



Department
for Environment
Food & Rural Affairs

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Review of the Clean Air Act

Call for Evidence Summary of Responses

July 2014

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Contents

1. Purpose of Call for Evidence	1
2. Geographical extent.....	1
3. Details of respondents	1
4. Responses to individual questions.....	2
5. Clean Air Act Part 1 (Dark Smoke)	3
Summary of Provision.....	3
Current Evidence Base.....	3
Question 1 - Do you agree with the Local authority burden estimates? Do you have any information to support your response and strengthen the evidence base?	3
Question 2: Do you agree with the industry burden estimate? Do you have any information to support your response?	4
Question 3: To what extent is this process, which can lead to the correction of incomplete combustion, beneficial to industry? If benefits are perceived, would these happen without these provisions?	5
Question 4: What alternative methods are there which would be timely, accurate and effective for the control of dark smoke?	6
Question 5: What benefits, if any, do you perceive from a move away from dark smoke to more specific pollutants?	6
Question 6: What problems or additional burdens might a pollutant specific approach introduce? How practical would this be?.....	6
Question 7: Can you suggest any ideas for burden reduction in this area?.....	7
Question 8: Do you have any further suggestions for improvement?	7
6. Clean Air Act Part 2, Section 4, Installation of non-domestic furnaces	7
Summary of Provision.....	7
Current Evidence Base.....	8

Question 1: Is the notification system currently well understood and used by Local Authorities? Is this based on knowledge of one Local Authority or multiple Local Authorities?.....	8
Question 2: Do you agree with the burden estimates?	9
Question 3: What is the amount of time spent by Local Authorities on reviewing notifications for new non-domestic furnaces?	10
Question 4: How much time is spent by industry (developers) in undertaking notifications?.....	11
Question 5a: What are the costs to industry in developing appliances to meet the requirements for operation “without emitting smoke”? Where do the costs fall and do they affect all appliances?	11
Question 5b: What additional costs to industry were due to this legislation, per year in monetary terms.....	11
Question 6: Are there additional costs associated for consumers when buying these appliances?	11
Question 7: If you answered 'Yes' how much more expensive are they?	12
Question 8: Would there be any disbenefits from removing the notification requirement? How might these be mitigated?	13
Question 9: What might be the effects on industry of setting an emission limit for particulate matter (PM) and oxides of Nitrogen (NOx) instead of requiring smokeless operation?.....	13

7. Clean Air Act Part 2, Section 5: Limits on grit and dust emission rate for non-domestic furnaces 14

Summary of Provision.....	14
Current Evidence Base.....	14
Question 1: Are Local Authorities currently using these limits?	14
Question 2: Do you have any information to support your response and strengthen the evidence base?	15
Question 3: How stringent are these limits for industry to comply with? Please explain your response.....	16
Question 4: How do these limits impact on industry currently? Please explain how these limits affect your activities as industry including in terms of design, manufacturing and purchasing of combustion related products.....	17

Question 5: Do all new furnaces meet these Grit and Dust limits? How do the limits compare with the capability of modern appliance technology?	17
Question 6: What are your views on amending the grit and dust emissions limits to include tighter particulate matter limits and/or introduce new limits for oxides of nitrogen?.....	18
Question 7: What new burdens might this introduce?.....	19
Question 8: Do you have any other suggestions for improvements?.....	19
Question 9: What role might the Clean Air Act take alongside future EU led controls?	19

8. Clean Air Act Part 2, Sections 6-8: Requirements to fit Arrestment Plant.....20

Summary of Provision.....	20
Current Evidence Base.....	20
Question 1: Do Local Authorities use these provisions? Are they still relevant?.....	20
Question 2: If never or rarely used please explain why? If used please advise how many times per year do you estimate they are used?	21
Question 3: Are exemptions still required? Please explain your response	22
Question 4: Does this provision for Local Authorities to require arrestment plant place any burden on industry? Please explain your reasoning.	23
Question 5: If so, what are the financial burdens associated with this?	24
Question 6: Would arrestment plants (and exemptions) still be needed as and when new product standards are introduced? Please explain your response.....	24
Question 7: Do you have any other suggestions for improvements?.....	25

9. Clean Air Act Part 2, Sections 10-11: Measurement of Grit, Dust and Fumes.....26

Summary of Provision.....	26
Current Evidence Base.....	26
Question 1: Are these measures used and are they still required?	26
Question 2: If never or rarely used please explain why? If used please advise how many times per year do you estimate they are used?	27
Question 3: What are the burdens and issues associated with measurement of grit and dust for Local Authorities, business and the public?	27

Question 4: Under what circumstances might measurement still be used in the future?
.....28

Question 5: Do you foresee any problems if product standards replaced the
requirement for measurement (please explain)?28

10. Clean Air Act Part 2, Sections 14-16: Chimney Height Approvals for Furnaces..28

Summary of Provisions.....28

Current Evidence Base.....28

Question 1: Do you agree with the evidence base on burdens for Local authorities? 29

Question 2: Do you agree with the burden estimates for industry?30

Question 3: Do you have any information to support your response and strengthen the
evidence base?31

Question 4: Can you provide any further information on costs to industry for the
design and build of chimneys? Can you provide a range of costs and project
examples?31

Question 5: How often are delays with construction projects due to disagreements
over chimney height calculations, mistakes in chimney height calculations or similar
issues? Please explain your response.....31

Question 6: Can you provide any examples of burdens to business through costs from
redesign or re-build of chimneys?.....33

Question 7: Would the stakeholder suggestions for improvement help the Red Tape
Challenge (RTC) policy objectives to reduce burdens to business and Local
authorities, improve implementation and aid enforcement? Please explain your
response.....33

Question 8: What other suggestions for improvement or burden reduction do you
have?.....34

11. Clean Air Act Part 3: Smoke Control Areas.....34

Summary of Provision.....34

Current Evidence Base.....35

Question 1: Do you agree with the burden information for Local authorities?.....35

Question 2: Do you have any information to support your response and strengthen the
evidence base? Is there anything missing?36

Question 3: Can you provide any information about the burden to business of operating in a Smoke Control Area or responding to complaints from Local authorities? Please advise your business type?	36
Question 4: Do you agree with the cost estimates for Industry for exemptions and authorisations? Please explain your response.	38
Question 5: Can you envisage any problems of additional burdens associated with creating centralised digital geographic based Smoke Control Area records?	39
Question 6: Can you suggest any amendments to the Act or associated legislation which would prevent the problem of exempt appliances causing nuisance to neighbouring properties? What burdens might be associated with this amendment?	40
Question 7: What are the likely burdens and benefits associated with the inclusion of canal boats in Smoke Control Area requirements?	40
Question 8: Do you have any further suggestions for improving the regulations for Smoke Control Areas or reducing burdens?	41
Question 9: Do you have any suggestions for changes to the testing and approvals process or requirements which Defra provides?	41
12. Clean Air Act Parts 4 (Controls of Certain Forms of Air Pollution), Part 5 (Information about Air Pollution) and Part 6 (Special Cases)	41
Summary of Provisions	41
Current Evidence Base	42
Question 1: Are these provisions still used and of benefit?	42
Question 2: If never or rarely used please explain why? If used please advise which provisions are used and for each provision how many times per year do you estimate they are used?	43
Question 3: What burdens are associated with these measures?	44
Question 4: Can you suggest any improvements to these provisions?	44
13. General Comments on the Clean Air Act	44
Question 1: Additional Comments	44
14. Next Steps	45
15. List of respondents	45

1. Purpose of Call for Evidence

In 2012 the Department for Environment, Food and Rural Affairs (Defra) commenced a policy review of the Clean Air Act 1993 as part of the Government's Red Tape Challenge. The review aims to reduce burdens on business and Local Authorities whilst considering how the legislation can be modernised to make it more user friendly and relevant to current air quality challenges

To support and inform the review a Call for Evidence was issued, which ran for 8 weeks from 3rd September to 29th October 2013. The Call for Evidence (CfE) posed a number of questions on key sections of the Clean Air Act around the following broad themes:

- Burdens on Local Authorities and industry associated with compliance
- Views on stakeholder suggestions for improvement
- Further ideas / suggestions for improving the Act

2. Geographical extent

The Call for Evidence applied to England only. Scotland held a separate Call for Evidence which they are yet to publish.

3. Details of respondents

There were 58 responses in total, of which the main groups were as follows:

Local Authorities – 33 responses

Manufacturers of appliances – 6 responses

General Public – 5 responses

Other – 4 responses

Trade Body/Associations – 3 responses

Retail – 2 responses

Developers – 1 response

Service Sector – 1 response

Professional Body/Institution – 1 response

Architect/Engineer/Builder – 1 response

4. Responses to individual questions

Parts 5 - 13 summarise the responses to each of the four main sections of the Clean Air Act on which questions were posed by the Call for Evidence.

- Part I: Dark Smoke
- Part II: Smoke, Grit, Dust and Fumes
- Part III: Smoke Control Areas
- Parts IV to VII: Variety of Measures

The summary includes responses submitted online and by post/email and this report identifies the key themes, in response to the questions posed, which can be grouped into two main types:

1. Closed questions - these are quantitative in nature (e.g. tick box responses) and a summary of responses has been provided in the form of a graph or table
2. Open questions – these are qualitative questions. A broad analysis has been made based on the responses received. Where appropriate and in compliance with data protection requirements some direct quotes have been included.

Where questions were not answered these figures have been omitted from the statistical analysis to provide a more accurate assessment of data.

Parts 5 - 13 are structured as follows:

- High level summary of main provisions
- Brief summary of Current Evidence Base
- Where relevant, details of current suggestions for improvement
- Analysis of individual questions

5. Clean Air Act Part 1 (Dark Smoke)

Summary of Provision

This section of the Clean Air Act prohibits emission of dark smoke from chimneys and furnaces and allows a Local Authority to check compliance based on visual inspection using a Ringelmann chart. The associated regulations allow emission of dark smoke (and black smoke) for defined periods from specified activities and exempt some activities from dark smoke controls.

Current Evidence Base

Relevance of provision to Air Quality

This section helps control the emissions of products of incomplete combustion, black carbon emissions and helps protect visual amenity. The measures are also relevant for the control of greenhouse gases.

Burden estimates

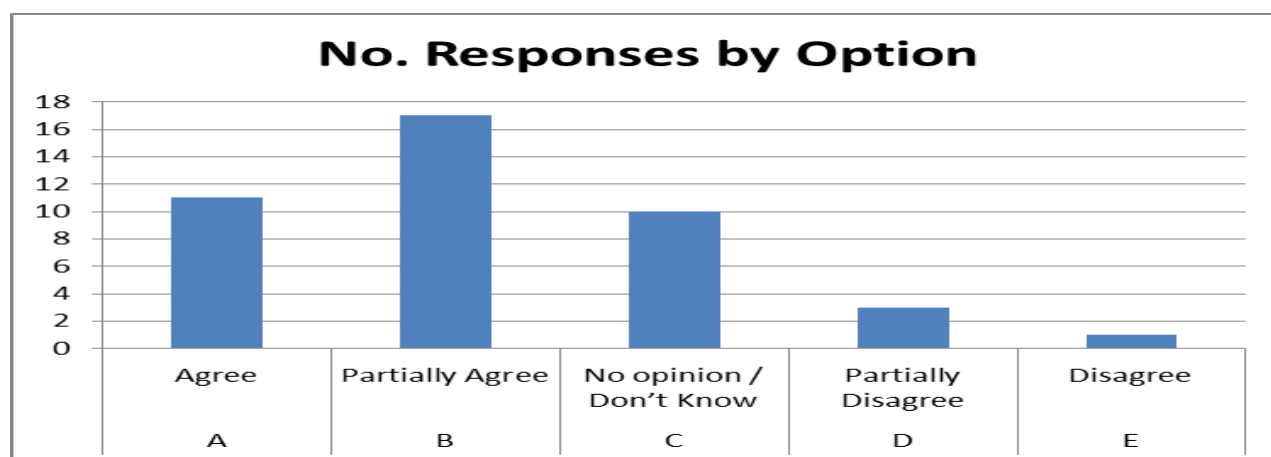
Local Authorities: Local Authorities across England estimate that they spend a total of 12000 hours/year following up complaints. This is based on a typical Local Authority having approximately 17 complaints per year, each taking 3 hours to deal with.

Industry: Local Authority feedback indicates that Industry will spend a total of 6500 hours/year to address complaints.

Question 1 - Do you agree with the Local authority burden estimates? Do you have any information to support your response and strengthen the evidence base?

High level statistics

- 72.41% of consultees responded to this question



Key	Option	Total	Percent of All Respondents	Percent of Respondents who Answered the Question
A	Agree	11	18.97%	26.19%
B	Partially Agree	17	29.31%	40.48%
C	No opinion / Don't Know	10	17.24%	23.81%
D	Partially Disagree	3	5.172%	7.14%
E	Disagree	1	1.724%	2.38%
F	Not Answered	16	27.59%	n/a

Key themes from additional information supplied

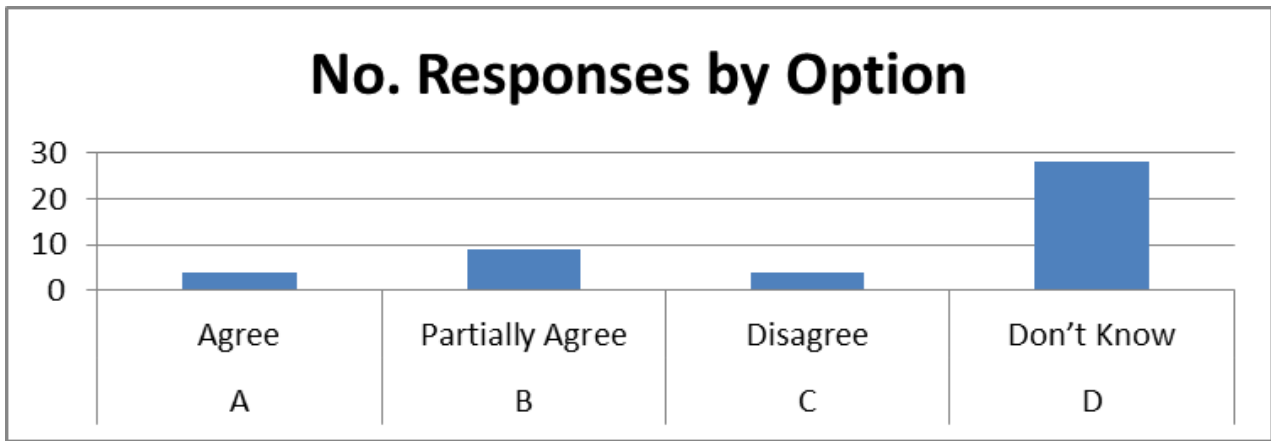
Responses from those who agreed/partially agreed indicated that the estimated time taken to resolve complaints were reasonable for standard complaints but it was noted by two Local Authorities that if the case progressed to prosecution that resolution times would increase. One commented that it is rare these days to deal with dark smoke complaints but it remains a useful provision.

Responses from those who partially disagreed/disagreed varied with one Local Authority stating they received less complaints, another indicating this was a vast under estimation and two noting that it was hard to quantify complaints received about dark smoke as they are often recorded under nuisance complaints.

Question 2: Do you agree with the industry burden estimate? Do you have any information to support your response?

High level statistics

- 77.59% of consultees responded to this question.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Agree	4	6.897%	8.89%
B	Partially Agree	9	15.52%	20.00%
C	Disagree	4	6.897%	8.89%
D	Don't Know	28	48.28%	62.22%
E	Not Answered	13	24.14%	n/a

Key themes from additional information supplied

Of the six respondents who agreed or partially agreed one noted that it is very difficult to quantify the burden on appliance manufacturers because products are being continually developed and improved. Another respondent noted that any burdens incurred when responding to complaints about smoky appliances were generally as a result of incorrect use by the operator, rather than problems with the appliance.

Of those that disagreed two stated the burden is less than described and another commented that they had received no complaints in 2012.

Question 3: To what extent is this process, which can lead to the correction of incomplete combustion, beneficial to industry? If benefits are perceived, would these happen without these provisions?

High level statistics

- 55.17% of consultees responded to this question

It was noted by ten respondents that the process can lead to monetary savings for businesses as optimal combustion, without production of smoke, effectively reduces fuel usage thus reducing costs to business. Five respondents commented that there are reputational issues associated with clean emissions that benefit businesses. Two respondents noted that despite the benefits offered, if these provisions were repealed some operators may fail to carry out preventative maintenance on equipment.

Question 4: What alternative methods are there which would be timely, accurate and effective for the control of dark smoke?

High level statistics

- 60.34% of consultees responded to this question

Whilst it was generally agreed (fifteen respondents) that statutory nuisance was an effective tool for controlling smoke emissions ten respondents noted however that Local Authorities find the provision ineffective and slow when dealing with 'trade waste burning /dark smoke in the open.' There was also some support (five respondents) for the introduction of Fixed or Variable Monetary Administrative Penalties for offences. Three respondents suggested that the Ringelmann Chart would be more effective if it was supported by supplementary guidance. It was also suggested that the current provisions do not cover some potential sources of pollutants e.g. emergency diesel generators and Local Authorities should have a general competence to address emissions in their local areas which should go beyond the existing powers which relate to statutory nuisance.

Question 5: What benefits, if any, do you perceive from a move away from dark smoke to more specific pollutants?

High level statistics

- 70.69% of consultees responded to this question

The general consensus (twenty four) was that there was little benefit in moving away from the dark smoke offences as this was straightforward, effective and cheap to enforce. However there was some support (nine respondents) for moving to a provision based on emission of specific pollutants, which would give rise to air quality benefits.

Question 6: What problems or additional burdens might a pollutant specific approach introduce? How practical would this be?

High level statistics

- 67.24% of consultees responded to this question

A few respondents suggested that the move to specific pollutants should be considered and could result in reduced administrative burdens for Local Authorities, however the vast majority (thirty one respondents) stated it would result in additional burdens by increasing the complexity of assessment, monitoring and enforcement. A number of Local Authority respondents noted that there may be additional training requirements to enable assessment and enforcement.

Question 7: Can you suggest any ideas for burden reduction in this area?

High level statistics

- 53.45% of consultees responded to this question

Half of the respondents (sixteen) stated that the provision is effective and should be left as it is. Most other suggestions provided would result in increased burdens.

Two respondents noted that the provision of clearer guidance on assessment methodologies would be beneficial, which could include the removal of the Ringelmann chart guidelines and replacement with clearer guidelines for the general public.

Question 8: Do you have any further suggestions for improvement?

High level statistics

- 55.17% of consultees responded to this question

There was some support (seven respondents) for the removal of the exemption for demolition sites. Two respondents suggested the provision be extended to open bonfires and domestic premises. There was also limited support for improving the assessment method by amending the guidance and use of the Ringelmann chart.

6. Clean Air Act Part 2, Section 4, Installation of non-domestic furnaces

Summary of Provision

This section of the Clean Air Act concerns the requirement for all new furnaces to be capable of smokeless operation and for notice to be given to the Local Authority prior to installation.

Current Evidence Base

Relevance to Air Quality

This requirement is potentially a useful tool for local air quality protection because it could avoid installation of inappropriate appliances. However, there is no clear definition of “smokeless” and the extent to which the notification system is used is unclear.

Burdens

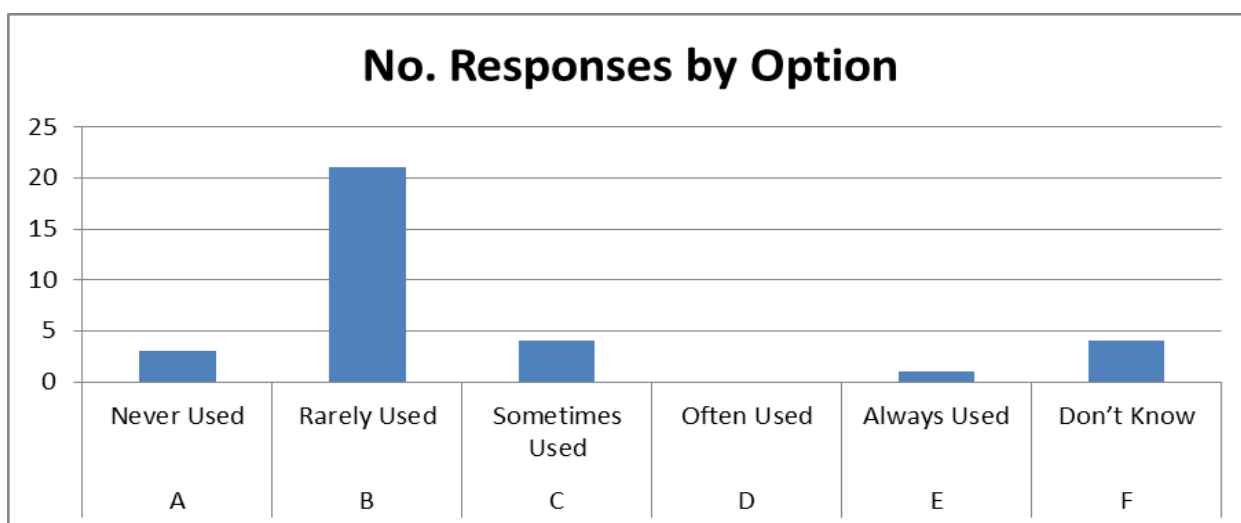
Local Authorities: An estimated 6000 hours/year is spent in total reviewing information relating to Notifications under Section 4 and assessing Chimney Height approvals (Part II Sections 14 to16). Local Authorities have not provided any information to break this data down between the two activities but current evidence suggests that the notification system is not widely used.

Industry: No evidence available

Question 1: Is the notification system currently well understood and used by Local Authorities? Is this based on knowledge of one Local Authority or multiple Local Authorities?

High level statistics

- 56.90% of consultees responded to this question. Twenty three respondents confirmed that the notification system is rarely, if ever, used. In addition respondents, in general, confirmed that their replies were based on their knowledge of the systems usage by multiple authorities.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Never Used	3	5.172%	9.09%
B	Rarely Used	21	36.21%	63.64%
C	Sometimes Used	4	6.897%	12.12%
D	Often Used	0	0%	0.00%
E	Always Used	1	1.724%	3.03%
F	Don't Know	4	6.897%	12.12%
G	Not Answered	25	43.10%	n/a

Key themes from additional information supplied

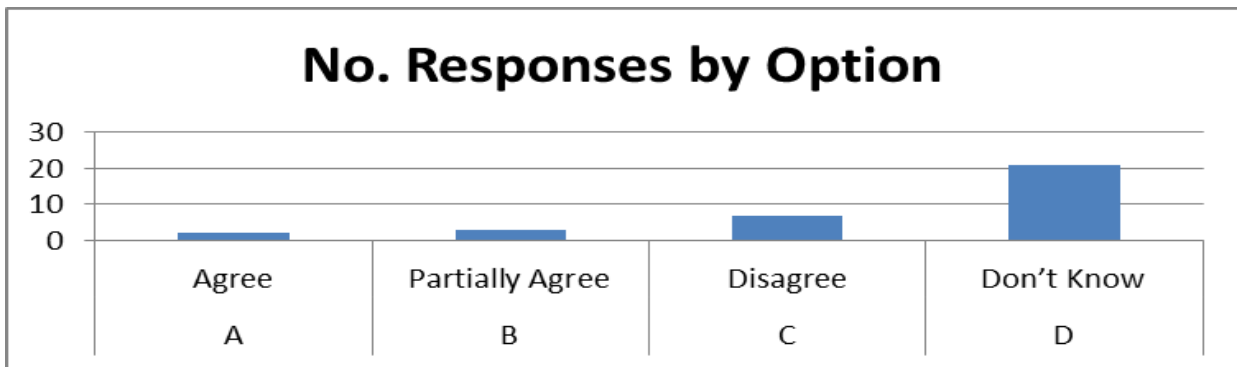
Of all the respondents broadly half were from individual Local Authorities and the remainder were co-ordinated responses from multiple Local Authorities.

The general consensus is that the system is not well understood or used by Local Authorities or applicants. Although Local Authorities are in general aware of the requirement in practice they get very few notifications and are only made aware of new installations if they form part of a planning application. It was suggested by one respondent that the use of the provision has slowly decreased over time due to the move from solid to liquid/ gas fuel based technologies. Another proposed that all combustion plants be the subject of planning permission.

Question 2: Do you agree with the burden estimates?

High level statistics

- 56.90% of consultees responded to this question. A significant proportion of these (twenty respondents) advised that they did not know what the burdens were and it was therefore not possible to state whether current estimate were accurate. This is partially as a result of Local Authorities not recording this data separately from other complaints.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Agree	2	3.448%	6.06%
B	Partially Agree	3	5.172%	9.09%
C	Disagree	7	12.07%	21.21%
D	Don't Know	21	36.21%	63.64%
E	Not Answered	25	43.10%	n/a

Question 3: What is the amount of time spent by Local Authorities on reviewing notifications for new non-domestic furnaces?

High level statistics

- 53.45% of consultees responded to this question

The data provided indicated that assessment of notifications can vary significantly across Local Authorities with time spent on individual applications varying between 40 minutes and 7 hours to process and with the number of applications ranging from 1-20 per annum.

Question 4: How much time is spent by industry (developers) in undertaking notifications?

High level statistics

- 10.34% of consultees responded to this question

Only one industry (developer) responded but they were unable to provide any figures. Of the remaining seven responses the general view was that since very few notifications were submitted by industry then burdens were predicted to be low.

Question 5a: What are the costs to industry in developing appliances to meet the requirements for operation “without emitting smoke”? Where do the costs fall and do they affect all appliances?

High level statistics

- 12.07% of consultees responded to this question

Three respondents noted that the cost of developing appliances which operate 'without smoke' is high but as less smoke means increased efficiency the costs are not incurred as a result of the Clean Air Act requirements but form part of normal development process. One respondent commented that compliance with statutory European Committee for Standardisation (CEN) standards promotes smokeless operation. Another noted that the cost of testing a small domestic solid fuel appliance to CEN standards is about £2500.

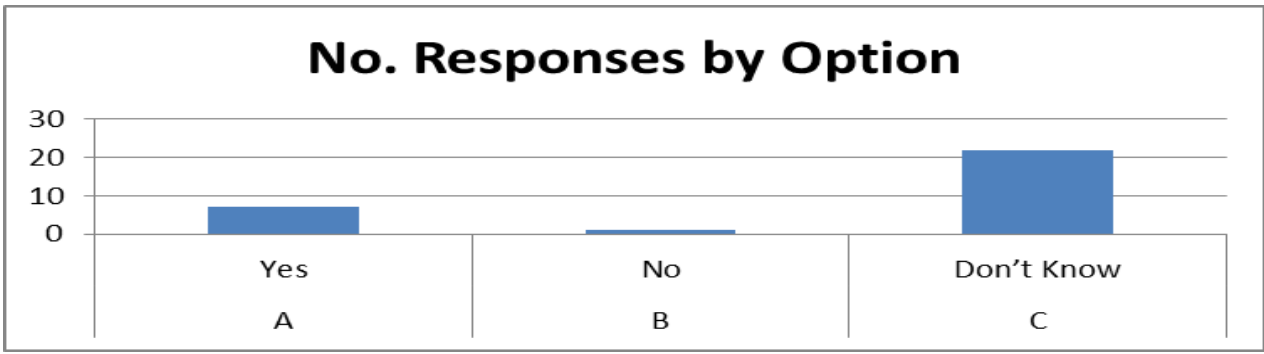
Question 5b: What additional costs to industry were due to this legislation, per year in monetary terms

Only one reply was submitted. We are therefore unable to report any estimates with regard to additional costs to industry in this area.

Question 6: Are there additional costs associated for consumers when buying these appliances?

High level statistics

- 13.79% of consultees responded to this question. Of these the vast majority advised they did not know if there were any additional costs associated for consumers.

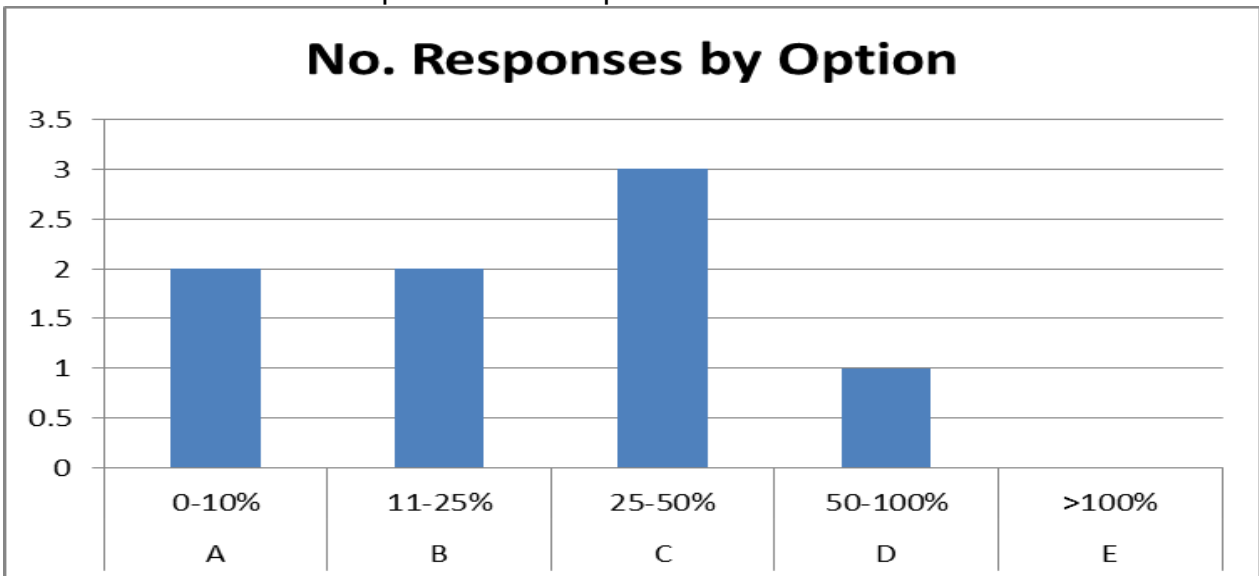


Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Yes	7	12.07%	23.33%
B	No	1	1.724%	3.33%
C	Don't Know	22	39.66%	73.33%
D	Not Answered	28	48.28%	n/a

Question 7: If you answered 'Yes' how much more expensive are they?

High level statistics

- 13.79% of consultees responded to this question



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	0-10%	2	3.448%	25.00%
B	11-25%	2	3.448%	25.00%
C	25-50%	3	5.172%	37.50%
D	50-100%	1	1.724%	12.50%
E	>100%	0	0%	0.00%
F	Not Answered	50	87.93%	n/a

Question 8: Would there be any disbenefits from removing the notification requirement? How might these be mitigated?

High level statistics

- 48.28% of consultees responded to this question

This question resulted in a mixed response, some four respondents indicated that there would be no disbenefits as the provision is not currently used, whereas a similar number indicated that a partial removal might be appropriate and replaced with a provision focussed on installations likely to impact air quality. Another four suggested that an improved system or notification via planning process would be acceptable alongside use of clear product standards and three respondents indicated that removal of the notification requirement could result in problems occurring later, particularly in light of increased biomass combustion, and may result in increased burdens to Local Authorities and industry.

Question 9: What might be the effects on industry of setting an emission limit for particulate matter (PM) and oxides of Nitrogen (NOx) instead of requiring smokeless operation?

High level statistics

- 46.55% of consultees responded to this question

Although there was some support (nine respondents) for the introduction of PM and NOx limits and the positive effect it would have on air quality and assistance in Local Air Quality Management, however four respondents indicated that it would result in significant increased burdens for industry and Local Authorities, through increased monitoring and

testing. Questions were raised by both Local Authorities and manufacturers whether any new limits would be applied retrospectively and therefore whether existing appliances would need to meet any revision in limits as this would have a significant impact on likely burdens.

7. Clean Air Act Part 2, Section 5: Limits on grit and dust emission rate for non-domestic furnaces

Summary of Provision

This section of the Clean Air Act grants the Secretary of State powers to set grit and dust emission limits for non-domestic furnaces. The associated regulations set such limits in relation to certain non-domestic furnaces.

Current Evidence Base

Relevance to Air Quality

Limits on grit and dust are potentially useful for controlling emissions of particulate matter, but there is considerable uncertainty as to whether the current limits are appropriate when compared with the capability of modern technology. These limits may be superseded for some appliances through EU and National initiatives such as the Ecodesign Regulations which will implement minimum standards (including particulate emission) on furnaces which are solid fuel central heating hot water boilers <1 MW output. The Renewable Heat Incentive Scheme also includes a particulate emission limit for biomass boilers.

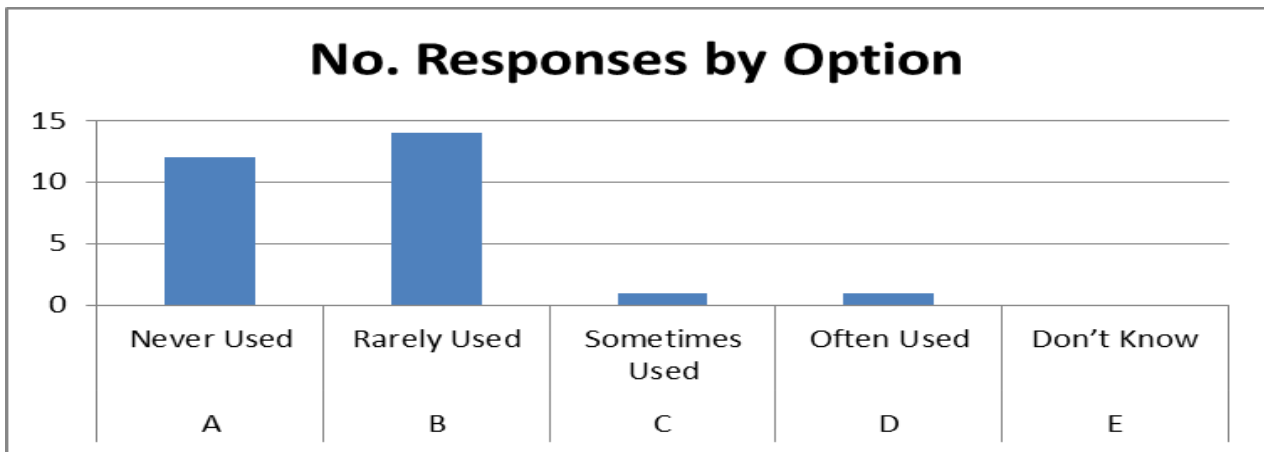
Burdens

No evidence was provided by either Local Authorities or Industry.

Question 1: Are Local Authorities currently using these limits?

High level statistics

- 48.28% of consultees responded to this question. Of the twenty eight respondents twenty four were from Local Authorities.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Never Used	12	20.69%	42.86%
B	Rarely Used	14	24.14%	50.00%
C	Sometimes Used	1	1.724%	3.57%
D	Often Used	1	1.724%	3.57%
E	Don't Know	0	0%	0.00%
F	Not Answered	30	51.72%	n/a

Question 2: Do you have any information to support your response and strengthen the evidence base?

High level statistics

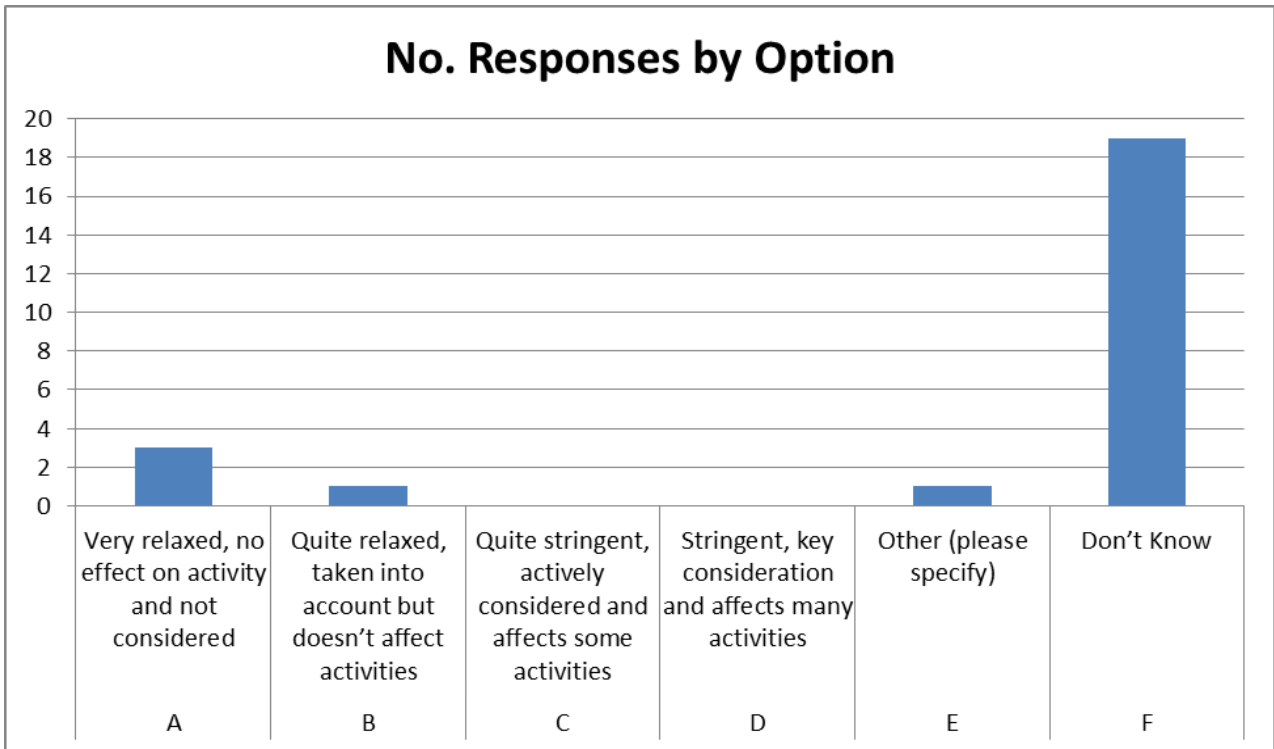
- 31.03% of consultees responded to this question

The majority of respondents indicated that these provisions are rarely, if ever, used and that the grit and dust limits are no longer relevant, as all modern furnaces comply with the requirements. Only one respondent claimed it was often used and another stated they only used it once or twice per year.

**Question 3: How stringent are these limits for industry to comply with?
Please explain your response.**

High level statistics

- 41.38% of consultees responded to this question. The vast majority (eighteen respondents) stated that they did not know how stringent the limits are. Of those that did have an opinion (four) all indicated that the limits were 'relaxed' and did not affect activities.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Very relaxed, no effect on activity and not considered	3	5.172%	12.50%
B	Quite relaxed, taken into account but doesn't affect activities	1	1.724%	4.17%

C	Quite stringent, actively considered and affects some activities	0	0%	0.00%
D	Stringent, key consideration and affects many activities	0	0%	0.00%
E	Other (please specify)	1	1.724%	4.17%
F	Don't Know	19	32.76%	79.17%
G	Not Answered	34	58.62%	n/a

Question 4: How do these limits impact on industry currently? Please explain how these limits affect your activities as industry including in terms of design, manufacturing and purchasing of combustion related products.

High level statistics

- 13.79% of consultees responded to this question

The general consensus (three respondents) was that these limits have little impact on industry currently.

Question 5: Do all new furnaces meet these Grit and Dust limits? How do the limits compare with the capability of modern appliance technology?

High level statistics

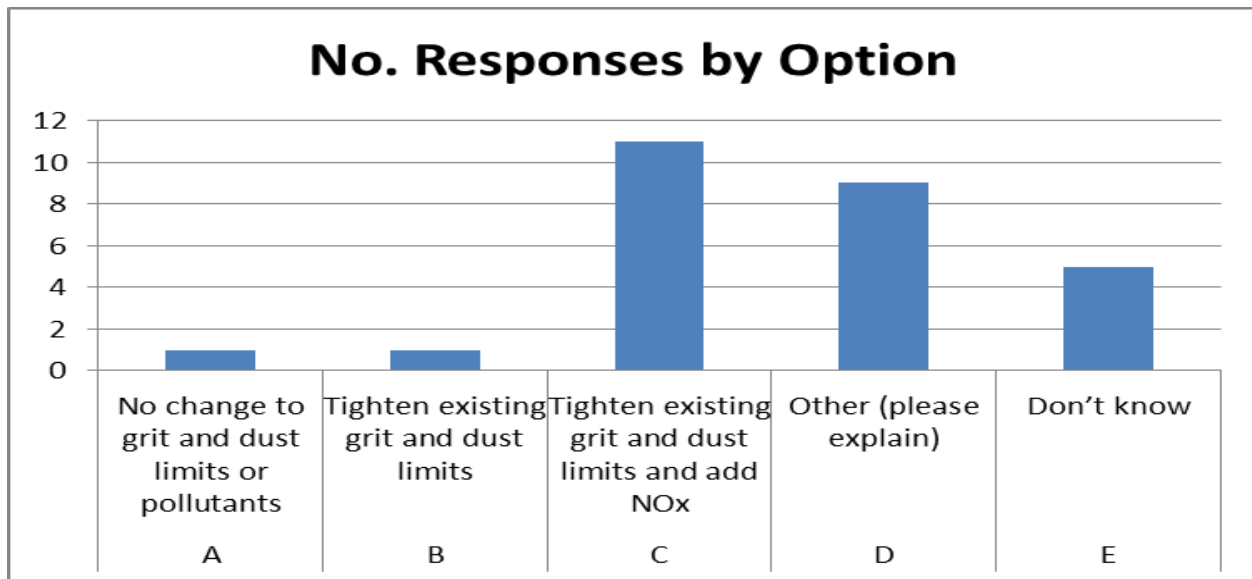
- 22.41% of consultees responded to this question

Most respondents reported that the majority of modern furnaces meet the specified grit and dust limits; however one noted that there may be a limited number of imported products which do not conform to these standards. Another respondent stated that the limits are irrelevant for gas and oil fired furnaces but may be relevant to biomass installations.

Question 6: What are your views on amending the grit and dust emissions limits to include tighter particulate matter limits and/or introduce new limits for oxides of nitrogen?

High level statistics

- 46.56% of consultees responded to this question.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	No change to grit and dust limits or pollutants	1	1.724%	3.70%
B	Tighten existing grit and dust limits	1	1.724%	3.70%
C	Tighten existing grit and dust limits and add NOx	11	18.97%	40.74%
D	Other (please explain)	9	15.52%	33.33%

E	Don't know	5	8.621%	18.52%
F	Not Answered	31	53.45%	n/a

Key themes from written responses

All written responses were in support of a move from grit and dust limits to emission limits for NOx and PM. It was explained that this would keep emission limits in line with current technology as these pollutants were seen as most relevant to health and Local Air Quality Management. It was also suggested that the new requirements could be implemented by ensuring type approval of new installations.

Question 7: What new burdens might this introduce?

High level statistics

- 36.21% of consultees responded to this question

Most respondents (twenty) commented that the new limits would increase burdens in terms of product testing, certification, auditing and monitoring. However some explained that many modern appliances are designed to minimise emissions and 'limits are being introduced via Eco-Design anyway'. One respondent commented that given the health benefits associated with improved air quality, implementation of new limits could reduce burdens.

Question 8: Do you have any other suggestions for improvements?

High level statistics

- 12.07% of consultees responded to this question

It was noted that the legislation would benefit from improved guidance regarding the scope of the legislation and how to enforce requirements. One respondent recommended that when combustion appliances are certified to meet EU or Defra emission limits then it was not necessary to notify the Local Authority of the installation. One respondent commented that the Act needs to address modern fuel and appliance types and focus on reducing emissions of concern (i.e. PM and NOx) especially in Air Quality Management Areas. However if new limits are introduced there should be a phased approach to replacing old appliances.

Question 9: What role might the Clean Air Act take alongside future EU led controls?

High level statistics

- 34.48% of consultees responded to this question

All but one respondent supported future alignment with EU source control measures and an integrated approach. Improved links with Local Air Quality Management processes were also suggested. One respondent highlighted that the Clean Air Act relates to current ongoing obligations whereas some EU controls were for new appliances only.

8. Clean Air Act Part 2, Sections 6-8: Requirements to fit Arrestment Plant

Summary of Provision

Sections 6 and 8 of the Clean Air Act states that when operating under certain conditions both domestic and non-domestic furnaces must be fitted with grit and dust arrestment plant that are approved by Local Authorities.

Section 7 allows the Secretary of State and Local Authorities to exempt non-domestic furnaces from requirements to fit arrestment plant. The associated regulations define nationally-exempt furnaces and the information required for a Local Authority to exempt furnaces.

Current Evidence Base

Relevance to Air Quality

Reduction in emissions of grit and dust from specified plants

Burdens

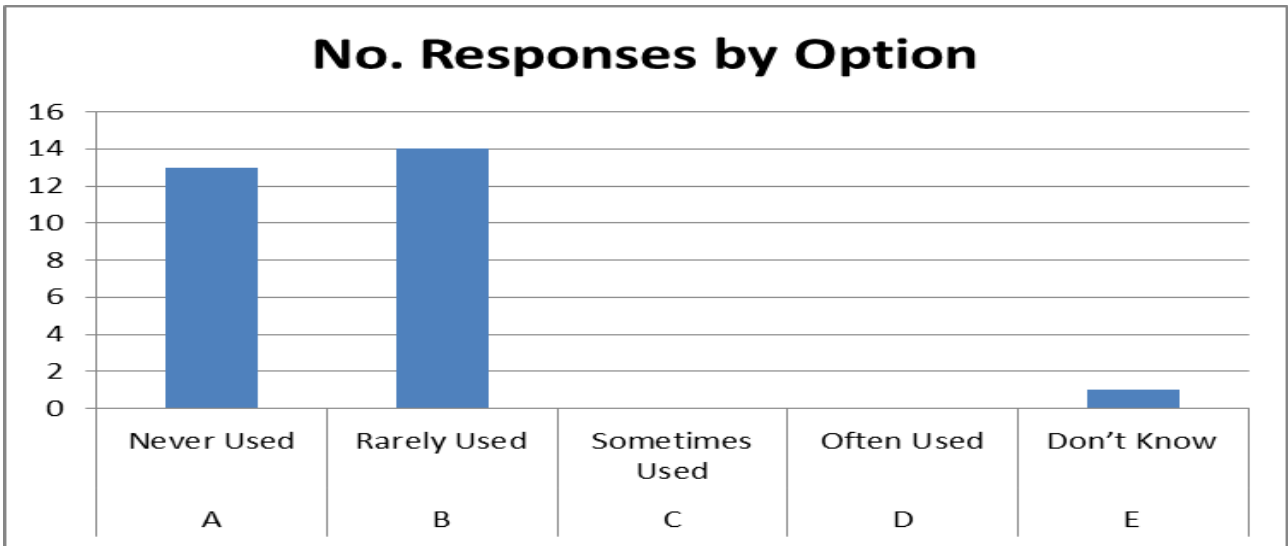
Local Authorities: Feedback to date suggests that these requirements are used very little and are no longer relevant

Industry: The burden on industry is currently unclear from existing data.

Question 1: Do Local Authorities use these provisions? Are they still relevant?

High level statistics

- 48.27% of consultees responded to this question. Of the twenty seven respondents twenty four were Local Authority respondents.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Never Used	13	22.41%	46.43%
B	Rarely Used	14	24.14%	50.00%
C	Sometimes Used	0	0%	0.00%
D	Often Used	0	0%	0.00%
E	Don't Know	1	1.724%	3.57%
F	Not Answered	30	51.72%	n/a

Key themes from written responses

Almost all respondents who expressed an opinion (twenty seven) stated that these requirements are rarely or never used.

Question 2: If never or rarely used please explain why? If used please advise how many times per year do you estimate they are used?

High level statistics

- 39.66% of consultees responded to this question

No respondents reported that these provisions are currently being used.

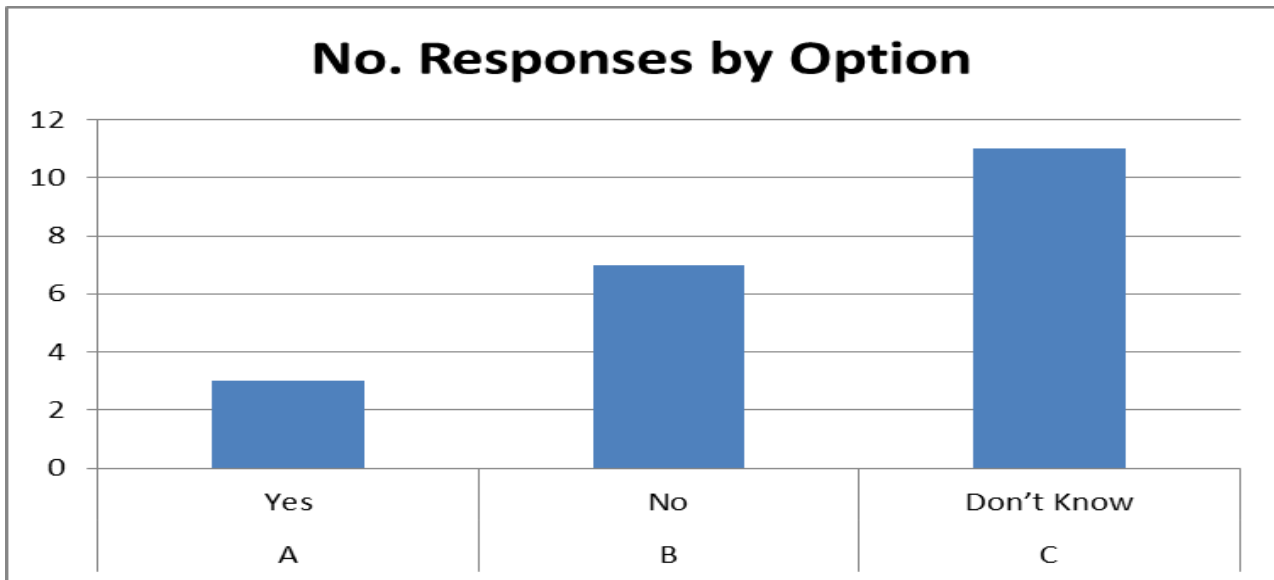
It was noted that this kind of requirement is generally relevant to larger appliances which are regulated under the Environmental Permitting Regulations. Arrestment plants, if needed for specific smaller appliances, could be fitted as standard, however new technology means that generally abatement is no longer required.

Respondents explained that this provision was introduced to combat grit and dust associated with coal combustion and, with the advent of electricity and gas, became largely redundant. It was however noted that it may be required in the future with increasing use of biomass.

Question 3: Are exemptions still required? Please explain your response

High level statistics

- 36.21% of consultees responded to this question



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Yes	3	5.172%	14.29%
B	No	7	12.07%	33.33%
C	Don't Know	11	18.97%	52.38%
D	Not Answered	37	65.52%	n/a

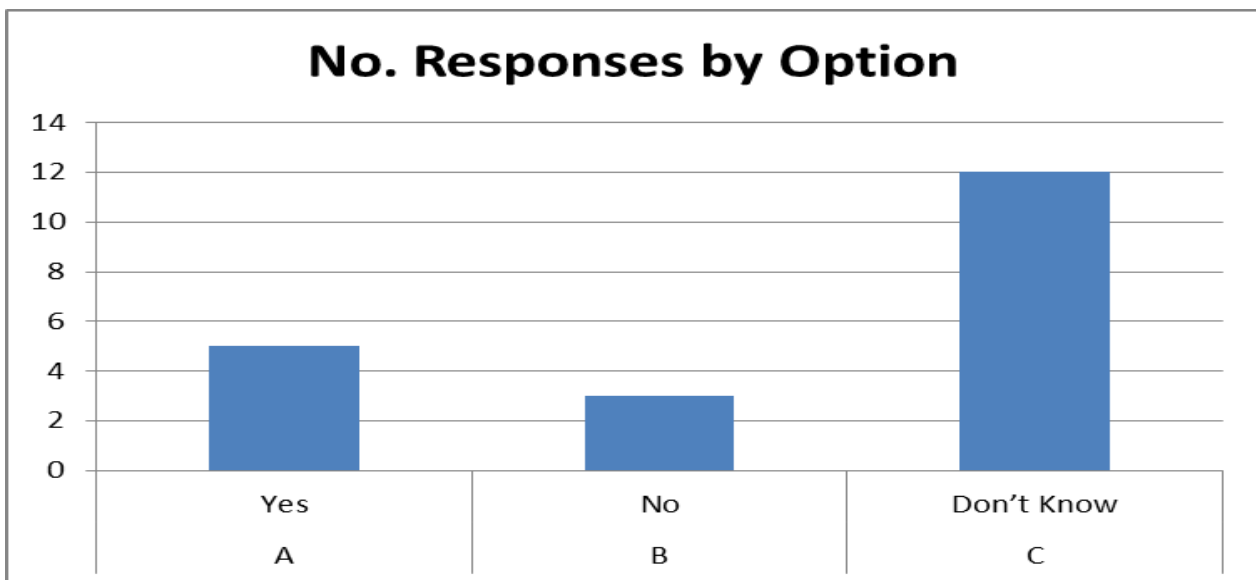
Key themes from written explanations

Two respondents noted that modern technology means that exemptions for new installations may not be necessary dependent on correct usage and maintenance. Another one respondent commented that these exemptions are not appropriate as many installations are already covered by the Integrated Pollution Prevention and Control and the Local Authority Pollution Control Regulations.

Question 4: Does this provision for Local Authorities to require arrestment plant place any burden on industry? Please explain your reasoning.

High level statistics

- 34.48% of consultees responded to this question



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Yes	5	8.621%	25%
B	No	3	5.172%	15%
C	Don't Know	12	20.69%	60%
D	Not Answered	38	65.52%	n/a

Key themes from written explanations

Three respondents indicated that the burden was due to additional equipment being required, however one of these respondents stated it was not a new burden and another commented that it 'does place a burden, but only on bad industry'. Three respondents indicated that no additional burdens were imposed as the provision is so rarely used.

Question 5: If so, what are the financial burdens associated with this?

High level statistics

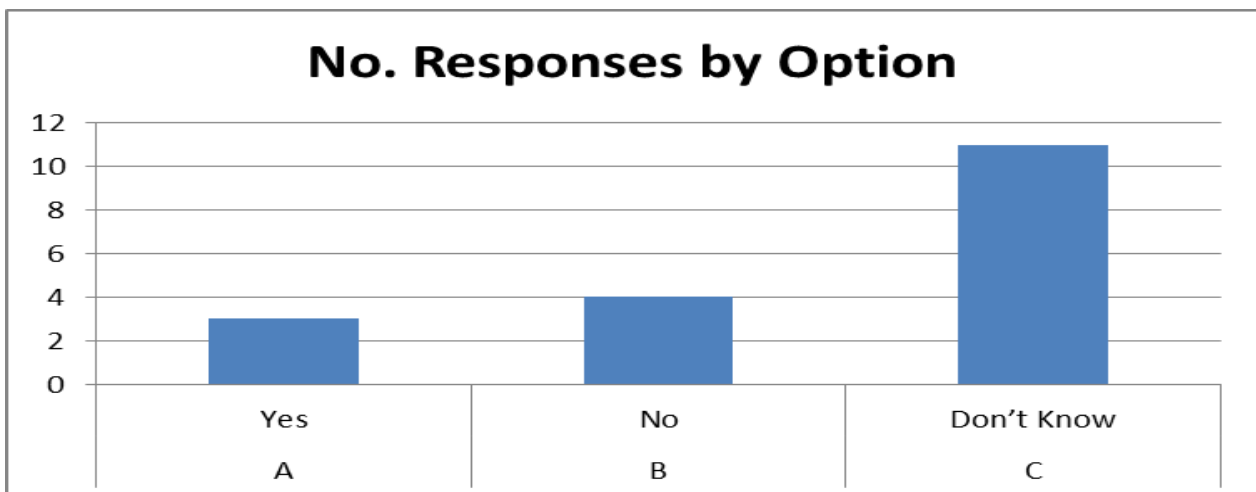
- 1.72% of consultees responded to this question

Only one respondent answered this question. They noted that financial burdens were expected to be low when taking into account the development of new boiler plant, financial benefits from the Renewable Heat Incentive and potential health benefits from reduced emissions.

Question 6: Would arrestment plants (and exemptions) still be needed as and when new product standards are introduced? Please explain your response

High level statistics

- 31.04% of consultees responded to this question



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Yes	3	5.172%	16.67%
B	No	4	6.897%	22.22%
C	Don't Know	11	18.97%	61.11%
D	Not Answered	40	68.97%	n/a

Key themes from written explanations

Four respondents indicated that product standards would render this provision unnecessary however one respondent suggested that it may prove useful for controlling emissions from older appliances as they become less efficient over time.

Question 7: Do you have any other suggestions for improvements?

High level statistics

- 13.79% of consultees responded to this question

In addition to further support for the introduction of product standards and emission limits, the following suggestions/comments were made:

- Plants should have abatement equipment installed and performance be type approved or detailed in a product standard where situated in Air Quality Management Areas or where air quality is close to the Air Quality Objectives.
- Local Authorities should be notified of new plants during the commissioning process.
- In implementing new product standards appliances should be tested in situ rather than based on factory/laboratory tests.

9. Clean Air Act Part 2, Sections 10-11: Measurement of Grit, Dust and Fumes

Summary of Provision

This section of the Clean Air Act allows Local Authorities to require installation of facilities to allow emission measurements and require measurements of emissions by the occupier.

Current Evidence Base

Relevance to Air Quality

These measures form part of the suite of grit and dust control sections and enable measurement of grit, dust and fumes by occupiers and Local Authorities

Burdens

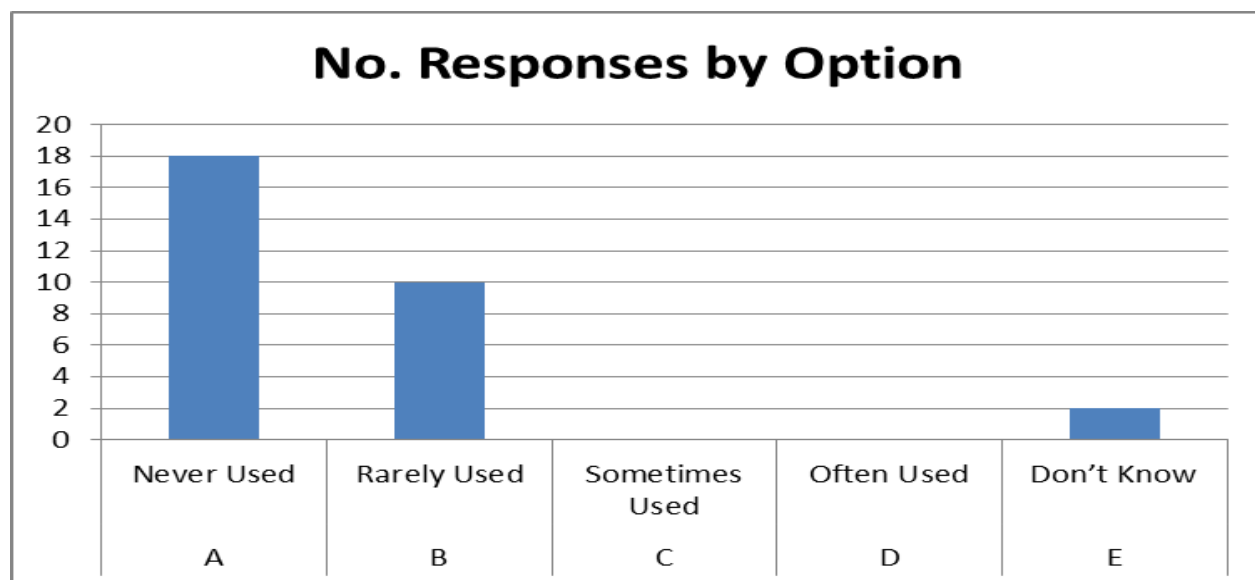
Local Authorities: Negligible: evidence to date suggests they are not widely used.

Industry: Negligible: evidence to date suggests they are not widely used.

Question 1: Are these measures used and are they still required?

High level statistics

- 51.72% of consultees responded to this question



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Never Used	18	31.03%	60.00%
B	Rarely Used	10	17.24%	33.33%
C	Sometimes Used	0	0%	0.00%
D	Often Used	0	0%	0.00%
E	Don't Know	2	3.448%	6.67%
F	Not Answered	28	48.28%	n/a

Question 2: If never or rarely used please explain why? If used please advise how many times per year do you estimate they are used?

High level statistics

- 39.66% of consultees responded to this question

Only a few Local Authorities indicated that they had ever used the provision and at a frequency of less than once/year. Local Authorities explained that the move from fossil fuels to gas had rendered the provision mostly unnecessary and that it was generally applicable to larger plants which fall under the Integrated Pollution Prevention Control regulations. However it was noted that the provision may become more relevant in the future with the increased use of biomass fuels. Costs were cited as a barrier to use as was ambiguity over definition and measurement methods. Two Local Authorities considered the provision an unreasonable burden however another found it a 'useful tool to threaten with to achieve compliance without formal action'.

Question 3: What are the burdens and issues associated with measurement of grit and dust for Local Authorities, business and the public?

High level statistics

- 27.59% of consultees responded to this question

Five respondents commented that the burdens were low as the provision is rarely used. However six respondents explained that the measurements were costly and onerous, with a further two citing the lack of defined measurement systems as an additional burden. One respondent commented that the focus should be on correct maintenance and operation of plant rather than expensive monitoring equipment.

Question 4: Under what circumstances might measurement still be used in the future?

High level statistics

- 36.21% of consultees responded to this question

Almost all respondents noted that measurement might still be required in the future in order to undertake investigation of complaints, particularly given the predicted rise in solid fuel use. Only two respondents considered it unlikely that these provisions would be used in the future.

Question 5: Do you foresee any problems if product standards replaced the requirement for measurement (please explain)?

High level statistics

- 31.03% of consultees responded to this question

Most respondents supported the move to product standards in principle but concerns were expressed around the use of older appliances and the decline in product performance over time which might give rise to an increase in emissions. It was suggested that ongoing maintenance and a periodic MOT test might be advantageous.

10. Clean Air Act Part 2, Sections 14-16: Chimney Height Approvals for Furnaces

Summary of Provisions

These sections of the Clean Air Act require that the chimney height of furnaces operating in specific conditions are approved by Local Authorities

Current Evidence Base

Relevance to Air Quality

Adequate dispersion of pollutants.

Burdens

Local Authorities: undertake between 1 and 7 chimney height approvals per year. Average time spent dealing with an application is 5 hours. This gives an estimated England total of 6000 hours/year (Note this includes reviewing new non-domestic furnaces see Part II, Section 4).

Industry: The cost of approximately £375k each year in England to business is estimated for dispersion modelling assessments.

An evidence gap remains on the cost of design or build work requirements attributable to the Act and the costs which could be avoided through ensuring build is correct first time.

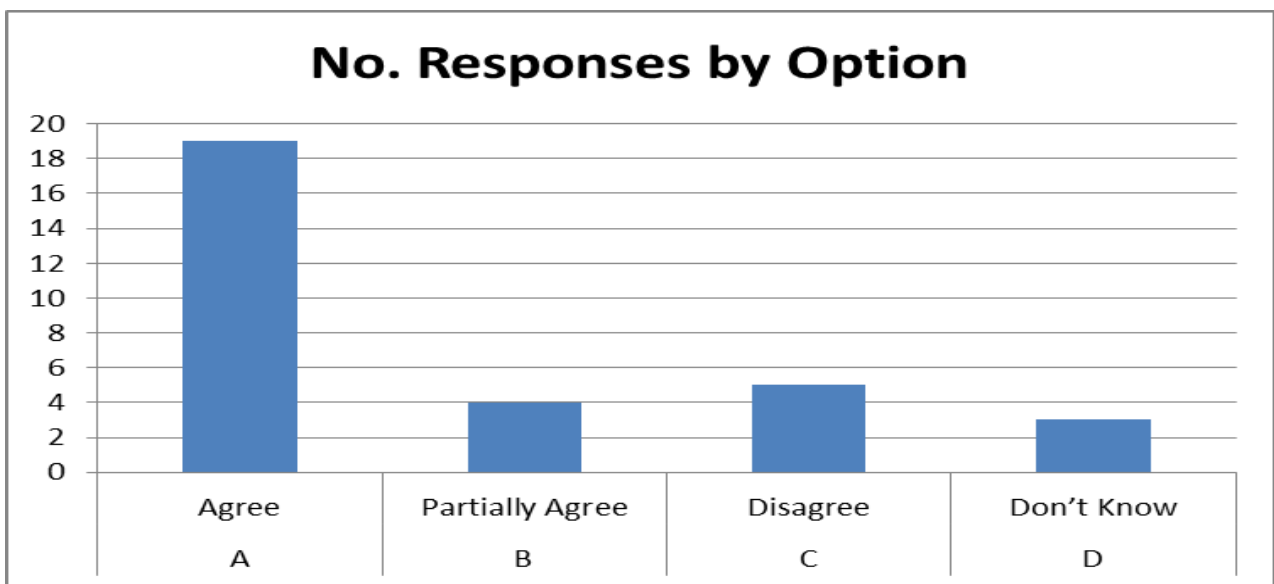
Stakeholder Suggestions for Improvement:

- Improved implementation via clearer guidance and common approach to provision of information (templates).
- Awareness-raising to increase understanding of scope of legislation and roles and responsibility and promote coherence between Local Authority Planning Departments, Building Controls and Environmental Health Departments.
- Future proof requirements for increased solid fuel burning activity.

Question 1: Do you agree with the evidence base on burdens for Local authorities?

High level statistics

- 53.45% of consultees responded to this question - Of those who agreed/partially agreed twenty one were from Local Authorities. Four Local Authorities disagreed stating that lack of frequency of applications resulted in longer times to process.



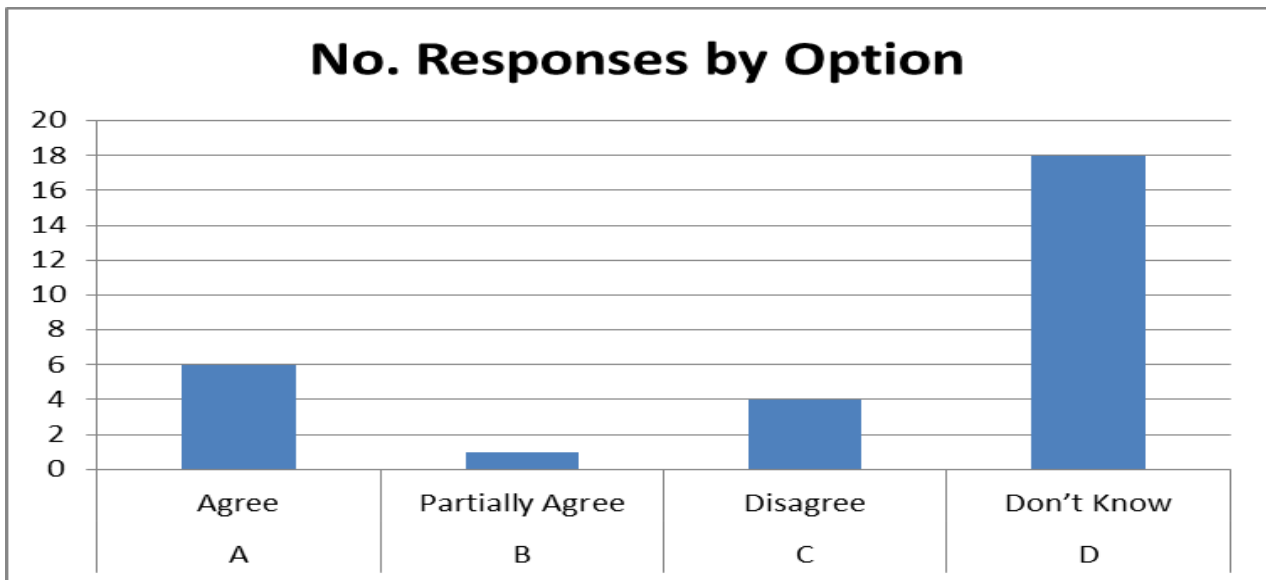
Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Agree	19	32.76%	61.29%

B	Partially Agree	4	6.897%	12.90%
C	Disagree	5	8.621%	16.13%
D	Don't Know	3	5.172%	9.68%
E	Not Answered	27	48.55%	n/a

Question 2: Do you agree with the burden estimates for industry?

High level statistics

- 49.99% of consultees responded to this question. Two industry representatives agreed with the burden estimates, whilst one disagreed.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Agree	6	10.34%	20.69%
B	Partially Agree	1	1.724%	3.45%

C	Disagree	4	6.897%	13.79%
D	Don't Know	18	31.03%	62.07%
E	Not Answered	29	50.00%	n/a

Question 3: Do you have any information to support your response and strengthen the evidence base?

High level statistics

- 36.21% of consultees responded to this question

Additional figures were supplied which broadly correspond with burden estimates in terms of number of applications processed, however most Local Authorities explained that these take 5 to 10 hours to complete. It was suggested that increased time could be attributable to the low number of applications received leading to limited opportunity for skill development. An industry member noted that the heightened popularity of biomass installations has increased the number of applications and commented, however, that the available guidance required updating to encompass this type of installation. It was noted that issues tend to be dealt with at pre-planning stage through discussions with developers rather than via formal applications

Question 4: Can you provide any further information on costs to industry for the design and build of chimneys? Can you provide a range of costs and project examples?

High level statistics

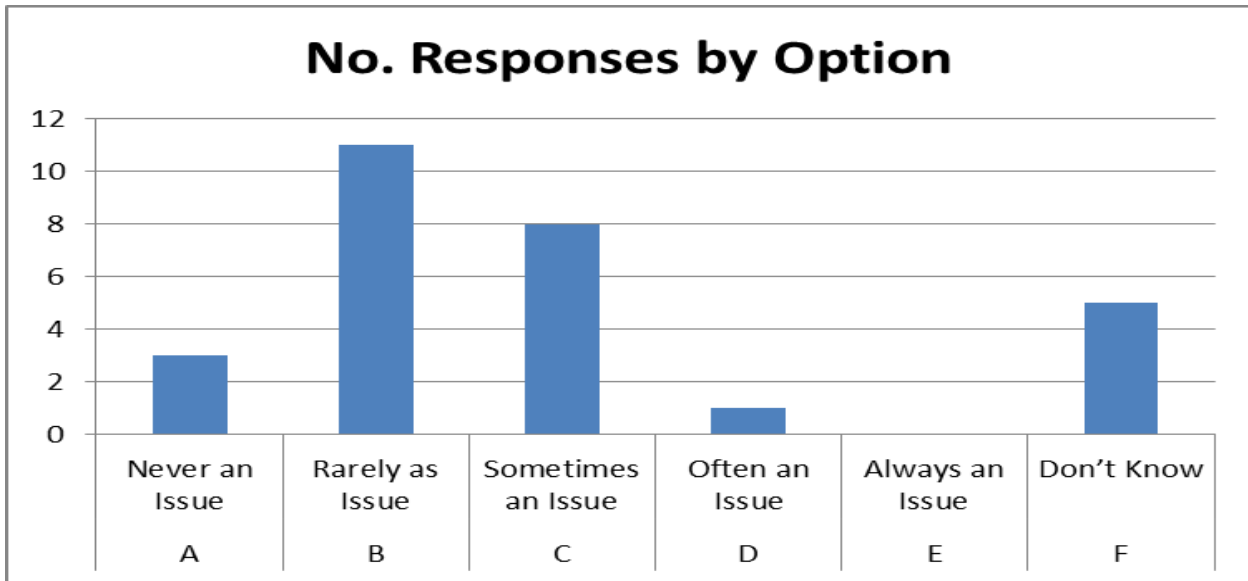
- 6.9% of consultees responded to this question

No respondents were able to provide further information with regard to monetary costs to industry or project examples. Two respondents noted that dispersion modelling is rarely used other than for large projects falling under Environmental Permitting Regulations. It was noted that the current models ('D1' Method and the Chimney Heights Memorandum) are quite a cheap approach to undertaking stack height calculations. One respondent did note that the most significant costs involved occur when a chimney is built to the incorrect height.

Question 5: How often are delays with construction projects due to disagreements over chimney height calculations, mistakes in chimney height calculations or similar issues? Please explain your response

High level statistics

- 48.28% of consultees responded to this question



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Never an Issue	3	5.172%	10.71%
B	Rarely as Issue	11	18.97%	39.29%
C	Sometimes an Issue	8	13.79%	28.57%
D	Often an Issue	1	1.724%	3.57%
E	Always an Issue	0	0%	0.00%
F	Don't Know	5	8.621%	17.86%
G	Not Answered	30	51.72%	n/a

Key themes from written explanations

Nine respondents indicated that delays occur mainly due to lack of awareness and availability of dispersion tools. Other factors which cause issues include conflicting decisions regarding stack height and planning consent concerning visual amenity.

Question 6: Can you provide any examples of burdens to business through costs from redesign or re-build of chimneys?

High level statistics

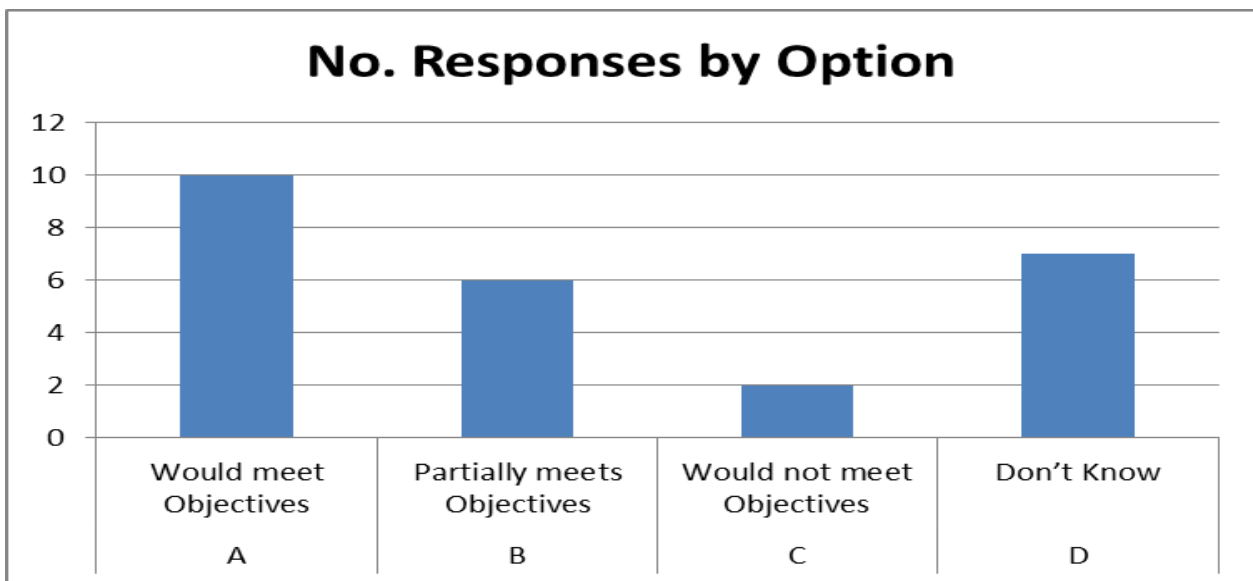
- 5.17% of consultees responded to this question

One respondent noted that burdens existed in respect of time delays to projects, additional planning costs and potential financial penalties.

Question 7: Would the stakeholder suggestions for improvement help the Red Tape Challenge (RTC) policy objectives to reduce burdens to business and Local authorities, improve implementation and aid enforcement? Please explain your response

High level statistics

- 43.10% of consultees responded to this question.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Would meet Objectives	10	17.24%	40.00%

B	Partially meets Objectives	6	10.34%	24.00%
C	Would not meet Objectives	2	3.448%	8.00%
D	Don't Know	7	12.07%	28.00%
E	Not Answered	33	56.90%	n/a

Key themes from written explanations

Of the eighteen respondents only two disagreed with stakeholder's suggestions for improvement. Most respondents explained that there needed to be greater liaison between planning departments and environmental health and that a more coherent approach was required possibly using a standard template and application form. A few respondents advised that both the Clean Air Act and Chimney Heights Memorandum are out of date when compared to current requirements and that a single design guide or tool kit for chimneys covering all appliance types is required. A further two noted that the Red Tape Challenge objectives do not necessarily align with improvements to the Clean Air Act that would benefit health. One respondent recommended closer links with Local Air Quality Management.

Question 8: What other suggestions for improvement or burden reduction do you have?

High level statistics

- 34.48% of consultees responded to this question

Most respondents suggested that the guidance be improved and tools such as a template, screening system or online programme should be provided. A few suggested the Chimney Heights Memorandum be updated and referred to specifically in the legislation. Greater coherence between requirements of the Act, Local Air Quality Management processes and planning objectives was promoted.

11. Clean Air Act Part 3: Smoke Control Areas

Summary of Provision

This section of the Clean Air Act grants Local Authorities the powers to designate and manage Smoke Control Areas (SCA). Within Smoke Control Areas it is an offence to emit

smoke from a chimney unless using a product that is specified as an exempted fireplace or an authorised fuel by the Secretary of State in subordinate legislation.

Current Evidence Base

Relevance to Air Quality

Smoke Control Areas control emissions of particulate matter, pollutants within the particulate phase, products of incomplete combustion, and sulphur dioxide.

Burdens

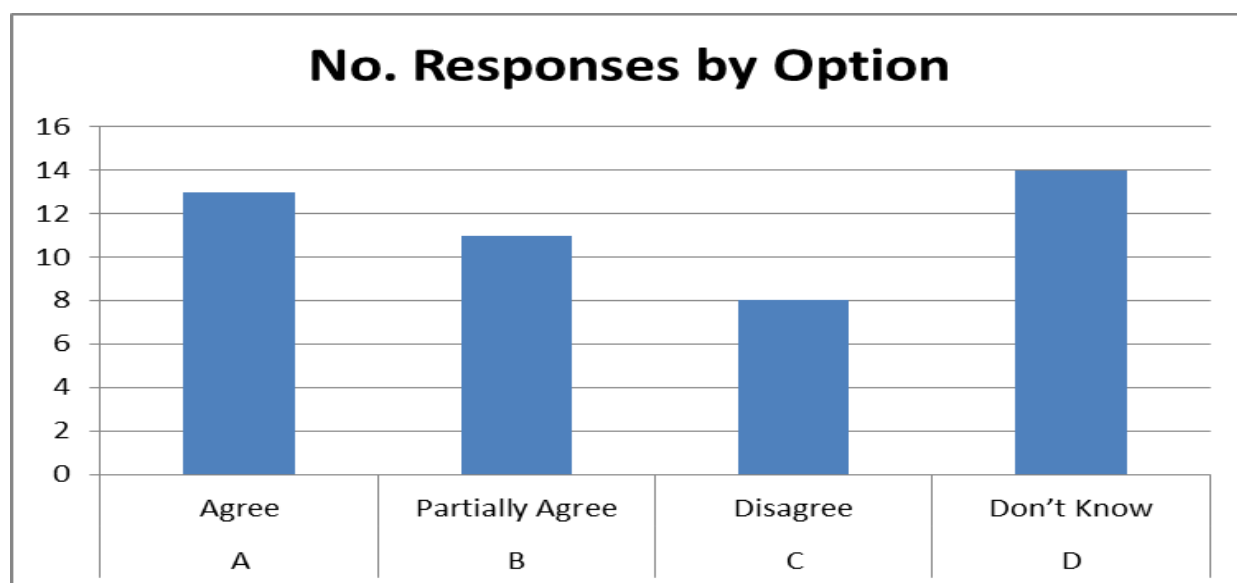
Local Authorities: Management of Smoke Control Areas in general (i.e. queries & complaints) was estimated to range between half an hour per year to 474 hours per year dependent on the extent of these areas within Local Authority boundaries. The total hours per year for English Local Authorities have been estimated at 15000 hours/year.

Industry: The total annual cost to Industry of exemptions of appliances and authorisations of fuels through the Defra testing and approvals process is calculated for the United Kingdom at £1,067,879. This is based on 58 applications per year and includes application fees of approximately £1500 and costs for testing of £7000. The burdens relating to applications are related to the approval process for fuels and appliances in the United Kingdom and are not easily allocated to individual administrations.

Question 1: Do you agree with the burden information for Local authorities?

High level statistics

- 79.31% of consultees responded to this question. Of the forty six respondents twenty seven were from Local Authorities.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Agree	13	22.41%	28.26%
B	Partially Agree	11	18.97%	23.91%
C	Disagree	8	13.79%	17.39%
D	Don't Know	14	24.14%	30.43%
E	Not Answered	12	22.41%	n/a

Question 2: Do you have any information to support your response and strengthen the evidence base? Is there anything missing?

High level statistics

- 39.66% of consultees responded to this question

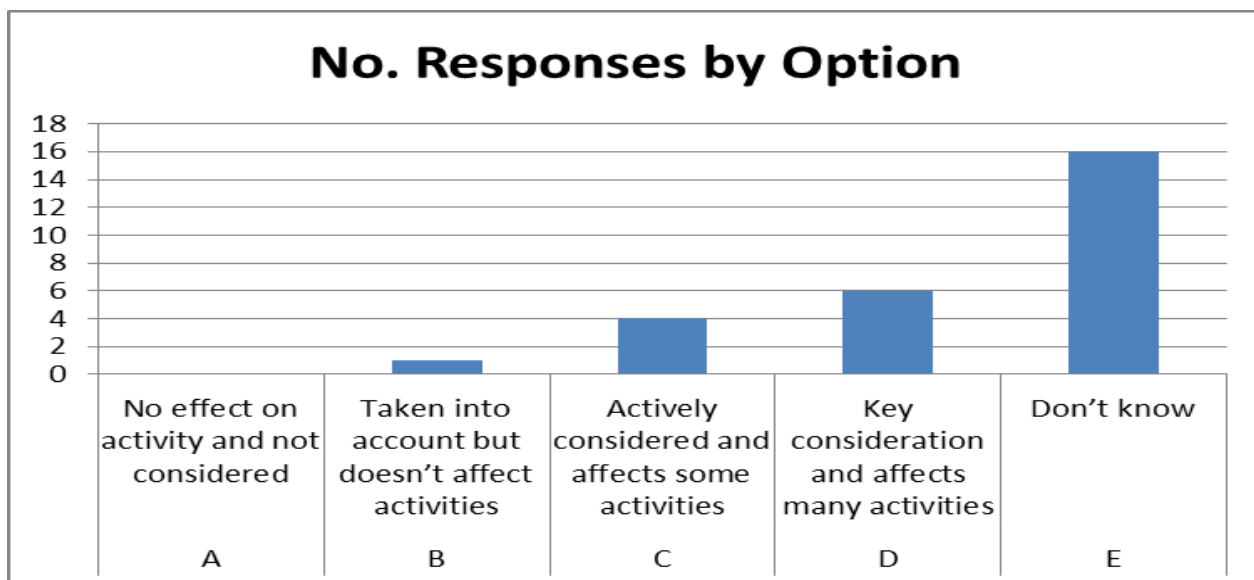
Responses were received from a cross section of Local Authorities some of which consisted predominantly of Smoke Control Areas and other, more rural Local Authorities which had few or no Smoke Control Areas. A number of urban Local Authorities noted that the figures in the Call for Evidence appeared to be an under estimate of the amount of complaints received. The half hour duration per complaint was thought to be minimal and not representative if visits or other actions were required.

Other estimates ranged from 10 to 104 queries per year taking between 20 minutes and 6 hours to deal with each across the authorities who responded. Local Authorities also noted that enquiries were increasing and this trend was likely to continue due to the increase in use of wood burning stoves and roll out of the Renewable Heat Incentive scheme to domestic users.

Question 3: Can you provide any information about the burden to business of operating in a Smoke Control Area or responding to complaints from Local authorities? Please advise your business type?

High level statistics

- 57% of consultees responded to this question



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	No effect on activity and not considered	0	0%	0.00%
B	Taken into account but doesn't affect activities	1	1.724%	3.03%
C	Actively considered and affects some activities	4	6.897%	12.12%
D	Key consideration and affects many activities	6	10.34%	18.18%
E	Don't know	16	27.59%	48.48%
F	Other (please specify)	6	10.34%	18.18%
G	Not Answered	25	43.10%	n/a

Key themes from written responses

Responses to this question came from a variety of sources including local authorities, manufacturers, distributors and trade associations.

Six respondents stated that there are extra costs (which were not quantified) to both manufacturers during the development and marketing of a product but these were small. The greatest cost lies with consumers if an ineligible appliance is bought and fitted. It was reported by three respondents that exempt appliances suffer from low usability for the end consumer as some controls are fixed.

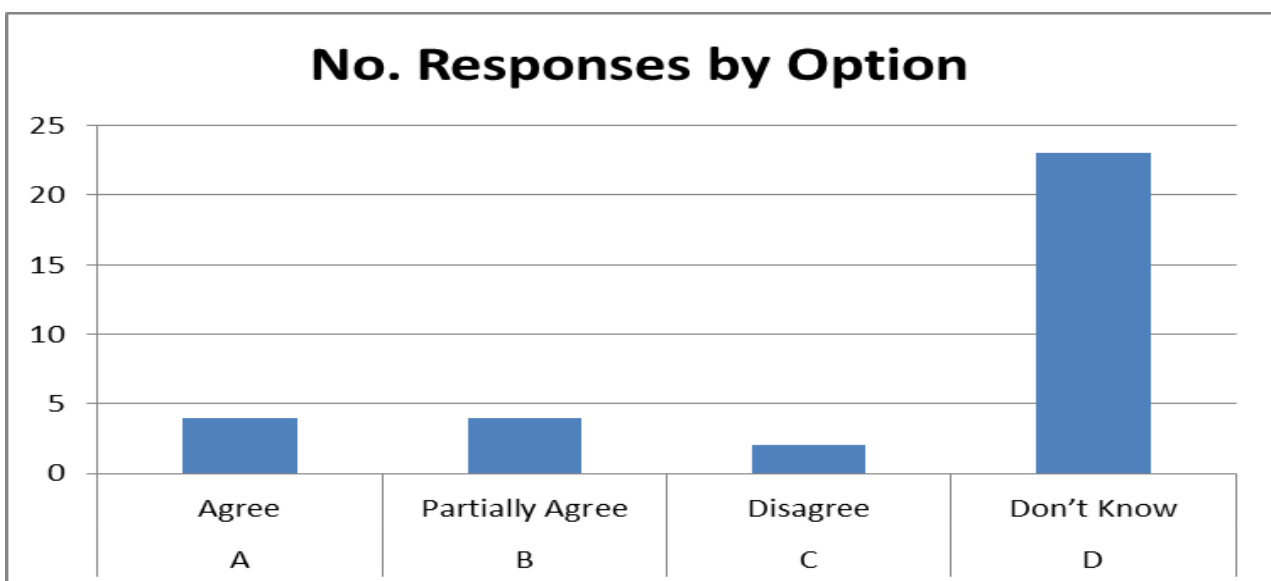
Two respondents reported that whilst manufacturers strive to make stoves burn as cleanly as possible most recent development has focussed on efficiency of domestic stoves with less consideration on emission levels. One respondent noted that it 'is emission levels that actually require the attention; a very efficient unit can actually have quite high emission levels.'

One respondent noted that 'the burdens on coal merchants result from lack of information relating to Smoke Control Area boundaries or street lists because many Local Authority records are incomplete, not up to date, or do not exist.'

Question 4: Do you agree with the cost estimates for Industry for exemptions and authorisations? Please explain your response.

High level statistics

- 56.90% of consultees responded to this question



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Agree	4	6.897%	12.12%
B	Partially Agree	4	6.897%	12.12%
C	Disagree	2	3.448%	6.06%
D	Don't Know	23	39.66%	69.70%
E	Not Answered	25	43.10%	n/a

Key themes from written explanations

The cost of developing Smoke Control Area appliances was reported to be high by three respondents, but one noted that operation 'without smoke' was noted as a necessary part of achieving high efficiency and so forms part of normal research and development costs. Two respondents noted that Ecodesign proposals would result in emission testing becoming the norm and another stated 'It's difficult to cost this but out of all the Clean Air Act Sections the one on Smoke Control Areas is the most important'. One respondent raised objection to the additional test relating to Smoke Control Area exemptions and suggested it be replaced by a scheme of self- certification.

Question 5: Can you envisage any problems of additional burdens associated with creating centralised digital geographic based Smoke Control Area records?

High level statistics

- 50.00% of consultees responded to this question

The majority of respondents supported the creation of a centralised record. Seven Local Authorities explained that they already held digital maps of Smoke Control Areas. A few issues were identified with regard to the availability of full and accurate records as many of the Smoke Control Areas in force were declared several years ago and these may not have been digitised locally. It would be necessary for the data entered onto the record to be accurate to ensure that users would not be misinformed and therefore potentially in breach of requirements. One respondent suggested it would be more straightforward to link Smoke Control Areas to Air Quality Management Areas.

Question 6: Can you suggest any amendments to the Act or associated legislation which would prevent the problem of exempt appliances causing nuisance to neighbouring properties? What burdens might be associated with this amendment?

High level statistics

- 51.72% of consultees responded to this question

Eight respondents suggested the removal of the restriction in the Environmental Protection Act that prevents enforcement of statutory nuisance regime in domestic dwellings in a smoke control area.

There was some support for the appropriate use of Building Regulations to ensure stack heights were sufficient to disperse smoke and a number of other respondents stated that more focus should be on the end user, with improved education to ensure that correct fuel was being used in accordance with manufacturer's instructions. One Local Authority suggested powers of entry provisions be amended to allow entry into domestic premises. Other ideas supplied included the provision of emission levels of products on packaging to encourage consumers to choose products with lower emission levels, the use of technology that can be incorporated into products as a method of controlling smoke particulate in residential areas, lower emission limits for appliances and the move from an exemption to permitting regime.

Question 7: What are the likely burdens and benefits associated with the inclusion of canal boats in Smoke Control Area requirements?

High level statistics

- 36.21% of consultees responded to this question

Five respondents suggested that burdens would be incurred by canal boat owners with one respondent quoting a cost of £1000 per boat. Three respondents reported that inclusion may assist in achieving cleaner air, however two did not consider that canal boats presented a problem and another suggested that air quality improvements would be negligible.

Some respondents stated that they thought Smoke Control Area restrictions applied to canal boats and two claimed it was the height of the chimney and method of installation which created smoke rather than the appliance itself.

Concerns were raised by three Local Authorities over the practicality of enforcement due to the transient nature of the boats moving in and out of Smoke Control Areas.

Question 8: Do you have any further suggestions for improving the regulations for Smoke Control Areas or reducing burdens?

High level statistics

- 32.76% of consultees responded to this question

Three respondents suggested that Smoke Control Areas should be aligned with Air Quality Management Areas and there was a similar level of support for the introduction of fixed penalty notice and a removal of the statutory nuisance exemption for domestic premises.

Two respondents noted that updated guidance about Smoke Control Areas (e.g. declaration and amendment, location) would reduce burdens and that controls in these areas should apply to all buildings and appliances in the United Kingdom. Other suggestions included creating more Smoke Control Areas, phasing out of all non-approved appliances, greater point of sale information on appropriate use for appliances, expansion of the offence around supply of authorised fuels to include appliances and the consideration of non-waste wood as an authorised fuel.

Question 9: Do you have any suggestions for changes to the testing and approvals process or requirements which Defra provides?

High level statistics

- 39.66% of consultees responded to this question

Of those which responded there was general support for a move from the current British Standard method of testing emissions to EU harmonised standards and self-certification of appliances. However two respondents considered it important that Defra continue with the current testing and approval process. Another two suggested that the consumer be made aware of emission and efficiency limits via a clearer labelling system.

A few references were made to Ecodesign developments and the necessity to monitor progress of negotiations. One respondent stated that once implemented it should be easier to identify appliances that would be suitable for use in Smoke Control Areas.

12. Clean Air Act Parts 4 (Controls of Certain Forms of Air Pollution), Part 5 (Information about Air Pollution) and Part 6 (Special Cases)

Summary of Provisions

These sections of the Clean Air Act contain a variety of controls and powers relating to the following matters:

- Motor fuel composition and content
- Sulphur content of oil
- Cable burning

- Colliery spoilbanks
- Railway engines
- Vessels (i.e. craft designed for transportation on water)
- Information for Local Authorities on air pollution

Current Evidence Base

Relevance to Air Quality

Aside from the powers to set motor fuel composition and sulphur content requirements these are little used provisions and as a consequence have low impact on Air Quality.

Burdens

Local Authorities: Limited information on the burdens associated with these provisions as set out below:

- Information about air pollution- no burden information provided.
- Colliery Spoilbanks- no information.
- Cable Burning – 1050 hours/year, based on an average of 6 incidents per year taking 2 hours to deal with and applying to around a quarter of England Local Authorities.
- Railways – 9 hours/year – based on only being used by a small number of authorities, who receive only 1 incident a year taking 1 hour to deal with.
- Vessels – 240 hours/year – based on 30 English port authorities receiving 4 cases a year taking 2 hours to deal with.

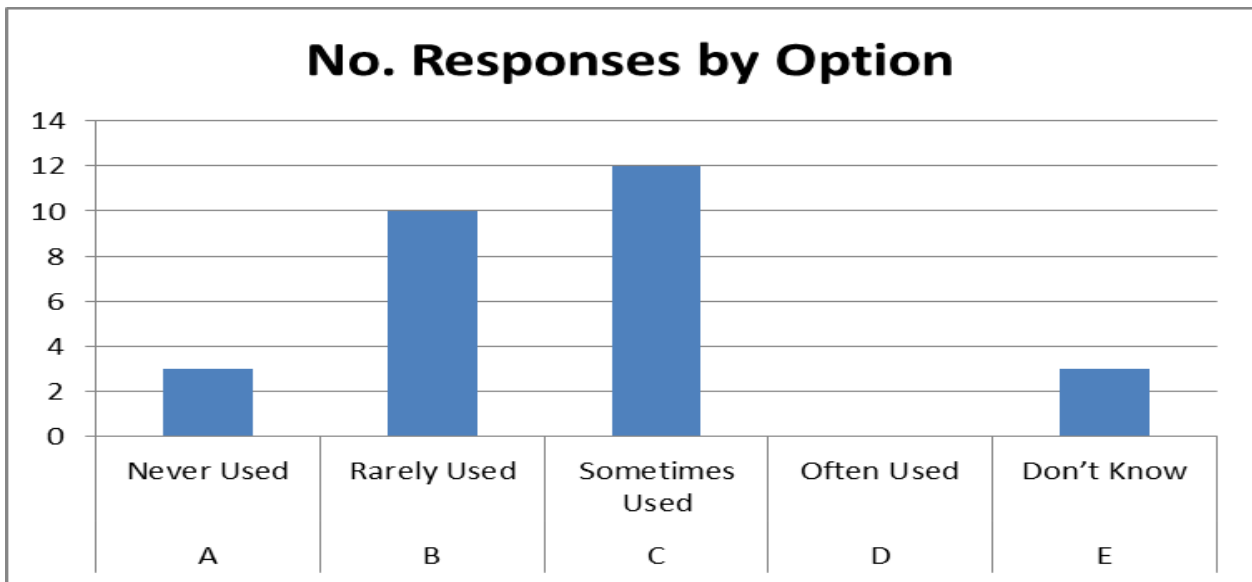
Burden on Industry:

No information has been provided

Question 1: Are these provisions still used and of benefit?

High level statistics

- 48.27% of consultees responded to this question.



Key	Option	Total	Percent of All Respondents	Percent Respondents who Answered the Question
A	Never Used	3	5.17%	10.71%
B	Rarely Used	10	17.24%	35.71%
C	Sometimes Used	12	20.69%	42.86%
D	Often Used	0	0%	0.00%
E	Don't Know	3	5.17%	10.71%
F	Not Answered	30	51.72%	n/a

Question 2: If never or rarely used please explain why? If used please advise which provisions are used and for each provision how many times per year do you estimate they are used?

High level statistics

- 43.10% of consultees responded to this question

The majority of respondents stated that the cable burning provision was still used and should be retained. Although only used rarely it is considered an effective tool. Some

Local Authorities indicated that the rail and vessel requirements in the Clean Air Act have been replaced by the Environmental Protection Act and two others raised concerns about exhaust emissions from diesel locomotives. One respondent recognised that steam locomotives are now mainly used for heritage reasons and therefore their use for this purpose should be protected but noted that in areas with a high proportion of river transport (e.g. London) dark smoke continued to be a significant source of emissions. One respondent indicated that although the railway provision was applied it was of very limited use for enforcement purposes.

Question 3: What burdens are associated with these measures?

High level statistics

- 22.41% of consultees responded to this question

Respondents did not cite any major burdens.

Question 4: Can you suggest any improvements to these provisions?

High level statistics

- 8.62% of consultees responded to this question

Two suggestions were made with regard to railway engine provisions. One recommended the inclusion of diesel locomotives and the other a 10 minute no-idling rule.

With reference to cable burning it was suggested that the wording of the legislation should no longer restrict enforcement to burning to recover the metal and the Proceeds of Crime Act should apply to the offence.

One respondent indicated that the whole section should be repealed and encompassed into the dark smoke provisions.

13. General Comments on the Clean Air Act

Question 1: Additional Comments

High level statistics

- 55.17% of consultees responded to this question

Many respondents acknowledged that the Clean Air Act has provided valuable public protection over its lifetime and although some provisions are now less relevant, as coal is no longer the principle fuel used in combustion processes, it is still a useful tool for tackling emissions. Respondents explained that some elements of the Act are no longer in regular use and could be removed, however any changes to the legislation should be carefully considered to avoid any negative effects. Respondents also indicated that the Clean Air

Act will continue to remain relevant in the advent of increased biomass burning, and that revisions are required to address emissions of more modern pollutants e.g. PM and NOx. It was recommended that the review should consider burdens on industry in the wider context of public health and consider the benefits afforded by the reduction of harmful pollutants, particularly in light of increased biomass combustion. Some issues were raised over the current process for exempting appliances and fuels for use in smoke control areas and support was provided for a move towards EU harmonised standards and a process of self-certification.

There was some support for the need to control smoke emissions from canal boats, bonfires, construction sites and 'one off burns which do not come under the remit of statutory nuisance'. There was further support for updating and revising existing smoke control areas and improved alignment of the Clean Air Act with other legislative aims such as climate change and Air Quality Management Area strategies.

14. Next Steps

Defra would like to thank respondents for their contributions to the Clean Air Act Review Call for Evidence. The responses are being analysed and the impacts of suggested changes and improvements fully assessed. It is also necessary to consider proposed EU legislation i.e. EcoDesign Regulations and the Medium Combustion Plant Directive, which are currently being negotiated as they may have an impact on the vast majority of plants controlled by the Act.

Defra will continue to involve stakeholders and delivery partners during the review process and will conduct a full public consultation on any regulatory changes. Timescales for implementing the changes will be dependent on the route by which the legislation is amended and the parliamentary timetable.

In addition to the above steps, the Clean Air Act is being amended via the new Deregulation Bill which is currently being debated in Parliament. The amendment will streamline and speed up the process for approving products for use in Smoke Control Areas, which will provide benefits to both industry and consumers. Defra are also undertaking a pilot project to develop a tool which will enable Local Authorities to digitise Smoke Control Area maps to assess the feasibility of creating a centralised United Kingdom map.

NB. Some additional comments were also made by respondents that fall outside of the scope of the Clean Air Act. Where these relate to the responsibility of other Government Departments they have been forwarded to them for consideration.

15. List of respondents

Details of respondents who did not wish for their names to be published have been omitted

There were 58 respondents in total, of which the main groups were as follows:

Local Authorities– 33 respondents

Ashfield District Council

Birmingham City Council

Brighton and Hove City Council

Calderdale Metropolitan Borough Council

Cheshire East Borough Council

City of Bradford Metropolitan District Council

City of London

Colchester Borough council

Cornwall Council

Epping Forest District Council

Gedling Borough Council

Gravesham Borough Council

Horsham District Council

Hull & Goole Port Health Authority/APHA

Lakes Branch Environmental Protection Working Group

Lancaster City Council

Leeds City Council

Leicester City Council

Mansfield District Council

Middlesbrough Council

Newark and Sherwood District Council

North West Leicestershire District Council

Nottingham City Council

Oldham MBC responding on behalf of Association of Greater Manchester Authorities

Sevenoaks District Council

South Cambridgeshire District Council

South Gloucestershire Council

Stoke-on-Trent City Council
Suffolk Air Quality Group
Suffolk Coastal DC and Waveney DC
West Somerset Council
Westminster City Council
Wirral Council

Manufacturers of appliances – 6 respondents

Dingley Dell Enterprises
Firenzo Fires
Stovax Limited
Thornhill ECO Design Ltd

General Public – 5 respondents

Anonymous

Other – 4 respondents

D & D Holmes
Campaign for Clean Air in London
HETAS

Trade Body/Associations – 3 respondents

Solid Fuel Association

Retail – 2 respondents

Manor House (Kenilworth) Ltd.
Robeys Ltd,

Developers – 1 respondents

Hughes Design Ltd and Soliftec Ltd

Service Sector – 1 respondents

Swept Away (Bath) uk LTD

Professional Body/Institution – 1 respondents

CIBSE Biomass Heating Application Manual Authors

Architect/Engineer/Builder – 1 respondents

GEA