



**Chesterfield Borough Council
Anti-Social Behaviour, Crime and Policing Act 2014
Part 4 Section 59**

PUBLIC SPACES PROTECTION ORDER CHESTERFIELD (No 1) 2017

Chesterfield Borough Council being satisfied on reasonable grounds that:

(a) Activities (namely the consumption of alcohol) carried on in a public place within its area have had a detrimental effect on the quality of life of those in the locality, or

(b) It is likely that such activities will be carried on in a public place within that area and that they will have such an effect:

AND THAT the effect or likely effect of the activities

(a) Is, or is likely to be, of a persistent or continuing nature

(b) Is, or is likely to be, such as to make the activities unreasonable; and

(c) Justifies the restrictions imposed by the notice

AND pursuant to the requirements of s.72 of the Anti-Social Behaviour Crime & Policing Act 2014 (“the Act”) the Council:

(a) having had particular regard to the rights of freedom of expression and freedom of human assembly set out in Articles 10 and 11 of the European Convention on Human Rights; and

(b) having carried out the necessary consultation, notification and publicity

HAS DECIDED TO MAKE the following Public Spaces Protection Order under s.59 of the Act.

This order shall come into effect on _____ 2017 and shall have effect for 3 years.

1.0 Definitions

Alcohol has the meaning given by section 191 of the Licensing Act 2003

Authorised person means any authorised officer of the authority, a police constable or a community support officer designated under paragraph 5 of Part One of Schedule 4 to the Police Reform Act 2002



Restricted area means any place (include the doorway or alcove of any premises or any other outdoor location) to which the public or any section of the public has access (on payment or otherwise) as of right or by virtue of express or implied permission within the area designated in the schedules to this order

Exempted location means premises to which a prohibition on alcohol consumption does not apply as described in section 62 of the Act:-

- a) any premises authorised by a club premises certificate as defined by section 60 of the Licensing Act 2003
- b) any premises authorised by a premises licence as defined by section 11 of the Licensing Act 2003
- c) any place within the curtilage of such premises defined in a) or b) above
- d) any place which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which by virtue of that part could have been so used in the 30 minutes before that time
- e) any place related to facilities or activities relating to the sale or consumption of alcohol at the relevant time permitted by virtue of permission granted by section 115E of the Highways Act 1980.
- f) any council-operated licensed premises when the premises are being used for the supply of alcohol, or within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

Surrender for disposal - a constable or an authorised person may dispose of anything surrendered which he or she reasonably believes to be alcohol in whatever way he or she thinks appropriate

2.0 Alcohol

Prohibition

All persons are prohibited from drinking alcohol within the restricted area other than at an exempted location.

Requirements

Where an authorised person reasonably believes that a person is consuming alcohol or has been consuming alcohol in breach of this order or where an authorised person reasonably believes that the person intends to consume alcohol in circumstances which would be a breach of this order, the authorised person can take the following steps:-

- i. to prohibit the person from consuming alcohol or anything which the authorised persons reasonably believes is an alcoholic beverage in breach of this order
- ii. to require that person to surrender for disposal any alcohol or anything which the authorised person reasonably believes to be alcohol which is in the person's possession including a container for alcohol.

3.0 Penalties for Non-compliance



If, without reasonable excuse, a person is found to be in breach of any of the requirements in section 2 above they will commit a criminal offence for which the maximum penalty upon summary conviction is a fine not exceeding level 2 on the standard scale.

An authorised person may issue a fixed penalty notice (FPN) not exceeding £100 to any person he or she has reason to believe has breached the prohibitions or requirements of section 2 of this order. A FPN is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty within 14 days of the date of the notice.

Any challenge to this order must be made in the High Court by an interested person within six weeks of it being made. "Interested person" means an individual who lives in the restricted area or who regularly works in or visits that area.

An interested person may apply to the High Court to question the validity of—

- (a) a public spaces protection order, or
- (b) a variation of a public spaces protection order.

An interested person may challenge the validity of the order on two grounds:

- (a) that the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
- (b) that one of the requirements of the legislation has not been complied with.

When an application is made the High Court may suspend the operation of the order or any of the prohibitions or requirements imposed by the order, until the final determination of the proceedings.

If the High Court is satisfied that—

- (a) the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied), or
- (b) the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement under the legislation,

the Court may quash the order or variation, or any of the prohibitions or requirements imposed by the order (or by the order as varied).