

THE COUNCIL OF THE BOROUGH OF NORTH TYNESIDE (CONSUMPTION OF ALCOHOL) PUBLIC SPACES PROTECTION ORDER 2017

**SECTION 59
ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 (“the Act”)**

The Council of the Borough of North Tyneside (“the Authority”) being satisfied that:-

- The consumption of alcohol and/or the refusal to surrender alcohol to a Constable or Authorised Person (“the activity”) carried out in a public place within its area has had a detrimental effect on the quality of life of those in the locality and/or
- It being likely that the activity will be carried on in a public place and that it will have such an effect.

And 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 this Order

And pursuant to the requirements of section 72 of the Act the Authority:-

- a) Having had particular regard to the rights of freedom of expression and freedom of human assembly set out in Articles 10 and 11 of the European Convention of Human Rights; and
- b) Having carried out the necessary consultation, notification and publicity

MAKES this Public Spaces Protection Order under section 59 of the Act

1. This Order applies to all public land within the boundary of the Council of the Borough of North Tyneside which is open to the air and to which the public are entitled or permitted to have access (with or without payment) subject to the exceptions listed below.
2. This Order may be cited as The Council of the Borough of North Tyneside, (Consumption of Alcohol) Public Spaces Protection Order 2017 and shall come into force on 20 October 2017 for a period of 3 years unless extended by further Order.

EFFECT OF THE ORDER

The effect of this Order is to impose the following requirements on the use of the restricted areas at all times:-

Where a Constable or Authorised Person reasonably believes that a person is, or has been, consuming alcohol in a restricted area or intends to do so, the Constable or Authorised Person may require the person concerned:-

- (a) Not to consume in a restricted area anything which is or which the Constable or Authorised Person reasonably believes to be alcohol;
- (b) To surrender anything in possession of the person in question which is, or which the Constable or Authorised Person reasonably believes to be alcohol or a container for alcohol.

APPENDIX 2

The Constable or Authorised Person must tell the person in question that failing without reasonable excuse to comply with a requirement imposed by the Constable or Authorised Person is an offence.

OFFENCE

It is an offence for a person without reasonable excuse to comply with the requirements imposed on him by this Order and on conviction is liable to a fine not exceeding level 2 on the standard scale.

FIXED PENALTY NOTICE

A Constable or Authorised Person may issue a Fixed Penalty Notice to anyone he or she has reason to believe has committed an offence by failing without reasonable excuse to comply with a requirement imposed on him or her by a Constable or Authorised Person. A person served with a Fixed Penalty Notice will have 21 days to pay the fixed penalty of £100. If a person pays the Fixed Penalty within 14 days the fixed penalty will be reduced to £75.00. If payment of the Fixed Penalty is made a person will not be prosecuted.

EXCEPTIONS

Nothing in this Order shall 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 a premises within (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 issues).
- f) Council-operated licensed premises when the premises are being used for the supply of alcohol, or
- g) Within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

GENERAL

For the purposes of this Order:-

A '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.

An 'Authorised Person' means an employee of the Authority, person designated by the Authority to act on its behalf or a Police Community Support Officer.

5. CHALLENGING THE VALIDITY OF THE ORDER

An interested person may challenge the validity of this Order by applying to the High Court within 6 weeks of it being made. The grounds on which such an application can be made are:-

- That the Authority did not have the power to make the Order or to include particular prohibitions or requirements imposed by the Order, or
- That a requirement under the legislation in relation to the Order has not been complied with, for instance, that no consultation was undertaken.

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 total. The High Court may uphold the Order, quash it or vary it.

Dated 2017

The Common Seal of the Council of the
Borough of North Tyneside was hereunto
Affixed in the presence of:-

Head of Law and Governance