

Adoption and Implementation of Anti idling legislation

Cabinet	30th May 2024
By	Amanda Berry, Senior Environmental Health Practitioner
Cabinet Portfolio Holder	Cllr Heather Keen, Portfolio Holder for Community
Key Decision	No
Decision Classification:	Unrestricted
Call in status	N/A
Ward:	All

Purpose of the Report

To give vehicle anti-idling powers to council enforcement officers to enable Fixed Penalty Notices to be issued where a warning has been ignored. These powers will facilitate anti-idling campaigns around schools within Air Quality Management Area(s), providing education and raising public awareness rather than enforcement but where advice has been ignored and the driver has refused to comply with a request will enable Officers to issue an FPN.

Recommendation(s):

Cabinet is requested to:

1. Approve 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. Delegate authority to the Director of Environment 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. Agree for Fees & Charges for 2024/25 to be varied to reflect this decision; with new charges for Vehicle Emissions Fixed Penalty Notices of £20, rising to £40 if not paid within 28 days.

1. Summary of Reasons

- 1.1 This report seeks approval for the implementation of anti-idling legislation as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. This would give officers or persons authorised by the Council

the power to stop the commission of stationary idling offences and 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.

2. Background

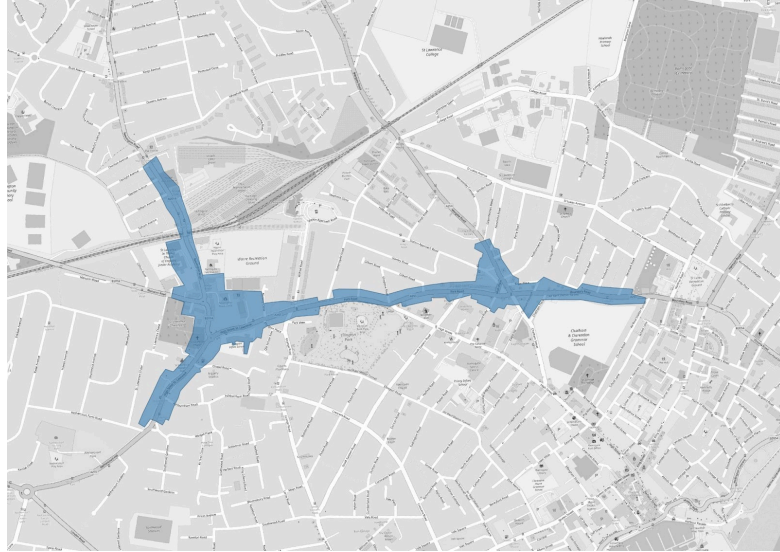
- 2.1 A stationary idling offence under the 2002 Regulations is defined as a contravention of, or failure to comply with Regulation 98 of the Road Vehicles (Construction and Use) Regulations 1986 (stopping of engine when stationary) as relates to the prevention of exhaust emissions. The Regulation 98 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 stationary vehicle idling FPN offence can only arise on a public highway.
- 2.2 The purpose of the regulations is to encourage motorists to have regard to the local environment; and therefore, local authorities may apply these provisions as part of their strategy to tackle poor air quality. The LAQM PG22 also lists tackling vehicle-idling offences as a measure that local authorities may use to improve air quality and public health
- 2.3 It is envisaged that in the main, information relating to the anti-idling legislation will be disseminated by way of awareness campaigns focussed on 'hot spot' locations such as outside schools within Air Quality Management Areas (AQMA) and other areas where vehicles are known to idle for periods of time. The issue of an FPN will generally only be used as a last resort if drivers refuse to co-operate and switch off engines when asked to do so, or regularly flout the Regulations.
- 2.4 The aim of implementing the enforcement provisions contained within the Regulations into the Councils area is to reduce emissions from idling vehicles particularly in locations where pollution levels are high or exceeding the relevant Air Quality Objective (AQO) and where people are likely to be exposed to the vehicle emissions. Thanet District Council is currently developing an Air Quality Action Plan (AQAP) to tackle vehicle emissions in Ramsgate AQMA which will include both strategic and local measures aimed at minimising and reducing pollution levels in the AQMA. In addition, the introduction of these powers will support the Council's Net Zero Strategy 2023.

3 Relevant Issues

- 3.1 Under the Environment Act 1995 and the Local Air Quality Management framework, Thanet District Council has a statutory duty to review and assess air quality within its district and take the necessary actions to improve areas of poor air quality. If AQOs for key pollutants are exceeded, an AQMA must be declared.

Currently, Thanet has one AQMA, declared in June 2023 for the likely exceedance of the annual average AQO for nitrogen dioxide (NO₂):

AQMA - St Lawrence to Shah Place Ramsgate



- 3.2 The AQAP will include actions and measures that will be delivered in order to reduce concentrations of air pollution and exposure to air pollution. The implementation of these Regulations is in accordance with the general thrust of the AQAP in reducing air pollution and will directly support the Kent Energy and Low Emission Strategy and Thanet Net Zero Strategy.
- 3.3 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 NO₂ and particulates, vehicle fumes also contain CO₂ which contributes towards climate change.
- 3.4 The Parking and Environmental Protection Teams also receive 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.
- 3.5 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.
- 3.6 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.

- 3.7 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.
- 3.8 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:
1. Where the vehicle is stationary owing to the necessities of the traffic
 2. Where an engine is being run to detect a defect or fault, e.g. when a defective vehicle is being attended by a breakdown or recovery agent
 3. Where machinery on a vehicle requires the engine to be running, e.g. refrigeration equipment or compaction equipment
 4. Where a vehicle is propelled by gas produced by a functioning plant on the vehicle.
- 3.9 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.
- 3.10 Local Authorities can retain the income generated from the FPNs. However, the amount of income is expected to be minimal as FPNs would only be issued as a last resort.
- 3.11 There is no formal appeal route under the Regulations although, it is required the notice contains the person and address to whom any correspondence relating to the FPN may be sent. The guidance recommends that an FPN can be queried through correspondence with the council. The terms of the FPN remain in place even if a query is raised, although it is envisaged that the Council would not expect payment until it had been decided and notified that the representation had been unsuccessful. Alternatively, 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 28th day after the FPN was issued. A hearing is effectively a prosecution in the Magistrates’ Court. In this situation, the FPN is suspended once a hearing has been requested.
- 3.12 Where an FPN remains unpaid after the maximum period allowed of 56 days after service, and a request for a hearing hasn’t been made within the specified time the Regulations state that the penalty can be recoverable through the County

Court system. As with any contravention of Regulation 98 of the Road Vehicles (Construction and Use) Regulations 1986, a request to use the County Court system as a means of recovering unpaid FPNs would be dealt with electronically by the Traffic Enforcement Centre (TEC).

- 3.13 If the recommendations are approved by Cabinet, relevant actions will be incorporated into the draft Air Quality Action Plan around developing and implementing a communications plan to raise public awareness.

4 Alternative Options

- 4.1 Cabinet may take the decision to approve and authorise the implementation and enforcement of provisions relating to anti-idling enforcement as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

Also to delegate authority to the Director of Environment to authorise relevant enforcement officers of the Council including: Civil Enforcement Officers, Street Scene Enforcement Officers, Beach and Coast Enforcement Officers, Community Safety Officers and Environmental Protection Officers, and other appropriate persons as required to exercise the powers within the Regulations. This is the preferred option.

- 4.2 Cabinet may decide not to approve the use of these powers and not to authorise officers or appropriate persons to issue FPNs. This is not recommended as an option as it will not yield the advantages associated with the implementation of this legislation. The implementation of this legislation and authorisation of officers will 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 forthcoming AQAP and Net Zero Strategy.
- 4.3 Cabinet may also take the view that it would prefer to delay the implementation of these measures. For the reasons set out above this is not the preferred option.

5. Consultation

- 5.1 There is no statutory or public law duty to consult in respect of this matter.

6. Corporate Implications

6.1 Finance and Resources

- 6.1.1 There are no financial implications arising directly from this report. Some small revenue may be received from payment of FPNs however this is not likely to be significant. Implementation will be met by existing staff resources. Neighbouring Canterbury and Swale have adopted the discretionary powers which are enforced by their Parking teams but have not served any FPNs having found that all drivers turn their engines off when requested. Dover and Folkestone have not yet

adopted the discretionary powers. Should we adopt the FPN approach we should not expect to issue large numbers of FPNs.

6.2 Legal and Constitutional

- 6.2.1 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 certain 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. The Regulations give discretionary powers to authorised persons acting on behalf of the local authority to issue Fixed Penalty Notices (FPNs) to drivers who allow their vehicle engines to run unnecessarily whilst the vehicle is stationary on the public highway:
- 6.2.2 In accordance with the provisions of Regulation 6(1), a Local Authority may authorise any officer of the authority or any person on production of evidence of authorisation to issue fixed penalty notices in respect of emissions offences committed in relation to such vehicles. This is a discretionary power.
- 6.2.3 Regulation 6(3) provides that a local authority may authorise any officer of the authority, or any other person, in any area of that authority, to stop the commission of stationary idling offence and to issue a fixed penalty notice in respect of such an offence committed in its area.
- 6.2.4 The decision being sought in respect of this matter is an executive decision and as such can be made by Cabinet.
- 6.2.5 An equalities screening tool is appended to this report. This demonstrates that this decision is not likely to have any significant equality implications.

6.3 Council Policies and Priorities

- 6.3.1 This report relates to the following corporate priorities: -
- To keep our district safe and clean
 - To protect our environment

6.4 Risk Management

None identified.

6.5 Climate Change and Biodiversity

- 6.5.1 The recommendations in this report are expected to have a positive impact on the environment.
- 6.5.2 The proposals support Corporate Priority: Protect our Environment and help meet aims within the Net Zero Strategy and the upcoming Air Quality Action Plan as

well as enabling officers to tackle nuisance vehicles and protect communities to help keep our district safe and clean.

- 6.5.3 Resultant campaigns aim to improve air quality will have co benefits with climate change and support a reduction in greenhouse gases by limiting fossil fuel use.
- 6.5.4 Transport is one of the highest emitting sectors of carbon emissions in Thanet (128,100 tonnes), therefore this recommendation supports priority three of TDC's Net Zero Strategy to assist in the reduction of Thanet-wide emissions to net zero by 2050.

7. Equality, Equity and Diversity Implications

- 7.1 Annex 1 - Equalities Impact Assessment.

8. Crime and Disorder Implications and Community impact

- 8.1 None identified.

9. Subject History

- 9.1 Air Quality Management Area designated by Cabinet decision on 15th June 2023.

Appendices

Annex 1 - Equalities Impact Assessment.

Background Papers

None

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Report Sign Off

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