

## **Report to Environment and Licensing Committee**

**Subject:** Adoption and Implementation of Anti-Idling legislation

**Date:** 8th March 2022

**Author:** Head of Environment

### **Wards Affected**

All wards

### **Purpose**

To seek approval for the introduction of anti-idling legislation as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

This would give authorised officers of the Council the power to issue a Fixed Penalty Notice (FPN) to drivers allowing their engines to run unnecessarily while the vehicle is stationary, if they fail to comply with a requirement to stop the running of the engine of that vehicle.

The FPN in relation to these Regulations is £20, increasing to £40 if not paid within 28 days. There is no discretion to amend this charge.

### **Key Decision**

Not a key decision

### **Recommendation(s)**

#### **THAT members:**

- 1) Approve and authorise the implementation and enforcement of provisions relating to anti-idling as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.
- 2) Delegated authority be given to the Corporate Director to authorise relevant officers or persons to stop the commission of stationary idling offences and issue fixed penalty notices (FPNs) in respect of such offences, in accordance with Regulation 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

## 1 Background

- 1.1 Under the Environment Act 1995 and the Local Air Quality Management framework, Gedling Borough Council has a statutory duty to review and assess air quality within its borough and take the necessary actions to improve areas of poor air quality. If Air Quality Objectives (AQO) for key pollutants are exceeded, an Air Quality Management Area (AQMA) must be declared. To date Gedling Borough Council has declared one AQMA for exceedances of the annual average AQO for nitrogen dioxide (NO<sub>2</sub>); the A60 Mansfield Road, Daybrook.
- 1.2 It is also anticipated that the Environment Act 2021 will also move the focus of attention toward another pollutant, fine particulate matter (PM<sub>2.5</sub>); Local Authorities will be given a key role to play in delivering reductions in PM<sub>2.5</sub> across the Borough.
- 1.3 It is widely recognised that emissions from vehicles play a large part in poor air quality which can exacerbate health problems such as heart and lung disease. As well as emitting NO<sub>2</sub> and particulates, vehicle fumes also contain CO<sub>2</sub> which contributes towards climate change.
- 1.4 The Public Protection Team receives complaints about idling vehicles outside schools and other locations from time to time. The adoption of these Regulations and the ability for FPNs to be served will enable a greater awareness of the issues arising from leaving vehicle engines running, and potentially an improvement in air quality in local areas.
- 1.5 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 are made under Section 87 of the Environment Act 1995. Under the Regulations powers are given to Local Authorities to issue FPNs to drivers who allow their vehicle engines to run unnecessarily while the vehicle is parked, if they fail to comply with a requirement to stop the running of the engine of that vehicle. The Regulations cover all vehicles including cars, taxis, buses and all commercial vehicles.
- 1.6 Designation from the Secretary of State is not required for the enforcement of stationary idling offences and as such a Local Authority can authorise any officer of its authority, or any other person, to stop the commission of stationary idling offences (in accordance with Regulation 12) and to issue a FPN in respect of such an offence committed in its area.
- 1.7 Guidance issued by the Secretary of State for Transport 2002 – “*Guidance on powers to require drivers to switch off engines*” advises that FPNs should be used as a deterrent and only issued as a last resort.

With this in mind, it is anticipated that FPNs will be issued in limited circumstances where a driver refuses to switch off an engine when asked to do so by an authorised officer/person of the Council. The guidance also recommends that a 'common sense' approach is taken by officers when using the powers under the Regulations.

1.8 There are exempted circumstances where vehicles are permitted under Regulation 98(2) of the Road Vehicles (Construction and Use) Regulations 1986 and these apply to the 2002 Regulations:

(a) when the vehicle is stationary owing to the necessities of traffic;

(b) so as to prevent the examination or working of the machinery where the examination is necessitated by any failure or derangement of the machinery or where the machinery is required to be worked for a purpose other than driving the vehicle; or

(c) in respect of a vehicle propelled by gas produced in plant carried on the vehicle, to such plant.

1.9 The enforcement process under the 2002 Regulations allows for a £20 FPN to be served in relation to stationary idling offences. This increases to £40 if not paid within 28 days. There is no discretion to amend this charge.

## **2 Proposal**

### **THAT members:**

2.1 Approve and authorise the implementation and enforcement of provisions relating to anti-idling as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

2.2 Delegated authority be given to the Corporate Director to authorise relevant officers or persons to stop the commission of stationary idling offences and issue fixed penalty notices (FPNs) in respect of such offences, in accordance with Regulation 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

## **3 Alternative Options**

3.1 Not to approve the use of these powers and not to authorise officers or appropriate persons to issue FPNs. The implementation of this legislation and authorisation of officers would enable a greater awareness of the issues arising from leaving vehicle engines running to be made and potentially an improvement in air quality in local areas. In addition, implementation of the legislation supports the actions within the Air Quality Action Plan and also Climate Change targets.

## **4 Financial Implications**

- 4.1 Some revenue may be received from payment of FPNs however this is not likely to be significant.
- 4.2 Implementation will be met by existing staff resources in Public Protection.

## **5 Legal Implications**

- 5.1 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 are made under Section 87 of the Environment Act 1995. The Environment Act 1995 sets out the standards relating to air quality and the objectives for particular pollutants.

Part IV of the Act requires local authorities to review and assess air quality within their districts and take the necessary actions to improve areas of poor air quality.

- 5.2 Under the 2002 Regulations (Regulation 6(3)), a Local Authority is not required to be designated by the Secretary of State to stop the commission of stationary idling offences and to issue FPNs in respect of such an offence committed in its area. As such, a local authority can authorise any officer of its authority, or any other person, to deal with the offences.

This matter has been discussed with and agreed by Legal (ref GEN002789).

## **6 Equalities Implications**

- 6.1 There are no specific equalities implications arising from this report.

## **7 Carbon Reduction/Environmental Sustainability Implications**

- 7.1 Implementation of the Regulations supports measures in the Air Quality Action Plan and also supports the Councils Climate Change Net Zero work.

## **8 Appendices**

- 8.1 None

## **9 Background Papers**

- 9.1 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002

<http://www.legislation.gov.uk/ukxi/2002/1808/contents/made>

## **10 Reasons for Recommendations**

- 10.1 Enabling these powers will assist in reducing pollution in hotspot areas, and dealing with complaints from residents.

### **Statutory Officer approval**

**Approved by:**

**Date:**

**On behalf of the Chief Financial Officer**

**Approved by:**

**Date:**

**On behalf of the Monitoring Officer**