

TO: EXECUTIVE
9 FEBRUARY 2021

**VEHICLE EMISSIONS AND AIR QUALITY
(Executive Director of Delivery)**

1 PURPOSE OF REPORT

- 1.1 The Council is committed to tackling issues associated with air quality. Vehicle emissions are known to have a significant effect of air quality and in particular the levels of Nitrous Oxide and particulates.
- 1.2 The Council has two designated Air Quality Management Areas as defined by the Environment Act 1995. The Council also has an Air Quality Action Plan which contains a number of measures designed to improve air quality.
- 1.3 This report sets out policy proposals to introduce an enforcement regime with respect to vehicle emissions. The report follows recommendations from the Licensing and Safety Committee on 24 October 2019 which resolved that 'the Committee recommended officers consider the implications of adopting the delegated powers for dealing with idling vehicles, including taxis'.

2 RECOMMENDATIONS

That the Executive agrees that:

- (a) The Council should as a matter of Policy enforce the provisions Road Vehicles (Construction and Use) Regulations 1986 in so far as they relate to idling of vehicles and where appropriate to do so to issue fixed penalty notices in accordance with The Road Traffic (Vehicle Emissions) (Fixed penalty) England Regulations 2002;**
- (b) In accordance with the Council's Constitution (Part 2: Section 6, Table 1 c) that the Executive Director - Delivery authorises relevant officers to enforce the provisions;**
- (c) The Public Protection Manager on behalf of the Council seeks 'Designation' status under Part 2 of the Road Traffic (Vehicle Emissions)(Fixed Penalty) Regulations 2002 from the Secretary of State in order that it may enforce the 'emissions offences' set out in Regulation 61 and 61A Road Vehicles (Construction and Use) Regulations 1986 as amended;**
- (d) In accordance with the Councils Constitution (Part 2: Section 6, Table 1 (c) that the Executive Director - Delivery authorises relevant officers to enforce the provisions set out in C above should the relevant 'Designation' be granted by the Secretary of State.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 These recommendations if adopted will allow Officers of the Council (including officers from the Public Protection Partnership) and others so authorised to raise awareness, engage, educate and ultimately enforce the relevant legislation to tackle vehicle idling across the Borough and carry out emissions testing within the Air Quality Management

Areas. These proposals are considered to complement the efforts to 'change habits' by people using vehicles in the Borough. It is to be stressed that the aim is to bring about change as part of a wider package of measures and not to be seen as a source of revenue generation. The penalties are such that the work is unlikely to achieve cost neutrality but will be seen as part of the Councils wider approach to improving air quality as part of its Climate Change strategy.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The only alternative is not to take the proposed policy position but to bring about compliance purely through encouraging change of practice. It is however felt that this policy position enhances and strengthens the desire to bring about change and of itself allows for promotion of the issues through signage etc.

5 BACKGROUND

- 5.1 Conventional vehicles (diesel and petrol engines) when their engines are running emit gases, which include, nitrogen oxides, particulate matter and carbon dioxide. Nitrogen Dioxide and particulate matter are identified air quality pollutants under the long-established air quality framework, owing to their impact on health. Carbon Dioxide is a greenhouse gas, which, when emitted in excess, in particular from anthropogenic activities, contributes to climate change.
- 5.2 Under the Environment Act 1995, Bracknell Forest Council has a duty to constantly review and assess the air quality within its borough and compare pollution concentrations against a set of European and National air quality standards. Monitoring has shown that Bracknell Forest has two areas where concentrations of Nitrogen Dioxide (NO₂) have or are exceeding both European and national standards, and as such BFC has declared an Air Quality Management Area (AQMA) and implemented an Action Plan. The national plan is the approach to achieving compliance with European air quality standards set out by the government.
- 5.3 Particulates are classified by their mass (PM10 and PM2.5), with the smaller particulates, PM2.5 being more harmful due to their ability to travel further into the lung. PM 2.5 is understood to have no safe limit for health, it is therefore beneficial to reduce levels at all locations, not just hotspots that break a set limit.

Air Quality in Bracknell Forest

- 5.4 Air quality monitoring takes place at a number of sites across Bracknell Forest and the Council has two AQMAs and an action plan supporting these. The sites are as follows:
- Area 1: Bagshot Road, A322, Horse and Groom Roundabout and Downshire Way, declared for the annual mean objective for nitrogen dioxide in February 2011
 - Area 2: Bracknell Road, B3348 and Crowthorne High Street, declared for the annual mean objective for nitrogen dioxide in February 2011.
- 5.5 The Air Quality Action Plan was agreed in 2014. It is largely integrated with delivery of the Local Transport Plan 3 (2011). There are currently no measures identified in the Action Plan relating to idling initiatives such as; targeted campaigns to effect behavioural change, installation of signage relating to idling engines or use of idling or emissions enforcement measures. The Downshire Way (AQMA) new traffic layout is

having a positive effect on the traffic movement and there is less congestion. The full effects of the scheme will be seen in the 2021 results from the Annual Air Quality Status report.

5.6 More recently the Joint Public Protection Committee set air quality as a strategic priority for the service and across the PPP area. The associated work plan approved by the JPPC set out a number of preventative and enforcement priorities and the Lead Officer for Air Quality has developed the programme to encompass a number of initiatives as follows:

- Internal – targeted at Local Authority employees. With an estimated 12,000 employees, the LA's provide a large local audience for awareness raising and engaging employees will support the local climate initiatives
- Engaging with local schools/parents in a poster competition to enhance and/or replace existing signage or provide for new signage. Any signage also requires approval by the Highways Authority
- Engaging with volunteers to become community champions, or join in community campaign days
- Undertake community action days in the vicinity of AQMAs, and other sensitive locations.
- Engagement with private landowners – e.g. network rail, retail sector and non-public highway public services, e.g., schools, hospitals, doctors, to join a campaign, adopt local signage and where applicable, host awareness action days.
- Engage with local businesses to support a campaign, perhaps engaging Fleet Operator Recognition Scheme (FORS) members (gold, silver, bronze) to sponsor a campaign.
- Evidence shows that targeted well organised campaigns with community champions involved in street engagement can be very successful.

5.7 As part of this package, other measures considered was the introduction of enforcement around vehicle idling and the seeking of powers to carry out emissions testing in the Air Quality Management Areas (AQMA's). Neither of these measures have been hitherto put into place.

Enforcement Options

5.8 The Road Traffic (Vehicle Emissions) (Fixed penalty) England Regulations 2002 give discretionary powers to Local Authorities to issue fixed penalty notices, in relation to emission and idling offences under s 42 of the Road Traffic Act 1988 The Regulations have two key elements:

The Idling Offence

The 2002 regulations, provide for enforcement by fixed penalty notice, in so far as it relates to exhaust emissions.

The Emissions Offence

The 2002 Regulations, provide for enforcement by fixed penalty notice, in so far as it relates to exhaust emissions

- 5.9 Section 6 of the Councils Constitution already has enforcement matters ascertaining to the Public Protection Functions delegated to the Executive Director - Delivery. In addition the Inter-Authority Agreement dated the 6th January 2017 (which brought into being the Public Protection Partnership) also delegates these matters to the Joint Public Protection Committee. The day to day enforcement of this and other legislation is delegated to the Public Protection Manager who can in turn authorise other officers. It should be noted that Officer visits will not be on 'demand' but applied on a targeted basis.
- 5.10 The Road Traffic (Construction and Use) Regulations 1986 are Regulations for the purposes of the 1988 Act and therefore can be enforced by officers and others authorised under the Scheme of Delegation or by the PPP.
- 5.11 There are two options before the Executive today. The first is a policy decision to enforce the provisions relating to the idling of vehicles. In general terms the driver must switch off his engine when the vehicle is stationary to avoid unnecessary vehicle idling (especially in the vicinity of sensitive areas such as schools, hospitals and residential areas). There are exceptions to the offence in the following circumstances:
- a) where the licensed vehicle is stationary owing to the necessities of traffic – e.g. when vehicles are queuing at traffic signals;
 - b) where an engine is being run so that a defect can be traced and rectified – e.g. when a defective vehicle is being attended to by a breakdown/recovery agent;
 - c) for short periods on occasions where the weather conditions are extreme either to operate the vehicle's heating or air conditioning
- 5.12 The Second policy area for decision relates to testing of vehicle emissions. Under Part 2 of the Road Traffic (Vehicle Emissions)(Fixed Penalty) Regulations 2002 a local authority which has a designated Air Quality Management Area within its administrative boundary can apply to the Secretary of State to be a Designated Authority for the purpose of carrying out roadside or deferred emissions testing (direct a vehicle to be tested by a third party and require the certificate to be furnished on the Council). These can be carried out on roads within the Air Quality Management Area or on roads beyond the Air Quality Management Area if they have an impact on air quality in the area e.g. they lead to the Air Quality Management Area. Where a vehicle fails such testing a £60 penalty notice can be issued as an alternative to Court proceedings. The Secretary of State may 'designate' a Local Authority if he believes vehicle emissions are / or are likely to become a significant consideration as to whether air quality standards are being achieved. He can also designate training requirements for officers conducting such work.
- 5.13 As can be seen the penalties are not high in terms of other road traffic offence penalties however the policy of enforcing the idling provisions and the emissions provisions (if designated by the Secretary of State) sends a clear message of intent and supports the wider strategy set out in broad terms above. It is proposed that enforcement of the idling offences will be focussed on sensitive areas such as schools, medical facilities as well as other areas such as taxi ranks, outside stations etc. Temporary and permanent signage will be used to alert to the legal requirement. Should the emissions testing be permitted then this would be conducted as at 5.12. All will be accompanied by public information campaigns.

Resource Requirements

- 5.14 It is anticipated that resource requirement arising from this should not be significant in that the work around idling could be conducting alongside other existing checks e.g. checks by licensing officers or the existing work of the environmental health team or Civil Parking Enforcement Officers (although the latter would be subject to further discussion with the contractor).
- 5.15 With respect to emissions testing it is likely there will be costs associated with equipment purchase or contractor engagement (estimated at £2K-£5K.) There will also be some staff training requirements. The level of penalties are set relatively low and are unlikely to ever cover these costs. However, work around air quality generally is a statutory duty and this could be seen as part of that programme. There will be a need to purchase and install some permanent signage and some mobile signage.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The legal implications and legislative framework for the recommendations are set out in the body of the report.

In addition, consideration will need to be given to legal resource and enforcement policy either within the Public Protection Partnership itself or within the Council, namely in what circumstance and by whom may Prosecution result in the event of a recipient's non-payment of a Penalty Notice issued for a substantive offence.

Borough Treasurer

- 6.2 There are no new financial implications in this report.

Equalities Impact Assessment

- 6.3 An equalities screening has been undertaken and confirmed a full assessment was not required.

Strategic Risk Management Issues

- 6.4 There are no implications arising from the recommendation in this report.

7 CONSULTATION

- 7.1 The matter of idling was considered by the Licensing and Safety Committee on 24 October 2019

Background Papers

Defra Guidance on Local Air Quality Management:

https://consult.defra.gov.uk/communications/laqm_changes/supporting_documents/LAQM%20Policy%20Guidance%202016.pdf

Contacts for further information

Sean Murphy – Public Protection Manager
01635 519930 – sean.murphy@westberks.gov.uk

Unrestricted

Suzanne McLaughlin – Principal Officer – Governance
01635 502851 - Suzanne.McLaughlin@westberks.gov.uk