

APPENDIX D: Public Space Protection Orders for reducing vehicle engine idling.

Background

The use of Public Space Protection Orders (PSPO) around sensitive locations, namely schools, has been previously suggested as a possible solution to reduce the number of idling vehicles. Monitoring using a Zephyr sensor has been undertaken at a number of schools to try and quantify the increase in pollution around schools during term time when compared to school holidays. This paper considers the results from the various school studies, the practicalities of implementing PSPOs and presents alternative options.

Vehicle idling and air quality

The act of idling in a vehicle (that is leaving your vehicle engine running when you are parked) and the impact on air quality is not a simplistic relationship in that turning off your engine for short periods is not always beneficial. The air quality benefit from turning your engine off and restarting the car is dependent on numerous factors, and there is no absolute time that idling becomes worse for air quality than switching your engine off and on again. Most campaigns, such as Clean Air Day, and other local authority websites suggest that it is best to switch off if you know you're going to be stationary for more than one minute, but other figures are quoted, such as the RAC who state two minutes and some local authorities that suggest 10 seconds. Many newer vehicles have technology to reduce idling such as stop-start systems or REST buttons which enables residual heat from the engine to be blown into the cabin to continue to heat the interior of the car warm.

TRL research from 2021 ([TRL- Idling Research](#)) using vehicles typically encountered in London indicates that idling for a 30 second period produces nearly twice as much nitrogen dioxide pollution as switching off then restarting the engine. Other research undertaken by the [US Department of Energy](#) shows that restarting a warm engine can emit significantly more nitrogen oxide than 30 seconds of idling, although the research concluded that restarting a warm engine is not as bad as starting a cold engine. Both of these reports focused on nitrogen dioxide rather than PM, where there is little research.

Air quality emissions (which normally consider nitrogen dioxide and particulates) should not be confused with carbon dioxide emissions (linked to climate change) from vehicle idling. The benefits in terms of carbon dioxide are often easier to quantify and are generally considered to be about 10 seconds of idling is worse than switching off and restarting.

Measuring air quality benefits with relation to any reduction in vehicle idling is difficult given both the long term and short-term variations in air quality levels and the number of various other issues that impact pollutant (especially nitrogen dioxide) levels. Day to day, concentrations of nitrogen dioxide can be impacted by the amount of sunlight, temperature, wind speed, wind direction, atmospheric pressure, rainfall and traffic volumes.

During our school studies with the Zephyr monitors, there was an increase in nitrogen dioxide levels during term time compared to holidays, however, there were not necessarily clear peaks in pollution at school drop off and collection times and it is not possible to differentiate the contribution from idling and normal driving. PM levels were not impacted so much by term time / holiday time, with some holiday periods showing higher levels of PM pollution than the surrounding term time dates. It should be noted that impacts from Idling

can be very localised and will not necessarily be possible to identify from a single, stationary, monitoring point.

Public Space Protection Orders

The Anti-social Behaviour, Crime and Policing Act 2014 provides a broad legal framework within which Public Space Protection Orders (PSPOs) can be implemented.

Orders can be introduced in a specific public area where the local authority is satisfied on reasonable grounds that certain conditions have been met. The first test concerns the nature of the anti-social behaviour, requiring that:

- activities that have taken place have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will take place and that they will have a detrimental effect
- the effect or likely effect of these activities:
 - is, or is likely to be, persistent or continuing in nature
 - is, or is likely to be, unreasonable
 - justifies the restrictions being imposed.

The Home Office statutory guidance states that proposed restrictions should focus on specific behaviours and be proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.

As a minimum, each PSPO must set out:

- what the detrimental activities are
- what is being prohibited and/or required, including any exemptions
- the area covered
- the consequences for breach
- the period for which it has effect.

The legislation sets out a number of requirements for consultation and communication before an Order is introduced. Local authorities are obliged to consult with the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives. The county council, parish or community councils that are in the proposed area covered by the PSPO must be notified. Wider public consultation would also be necessary.

A PSPO would be applicable for a period of three years.

To ensure any PSPO was effective there would need to be signage erected and regular enforcement.

Existing legislation

Enforcement powers do exist with regards to vehicle idling, as laid out in the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. These allow for personnel authorised by the local authority to issue a £20 Fixed Penalty Notice (FPN) where drivers refuse to turn off their engines when requested to do so by an authorised officer. There is no legal requirement to erect signage, declare a special 'zone' or gain permission from any other body (such as the secretary of state) before issuing FPNs for idling, but some publicity

of the intention to commence enforcement is expected. These regulations only apply on the public highway.

The regulations require the authorised officer to speak to the offending driver and warn them of the potential FPN prior to it being issued. The FPN can only be issued if the driver has received the warning from the authorised officer and still refuses to turn their engine off.

It is possible for drivers that are warned by an authorised officer to drive off following the warning to avoid any fine.

There are exemptions to this legislation, which include:

1. Undertaking diagnostics on a vehicle for maintenance or repairs.
2. Refrigerated HGV vehicles making deliveries as their engines need to be kept running for their fridge/freezer compartments.
3. Demisting/de-icing of a vehicle's front windscreen and windows before setting off in the winter months.

The FPN can be challenged. The evidence needed to support the Council to defend any FPN challenge would be difficult to produce. This could include evidence that the vehicle was idling when the FPN was issued and evidence that the request to the driver to switch off their engine was correctly issued. It may also be necessary to provide evidence that one of the exemptions did not apply.

However, local authorities have struggled to implement the FPNs. An FOI request made by [Air Quality News](#) in 2019 to five local authorities that had adopted the regulations identified that only a handful of fines were issued the previous year, with three of the authorities having issued no fines at all in the previous year. Tunbridge Wells Borough Council proposed the adoption of a scheme to allow existing parking enforcement officers to issue FPNs to idling motorists, however it was subsequently [reported](#) that the scheme would not go ahead as it was not practical and would be too costly to implement.

Local Authority best practice

A review of best practice local authorities has taken place. The Air Quality Hub, a local authority air quality practitioner's website, provides a case study from York City Council and resources from Oxford City, Cheshire East and West Berkshire councils. For all of these local authorities, the focus is strongly on education and awareness raising including engagement with schools.

Two of these local authorities discuss the potential for FPNs, however, York City Council make it clear that this would only be used as a last resort. None of the best practice examples discuss the potential for PSPOs.

Idling Action London has been undertaking anti-idling events for a number of years and has commissioned research as part of this. "Research for Idling Action on campaign strategies and messaging" Final Report January 2022 Coolworld Consulting ([Idling Action research public final](#)) found the following:

- 78% of respondents usually or always switch off the engine when parked or pulled over
- Between 77% and 85% of drivers switch off when a direct request is made as part of an anti-idling event.
- The most common reasons for idling given by drivers were: Dropping someone off or picking them up; Running the vehicle's heating or cooling system; Just habit.

- The message rated as most effective by drivers from across all surveys was: Switching off engines when parked is better for the health of those who work, live and go to school on this street.
- The message that idling is illegal and could result in a fine was considered less effective by drivers.

Discussion

Air pollution is harmful, and children are especially vulnerable to the effects of air pollution due to their developing lungs. Vehicle idling is often an unnecessary behaviour that can cause additional air pollution. Where idling takes place around schools it can be particularly harmful. Tackling vehicle idling around schools is therefore considered an appropriate targeted action to help reduce air pollution.

Although significant periods of idling will clearly be worse for air quality, and therefore people's health, defining when idling will have a detrimental effect and when it becomes 'unreasonable' for the purposes of any PSPO would be difficult given the variations between vehicles and individual circumstances.

Defining the area for each PSPO and undertaking the necessary consultation would be a significant burden on officer time and resources. There would be additional costs associated with the erection of signage and ongoing enforcement.

Alternative enforcement options (i.e., fixed penalty notices) are available that could be implemented without any significant legal complications. However, wide scale enforcement would not be possible due to the difficulties with training, software updates, administrative and potential legal costs associated with the management of the fines as identified by other councils. However, retaining the option of issuing an FPN as a last resort in extreme examples could be possible.

However, best practice from other local authorities identifies education and positive engagement with the school communities as the most effective method of reducing vehicle idling.

Recommendations

The following recommendations are made:

1. Public Space Protection Orders are not adopted for the purposes of enforcing vehicle idling.
2. The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 are adopted for use as last resort only where education and positive engagement is ineffective.
3. A plan for greater community engagement and promotion is drawn up and presented to this committee for approval in April 2024.