

Manchester City Council (*[Insert Area]*) (Alcohol Consumption) Public Spaces Protection Order 2021

The Anti-social Behaviour, Crime and Policing Act 2014

Manchester City Council in the exercise of its powers under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (the Act) hereby makes the following Order.

This Order is made on the *[insert day]* of *[insert month]* 2021 and shall have effect for a period of 3 years thereafter, unless discharged or extended under the Council's statutory powers.

General provisions

The Council is satisfied on reasonable grounds that the activity in the Restricted Area and identified in Article 1 of this Order:

- has had a detrimental effect on the quality of life of those in the locality, or it is likely that this activity will be carried on in the Restricted Area and that it will have such an effect; and
- that the effect, or likely effect, of this activity:
 - is, or is likely to be, of a persistent or continuing nature;
 - is, or is likely to be, such as to make those activities unreasonable; and
 - justifies the prohibitions imposed by this Order

The Council is satisfied that the prohibition and requirement imposed by this Order are reasonable to impose in order to prevent the detrimental effect of the activity from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

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 any restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

This Order applies to all public places within the Restricted Area.

This Order is available for inspection on the Council's website.

Definitions

"Alcohol" has the same meaning as in section 191 of the Licensing Act 2003.

"Authorised person" means a person authorised in writing by the Council.

"Constable" includes Police Community Support Officer.

“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 an express or implied permission.

“Restricted Area” means all public places, as defined by section 74(1) of the Act, *[insert description of area]* as more particularly outlined in red on the map at the Appendix.

“The Council” means Manchester City Council.

Prohibition

Article 1: Consumption of alcohol

No person shall consume alcohol in a public place in the Restricted Area (save for those places identified in section 62 of the Anti-social Behaviour Crime and Policing Act 2014).

Requirement

Article 2: Provision of information upon request

A person who an Authorised Person or Constable reasonably suspects has breached Article 1 of this Order shall, upon request of that Authorised Person or Constable, provide their name, address and date of birth to that Authorised Person or Constable.

THE COMMON SEAL OF THE COUNCIL OF THE CITY OF MANCHESTER

Was hereunto affixed in the pursuance of an order of the Council of the said City: -

.....

Authorised Signatory
Dated this *[insert day]* day of *[insert month]* 2021

What happens if you fail to comply with this order?

Section 63 of the Anti-social Behaviour Crime and Policing Act 2014 provides that where a Constable or Authorised Person has reason to believe that a person has been consuming alcohol in breach of this Order or intends to consume alcohol in circumstances which would be a breach of this Order, the Constable or Authorised Person may require that person not to consume alcohol or anything which is reasonably believed to be alcohol and/or surrender anything believed to be alcohol or a container for alcohol.

A requirement is not valid if the Constable or Authorised Person, fails to show evidence of their authorisation. Section 62 of the Act (set out in full below) contains a list of exceptions where the prohibition on consuming alcohol does not apply.

Failure to comply without having a reasonable excuse is an offence.

Criminal offence

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.

Penalty

A person who is guilty of an offence under this Order shall be liable to a £100.00 Fixed Penalty Notice, or upon summary conviction to a fine not exceeding level 3 (£1000) on the standard scale.

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 right 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 the 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. 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 or quash the order or any of its prohibitions or requirements.

Legislation

62 - premises etc to which alcohol prohibition does not apply

(1) A prohibition in a public spaces protection order on consuming alcohol does not apply to—

- (a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;
- (b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;
- (c) a place within the curtilage of premises within paragraph (a) or (b);
- (d) premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the 30 minutes before that time;
- (e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses).

(2) A prohibition in a public spaces protection order on consuming alcohol does not apply to council-operated licensed premises—

- (a) when the premises are being used for the supply of alcohol, or
- (b) within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

(3) In this section—

“club premises certificate” has the meaning given by section 60 of the Licensing Act 2003;

“premises licence” has the meaning given by section 11 of that Act;

“supply of alcohol” has the meaning given by section 14 of that Act.

(4) For the purposes of this section, premises are “council-operated licensed premises” if they are authorised by a premises licence to be used for the supply of alcohol and—

- (a) the licence is held by a local authority in whose area the premises (or part of the premises) are situated, or
- (b) the licence is held by another person but the premises are occupied by a local authority or are managed by or on behalf of a local authority.

Section 67 - offence of failing to comply with the order

(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 the 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.

(4) Consuming alcohol in breach of a public spaces protection order is not an offence under this section (section 63).

Appendix

[Insert map here]