

**Environment Overview and Scrutiny Committee
Thursday, 30 November 2017**

REPORT TITLE:	Local Authority powers to require drivers to switch off engines when parked
REPORT OF:	<i>Colin Clayton, Senior Manager Environmental Health & Trading Standards, Environmental Services</i>

REPORT SUMMARY

This report seeks to gain authorisation to enforce the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 in order to reduce polluting emissions from stationary vehicles. Vehicles idling while stationary cause unnecessary use of fuel, an increase in emissions and can also create a noisy environment, especially for residents and businesses.

It is an offence under Regulation 98 of the Road Vehicles (Construction and Use) Regulations 1986 to leave a vehicle engine idling unnecessarily whilst stationary. Powers are available to authorised Local Authority officers and other person(s), under Part 6 of The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002, to issue fixed penalty notices of £20 to drivers who allow their vehicle engines to run unnecessarily while the vehicle is stationary. It is important to note that the fixed penalty can only be issued if the driver refuses to switch off when requested.

The adoption of this legislation will support The Wirral Plan 20/20. The Environment section states that the Council's priorities include "*Working to reduce levels of inequality, particularly in relation to health, remains of paramount importance to this Council. We want all of our residents to have a good quality of life and live healthy lifestyles in clean and safe environments*". Pledge 16 of the plan is to help Wirral residents live healthier lives and pledge 20 of the plan is to provide an attractive local environment for Wirral residents.

Air pollution is associated with a number of adverse health impacts. It is recognised as a contributing factor in the onset of heart disease and cancer. Additionally, air pollution particularly affects the most vulnerable in society: children and older people, and those with heart and lung conditions. There is also often a strong correlation with equalities issues, because areas with poor air quality are also often the less affluent areas^{1,2}.

Idling engines unnecessarily add to pollution, particularly in congested urban environments which affects the quality of air that the community is exposed to.

This matter affects all Wards within the Borough and is a key decision.

RECOMMENDATION/S

It is recommended that the Council adopts Part 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. If adopted, the powers would be used by Environmental Health or other relevant services such as Licensing, Education and Transport Services to launch an educational campaign regarding idling vehicles. Any potential enforcement by these services would be limited to reacting to evidence based complaints or as part of a planned project targeting idling hot spots (i.e. taxi ranks and parking around schools). Limited existing resources would prohibit any other proactive work.

It is therefore recommended that the Schedule 4A Part 2 of the Council Constitution be amended in order to insert the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. The effect of this will be to give delegated powers to certain officers (including the Assistant Director of Environmental Services) to authorise officers to issue Fixed Penalty Notices relating to drivers of idling vehicles.

It is recommended that Wirral Council implement an in house policy for drivers to switch off engines when parked, which should include drivers of council vehicles and employees using their own vehicles for work purposes.

¹ Environmental Equity, Air Quality, Socioeconomic Status and Respiratory Health, 2010

² Air Quality and Social Deprivation in the UK: An Environmental Inequalities Analysis, 2006

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Regulation 6(3) of The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 allows a local authority to authorise any officer of the authority, or any other person, in any area of that authority, to issue a Fixed Penalty Notice in respect of a stationary idling offence committed in its area. Regulation 6(3) also allows authorised persons to stop the commission of stationary idling offences by requiring vehicle engines to be switched off. It is therefore proposed that relevant officers and other persons may be granted authority to issue fixed penalty notices.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The option to not adopt the legislation has been considered, however this would not provide the council with the legislative powers to effectively deal with idling engines and any complaints that may arise. It would also limit the impetus and opportunities to engage with the public and businesses on the issue

3.0 BACKGROUND INFORMATION

- 3.1 National air quality objectives have been set regarding Nitrogen dioxide level (NO_2). NO_2 is released during combustion of fuels (for example from car engines) and is therefore strongly linked to traffic levels. Wirral Council currently monitors for Nitrogen Dioxide in twenty one locations across Wirral, using diffusion tubes. These are analysed on a monthly basis to provide an annual mean result. The annual mean, at sites of relevant exposure, must not exceed $40 \mu\text{g}/\text{m}^3$. In Wirral, in 2016, the results from twenty of the twenty one diffusion tube sites were below the national objective. The one monitoring site that exceeded the national objective was the tube sited at the taxi rank in Liscard. This monitoring site was selected following a complaint from a member of the public regarding idling taxis outside the taxi rank. The annual mean result for this diffusion tube in 2016 was $44 \mu\text{g}/\text{m}^3$. As this location is not a site of relevant exposure because there is no housing, school, care home etc. in the immediate vicinity, the exceedance does not

require declaration of an Air Quality Management Area by the Local Authority. It does however indicate that localised air quality issues may be linked to idling engines.

3.2 Although the legislation enabling authorised officers to formally address idling engines was introduced in 2002, it has not been deemed necessary for Wirral to adopt the legislation until recently. Wirral has not identified any breaches of national air quality objectives, in areas of relevant exposure and has therefore not been required to declare any Air Quality Management Area. As the taxi rank is not a relevant exposure area, no statutory action is required. A previous mailshot has been followed up with another letter to taxi drivers in July. However further action now needs to be considered to tackle such localised issues and highlight this issue.

3.3 Environmental Health and the Licensing section deals with complaints about stationary vehicles, particularly buses and taxis, being left with their engines running. In the last three years, Environmental Health has received ten complaints regarding idling vehicle engines in various locations throughout the Borough. The licensing section has received seven complaints in the same period. These incidents are usually dealt with by:

- Writing to bus operators asking them to speak to their drivers and / or
- Undertaking site visits where idling has been alleged to be a problem and speaking to the bus or taxi drivers directly.

The methods used to address complaints regarding idling vehicles have met with varying success, being more successful where the complaint has been connected to buses. However, the lack of any statutory enforcement powers has meant that if informal advice does not result in behavioural change, there is no alternative or graduated action that can be taken. It is felt that the lack of enforcement power also undermines the message given during interventions by officers. Adoption of enforcement powers would also provide an opportunity for educative initiatives surrounding the issue of air quality.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The introduction of anti-idling legislation may not be universally popular. However, Environmental Health Officers and other relevant services will be undertaking an educational campaign to raise awareness of the legislation and the reasons behind it, to encourage changes in behaviour. Following the educational campaign, a graduated enforcement approach would be considered before the issuing of a penalty notice.

Officer time would be required for the planning and implementing of an educational campaign and the production of educational materials, such as leaflets and posters is likely to be necessary. The campaign will utilise platforms such as the council's website, social media, and local newspapers etc. to raise awareness and the communications team assistance is likely to be required.

In parallel to this anti-idling campaign, broader public engagement projects looking at air quality in general may be undertaken.

Whilst the expectation of enforcement may be high, due to limited resources, proactive work outside of planned projects at idling hotspots will not be undertaken. As a consequence, the volume of FPN's issued is expected to be minimal and no increase in staffing numbers would be required to enforce the regulations. It should also be remembered that FPNs are only issued where the driver refuses to switch off an idling engine.

Should there be a need to either increase this area of enforcement dramatically or carry out more proactive work beyond the initial campaigning, then the need for further resources would be carefully reviewed.

5.0 LEGAL IMPLICATIONS

- 5.1 Regulation 2 of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 states that "stationary idling offence" means "a contravention of, or failure to comply with 'so much of' regulation 98 (stopping of engine when stationary) of The Road Vehicles (Construction and Use)

Regulations 1986, as relates to the prevention of exhaust emissions. Secondly Regulation 7 of the 2002 Regulations states that emission offences and stationary idling offences under section 42 of the Road Traffic Act 1988 are prescribed as fixed penalty offences for the purposes of the 2002 Regulations.

5.2. Regulation 6(3), allows the council to authorise 'any officer of the authority', or any other person, in accordance with regulation 12, to stop the commission of stationary idling offences and, in accordance with regulation 13, to issue a fixed penalty notices in respect of such offences committed in its area'. Under Regulation 12 any authorised person may, having shown their authorisation, require the engine of a vehicle to be stopped. A driver who fails to comply may be prosecuted. However, the most appropriate course of action in most instances is to use powers under Regulation 13 where any authorised person, can issue a fixed penalty notice to the driver of the vehicle.

5.3. It is therefore recommended that the Schedule 4A Part 2 of the Council Constitution be amended in order to insert the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. The effect of this will be to give delegated powers to certain officers (for instance: Assistant Directors) to authorise officers to issue Fixed Penalty Notices relating to drivers of idling vehicles.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

6.1 There will be cost implications associated with the design and production of leaflets and posters etc. that will be used in the educational campaign.

There will be staff implications associated with the time required to plan and implement the educational campaign. In the short term, the time required to deliver this campaign could be managed within existing resources.

7.0 RELEVANT RISKS

7.1 If the legislation is not adopted, Wirral Council have no legal powers to prevent idling vehicles. The raised levels of Nitrogen dioxide detected outside the taxi rank in Liscard suggest that idling vehicles have a detrimental effect on local air quality.

7.2 Should the educative campaign, together with enforcement, fail to address idling then a review of resources available to carry out further work would need to be undertaken.

8.0 ENGAGEMENT/CONSULTATION

8.1 Environmental Health have engaged with the licensing section regarding the adoption of Regulation 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

9.0 EQUALITY IMPLICATIONS

9.1 There are no equality arising directly out of this report.

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APPENDICES

REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date