

Birmingham City Council & West Midlands Police



PUBLIC SPACE PROTECTION ORDER (PSPO)

Dale End, Bull Street, Upper Bull Street, High Street, Carrs Lane, New Meeting Street, Birmingham City Centre.

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The Anti-Social Behaviour, Crime and Policing Act 2014

BIRMINGHAM CITY COUNCIL (Dale End, Bull Street and Surrounding Area)
PUBLIC SPACE PROTECTION ORDER 2016

PUBLIC SPACE PROTECTION ORDER

The Order shall come into force on *Monday 28th of March* 2016
at *08:00* o'clock

If you do not obey the order you will be committing a criminal offence and may be prosecuted by the Council within a Magistrates' Court for an offence under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014

THIS ORDER is made by Birmingham City Council ("the Council") under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act), because the Council is satisfied on reasonable grounds that there are a number of activities, carried out or likely to be carried out in a public space, namely the area of Dale End, Bull Street, Upper Bull Street, High Street, Carrs Lane, New Meeting Street, Birmingham City Centre, and surrounding area shown outlined on the map attached (the restricted area) that have had or are likely to have a detrimental effect on the quality of life of those in the locality. The effect or likely effect of these activities is of a persistent or continuing nature such as to make these activities unreasonable, and justifies the restrictions imposed by this order.

These activities include:

- Anti-social behaviour caused by groups of young people and young adults and adults in public spaces;
- verbal abuse and / or intimidating behaviour;
- damage or destruction of property (including graffiti);
- littering;
- spitting in a public place;
- Urination and defecation in a public place;
- Copulating in public;
- being under the influence of controlled drugs and/or other psychoactive substances and / or alcohol while in a public place;
- threatening or using violence.

DEFINITIONS

- “Authorised Person”** means a Police Constable, Police Community Support Officer or Council Officer, and must be able to present their authority upon request.
- “Intoxicating Substances”** means substances with the capacity to stimulate or depress the central nervous system but does not include alcohol, tobacco or vaporisers.
- “Restricted Area”** shown outlined on the map attached (see figure 1, page 11)

PROHIBITIONS

THIS ORDER PROHIBITS the following things being done in any public space in the restricted area AND REQUIRES specified things to be done by persons carrying on specified activities in the Restricted Area.

(1) Within the area designated by the Public Space Protection Order it is prohibited for people to engage in activities that are likely to cause nuisance, annoyance, harassment, alarm or distress. Including, but not limited to: verbal abuse and / or intimidating behaviour; damage or destruction of property (including graffiti); littering; spitting in a public place; urination and defecation in a public place; copulating in public; drug or alcohol related activity (including being under the influence of controlled drugs and/or other psychoactive substances and / or alcohol while in a public place); threatening or using violence.

Dispersal:

- **A person is prohibited from congregating in a group of three or more people and acting Anti-Socially within the Restricted Area after an Authorised Person has requested that the group disperse.**
- **An Authorised Person may request that a group within the Restricted Area disperse where he reasonably suspects any person in that group to be causing or likely to cause nuisance, alarm, harassment or distress to any other person.**

Loitering:

- **A person is prohibited from loitering in shop doorways within the restricted area, with the apparent purpose of causing harassment, alarm or distress.**
- **A person is prohibited from loitering in the alleyway in between Dale End and New Meeting Street in such a manner that they may cause others harassment, alarm distress.**

Verbal Abuse:

- **A person is prohibited from being verbally abusive to any other person within the Restricted Area.**
- **A person is prohibited from using foul and abusive language, or any other such language, which causes any other person harassment, alarm or distress.**

Violence:

- **A person is prohibited from using or threatening to use violence against any person or property within the Restricted Area.**

Alcohol:

- **A person is prohibited from having in his possession open cans, bottles, or other unsealed containers of alcoholic beverages (even if empty) in the Restricted Area.**
- **A person is required to surrender any alcohol in his possession when asked to by an Authorised Person in the Restricted Area.**

Intoxicating substances:

- a. It is prohibited for any person to:**
 - i. ingest, inhale, inject, smoke, possess or otherwise use Intoxicating Substances; or**
 - ii. sell or supply Intoxicating Substances within the Restricted Area.**
- b. A person is required to surrender any Intoxicating Substance in his possession when asked to by an Authorised Person in the Restricted Area.**
- c. A person will not commit an offence under subsections (a)(i) or (b) where the substance is used for a valid and demonstrable medicinal use.**

Graffiti:

- a. A person is prohibited from carrying out any form of graffiti on any surface within the Restricted Area.**
- b. A person is required to surrender any goods, items or materials to an Authorised Person where that Authorised Person reasonably suspects that any goods, items or materials are being used, or are likely to be used, by a person to engage in any graffiti related activity within the Restricted Area.**

General Anti-Social Acts:

- a. A person is prohibited from urinating in public within the restricted area.**
- b. A person is prohibited from defecating in public within the restricted area.**
- c. A person is prevented from copulating in public within the restricted area.**

REQUIREMENTS

(1a) Any person who is engaged in any activity prohibited by section (1) within the area designated by the Public Space Protection Order will be reported to a Birmingham City Council Anti-Social Behaviour officer, who will review the evidence in the report, consult with the reporting officer, and make an informed decision about the best method of enforcement.

(2) It is prohibited to consume alcohol in a public place within the area designated by the Public Space Protection Order.

(3) It is prohibited to be in possession of an open container of alcohol in a public place within the area designated by the Public Space Protection Order.

(3a) It is prohibited to be in possession of an unopened container of alcohol in a public place within the area designated by the Public Space Protection Order in such circumstances that would lead a reasonable person to suspect that such a container is likely to be opened and consumed in a public place within the area designated by the Public Space Protection Order.

(3b) Any person in a public place within the area designated by the Public Space Protection Order may be required by a police officer, PCSO or council officer to surrender any container of alcohol to which section (3) and / or section (3a) apply.

(3c) Any person who refuses to comply with any request made under section (3b) will be in breach of the Public Space Protection Order.

(4) It is prohibited to congregate in a group of three or more people and behave in an Anti-Social manner in a public place within the area designated by the Public Space Protection Order.

(4a) A police officer, PCSO or council officer may direct any person congregating in a group of three or more who are acting Anti-Socially in a public place within the area designated by the Public Space Protection Order to leave the area designated by the Public Space Protection Order and not return for a specified period, up to 48 hours.

(4b) A direction given under section (4a) may be given verbally by a police officer, PCSO or council officer but any such direction must specify clearly the area to which it relates.

(4c) A police officer, PCSO or council officer may impose requirements as to the time by which the person must leave the area and the manner in which the person must do so (including the route).

(4d) Any person who fails to comply with a direction made under section (4a) and / or a requirement made under section (4c) will be in breach of the Public Space Protection Order.

THIS ORDER WILL BE IN FORCE FOR A PERIOD OF 36 MONTHS AND WILL EXPIRE ON THE
^{25th}.....**DAY OF MARCH 2019 AT 0001 O'CLOCK.**

PENALTY ON BREACH (S67 OF THE ACT)

It is an offence for a person, without reasonable excuse, to:

- Do anything that the person is prohibited from doing by a PSPO (other than consume alcohol - see below); or
- Fail to comply with a requirement to which the person is subject under a PSPO.

A person does not commit an offence by failing to comply with a prohibition or requirement that the Council did not have power to include in the PSPO.

A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Consuming alcohol in breach of a public space protection order is not an offence under s67 of the Act. However, under s63 of the Act it is an offence to fail to comply with a request by a constable or authorised person to cease drinking or surrender alcohol that a person is or has been or intends to drink in breach of the prohibition in the PSPO. This is also liable on summary conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

The enforcement of the PSPO will be used for the low level Anti-Social Behaviour it was designed to tackle.

Where criminal offences are committed they will be dealt with appropriately under criminal law.

Birmingham City Council will be the lead organisation in terms of enforcement of the PSPO, and the Anti-Social Behaviour it was designed to tackle. Any breaches of the PSPO will be referred through a BCC Anti-Social Behaviour officer, to achieve meaningful and expeditious consultation which will result in an informed decision on how best to deal with the breach. Options available are Anti-Social Behaviour warning letters, or the issuing of a Fixed Penalty Notice.

Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. FPN's will only be issued by BCC. In making the decision to issue a FPN, the officer should consider that if issued, payment of the FPN would discharge any liability to conviction for the offence. However, where the FPN is not paid within the required timescale, court proceedings can be initiated (prosecution for the offence of failing to comply with the PSPO).

Although it is a criminal offence for a person to breach a prohibitive or positive condition of a PSPO, the prosecuting agency will be BCC. Therefore, a breach of PSPO witnessed and evidenced by West Midlands Police (WMP), there will be a need for WMP and BCC to work together to collate evidence and decide on the most appropriate outcome based on each individual breach. All breach cases will be managed and governed through the existing Safer Communities Group (SCG) monthly meeting.

If a person is summonsed to court to appear for an offence of breaching a condition (prohibitive or positive) of a PSPO they are liable, on conviction to a fine not exceeding level 3 on the scale (£1000).

N.B. Those in breach of any of the conditions of this PSPO may also be dealt with by way of a warning or issued with a fixed penalty notice should this be deemed appropriate in the circumstances.


RIGHT TO APPEAL THIS ORDER

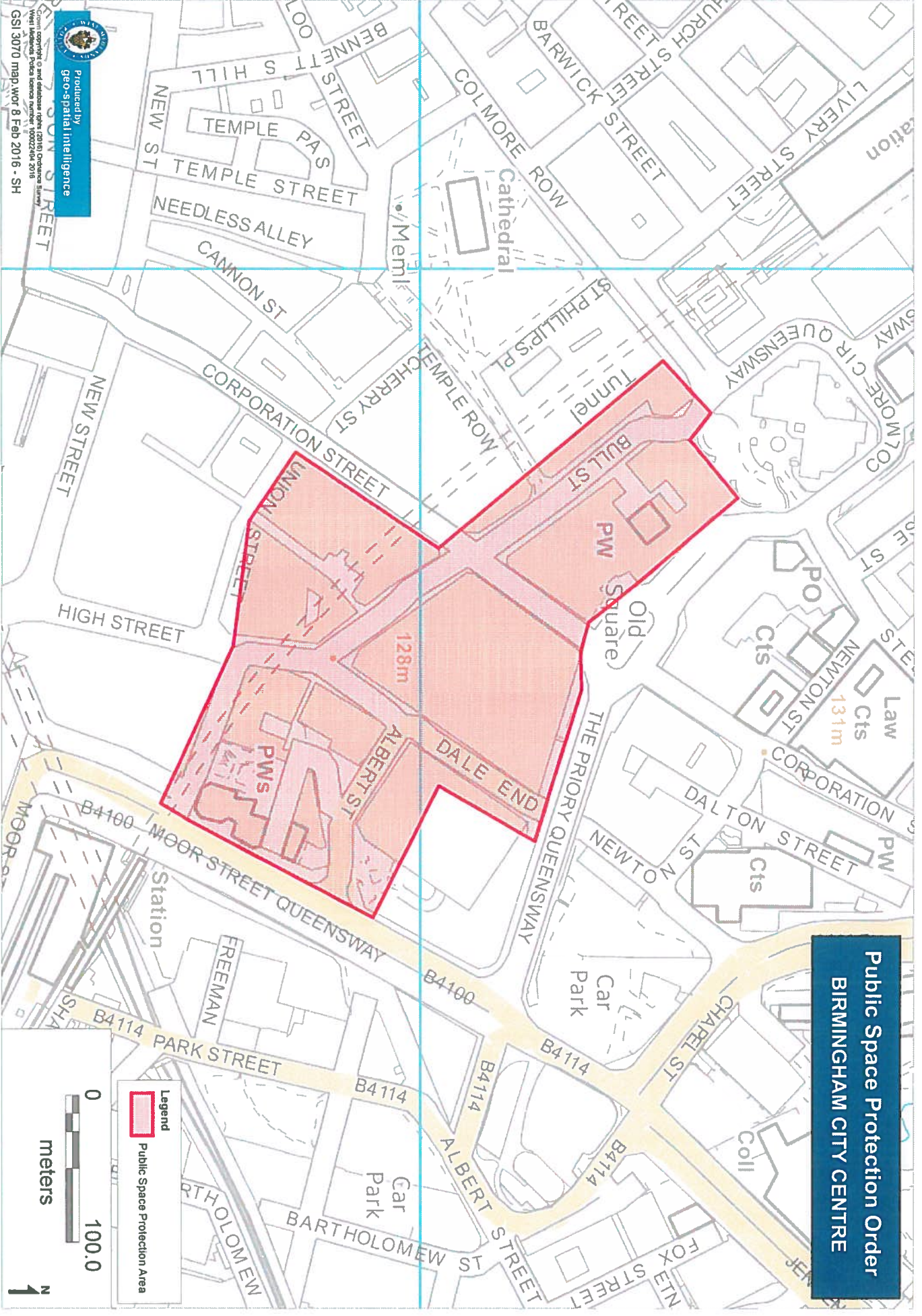
You have the right of appeal against this Notice to the Birmingham High Court as appropriate within a period of 6 weeks beginning with the date of service of the order by an interested person. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. This right to challenge also exists where an order is varied by a council.

Interested persons can challenge the validity of a PSPO on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance consultation) had not been complied with.

When the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court has the ability to uphold the PSPO, quash it, or vary it.

SIGNED  DATED 22/3/2016.

SIGNED  DATED 22/03/2016
SUPERINTENDENT 3192
ANDY BEARD
WEST MIDLANDS POLICE.



**Public Space Protection Order
BIRMINGHAM CITY CENTRE**

Produced by
geo-spatial intelligence

West Midlands Police
GSI 3070 map, Mor 8 Feb 2016 - SH

