

Decision Session – Executive Member for Transport and Planning 7 February 2019

Report of the Corporate Director of Economy and Place

Introduction of Anti-Idling Measures (Including Enforcement)

[To be considered in consultation with the Executive Member for Environment]

Summary

1. Idling of stationary vehicles causes unnecessary pollution which harms public health and the environment, wastes fuel and adds to noise levels. Measure 2 of York's Third Air Quality Action Plan (AQAP3) relates to development and implementation of anti-idling measures. The Executive meeting of 25 January 2018 approved in principle the adoption of anti-idling measures (including enforcement) targeted at all vehicle types.
2. The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 give discretionary powers to council officers to issue fixed penalty notices of £20 to drivers (rising to £40 if unpaid within the specified time) who allow their vehicle engines to run unnecessarily whilst the vehicle is stationary on the public highway. This report seeks authorisation for designated officers to use these regulations to support anti-idling campaign work. Any driver who fails to provide details or pay the penalty ticket may be prosecuted.
3. The above regulations do not apply to council car parks and council owned land. Idling here would be dealt with by Parking Services' Civil Enforcement Officers (CEOs) under the Traffic Management Act 2004 and The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 - contravention code 96 'Parked with engine running where prohibited'.
4. Anti-idling awareness raising and campaigns will continue to be the primary approach to reducing stationary vehicle idling in York. Enforcement will only be used as a last option where a driver refuses to switch off an engine when asked. Anti-idling campaigns will focus on

idling hotspots around the city centre and other locations such as schools and residential areas where complaints arise.

Recommendations

5. The Executive Member for Transport and Planning, in consultation with the Executive Member for Environment, is asked to:
 - a) Approve the proposed approach and timetable for introduction of anti-idling awareness raising and enforcement measures as set out in this report;
 - b) Authorise the exercise of the powers in Regulations 6(3) and 12 of the Road Traffic (Vehicle Emissions) (Fixed Penalty) England Regulations 2002 to enforce against stationary idling vehicles on the public highway within the boundary of City of York Council;
 - c) Delegate authority to the Corporate Director of Economy and Place to authorise Officers of the Council as appropriate to make use of these powers and to issue fixed penalty notices and take legal proceedings for stationary vehicle idling offences;
 - d) Approve setting of the allowed period for paying a fixed penalty notice (FPN) (issued for a stationary idling offence) to 28 days beginning with the date of issue of the notice. If the charge is not paid within 28 days it will increase to £40.

Reason: To improve air quality and public health and to reduce greenhouse gas emissions and vehicle noise by reducing stationary vehicle idling.

Background

6. Working towards national air quality objectives is a requirement of the Environment Act 1995 part IV. Whilst air quality in the city is generally improving, York currently has exceedances of the annual average nitrogen dioxide objective at a number of locations around the inner ring road. One Planet York aims to create a more sustainable, resilient and collaborative 'One Planet' city with a thriving local economy, strong communities and a sustainable way of life. Conserving fossil fuels and reducing greenhouse gas emissions are key sustainability issues.
7. An independent anti-idling vehicle study (commissioned by CYC) was completed in January 2014. This sets out the potential reduction in vehicle emissions achievable through anti-idling policies and the cost benefit associated with this. A summary of the report is available here:

8. Key findings of the report were:

- An inconsistent approach to idling amongst vehicle operators;
- Drivers do not always comply with company policies;
- An ad-hoc use of automatic vehicle cut-off technologies;
- Idling was mainly observed as being by buses and coaches;
- HGVs are not a major source of idling in York city centre;
- All types of vehicles routinely idle near level crossings.

9. The report concluded the following:

- An idling engine has no benefit for most vehicles;
- It is better to switch off an engine if idling is anticipated for approximately 1 minute or more;
- Anticipated health and environmental benefits and fuel savings significantly outweigh the cost of taking anti-idling measures;
- Most idling can be addressed through education and advice;
- Uptake of anti-idling enforcement measures has been limited amongst local authorities and very few Fixed Penalty Notices (FPNs) have been issued for idling offences.

10. The report identified the following constraints to reducing idling:

- HGV tailgates may be powered by the engine (but most ancillary power issues can be overcome and it is cost effective to do so);
- Refuse Collection Vehicles – compaction is done under engine power, but this can be accommodated in normal operation whilst rubbish bins are being emptied into the vehicle;
- Buses - older vehicles can be less reliable to switch-on, and if ancillary systems (such as heating, air compressor for door opening) are worn or in otherwise poor condition these may benefit from being continuously powered from the engine;
- Coach – passenger comfort encourages idling to maintain heating or air conditioning on the vehicle;
- Cars and vans – there are no identified reasons for modern cars and vans to idle.

11. The report recommended that an anti-idling reduction policy should be developed with the focus mainly on heavy duty vehicles (primarily buses and coaches) but should also address other vehicle idling.
12. Anti-idling awareness activities on Clean Air Day (CAD) 2017 and 2018 confirmed that idling by service buses in the city centre is the main problem, and that bus operator anti-idling policies are either inadequately explained during training / induction or ignored. York has a large number of older diesel buses operating in the city but some will be replaced by electric buses and others upgraded by retrofitting to higher emission standards following approval of a Clean Air Zone for buses in York city centre.
13. Idling was also observed in coach parks, on taxi ranks and outside schools. Idling by HGVs/LGVs was minimal with many vehicles fitted with automatic cut off devices. During CAD 2018 an anti-idling awareness event was undertaken within the forecourt of York Station resulting in a noticeable qualitative improvement in air quality at the time.
14. Discussion with drivers has identified these additional reasons for idling:
 - Some coach drivers report the need to run their engines to boil hot water for drinks;
 - Some non-English speaking coach drivers may be unable to understand the current anti-idling advice signage in coach parks (currently a written statement rather than graphical image);
 - Taxi drivers have identified a need to keep warm / cool during periods of waiting in cold and hot weather. During moderate conditions the majority of taxi drivers have been observed to switch-off and are aware of the fuel costs associated with idling.

CAD activities have shown that most idling drivers will switch off their engines when requested.

15. The public protection team continue to receive a growing number of ad-hoc complaints from members of the public about vehicle idling, mostly:
 - Vehicles parked on private land e.g. coaches in coach parks, ice-cream vans in public parks, vehicles in school / hospital grounds;
 - Vehicles stationary on the public highway e.g. service buses at bus stops or lay-over points, private hire vehicles waiting to pick

people up, private motorists regularly waiting outside schools or homes.

16. Some schools have contacted public protection to ask for advice on how to reduce idling emissions outside their schools.
17. A small number of complaints about idling in council car parks have been received by Parking Services.

Enforcement under Road Traffic Act

18. The Road Traffic Act only applies on a public highway and does not cover idling in other locations such as:
 - Coaches idling in private car parks (including CYC car parks);
 - Ice cream vans parked on private land (including parks and car parks);
 - Vehicles parked on any other private land such as school grounds, hospital grounds, delivery bays, private domestic driveways, supermarket car parks.
19. A different approach will be needed to tackle idling in these locations.
20. 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:
 - 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 broken down 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 or the compaction equipment in a refuse vehicle¹;
 - where a vehicle is propelled by gas produced by the functioning of plant carried on the vehicle.

¹ vehicle heating and air conditioning is not considered exempt machinery. The need for such equipment to be operating while a vehicle is stationary will depend on individual circumstances taking into account the vulnerability of the people using the vehicle and the external temperature at the time the idling is observed. Enforcement officers will receive training on how to deal effectively and proportionately with these cases. The running of engines to boil water for drinks will not be exempt.

21. There is no legal requirement to provide signage to support anti-idling enforcement on the public highway. Some local authorities have designated ‘*anti-idling enforcement areas*’ (sections of the public highway where high profile anti-idling signage states that enforcement action may be taken). These areas are often on roads outside schools, care homes, hospitals etc where specific concerns have been raised by the public.

<http://democracy.sheffield.gov.uk/ieDecisionDetails.aspx?Id=2107>

Enforcement under Parking Contravention Code 96

22. There are warnings for drivers not to leave their engines idling on the council website and on signs in council car parks. Where a vehicle is found to be idling in a council car park or on council owned land, a Civil Enforcement Officer from Parking Services will approach the driver and ask them to turn off their engines. If the driver refuses or resumes idling after being warned by the CEO, the CEO will issue a Penalty Charge Notice (PCN) for £25 as this is a contravention of code 96 (The Civil Enforcement of Parking Contraventions (England) General Regulations 2007). However, in most cases drivers comply with the CEO’s request.

23. A comprehensive communication strategy will be required, prior to enforcement activity commencing, to clarify where the legislation applies and which activities are exempt.

Proposed approach and timetable

24. A staged approach to the introduction of anti-idling awareness raising and enforcement is proposed as follows. (All dates are indicative and subject to the outcome of this report).

Activity	Completion date
Bus based anti-idling campaign and erection of signage at city centre bus stops in partnership with bus operators	Completed January 2019 (after consultation with York QBP (Quality Bus Partnership). This should ensure all bus drivers are fully aware of their anti-idling responsibilities before enforcement activities from June 2019
Authorisation and training of enforcement staff	By May 2019

Development of all driver anti-idling awareness campaign	Ongoing from March 2019 – targeted at all drivers to ensure they are fully aware of their anti-idling responsibilities before enforcement activities commencing in June 2019
Formal identification and on-line publication of initial anti-idling enforcement areas	By May 2019
Launch of anti-idling awareness campaign	Mid 2019 – 6 weeks before enforcement launch date
Launch of anti-idling enforcement patrols	20 th June 2019 – to coincide with Clean Air Day 2019
Continued ad-hoc awareness raising and enforcement patrols	June 2019 onwards - summary of activity to be provided in the annual air quality status report (ASR)

25. The anti-idling awareness campaign will:

- Advise the public on the environmental, health and cost impacts of vehicle idling;
- Raise awareness amongst all drivers of the idling offence and planned introduction of enforcement in York;
- Encourage the public to report problem areas allowing identification of hot-spots that will be monitored on an ad-hoc basis by anti-idling patrols. *(Please note, we are not intending to provide a rapid/emergency response to reports of idling).*

26. The recommended approach for York is:

- Council websites to contain information on the definition of stationary idling offences, the health impacts and how CYC can deal with idling issues, together with an online reporting mechanism;
- Idling awareness events throughout the year, supported by enforcement activity as and when required. There are already a

number of toolkits available for running community / school events and some individuals/groups have already shown an interest in taking this community led approach;

- Production of leaflets, banners, car stickers etc. to assist communities to undertake their own anti-idling awareness events.

Enforcement approach

27. Once formally adopted the anti-idling offence will be applicable to vehicles idling on any public highway in the York area. Enforcement patrols will initially target the following areas:

- Rougier Street
- St Leonard's Place
- Clifford Street
- Station Rise
- Stonebow / Pavement
- Memorial Gardens
- Stonebow

28. These areas are identified in the independent anti-idling report as having high incidences of idling and where the public are exposed to elevated air pollution levels. Although there is no legal requirement to provide anti-idling signage in these areas prior to enforcement, it is recommended that signage should be provided to help to raise awareness of the offence and to act as a deterrent. Patrols may be extended to other areas based on intelligence from the public and observations by enforcement staff. Signage may also be considered appropriate in these areas. It should be noted that there are constraints around where signs can be provided for highway safety and conservation reasons.

29. The aim is for street enforcement patrols to be at least monthly.

30. Drivers will be approached by enforcement staff will approach a driver if their vehicle is observed to be stationary (parked) on a public highway for more than 2 minutes with its engine running and none of the following exemptions apply:

- Any statutory exemption as detailed in paragraph 17;
- The engine is being run to assist defrosting of the windscreen for safety reasons

- Where a vehicle has been pre-notified to the local authority as having to run permanently for a reason that is proven and deemed acceptable by the local authority (only older buses and other specialist / vintage equipment/vehicles being used in the course of a business will be considered for this exemption);
- Where an enforcement officer considers that running of an engine to maintain an acceptable internal vehicle temperature is reasonable considering external ambient temperature and weather conditions at the time of the observation and the vulnerability of the people using the vehicle. Detailed guidance on this issue will be provided to enforcement officers as part of their training to ensure consistency of approach.

31. Enforcement action in the form of the issuing of a Fixed Penalty Notice (FPN) will only take place under the following circumstances:

- a) A vehicle has been observed by an authorised enforcement officer to be idling for more than 2 minutes on the public highway;
- b) Following the observation the driver is politely requested by the enforcement officer to switch off their engine;
- c) The driver does not co-operate with the initial request and is then warned by the enforcement officer that if they do not switch off their engine a FPN will be served and they will be liable for a fine of £20 (£40 if not paid within the specified period).
- d) If the driver still refuses to switch off their engine and the vehicle is still present and idling an FPN will be served.
- e) If the driver refuses to provide their details or drives away after a request for details they will be reported for an offence and may be prosecuted.

32. Based on information from current anti-idling enforcement authorities it is anticipated that very few FPNs will be served.

Consultation

33. Measure 2 of York's Third Air Quality Action Plan (AQAP3) relates to development and implementation of anti-idling measures'. AQAP3 was subject to a full public consultation in 2015 and the document subsequently amended to include development of anti-idling enforcement measures. Further informal consultation took place with drivers at Clean Air Day events to identify barriers to idling prevention

(see paragraph 14). The QBP was consulted on anti-idling signage at bus stops in January 2019.

Options

34. Option 1

Approve the proposed approach and timetable for introduction of anti-idling awareness raising and enforcement measures as set out in this report.

35. Option 2

Request further information / consultation on the proposed approach to anti-idling awareness raising and enforcement measures as set out in this report, prior to authorising delegated enforcement powers.

Analysis

36. Option 1 will allow the introduction of anti-idling awareness raising and enforcement measures in line with the timetable in paragraph 21. This option provides the quickest means of delivering further air quality improvement.

37. Option 2 will allow transport operators and members of the public to further shape the delivery of anti-idling awareness raising and enforcement measures but will significantly delay the date when enforcement commences.

Council Plan

38. Council Plan priority '*A prosperous city for all*' aims to provide '*a great place to live*' where residents can lead healthy and active lives. One of the stated delivery measures for this outcome is '*Steps taken to improve air quality*'.

39. Implications

Financial (*Contact – Director of Resources*):

The enforcement activity identified within the report will be undertaken within current resources. There are no additional resources required as a result of this report.

Human Resources (HR): None

One Planet Council / Equalities:

Idling wastes fuel and gives rise to greenhouse gas emissions as well as local air pollutants which harm public health. Reducing idling will help reduce emissions of greenhouse gases in York and from wider fuel extraction and processing activities.

Legal:

Regulation 6(3) of The Road Traffic (Vehicle Emission) (Fixed Penalty) (England) Regulations 2002 states that a local authority may authorise any officer of the authority, or any other person, in any area of the authority to (a) stop the commission of stationary idling offences by requiring vehicle engines to be switched off and (b) to issue a fixed penalty notice.

A stationary idling offence is a failure to comply with the requirements of Regulation 98 of the Road Vehicles (Construction and Use) Regulations 1986, as amended, which state that drivers shall switch off engines in stationary vehicles so far as necessary for the prevention of exhaust emissions.

Under Regulation 12 of the 2002 Regulations, 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.

Regulation 13 of the 2002 Regulations states that a fixed penalty notice may be issued when statutory idling offence has been committed. Regulation 14 allows authorised officers in discharging their functions under regulation 12 to require the driver of the vehicle to disclose his name, address and date of birth and if the vehicle is not registered in his name, to give the name of that person. A person who fails to provide the information shall be guilty of an offence and be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Crime and Disorder (Senior Partnerships Support Officer, Community Planning & Partnerships): None

Information Technology (IT): Secure access will be required to vehicle registration details.

Property: There may be a requirement to erect anti-idling signage on some CYC owned buildings such as schools. This will be undertaken in consultation with appropriate officers within Property. Signs may be limited in conservation areas.

Other: None

Risk Management

40. There are reputational risks for CYC associated with not fully implementing all the commitments made in the Low Emission Strategy and Air Quality Action Plan (AQAP) and potential legal challenges if York fails to meet the air quality objectives by 2021. These can be reduced by adopting the measures set out in this report. Additional reputational risks may arise from publicity and complaints around anti-idling enforcement action. This risk will be minimised by ensuring all staff are fully trained and able to make reasonable and justifiable decisions about where the serving of a FPN for vehicle idling is appropriate. All enforcement will be undertaken in line with CYC's existing enforcement policies.

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All

For further information please contact the author of the report

Background Papers:

1. Adoption of a Low Emission Strategy for York – Executive Report (9 October 2012)
2. Adoption of York’s Third Air Quality Action Plan – Executive Member Report (18 November 2015)
3. Adoption of York’s Third Air Quality Action Plan – Executive Member Report (14 December 2015)
4. A Clean Air Zone for York including anti-idling enforcement – Executive Report (25 January 2018)
5. Air Quality Annual Status report – Executive Member Report (1st October 2018)
6. A Clean Air Zone for York – Executive Report (17 January 2019)

Annexes

None

List of Abbreviations Used in this Report

AQAP3 – York’s third Air Quality Action Plan

CAD – Clean Air Day

FPN – Fixed Penalty Notice

HGV – Heavy Goods Vehicles

LGV - Light Goods Vehicle

QBP – Quality Bus Partnership