

Chelmsford City Council

Anti-social Behaviour, Crime and Policing Act 2014

The Chelmsford City Council Public Spaces Protection Order (Chelmsford City Centre and Surrounding Area) 2019

The Chelmsford City Council (“the Council”) makes this Order under Part 4, section 59 of the 2014 Act, having consulted as required by section 72.

The order comes into force on 1st September 2019 for a period of 3 years. It applies to the public place, “the Restricted Area” shaded in orange and edged in grey on the plan attached at Schedule 1 to the Order.

Under section 74 (1) of the 2014 Act, “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.

The Council is satisfied that activities have been carried out in the Restricted Area which have had a detrimental effect on the quality of life of those in the locality. Further, it is satisfied that the effect of these 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 this order.

The activities carried out are as follows:

1. The consumption of alcohol in a manner that causes or is likely to cause harassment, alarm, distress, nuisance or annoyance to any person.
2. The distribution of free literature.
3. Fly-posting.
4. The stationing of advertising boards or other structures being used as such.

The Council therefore under section 59(4) prohibits within the Restricted Area:

1. The consumption of alcohol in a manner that causes or is likely to cause harassment, alarm, distress, nuisance or annoyance to any person.
2. The distribution of free literature (which includes advertising and publicity materials or items) unless it is for religious, political or charitable purposes. The distribution of free literature shall include the activity of placing of free literature on, or affixing it to, any vehicle. Furthermore, a person or body who benefits or may benefit commercially from the distribution of free literature shall be deemed to have distributed the literature in addition to any person who physically hands out or deposits the same.
3. Fly-posting (including the unlawful affixing of any placard, notice, or sign to street furniture). A person or body who (i) benefits or may benefit commercially from the fly posting or (ii) in the case of an event advertised by the fly-posting is the owner or occupier of any venue referred to in the advertisement; shall be deemed to have engaged in the fly-posting, in addition to any person(s) who physically affixes the placard, notice or sign to street furniture or other structures.

4. The stationing of advertising boards or other structures being used as such, on any land (whether in public or private ownership) in the open or forming part of a shopping centre mall to which the public have unrestricted access.

Failure without reasonable excuse to comply with the prohibitions and requirements imposed by this PSPO is a summary criminal offence under section 67 of the 2014 Act except in respect of the prohibition relating to the consumption of alcohol. A person guilty of an offence under section 67 of the 2014 Act is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

Under section 63 of the 2014 Act, where a constable or an authorised person reasonably believes that a person is consuming alcohol in breach of a prohibition or intends to do so they may require that person cease consuming alcohol in breach of the PSPO and to surrender the alcohol or container for alcohol. Failure to comply with any such requirement is a criminal offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale (currently £500).

A constable or authorised person may under section 68 of the 2014 Act issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under sections 63 or 67 of the 2014 Act in relation to this PSPO.

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.

Where 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.

Signed
Director of Public Places on behalf of Chelmsford City Council

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Dated 1st September 2019