

# Birmingham City Council & West Midlands Police



## **PUBLIC SPACE PROTECTION ORDER (PSPO)**

**Eastside Park Area, covering Fazeley Street, Park Street,  
New Canal Street, Curzon Street, Cardigan Street, Jennens  
Road, Howe Street, Grosvenor Street ,Etna Street and Fox  
Street.**

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## The Anti-Social Behaviour, Crime and Policing Act 2014

### BIRMINGHAM CITY COUNCIL (Eastside Park and surrounding area) PUBLIC SPACE PROTECTION ORDER 2015

#### Public Space Protection Order

The Order shall come into force on *Monday 28<sup>th</sup> of  
March* 2016 at *00:01* 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 Eastside Park and surrounding area in 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:

- **Anti-social behaviour caused by groups of young people and young adults and adults in public spaces;**
- **Unlicensed Drinking;**
- **Setting off fireworks;**
- **Skateboarding in a manner capable of causing a risk to the safety of others, nuisance or annoyance to others or damage to property belonging to another including public property.**
- **Being under the influence of controlled drugs and/or other psychoactive substances**

**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.
- “**Restricted Area**” shown outlined in red on the map attached.

### **1. Groups**

- a. 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.
- b. 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. Violence**

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

### **3. Alcohol**

- a. 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.
- b. A person is required to surrender any alcohol in his possession when asked to by an Authorised Person in the Restricted Area.

### **4. 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.

### **5. Fireworks**

- a) A person is prohibited from setting off fireworks unless as part of a licensed display.

### **6. Skateboarding**

- a) A person is prohibited from skateboarding in a manner capable of causing a risk to the safety of others, nuisance or annoyance to others or damage to property belonging to another including public property.

### 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



DATED 22/3/2016

SIGNED



DATED 22/03/2016

SUPERINTENDENT 3172  
ANDY BEARD  
WEST MIDLANDS POLICE

**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  
.....DAY OF 2019 AT O'CLOCK.**



