



**Ref: Moseley & Kings Heath**

**Birmingham City Council (Moseley & Kings Heath) Public Space  
Protection Order**

**Anti-Social Behaviour, Crime and Policing Act 2014 – Section 59**

**Public Space Protection Order**

**The Order shall come into force on \*\*\*\*\* at 00.00hrs**

**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, because the council is satisfied on reasonable grounds that there are a number of activities, carried out or are likely to be carried out in a public space namely the area within and surrounding Moseley & Kings Heath shown outlined 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 in this order.

These activities include:

- Groups causing Anti-Social behaviour
- Being under the influence of intoxicating substance and/or alcohol while in a public place.
- Damage or destruction of property (graffiti)

**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 controlled drugs within the meaning of s.37(1), Misuse of Drugs Act 1971 and includes psychoactive substances within the meaning of s.59, Psychoactive Substances Act 2016.

"Restricted Area" shown outlined on the map attached.

### **1. Groups**

a) An Authorised Person may require an individual, or a group, within the Restricted Area to leave the Restricted Area, where he reasonably suspects that that individual or any person within that group is causing or likely to cause nuisance or disorder, or harassment, alarm or distress to any other person.

b) An individual or group required to leave the Restricted Area by an Authorised Person is

(i) prohibited from remaining within the Restricted Area, and

(ii) required to leave that area immediately, and

(iii) prohibited from returning to the Restricted Area within 24 hours of being required to leave.

c) An individual will not breach paragraph 1(b)(ii), if he attends a railway station, bus-stop or tram-stop within the Restricted Area for the purpose of taking public transport out of the Restricted Area, so long as he is not accompanied by any other person who has also been required to leave the Restricted Area (except for a dependent person).

### **2. Intoxicating Substances**

a) It is prohibited for any person to possess or consume in any manner an Intoxicating Substance within the Restricted Area, except a prescription drug which has been prescribed for his use.

b) It is prohibited for any person to be under the influence of an Intoxicating Substance within the Restricted Area, except a prescription drug which has been prescribed for his use.

c) It is prohibited for any person to sell or supply any Intoxicating Substance within the Restricted Area, except a pharmacist who does so in fulfilment of a medical prescription

### **3. Alcohol**

a) If an Authorised Officer reasonably suspects that a person who is or has been drinking alcohol in the open air within the Restricted Area is causing or likely to cause a nuisance or disorder, he may request the person to

(i) stop drinking alcohol within the Restricted Area; and/or

(ii) hand to the Authorised Person any container of alcohol in his possession, whether or not it has been opened, and even if it is empty.

b) A person who has been requested to do either or both of the things referred to at paragraph 3(a) above, is required to comply with such a request immediately.

c) For the purposes of this paragraph, the Restricted Area does not include frontages covered by a current authority to sell or supply alcohol under the Licensing Act 2003, or an area covered by a pavement licence.

### **4. Graffiti**

a) A person is prohibited from marking any surface within the Restricted Area with any form of unauthorised graffiti.

b) Where an Authorised Person reasonably suspects that a person is using or is likely to use any item to mark any surface with unauthorised graffiti, he may require the person to surrender that item to him.

c) A person required by an Authorised Person to surrender any item must do so immediately.

THIS ORDER WILL BE IN FORCE FOR A PERIOD OF 3 YEARS AND WILL EXPIRE ON  
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### **Right to challenge the validity of this order**

An interested person may apply to the High Court to question the validity of this order. An interested person is someone who lives in, regularly works in, or visits the restricted area. An application must be made within the period of 6 weeks beginning with the date on which the Order is made. 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

Duly Authorised Officer  
Director of City Operations  
City Operations Directorate

SIGNED

DATED

Duly Authorised Officer  
West Midlands Police

Any enquiry relating to this order may be made from 09.00 – 16.00 hours Monday to Friday at:

CSP Enquiries [cspenquiries@birmingham.gov.uk](mailto:cspenquiries@birmingham.gov.uk)

### **Offence and Penalty on breach.**

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).

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