

The Anti-Social Behaviour, Crime and Policing Act 2014

**BIRMINGHAM CITY COUNCIL (Erdington High Street) PUBLIC SPACE PROTECTION ORDER
2016**

Public Space Protection Order

The Order shall come into force on *Mon* *29th* of *Feb* 2016 at *10* 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 Erdington High Street, Barnabas Road, York Road, Cotton Lane, New street and Six Ways, Birmingham shown outlined in red 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:

- **Loitering by groups of young people and young adults and adults in public spaces;**
- **Drug or Alcohol related verbal abuse or violence;**
- **Unlicensed Busking;**
- **Begging;**
- **Unlicensed street trading.**
- **Littering**

- **Cycling on public highway (unless designated cycle route)**

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,

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.
- “Persistent Begging”** means begging on more than one occasion and includes all passive and active methods used to receive alms.
- “Restricted Area”** shown outlined in red on the map attached.

1. Groups

- A person is prohibited from congregating in a group of three or more people 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.

2. Verbal abuse

- A person is prohibited from being verbally abusive to any other person within the Restricted Area.

3. Violence

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

4. 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.

5. Intoxicating Substances

- It is prohibited for any person to:

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.

Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. The FPN can be issued by a police officer, or other authorised person. 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 or failing to comply with the PSPO).

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 *R Winchurst* DATED 22/16
LPU Commander
Birmingham North

SIGNED *Rekman* DATED 29/2/2016.
Director, Housing
Birmingham City Council

- 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.

6. 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.

7. Begging

- a. A person is prohibited from engaging in the activity of Persistent Begging within the Restricted Area.
- b. A person is required to desist from the activity of Persistent Begging when asked to by an Authorised Person in the Restricted Area.

REQUIREMENTS

- Where deemed appropriate people made subject of this order must attend an assessment via CRI (Drug and Alcohol).

THIS ORDER WILL BE IN FORCE FOR A PERIOD OF 36 MONTHS AND WILL EXPIRE ON THE
.....*Mon*.....DAY OF *29th Feb* 2019 AT *10* O'CLOCK.