

## **BIRMINGHAM CITY COUNCIL**

### **PUBLIC SPACE PROTECTION ORDER BREACH PROCESS**

*(It is an offence under section 67 of the 2014 ASB Act to breach an Order without a reasonable excuse.)*

Any person entering the Public Space Protection Order area must comply with the conditions set out within the order.

This breach process is managed by the Birmingham City Council Community Safety Team. An authorised officer is a Police or City Council Officer.

Should any person breach the conditions, the following process will be applied

#### **FIRST BREACH**

The person will be verbally warned on site by an “Authorised Officer” and a formal warning will be issued in writing (a suspected offence ticket will be issued on site) This will be followed up with a written warning that will provide details of which condition/s they have breached, a copy of the map showing the restricted area, explanation of what will happen should there be further breaches and information of support services. Where appropriate referrals will be completed by the Community Safety Manager. The details will be recorded.

#### **SECOND BREACH**

Should the person commit a further breach of the conditions within six months of the first breach, a 2<sup>nd</sup> suspected offence ticket will be issued. Consideration will be given to the person circumstances and either a fixed penalty notice (FPN) will be issued (the FPN process will then be followed) or a letter advising them that they must attend support services.

#### **THIRD BREACH**

Should the person commit a further breach within six months of the second breach, the person will either be issued with an FPN or summons to court for the breach.

Where a person breaches three or more times an evidence case will be developed around that person which will include enforcement action as well as positive requirements. This will be done in partnership with outreach services.

A person under the age of 18 years will only ever be dealt with by way of warnings this could include 1st, 2nd and final warning, although it should be noted an FPN can be issued to a person between the age of 16 – 18 years old. If repeat breaches are evidenced,

agencies including Youth Offending Services (YOS) will consider whether an application for a Civil Injunction or an FPN is appropriate. YOS must be informed at each stage of the process when a person under 18 years is involved.

## **APPEALS**

### **FIXED PENALTY NOTICE (FPN)**

There are no formal grounds of appeal against an FPN, as it is an invitation to expel your liability to be summonsed to court for prosecution.

While this is not an admission of guilt, the person agrees that an offence has been committed and by paying the sum of money specified no further action will be undertaken by the council. Dealing with it in this manner saves time for everyone (including the offender) in prosecuting cases at court. The costs associated with FPN's are a lot lower than any fine imposed by the courts.

If the person does not agree that they have committed the offence for which they have received the FPN. The matter will then be dealt with through formal prosecution via the courts. It will then be up to the court, on receiving evidence, to determine whether or not an offence was committed and therefore whether or not any penalty should be imposed. Effectively this means that the formal court route becomes the mechanism for those wishing to appeal an FPN.