

NORTH LINCOLNSHIRE COUNCIL

**NEIGHBOURHOOD, ENVIRONMENT AND COMMUNITIES
CABINET MEMBER**

ENFORCEMENT POWERS - VEHICLE ENGINE RUNNING UNNECESSARILY

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To seek approval for the adoption of Fixed Penalty Notice powers to help improve local air quality by reducing unnecessary exhaust emissions from vehicles.
- 1.2 The key points in this report are:-
- Explain the powers available to the council to tackle localised pollution from 'idling' vehicles.
 - Link the work of the various street-scene enforcement officers of the council with the pollution agenda and public health.

2. BACKGROUND INFORMATION

- 2.1 The Environment Act 1995 requires the Government to publish a National Air Quality Strategy setting out standards relating to the quality of air objectives for particular pollutants, and measures for achieving those objectives at national and local level. Part IV of the Environment Act 1995 requires the Government to publish a national air quality strategy, and local authorities to review and assess air quality in their areas and to take action to improve any areas of poor air quality.
- 2.2 The Road Traffic (Vehicle Emission) (Fixed Penalty) (England) Regulations 2002 enable local authorities in England to issue Fixed Penalty Notices to drivers who allow their vehicle engines to run unnecessarily while the vehicle is parked. The Road Traffic (Vehicle Emission) (Fixed Penalty) (England) Regulations 2001 include provisions that specify the format and amount of the Fixed Penalty Notice (£20.00). The adoption of such powers and the enforcement thereof is open to local authorities to adopt.
- 2.3 Regulation 98 of the Road Vehicles (Construction and Use) Regulations 1986[1], as amended, already makes it an offence to leave a vehicle engine running unnecessarily while that vehicle is parked. Under this proposal the council will be able to instruct motorists to switch off their engines while their vehicles are parked and to issue a £20 Fixed Penalty Notices to those who refuse to co-operate. Failure to make the fixed penalty payment within 28 days of the date of issue of the Notice will result in the fixed penalty amount automatically increasing from £20.00 to £40.00. The council does not have to issue a reminder of this Notice. Failure to pay an increased fixed penalty within 56 days of the date of issue of the Notice will result in the council taking further enforcement action to recover the debt (see para. 2.15).

- 2.4 The driver / user of any vehicle at the time the offence is committed is liable to pay the fixed penalty whether or not they own the vehicle.
- 2.5 It is not the intention to target motorists who leave engines running when parked for no more than a few seconds; rather, action will be targeted on more serious offenders (e.g. lorries which park in town and village centres with their engines running whilst loading and unloading). The scheme is designed to encourage all motorists to have due regard to the local environment when parking.
- 2.6 Emissions from stationary vehicles are a contributor to overall levels of air pollution and cause discomfort to people in the immediate vicinity, particularly where they occur in sensitive areas (e.g. outside homes, schools, shops and offices). High levels of localised pollution can also trigger the symptoms of asthma and other respiratory diseases in vulnerable people.
- 2.7 The council would be permitted to retain income generated from Fixed Penalty Notices issued for further emissions enforcement work.
- 2.8 The council must appoint Authorised Persons with the authority to issue Fixed Penalty Notices to offending drivers. High standards of professionalism and quality are expected from personnel engaged in this work including warnings and offering advice in the first instance to vehicle users, particularly those in breach of the Regulations. Officers should wear personal identity badges in a prominent position on their external clothing. This should include the council's name and the Officer's identification code. Officers should also carry their local authority authorisation to issue Fixed Penalty Notices.
- 2.9 Maximum publicity must be given to the need to switch off engines when a vehicle is parked and to the fact that Fixed Penalty Notices may be issued to those drivers who fail to do so. Local authorities should consider all means of notifying the motoring public that Fixed Penalty Notices may be issued to motorists who leave engines running while their vehicles are parked. Local authorities should consider advertisements in the local press and radio, poster campaigns, leaflets and publicity events. In particular, garages and petrol stations should be encouraged to display publicity about the scheme.
- 2.10 Publicity must be of a general and ongoing nature, but also targeted to specific enforcement days. Publicity should make clear the need to switch off engines when vehicles are parked (i.e. the need to improve local air quality for the benefit of people's health), and the penalties for failing to do so (see para. 2.3). Local authorities should commence their publicity campaigns well in advance of the issuing of any Fixed Penalty Notices. No motorist should be 'surprised' to be advised to switch off the engine of a parked vehicle or be unaware why such a request is being made.

- 2.11 Regulation 98(2) of the Road Vehicles (Construction and Use) Regulations 1986, as amended, sets out the circumstances where vehicles are permitted to be stationary with the engine running. These circumstances are:
- Where a vehicle is stationary owing to the necessities of traffic e.g. when vehicles are queuing at traffic lights;
 - Where an engine is being run so that a defect can be traced and rectified e.g. when a disabled vehicle is being attended to by a breakdown / recovery agent;
 - Where machinery on a vehicle requires the engine to be running e.g. where the engine powers refrigeration equipment, the compaction equipment in a refuse vehicle, the suction / brushes to a road sweeping vehicle;
 - Where a vehicle is propelled by gas produced by the functioning of plant carried on the vehicle
- 2.12 Common sense should be applied. It might be reasonable to leave an engine running for a short time on a hot day for an air-conditioning system to have an effect; it may not be reasonable to leave an engine running for a longer period of time to maintain a pleasant environment. Officers must consider carefully the level of enforcement action to take as there might be mitigating circumstances, such as:
- On a cold day at a taxi rank;
 - If the driver is elderly to keep warm;
 - If the vehicle is a recovery vehicle carrying out a recovery and needing to run lights off the engine; or
 - To help defrost a windscreen in very cold weather.
- 2.13 The offence of leaving an engine to 'idle' is one which local authorities have been given powers (April 2002) to enforce in an effort to address growing concerns about pollution and the environment. The offence is an absolute one which is not dependent on knowledge by the individual committing the offence (i.e. the vehicle user);
- 2.14 Under the provisions of Schedule 11 to the Environment Act 1995 (Fixed Penalty Notice procedures) every vehicle user issued with a Fixed Penalty Notice for their illegally polluting vehicle has the right to request a hearing in respect of the offence within 28 days of issue. Under the Regulations, a hearing is in fact a prosecution of the offence in court. Once a hearing has been requested the Fixed Penalty Notice falls, and the matter is pursued as a prosecution by the local authority. Penalties awarded in court will not be payable to the council, but the council will be able to apply for an award of costs towards the expense involved in pursuing a prosecution. Local Authorities are empowered to take prosecutions under section 222 of the Local Government Act 1972.

2.15 In the event that a Fixed Penalty Notice remains unpaid in cases where a hearing was not requested within 28 days and the maximum period of 56 days has passed since the date the Fixed Penalty Notice was issued The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2001 enable local authorities to pursue unpaid Fixed Penalty Notices for any contravention of Regulation 98 of the Road Vehicle (Construction and Use) Regulations 1986, as amended, through the County Court system. These offences are effectively decriminalised.

3. OPTIONS FOR CONSIDERATION

3.1 Option 1 – Not to adopt the enforcement provisions detailed in this report.

Option 2 – Adopt the provisions and a future policy, to be approved by the Neighbourhood, Environment & Communities Cabinet Member, for setting out clearly the circumstances under which the Council will use the powers available in the legislation.

4. ANALYSIS OF OPTIONS

4.1 Option 1

4.1.1 This option does not assist or further develop the delivery of educational and enforcement powers regarding localised air pollution.

4.2 Option 2

4.2.1 Adopting the powers and future policy document complies with good practice and will improve localised air quality issues and the council's response to service requests relating to idling vehicles. Presently the powers available relate to noise and statutory nuisance at premises.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 The powers and expected number of service requests will have a minor impact on staff resources. The powers may be given to a variety of council officers such as the Civil Enforcement Officers who enforce car parking and Officers in the Neighbourhood Response Team.

5.2 The expected modest income from the payment of any Fixed Penalties issued and the costs of any prosecutions will meet the expected costs in adopting and enforcing the powers.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY SECTION 17 CRIME AND DISORDER, RISK AND OTHER)

6.1 Adoption of the powers and future enforcement policy is a further step in the council setting out the range of actions being taken to help mitigate further environmental damage caused by air pollution from 'idling' vehicles.

7. OUTCOMES OF CONSULTATION

7.1 The Service Director Highways and Planning and the Service Director Legal and Democratic have been consulted on these proposals.

8. RECOMMENDATION

8.1 To adopt the powers contained in The Road Traffic (Vehicle Emission) (Fixed Penalty) (England) Regulations 2002 and associated legislation / guidance.

8.2 To seek maximum publicity via Direct, council website, local media, local vehicle and petrol sales outlets.

SERVICE DIRECTOR NEIGHBOURHOOD & ENVIRONMENT

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Background Papers used in the preparation of this report

- The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002
- Department of Transport: Guidance on powers to require drivers to switch off engines