

ORDER

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

SECTION 59

PUBLIC SPACES PROTECTION ORDER

This order is made by the Southend-on-Sea Borough Council (the 'Council') and shall be known as the Public Spaces Protection Order (Leigh-on-Sea and Chalkwell Seafront and Adjoining Areas) No 1 of 2021

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 regard to the rights and freedoms set out in the European Convention on Human Rights. 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 prohibited by this order are:
 - i Urination, defecation, spitting or littering
 - ii Consuming alcohol and behaving in an anti-social manner or failing to surrender any containers (sealed or unsealed) which are reasonably believed to contain alcohol, in a public place, when an Authorised Officer has required such consumption to cease

- iii Ingesting, inhaling, injecting, smoking or otherwise using drugs or substances reasonably believed to be Psychoactive Substances.

THE PROHIBITION

- 5 A person shall not engage in any of the Activities anywhere within the Restricted Area as shown delineated by the red line and shaded pink on the master plan annexed at Schedule 1 and if applicable further identified on the detailed plans inset within that plan to this order and identified as the 'Restricted Area'
- 6 This Prohibition is subject to the Exceptions stated below.

THE REQUIREMENTS

- 7 A person who is believed to have engaged in a breach of this order within the Restricted Area, is required to give their name and address to an Authorised Officer.
- 8 A person who is believed to have engaged in a breach of this order within the Restricted Area, is required to leave the area if asked to do so by a police officer, police community support officer or other person designated by the Council and not to return for a specified period not exceeding 48 hours.
- 9 A person must clear up his/her belongings and/or litter if asked to do so by a police officer, police community support officer or other person designated by the Council.

THE EXCEPTIONS

- 10 Nothing in the paragraph 4(iv or v) of this order applies to alcohol being consumed within premises licensed under the Licensing Act 2003 or section 115E of the Highways Act 1980.
- 11 The requirement in paragraph 4(vi) of this order does not apply where the substance
 - i) is used for a valid and demonstrable medicinal or therapeutic purpose,
 - ii) is a cigarette (tobacco) or vaporiser,
 - iii) is a food product regulated by food, health and safety legislation

OTHER

- 12 This order applies to a public place within the authority's area. The public place is delineated by the red line and shaded pink on the master plan annexed at Schedule 1 and if applicable further identified on the detailed plans inset within that plan to this order and identified as the 'Restricted Area'
- 13 The effect of the order is to impose the prohibitions and requirements detailed herein, 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

DEFINITIONS

- 14 For the purpose of this order the following definitions will apply

'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 Southend-On-Sea Borough Council

'Interested person' means an individual who lives in the restricted area or who regularly works in or visits that area

'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.

'Psychoactive Substances' has the meaning given by section 2 of the Psychoactive Substances Act 2016

'Restricted Area' has the meaning given by section 59(4) of the Anti-Social Behaviour, Crime and Policing Act 2014 and for the purposes of this order is shown delineated by the red line on the PSPO master plan annexed at Schedule 1 and if applicable further identified on the detailed plans inset within that plan to this order and identified as the 'Restricted Area'

PERIOD FOR WHICH THIS ORDER HAS EFFECT

- 15 This Order came into force at midnight on 2021 and will expire at midnight on 2024
- 16 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 The Council may extend this order more than once

WHAT HAPPENS IF YOU FAIL TO COMPLY WITH THIS ORDER?

- 18 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
- 19 A person guilty of an offence under section 67 is liable on conviction in a Magistrates Court to a fine not exceeding level 3 on the standard scale

FIXED PENALTY

- 20 An Authorised 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 £100. If you pay the fixed penalty within the 14 days you will not be prosecuted

APPEALS

- 21 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.

- 22 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 has not been complied with.

- 23 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.

Dated

THE COMMON SEAL of SOUTHEND ON SEA)
BOROUGH COUNCIL was pursuant to a resolution)
of the Council hereunto affixed to this Deed in the)
presence of:-)

Proper Officer of the Council

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

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Schedule 1 to this Order

Master plan of the Restricted Area and detailed plans inset

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