

APPENDIX 2: Draft Public Spaces Protection Order 2017

ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014

THE ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014 (PUBLICATION OF PUBLIC SPACES PROTECTION ORDERS) REGULATIONS 2014

BATH AND NORTH EAST SOMERSET COUNCIL (PROHIBITION ON THE CONSUMPTION OF ALCOHOL) PUBLIC SPACES PROTECTION ORDER (BATH CITY NO. 1 OF 2017)) (“The Order”)

Notice is hereby given that Bath and North East Somerset Council (“the Council”) in exercise of its powers and being satisfied that the conditions set out in section 59 Anti-social Behaviour Crime and Policing Act 2014 (“the Act”) are met, makes the following Public Spaces Protection Order (“PSPO”) in relation to the Public Places in Bath City as shown outlined in red in the Schedule (“the Restricted Area”) to this Order.

This Order may be cited as the Bath and North East Somerset Council (Prohibition on the Consumption of Alcohol Public Spaces Protection Order (Bath City No. 1 of 2017)) and comes into force on 20 October 2017. This Order will have effect for a period of 3 years, until 19 October 2020.

Pursuant to section 74(1) of the Act Public Place is defined as “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 plural of Public Place namely “Public Places” has the same definition.

The Council is satisfied on reasonable grounds that:

- (a) the consumption of alcohol (“the Activity”) carried on in a Public Place within the authority’s area has had a detrimental effect on the quality of life of those in the locality, or
- (b) it is likely that the Activity will be carried on in a Public Place within that area and that it will have such an effect.

The Council is further satisfied that the effect, or likely effect, of the Activity–

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

- (b) is, or is likely to be, such as to make the Activity unreasonable, and
- (c) justifies the restrictions imposed by the notice.

For the purposes of the following prohibitions and requirements an “Authorised Officer” is any Police Officer, Police Community Support Officer, or person authorised for the purposes of the Act by the Council.

The following prohibitions and requirements apply to all persons at all times unless one of the Exceptions applies.

Therefore, having consulted as required by section 72, the Council under section 59(4) **prohibits (the Prohibition):**

(1)

- a) Any person from having in their possession, care or control in any Public Place within the Restricted Area alcohol where that person-
 - i. is or has been consuming alcohol in any Public Place in the Restricted Area, or
 - ii. intends to consume alcohol in any Public Place in the Restricted Area; and
 - iii. is behaving in a way that is, or it likely to cause, harassment, alarm, distress, crime or disorder.

And **requires:**

(2)

- a) Any person not to consume in any Public Place within the Restricted Area, in breach of the Prohibition, alcohol or anything which the Authorised Officer reasonably believes to be alcohol.
- b) Any person to surrender to an Authorised Officer on request anything in their possession which is, or which the Authorised Officer reasonably believes to be,

alcohol or a container for alcohol. An Authorised Officer may dispose of anything surrendered under (2)(b) in whatever way he or she thinks appropriate.

Pursuant to section 63 of the Act, where an Authorised Officer requires that a person complies with 2(a) or (b) or both and the person fails to do so without reasonable excuse, that person shall be committing a criminal offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Pursuant to section 68 of the Act an Authorised Officer may issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under section 63 in relation to this Order.

EXCEPTIONS TO THE TERMS OF THIS ORDER

Section 62 Anti-social Behaviour Crime and Policing Act 2014

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.

Schedule: Map