

REPORT TO: Cabinet Member – Environmental
Licensing and Regulatory Committee

DATE: 18 November 2009
23 November 2009

SUBJECT: **THE ROAD TRAFFIC (VEHICLE EMISSIONS)(FIXED PENALTY) (ENGLAND) REGULATIONS 2002**

WARDS AFFECTED: All

REPORT OF: Peter Moore
Environmental Protection Director

CONTACT OFFICER: Gary Mahoney 4300

EXEMPT/CONFIDENTIAL: No

PURPOSE/SUMMARY:

To seek approval of the Cabinet Member - Environment and Licensing & Regulatory Committee for the adoption of Section 6 of the Road Traffic (Vehicle Emissions)(Fixed Penalty) (England) Regulations 2002 to be better able to respond to concerns about air pollution, fumes and odours caused by stationary vehicles left with their engines idling.

Delegation of the powers to the Environmental Protection Director is requested.

REASON WHY DECISION REQUIRED:

The Council's current constitution requires both the Cabinet Member – Environmental and the Licensing and Regulatory Committee to approve the adoption of this legislation and delegation of the relevant powers in order for officers to utilise them.

RECOMMENDATION(S):

That the Cabinet Member - Environmental and Licensing and Regulatory Committee approve the adoption of Part 6 of the Road Traffic (Vehicle Emissions)(Fixed Penalty) (England) Regulations 2002 and the delegation of those powers, including the appointment of authorised persons, to the Environmental Protection Director.

KEY DECISION: No

FORWARD PLAN: No

IMPLEMENTATION DATE: Immediately following the expiry date of the “call-in” period for the Minutes of this meeting.

ALTERNATIVE OPTIONS:

The only alternative option is not to adopt Part 6. The result of this would be to leave the Authority in a position without legislative powers to deal with idling engines and any complaints that may arise.

IMPLICATIONS:**Budget/Policy Framework:** None.**Financial:** There may be a small amount of income generated from fines but this will not be a significant figure.

<u>CAPITAL EXPENDITURE</u>	2006/ 2007 £	2007/ 2008 £	2008/ 2009 £	2009/ 2010 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal: Due to the Council's current constitution, delegation is required from both the Cabinet Member – Environmental and the Licensing and Regulatory Committee.**Risk Assessment:** N/A**Asset Management:** N/A**CONSULTATION UNDERTAKEN/VIEWS**

None.

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Creating Safe Communities		✓	
3	Jobs and Prosperity		✓	
4	Improving Health and Well-Being	✓		
5	Environmental Sustainability	✓		
6	Creating Inclusive Communities		✓	
7	Improving the Quality of Council Services and Strengthening local Democracy	✓		
8	Children and Young People		✓	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

The Road Traffic (Vehicle Emissions)(Fixed Penalty) (England) Regulations

Background

1. The Environmental Protection Department occasionally receives complaints about stationary vehicles being left with their engines running. In the past, complaints have been received about stationary vehicles whilst waiting at level crossing barriers, delivery vehicles, refrigerated vehicles and buses.
2. The running of engines whilst a vehicle is not moving is an inefficient use of fuel and results in the release of gases that have a negative effect on both climate change and public health. The general advice from motoring associations for fuel efficiency reasons is to turn off an engine if the vehicle is likely to be stationary for more than a couple of minutes.
3. Complaints about buses arise when engines are left idling for long periods, up to 30 minutes, while waiting at the terminus of their route or, in the case of school buses, whilst parked waiting for children to finish school. This issue was also raised as a matter of concern by members of the public during the recent consultation process associated with the declaration of Air Quality Management Areas (AQMAs)
4. These incidents have been dealt with by a variety of means and, in the case of buses, include:
 - Writing to bus operators asking them to speak to drivers.
 - Working with Merseytravel to put 'switch off engine' signs at bus stops where routes terminate.
 - Working with Merseytravel and schools to insert clauses into contracts with operators supplying schools services to specify the maximum time before the end of the school day that buses can arrive and requiring engines to be switched off whilst waiting for children.
 - Undertaking joint site visits with a Community Constable where idling has been a problem.
5. The methods used have met with varying success, being more successful where the incident has been connected with school travel. However, the lack of an enforceable legal sanction has meant that, if persuasive methods fail, there is little else that can be done.

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

6. These Regulations were introduced to support Local Air Quality Management (LAQM) and the achievement of the National Air Quality Strategy (NAQS) Objectives. The Regulations give Local Authorities the ability to undertake roadside emissions testing in AQMAs. Part 6, if adopted, is concerned with the stopping of engines when vehicles are stationary and applies anywhere in the Local Authority's area.
7. Part 6 of the Regulations introduces a 'Stationary Idling Offence' which means a contravention of, or failure to comply with, Regulation 98 Vehicle Construction and Use Regulations 1986 relating to the stopping of engines when stationary (other

than owing to the necessities of traffic etc.) to prevent exhaust emissions. It is unlikely that these regulations will apply other than in cases where engines are left unnecessarily idling for long periods.

8. Local Authorities are given power to authorise 'any officer of the authority, or any other person, in any area of that Authority' to enforce the Regulations. Authorised officers may require the driver of any vehicle committing a Statutory Idling Offence to stop the running of the engine. Failure to comply with this request is an offence. Authorised officers can also be given powers to issue Fixed Penalty Notices where a Stationary Idling Offence has been committed. The fixed penalty for a Stationary Idling Offence, or failing to comply with an officer's request, is £20 rising to £40 if the fine is not paid in the set time period.
9. An authorised person who believes a statutory idling offence has been committed can require the driver to disclose:
 - their name and address,
 - date of birth and, if the driver is not the person to whom the vehicle is registered,
 - the name of the registered keeper.Failure to provide this information may also be an offence.
10. As is the standard practice and culture of environmental enforcement, in line with the council's enforcement policy, the emphasis will be on encouragement and education to achieve the desired compliant behaviour ahead of the use punitive action. A fine would tend to be a last resort for repeat or persistent offenders who fail to respond to a request turn off engines and cause unnecessary pollution.

Adoption in Sefton

11. Adoption of Part 6 of the Road Traffic (Vehicle Emissions)(Fixed Penalty) (England) Regulations 2002 would give Environmental Protection Department officers the necessary legislative backing to pursue incidences of stationary vehicles leaving their engines running where persuasive methods have failed. Reference to a legal requirement will assist enforcement and increase the chance of persuasive methods succeeding.
12. It is proposed that powers to authorise officers be delegated to the Environmental Protection Director to enable him to authorise appropriate officers. The powers would therefore be used to strengthen the approach of Environmental Protection Department Officers when dealing with complaints about operators and drivers.