



## CABINET

**Subject Heading:**

**Anti-Idling Enforcement**

**Cabinet Member:**

**SLT Lead:**

**Barry Francis**

Director of Neighbourhoods

**Report Author and contact details:**

**MarieClaire Irvine, Public Protection Manager**

London Borough of Havering

Public Protection

t. 01708 432649

e. [marieclaire.irvine@havering.gov.uk](mailto:marieclaire.irvine@havering.gov.uk)

**Policy context:**

The Council's Air Quality Action Plan 2018-2023 aims to improve air quality in Havering. Vehicle engines which are left running unnecessarily are a source of air pollution. Enforcement against stationary idling vehicles is part of the overall effort being made by the Council to reduce emissions caused by transport and improve local air quality within the borough.

**Financial summary:**

It is envisaged that the introduction of fixed penalties will generate a small amount of income for the Council. Against this, there will be administrative costs, which will be absorbed within existing budgets.

**Is this a Key Decision?**

**Yes**

**Cabinet, dd mmmm yyyy**

**When should this matter be reviewed?**

OSC might wish to review the operation of the scheme after a year.

**Reviewing OSC:**

Environment Overview & Scrutiny Sub-Committee

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering  
Places making Havering  
Opportunities making Havering  
Connections making Havering

[X]  
[X]  
[]  
[]

**SUMMARY**

Idling of stationary vehicles causes unnecessary pollution which harms public health and the environment. Idling vehicle engines have also been a concern to residents and the Council has received a growing number of complaints of idling engines, mostly outside schools.

The Council is committed to improve air quality in Havering, in line with its Air Quality Action Plan and has carried out a number of anti-idling events to raise awareness and educate drivers on the effects of idling.

In 2019 Havering joined the Mayor of London's London-wide Idling Action project, which is largely a behaviour change campaign. As part of this project, the Greater London Authority requires that all participating local authorities adopt enforcement powers.

The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 give discretionary powers to council officers to issue fixed penalty notices to drivers who allow their vehicle engines to run unnecessarily whilst the vehicle is stationary on the public highway.

This report seeks approval to begin to adopt anti-idling legislation and use enforcement action under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 and to influence citizens' behaviour to switch off their engine while stationary and improve air quality within the borough.

The objective of the proposed scheme is to bring about positive behaviour change and improve air quality within the borough. Fixed Penalty Notices (FPNs) will be used as a deterrent and only issued as a last resort when a driver is uncooperative and refuses to switch off their vehicle's engine when asked to do so by an authorised officer.

**RECOMMENDATIONS**

1. To authorise the implementation and enforcement of the powers under The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

2. To delegate authority to the Director of Neighbourhoods all powers to use, issue and enforce Fixed Penalty Notices under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 and authorise any referral for legal proceedings where necessary.

3. To authorise the Director of Neighbourhoods to further delegate the discharge of powers at Recommendation 2, above, to other Council Officers referred to in paragraph 4.2 of the report.

**REPORT DETAIL**

**1. Background**

- 1.1 Poor air quality is the biggest environmental risk to public health in the UK. Leaving engines running while stationary is an unnecessary source of air pollution. In Havering, vehicle idling contributes to localised poor air quality, particularly in areas with large numbers of waiting vehicles, such as outside schools, hospitals and bus stations.
- 1.2 Havering has been designated an Air Quality Management Area (AQMA) for Nitrogen Dioxide (NO<sub>2</sub>) and Particulate Matter (PM<sub>10</sub>) and has produced an Air Quality Action Plan (AQAP) which details measures on how it is working towards achieving the air quality objectives.
- 1.3 Leaving engines running while stationary contributes to localised air pollution and it has been a concern to residents. The Council tackles engine idling through awareness raising and behaviour change campaigns (e.g., anti-idling events around schools, workshops for residents, engagement with its fleet drivers etc.).
- 1.5 In 2019 Havering joined the Mayor of London's London-wide Idling Action project, which is largely a behaviour change campaign. As part of this project, the GLA requires that all participating local authorities will be able to demonstrate that they have adopted or are working towards adopting enforcement powers, by the close of the project (March 2022). (This was a requirement for a borough to sign up to the project and Havering committed to it when we submitted the joint bid in 2018.)

**2. Powers for anti-idling enforcement**

- 2.1 A stationary idling offence under the 2002 Regulations is defined to be a contravention of, or failure to comply with, Regulation 98 of the Road Vehicles (Construction and Use) Regulations 1986 (stopping of engine when stationary) as it relates to the prevention of exhaust emissions. The Regulation 98 offence, driver failing when the vehicle is stationary to stop the running of the engine of that vehicle, is contrary to Section 42 of the Road Traffic Act 1988 (as substituted by the Road Traffic Act 1991). The Road Traffic (Vehicle Emission) (Fixed Penalty) (England) Regulations 2002 (the RTVE) are made under Section 87 of the Environment Act 1995 and empower local authorities to issue FPNs to drivers who allow their vehicle engines to run unnecessarily while the vehicle is parked.

2.2 Regulation 98(2) of the Road Vehicles (Construction and Use) Regulations 1986 sets out the circumstances where vehicles are permitted to be stationary with the engine running:

- When vehicles are queuing at traffic lights;
- Where an engine is being run so that a defect can be traced and rectified;
- Where machinery on a vehicle requires the engine to be running (e.g., where the engine powers refrigeration equipment or the compaction equipment in a refuse vehicle);
- Where a vehicle is propelled by gas produced by the functioning of plant carried on the vehicle.

2.3 Guidance issued by the Secretary of State “Guidance on powers to require drivers to switch off engines” encourages a ‘common sense’ approach should be followed when using these powers. FPNs should only be issued in limited circumstances when a driver is uncooperative and refuses to switch off engines when advised to do so by an authorised officer.

### **3. The Enforcement process**

3.1 Regulation 12 of the RTVE sets out the enforcement process as:

*Stopping of engine when vehicle stationary*

*(1) An authorised person who has reasonable cause to believe that the driver of a vehicle that is stationary on a road is committing a stationary idling offence may, upon production of evidence of his authorisation, require him to stop the running of the engine of that vehicle.*

*(2) A person who fails to comply with a requirement under paragraph (1) shall be guilty of an offence and be liable on summary conviction to a fine not exceeding level 3 on the standard scale.*

3.2 Regulation 13 of the RTVE states that an FPN will only be issued where a driver refuses to turn off the engine when requested to do so by an authorised officer. Enforcement action will not be taken in instances of an offence occurring accidentally or there is a genuine reason for not complying.

3.3 The regulation stipulates the penalty for an offence as £20, which will increase to £40 if not paid within 28 days. There is no discretion to amend this charge.

3.4 A further FPN could be issued if a vehicle is found stationary during the initial 28-day period with its engine running unnecessarily on a second or subsequent occasion. The offence is absolute and applies equally on every occasion the offence occurs.

- 3.5 Fixed Penalty Notices are already used for a variety of purposes within the Council, including fly tipping and littering. There is no formal appeal process for these FPNs. However, the Environment Enforcement team will review any correspondence/ representations received against the issue of a FPN and will not expect payment until they have decided whether or not the representation has been successful. A similar mechanism will be adopted for any vehicle driver who wishes to challenge an FPN issued under anti-idling regulations.
- 3.6 Regulation 14 of the RTVE allows authorised officers discharging their functions under regulation 12 (see para 3.1 above) to require the driver of the vehicle to disclose their name, address and date of birth. If the driver of the vehicle is not the person in whose name the vehicle is registered the name of the latter must also be provided on request. A person who fails to provide the information will be committing an offence and may be liable on summary conviction to a fine not exceeding Level 3 on the standard scale.
- 3.7 When implementing the scheme, it will be necessary to consider the exemption of certain types of vehicles that may need to leave their engine running. Such cases are likely to include vehicles that need to be left idling to power auxiliary equipment, such as local authority Passenger Transport Service buses that need to use engine power to operate a tail lift, due to the vehicle's battery being low, or a highways vehicle powering a breaker gun. There will be a need to communicate the implications of the scheme to certain operational managers and drivers within the Council and provide appropriate exemption stickers. Appropriate guidance will also need to be given to enforcement staff.

#### **4. Administration of the scheme**

- 4.1 The anti-idling enforcement scheme would be administered by Council officers from Environmental Enforcement and Community Safety services. The additional administrative costs of operating the scheme are expected to be minimal, as existing systems and databases will be used, and any costs will be absorbed within the existing budgets of the services concerned.
- 4.2 Members are asked to delegate the use of the enforcement powers under the RTVE to the Director of Neighbourhoods and to authorise the Director to further delegate these powers to all of LB Havering's Environmental Health, Public Protection, and Enforcement staff.
- 4.3 In the event that a driver failed to pay a FPN and a prosecution was commenced the Council would incur legal costs, though these would, in principle, be reimbursable in the event of a successful court outcome. In practice, it is envisaged that very few cases would reach court. Firstly, any aggrieved driver would be given the opportunity to make representations, as outlined in paragraph 3.5. Secondly, few people are likely to risk incurring additional court costs for the sake of a £20 FPN.

- 4.4 In cases of non-payment, a reminder letter is normally sent out for unpaid FPNs in the first instance. Those outstanding will be enforced by the Council, by issuing legal proceedings in the County Court. In addition, a person to whom a FPN has been given may also request a hearing in order to challenge it. The Council may also choose to prosecute an individual in the Magistrates' Court - for example, if a person had deliberately flouted the RTVC. If a prosecution is issued in the Magistrates' Court, any non-payment of a fine will be enforced by the Court.

## REASONS AND OPTIONS

### **Reasons for the decision:**

1. The Council has a statutory duty to improve air quality in the borough and has produced an AQAP which details measures on how it is working towards achieving this. The ability to issue FPNs for stationary idling vehicles will enable the Council to reduce emissions caused by transport and improve local air quality within the borough through a combination of education and enforcement activities.
2. As part of the Mayor's Air Quality Funded Idling Action project, the GLA requires all participating local authorities to adopt anti-idling enforcement powers. The Council committed to this when it signed up to the project in 2018 and therefore needs to fulfil this commitment.

### **Other options considered:**

1. Do nothing.

As noted in the report, the Council undertook to establish an anti-idling scheme, with enforcement powers, when it joined the Mayor of London's London-wide Idling Action Project in 2019. Not proceeding with an anti-idling scheme would involve a breach of this commitment.

2. *Enforce anti-idling through Penalty Charge Notices (PCNs) and creation of a Traffic Management Order (TMO), under the Road Traffic Regulation Act 1984.*

Officers with experience of dealing with anti-idling in other boroughs have advised that PCNs do not work very well in practice. They require a relatively long observation period (at least 6 minutes), using body cam footage, and, by that time, the offending vehicle has often moved on or its engine has been switched off. The FPN route is more straightforward to apply.

3. *Enforce anti-idling through Public Spaces Protection Order (PSPO) under the Anti-social Behaviour, Crime and Policing Act 2014.*

Councils can use PSPOs to prohibit specified activities and/or require certain things to be done by people engaged in particular activities, within a defined public area. PSPOs are usually seen as an appropriate tool when a location necessitates the policing of multiple issues across a common boundary. They are not considered to be suitable for dealing with individual cases of unauthorised vehicle idling and fixed penalty notices are easier to administer.

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

The envisaged additional costs of administering the scheme to the Council are likely to be minimal, as existing staff and systems will be used. As the objective of the scheme is to educate drivers to turn off their engines when stationary, rather than to fine them, the anticipated income from Fixed Penalty Notices is likely to be considerably less than £1,000 per annum. The experience of some London boroughs is that fewer than five FPNs are issued in a typical year: financial penalties are very much a last resort.

### **Legal implications and risks:**

As set out in the body of the report the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 (the 2002 Regulations) 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 required steps to improve areas of poor air quality. It is not mandatory for a consultation to be undertaken prior to the adoption of the 2002 Regulations. However, the Council is advised to raise awareness through publicity, such as social media campaigns, etc.

Regulation 6 (3) of the 2002 Regulations states that 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. A local authority can also authorise any officer of its authority, or any other person, to deal with the offences.

Under Regulation 18, a person to whom an FPN has been issued may give notice requesting a hearing in respect of the offence to which the FPN relates. A request in writing for a hearing can be made no later than the 28<sup>th</sup> day after the FPN was issued. In this situation, the FPN is suspended once a hearing has been requested. Where an FPN remains unpaid and a request for a Hearing has not been made within the specified time, Regulation 21 permits local authorities to recover non-payment of FPNs in the County Court. The Council has the power to issue prosecution proceedings in the Magistrates Court under



## **Cabinet, dd mmmm yyyy**

Regulation 12 of the 2002 regulations, if an authorised person has reasonable cause to believe that the driver of the vehicle that is stationary on a road is committing a stationary idling offence. If found guilty, the offence can attract a fine not exceeding Level 3 on the standard scale (up to £1,000).

### **Human Resources implications and risks:**

No additional training or Risk Assessments are needed, as relevant training is already provided via the standard FPN enforcement training programme.

Council Fleet drivers and operators of machine tools that may need to be powered from a stationary vehicle should be reminded of their responsibilities under the proposed scheme and the need to set a good example.

As the proposals do not represent a significant departure from existing processes involving FPNs, it is not considered necessary to undertake formal consultation with trade unions though they will be advised as part of the regular service level TU meetings.

### **Equalities implications and risks:**

Idling vehicles emit pollutants including nitrogen dioxide and particulate matter, which are linked to asthma, heart disease, chronic bronchitis and cancer. Cleaner air will benefit all residents within the vicinity of such vehicles, but particularly people with respiratory conditions, the elderly, pregnant women and children.

In 2015, City Hall commissioned a report which estimated that over 9,000 Londoners died prematurely from long-term exposure to air pollution in 2010. The Mayor of London's Environment Strategy (2018) states that:

"Research has shown air pollution has a big impact on health at all life stages, from development in the womb to the end of life. A baby born in 2010 and exposed to that same level of air quality for its entire life would lose around two years of life expectancy. Mortality is not the only air pollution related health effect. In 2010, London air pollution was linked to over 3,000 hospital admissions. The economic cost of these health impacts in London is estimated as being up to £3.7bn a year

"There is also strong evidence that poor air quality affects children's lung development, and emerging evidence that improving air quality can reverse those effects."

There is no reason to believe that fixed penalty notices will adversely impact any particular group within the community more than others. However, as with any flat rate penalty, the impact will be greater on people with low incomes than high. Nevertheless, as has been emphasised throughout this report, FPNs will only be issued when a driver is uncooperative and refuses to switch off their vehicle's engine, after being asked to do so by an authorised officer.

## **Health and Wellbeing implications and risks**

The Council is committed to improving the health and wellbeing of the local population and this includes improving air quality. Air pollution has been shown to adversely impact health and wellbeing, with nitrogen dioxide and particulate matter linked to respiratory and heart disease.

There are two main reasons for promoting improvements in air quality: the first is the associated improvements in public health, the second is the reduction of CO<sub>2</sub> and the contribution that this will make to the borough's climate change objectives.

Reducing air pollution can improve life expectancy, allow people to be more active, reduce days missed through sickness from work and school, and relieve pressure on the NHS, freeing up budgets to be refocused on other needs.

The reduction of unnecessary vehicle idling, particularly in residential areas and outside schools, is expected to make a significant long-term impact on public health outcomes in the borough.

Havering's Joint Strategic Needs Assessment profile for 2020 includes a recommendation that health and care partners should 'work together to minimise the direct contribution of health and social care services to air pollution; put in place the infrastructure/ encourage residents to switch to electric vehicles and public transport, or better still, walk and cycle, choosing routes that minimise their exposure to pollutants.'

A separate Equality and Health Impact Assessment (EqHIA) on the impact of the anti-idling measures proposed in this report is being carried out.

## **Climate Change Implications**

Improved air quality is central to the Council's Climate Change Action Plan and the Council's Air Quality Action Plan is one of the core documents underpinning the borough's approach to tackling climate change. It is recommended that the proposed anti-idling enforcement scheme be implemented alongside awareness raising and behaviour change campaigns, to reduce engine idling and improve public health and wellbeing.

### **BACKGROUND PAPERS**

The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 and explanatory note

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

<https://www.legislation.gov.uk/ukxi/2002/1808/note/made>

**Cabinet, dd mmmm yyyy**

London Environment Strategy, Mayor of London, May 2018

[https://www.london.gov.uk/sites/default/files/london\\_environment\\_strategy\\_0.pdf](https://www.london.gov.uk/sites/default/files/london_environment_strategy_0.pdf)