

NEWCASTLE CITY COUNCIL
ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014
PART 4, SECTION 59
PUBLIC SPACES PROTECTION ORDER No 1 of 2016

This order is made by Newcastle City Council (the 'Council') and shall be known as the Public Spaces Protection Order 1 of 2016.

PRELIMINARY

1. The Council, in making this Order is satisfied on reasonable grounds that:

The activities identified below have been carried out in public places within the Council's area and have had a detrimental effect on the quality of life of those in the locality,

and that:

the effect, or likely effect, of the activities:

is, or is likely to be, of a persistent or continuing nature,

is, or is likely to be, such as to make the activities unreasonable, and

justifies the restrictions imposed by the notice.
2. The Council is satisfied that the prohibitions imposed by this Order are reasonable to impose in order to prevent the detrimental effect of these activities from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
3. The Council has had particular regard to the rights and freedoms set out in Article 10 (right of freedom of expression) and Article 11 (right of freedom of assembly) of the European Convention on Human Rights and has concluded that the restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

THE ACTIVITIES

4. The Activities covered by this Order relate to:
 - i. Consuming alcohol in a public place
 - ii. The failure to remove dog faeces
 - iii. The failure to keep dogs on leads
 - iv. Ingesting, inhaling, injecting, smoking or otherwise using substances believed to be intoxicating substances
 - v. Aggressive begging
 - vi. Appropriating monies for charitable or other purposes.

THE DEFINITIONS

5. For the purpose of this order the following definitions will apply:
 - 'Aggressively beg' means asking for or accepting money, personal, charitable or any other donations or approaching a person for that purpose, when to do so would cause, or is likely to cause, a nuisance or annoyance, harassment, alarm or distress to that person.
 - 'Alcohol' has the meaning given by section 191 of the Licensing Act 2003;
 - 'Authorised Officer' means a constable, a police community support officer or a person authorised in writing by Newcastle City Council.
 - 'Interested person' means an individual who lives in the restricted area or who regularly works in or visits that area.
 - 'Intoxicating substances' means a substance capable of producing a psychoactive effect in a person who consumes it, by stimulating or

depressing the central nervous system, affecting the persons mental functioning or emotional state.

- 'Lead' is defined as any rope, cord, leash or similar item which is no more than two metres in length and which used to tether, control or restrain a dog, but does not include any such item which is not actively being used as a means of restraint so that the dog remains under a person's control. An extendable lead must not be extended beyond four metres.
 - 'Public place' means any place 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.
 - 'Restricted Area' has the meaning given by section 59(4) of the Act.
6. This order applies to a public place within the authority's area. The public place is shown delineated by the red line in the plan annexed at schedule 1, to this order and identified as the Restricted Area.
7. The effect of the order is to impose the prohibitions and requirements detailed below, at all times, save where specified exemptions apply or where the express permission of the Council has been given on the use of the Restricted Area.

THE PROHIBITIONS AND REQUIREMENTS

Consuming alcohol in a public place

8. A person shall stop consuming alcohol or surrender any containers (sealed or unsealed) which are reasonably believed to contain alcohol, when required to do so by an Authorised Officer.

9. Nothing in the preceding requirement applies to alcohol being consumed within premises licensed under the Licensing Act 2003 or s115E of the Highways Act 1980.

Requirements relating to persons with dogs:

10. A person in charge of a dog which defecates at any time on any land to which this order applies shall remove the faeces from the land forthwith unless:
- (a) he has reasonable excuse for failing to do so or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
11. A person in charge of a dog on land to which this order applies must comply with a direction given to him by an Authorised Officer to put and keep the dog on a lead unless
- (a) he has reasonable excuse for failing to do so or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
12. Nothing in this order shall apply to a person who
- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948
 - (b) has a disability which affects his mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects.
13. For the purpose of this order:
- i. An Authorised Officer may only give a direction under this order if such restraint is reasonably necessary to prevent a nuisance or behaviour by

the dog that is likely to cause annoyance or disturbance to any other person;

- ii. A person who has a dog in his possession shall be taken to be in charge of the dog;
- iii. Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land;
- iv. Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

Intoxicating Substances

14. A person shall stop ingesting, inhaling, injecting, smoking or otherwise using substances reasonably believed to be intoxicating substances or surrender the substance or any receptacles reasonably believed to contain such substances, when required to do so by an Authorised Officer.
15. The preceding requirement does not apply where the substance:
 - i) is used for a valid and demonstrable medicinal or therapeutic purpose;
 - ii) is a cigarette (tobacco) or vapouriser;
 - iii) is a food product regulated by food, health and safety legislation

Aggressive begging

16. A person shall not:
 - i) aggressively beg or approach any person for that purpose;
 - ii) have in their possession any item for holding, inviting or receiving money for the purpose of begging;
 - iii) visibly have in their possession or deposit any materials used or intended to be used as bedding.

Appropriating monies

17. A person shall not stop or approach another person with the intention of asking that other person:
 - i) to enter into any arrangements which involve that other person making any future payment for the benefit of charitable or other purposes; or
 - ii) for any information to assist in that other person being contacted at another time with a view to making arrangements for that person to make any payment for the benefit of charitable or other purposes.
18. A person shall not encourage any person to do anything which would constitute a breach of paragraph 17 above.
19. Paragraphs 17 and 18 do not apply where the activities have been authorised by the Council in accordance with a scheme operated or expressly approved by it.

PERIOD FOR WHICH THIS ORDER HAS EFFECT

20. This Order will come into force at midnight on [] and will expire at midnight on [].
21. At any point before the expiry of this three year period the Council can extend the Order by up to three years if they are satisfied on reasonable grounds that this is necessary to prevent the activities identified in the Order from occurring or recurring or to prevent an increase in the frequency or seriousness of those activities after that time.

WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

Section 67 of the Anti-Social Behaviour Crime and Policing Act 2014 says that it is a criminal offence for a person without reasonable excuse –

- (a) to do anything that the person is prohibited from doing by a public spaces protection order, or
- (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order

A person guilty of an offence under section 67 is liable on conviction in the Magistrates Court to a fine not exceeding level 3 on the standard scale. The full text of section 67 is set out at the end of this document.

FIXED PENALTY

A constable, police community support officer or city council enforcement officer may issue a fixed penalty notice to anyone he or she believes has committed an offence under section 67 of the Anti-Social Behaviour, Crime and Policing Act. You will have 14 days to pay the fixed penalty of £75. If you pay the fixed penalty within the 14 days you will not be prosecuted.

APPEALS

Any challenge to this order must be made in the High Court by an interested person within six weeks of it being made. 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. The right to challenge also exists where an order is varied by the Council.

Interested persons can challenge the validity of this order on two grounds: that the Council did not have power to make the order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation, for instance consultation, has not been complied with.

When an application is made the High Court can decide to suspend the operation of the order pending the Court's decision, in part or in totality. The High Court has the ability to uphold the order, quash it, or vary it.

GIVEN under the common seal of

The Council of the City of Newcastle upon Tyne

On the

.....day of.....2016

THE COMMON SEAL of the

Council of the City of Newcastle upon Tyne

was hereunder affixed in the presence of:-

Text of Section 67 Anti-Social Behaviour Crime and Policing Act 2014:

- (1) It is an offence for a person without reasonable excuse-
 - (a) To do anything that the person is prohibited from doing by a public spaces protection order, or
 - (b) To fail to comply with a requirement to which a person is subject under a public spaces protection order
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale
- (3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order