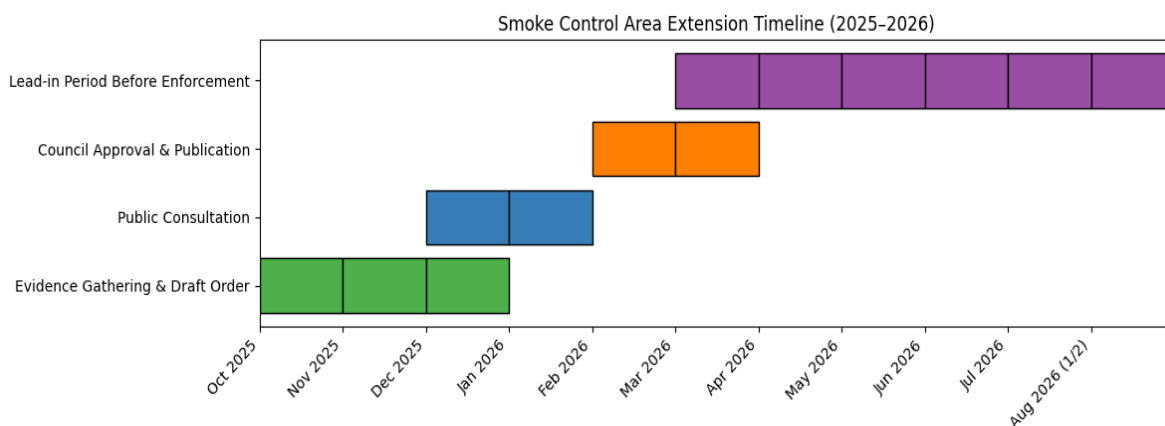
- Allow a lead-in period (typically 6–12 months) for residents to adapt.
- Launch public awareness campaigns and support schemes (e.g., stove upgrade grants).

3. Enforcement and Support

- Use new powers under the Environment Act 2021 to issue **civil penalties** for non-compliance.
- Consider a **phased enforcement** approach with initial warnings and education.

4. Indicative Timescales

Phase	Duration
Evidence gathering & draft order	2 months
Public consultation*	6 weeks
Council approval & publication	1 month
Lead-in period before enforcement	6 months
Total estimated time	10.5 months



Precedent and Best Practice

- Other councils (e.g. Cambridge City Council) have recently followed this route, conducting consultations and publishing cabinet reports to support their decisions.
- DEFRA encourages this approach and provides guidance on enforcement and public engagement
- DEFRA led campaign supports LA authority action (SCA'S)

Alternative Options (Less Suitable)

Option	
Using statutory nuisance powers (EPA 1990)	Only applies to harmful or nuisance smoke; reactive, not preventative. Relates to impact within property / premises. Can take a period of time to resolve, requires address. Subjective test: Olfactory senses with 2 Officers.
Voluntary schemes or awareness campaigns	Useful as supplements, but not enforceable.

Option	
Planning conditions	Limited to new developments and changes to established plant and equipment.