

Executive Decision Report

Decision maker(s) at each authority and date of Cabinet meeting, Cabinet Member meeting or (in the case of individual Cabinet Member decisions) the earliest date the decision will be taken		
	<i>Executive Director for City Management and Communities</i> Date of meeting or formal issue(i.e. not before): 09/01/2015	 City of Westminster
Report title (decision subject)	ENFORCEMENT OF ROAD TRAFFIC (VEHICLE EMISSIONS)(FIXED PENALTY)(ENGLAND) REGULATIONS 2002 - STATIONARY IDLING OFFENCES	
Reporting officer	Kieran Fitsall, Service Development Manager	
Key decision	Yes	
Access to information classification	For publication	

1. EXECUTIVE SUMMARY

- 1.1. 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.
- 1.2. 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 and powers are available to authorised local authority officers to issue fixed penalty notices of £20 to drivers who allow their vehicle engines to run unnecessarily while the vehicle is stationary. The Westminster Air Quality Action Plan, adopted in 2013, made a commitment to review the options and resource and emissions implications of utilising 'no idling' legislation to help improve local air quality.

2. RECOMMENDATIONS

- 2.1. That the Executive Director for City Management and Communities authorises the Head of Parking Operations, acting in his name and on his behalf, to authorise individual traffic marshals to exercise the powers in Regulations 6(3) and 12 of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.

3. REASONS FOR DECISION

- 3.1. 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. Traffic marshals, being employed by an outside contractor are not officers of the council and require authorisation to be able to issue fixed penalty notices. This decision allows that authority to be granted by council officers.

4. Background including Policy Context

- 4.1. The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 are not at present enforced in Westminster. Increasing awareness of air quality and pollution issues with the public has led to requests from residents that the council act to reduce pollution from idling vehicles.
- 4.2. During the development of the Westminster Air Quality Action Plan (AQAP), which was subsequently adopted in 2013, consultation responses highlighted that pollution and nuisance from idling vehicles were of concern to the public. As a result, The AQAP made a commitment to review the options and resource and emissions implications of utilising 'no idling' legislation to help improve local air quality.

- 4.3. With the change to a more customer-focused parking service, with traffic marshals working with drivers to increase parking compliance, the marshals can now extend their working practices to include idling vehicles. The marshals will work with drivers highlighting where they are in potential contravention of the regulations and requesting drivers to turn off their engines. If the request is ignored marshals will issue a fixed penalty notice of £20 as specified by the regulations.

5. Financial Implications

- 5.1. In accordance with current parking enforcement procedures, marshals will work with drivers to encourage compliance before issuing a penalty notice. As a consequence of this process, the volume of FPNs issued is expected to be minimal. No increase in staffing numbers will be required to enforce the regulations.

6. Legal Implications

- 6.1. 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.
- 6.2. 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 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.
- 6.3. Traffic marshals are employed by outside contractors and are not ‘officers of the Council’. Regulation 6(3) refers to authorising other persons and traffic marshals can be included within the remit of this authorisation. To enable such authorisations to be given without the need for a separate governance exercise each time they are granted, named Council officers can be authorised by the Executive Director to themselves authorise individual traffic marshals to exercise the powers in Regulation 6(3). As required by Regulation 12 every traffic marshal will need to carry evidence of this authorisation.

7. Staffing Implications

7.1. There is no impact to staff numbers by this change. Traffic marshals will require training in the enforcement of the stationary idling FPN.

8. Consultation

8.1. The Council's commitment to consider the feasibility of adopting powers to enforce against idling vehicles was developed via the policies of Westminster Air Quality Action Plan (AQAP). The AQAP underwent substantial internal and external consultation including public consultation for a period of eight weeks in July 2011 and review by the relevant Policy and Scrutiny Committee in December 2012 before its adoption in April 2013.

9. Conclusion

9.1. The fundamental goal of enforcing against idling of stationary vehicles is to improve local air quality, reduce possible nuisance and deliver action committed to in the Westminster Air Quality Action Plan, as well as meet the principles and ambitions of the City Councils' Better City Better Lives.

9.2. It is recommended the Executive Director City Management and Communities authorises the Head of Parking Operations to authorise individual traffic marshals to exercise the powers in Regulation 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.