



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

**PUBLIC SPACES PROTECTION ORDER CHESTERFIELD (No 2) 2017**

Chesterfield Borough Council being satisfied on reasonable grounds that:

(a) Activities (namely positioning or occupying tents or other temporary structures, loitering and begging, urinating or defecating, use or supply of intoxicating substances, leaving unattended material or paraphernalia and undertaking other activities which may cause nuisance, alarm, harassment or distress to another person) 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 schedule to this order

**Intoxicating substance** shall mean any substance with the capacity to stimulate or depress the central nervous system with the exception of

- a) alcohol
- b) caffeine
- c) any substance used for a valid and demonstrable medicinal use
- d) any substance that is a food product regulated by food standards and safety legislation
- e) any substance given to an animal as a medicinal remedy
- f) any substance which is a cigarette only containing tobacco or a vaporiser.

**Loitering** means standing or waiting around without apparent purpose

**Begging** includes but is not limited to approaching people and asking for money or placing a receptacle for donations.

## **2.0 Tents and other structures**

### **Prohibition**

All persons are prohibited from positioning or occupying any tent or other temporary structure within the restricted area without the express permission of the landowner.

### **Requirements**

When required to do so by an authorised person the person shall permanently remove any tent or other temporary structure within 12 hours of the request.

## **3.0 Dispersal**

### **Prohibition**

All persons are prohibited from any activity or behaviour causing nuisance, alarm, harassment or distress to any other person within the restricted area.

### **Requirements**

Where an authorised person has reason to believe that the person is causing or likely to cause nuisance, alarm, harassment or distress to any other person or in order to prevent public disorder, when required to do so by an authorised person the person shall immediately disperse from within the restricted area and shall not return to the restricted area for 48-hours.

## **4.0 Loitering and begging**

### **Prohibition**

All persons are prohibited from loitering around cash machines, shopping centre entrances, shop entrances or car park ticket and payment machines within the restricted area for the purposes of begging.

### **Requirements**



When required to do so by an authorised person the person shall immediately disperse from within the location around a cash machine, shopping centre or shop entrance and shall not return to any such location within the restricted area for the purposes of begging.

### **5.0 Other Prohibitions – Urination or defecation**

All persons are prohibited from urinating or defecating within the restricted area other than in a facility specifically designed and intended for such use.

### **6.0 Other Prohibitions – Unattended material or paraphernalia**

All persons are prohibited from leaving within the restricted area unattended any personal effects or belongings or any other material or paraphernalia including anything that may be considered as discarded or waste material.

### **7.0 Other Prohibitions – Intoxicating Substances**

All persons are prohibited from using (by ingestion inhalation injection or smoking) or supplying to another person any intoxicating substance within the restricted area.

### **8.0 Penalties for Non-compliance**

If, without reasonable excuse, a person is found to be in breach of any of the prohibitions or requirements in sections 2, 3, 4, 5, 6 or 7 above they will commit a criminal offence for which the maximum penalty upon summary conviction is a fine not exceeding level 3 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 sections 2, 3, 4, 5, 6 or 7 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).