

Anti-Social Behaviour, Crime and Policing Act 2014 - Public Spaces Protection Order (no. 5 of 2021)

Alcohol control

This Order is made by Tunbridge Wells Borough Council (“the Council”) and may be cited as the **Public Spaces Protection Order – Alcohol Control (No. 5 of 2021)** (“the Order”)

1. This Order relates to any public place in the parts of Tunbridge Wells shown edged red on the plans attached at Schedule 1 of this Order (“the restricted area”)
2. This Order shall come into force on **25th September 2021** and shall have effect for a period of 3 months thereafter, unless extended by further order under the Council’s statutory powers
3. This Order is made by the Council in exercise of its powers under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) having carried out the necessary consultation and being satisfied on reasonable grounds that:
 - a. The activities identified below have been carried on in a public place within the restricted area and have had a detrimental effect on the quality of life of those in the locality, or it is likely that the activities will take place and that they will have a detrimental effect; and
 - b. The effect, or likely effect of the activities is, or is likely to be, of a persistent or continuing nature, such as to make the activities unreasonable and justifies the restrictions imposed by the Order
4. The Council has had regard to the rights and freedoms under Article 10 (freedom of expression) and Article 11 (freedom of assembly and association) as set out in the European Convention on Human Rights and is satisfied that the restrictions imposed by this Order are lawful, necessary and proportionate

The activities described below are hereby prohibited:

Consuming alcohol

5. No person shall consume alcohol in the restricted area
6. No person shall be in possession of an open container of alcohol in the restricted area
7. Where an authorised officer reasonably believes that any person has been or intends to consume alcohol in breach of this prohibition, the authorised officer may require that person not to consume alcohol in breach of this prohibition and to surrender anything reasonably believed to be alcohol or a container for alcohol
8. This prohibition does not apply to licensed premises and other premises listed in section 62 of the Act
9. A requirement imposed by an authorised officer to enforce this prohibition is not valid if the officer is asked to show evidence of his or her authorisation and fails to do so

Offence of failing to comply with the Order

10. It is an offence for a person without reasonable excuse to fail to comply with a requirement of this Order
11. When imposing a requirement under this Order, an authorised officer must inform the person subject to the requirement that failing to comply without reasonable excuse is an offence
12. Any person who commits an offence is liable on conviction in the Magistrates' Court to a fine not exceeding level 2 on the standard scale

Fixed penalty notices

13. An authorised officer may issue a fixed penalty notice of up to £100 to anyone who he or she has reason to believe has committed an offence under the Act
14. If the fixed penalty notice is not paid the person to whom it is issued remains liable upon conviction to a fine

Right of appeal

15. If any interested person wishes to question the validity of this Order they may do so by applying to the High Court on the grounds that the Council did not have power to make the Order or to include particular prohibitions or requirements imposed by the Order; or that a requirement under Chapter 2 of the Act was not complied with
16. An application to the High Court must be made within the period of 6 weeks beginning with the date on which the Order is made

Definitions

“alcohol” means spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor, subject to the exemptions set out in s.191 of the Licensing Act 2003

“authorised officer” means a Police Constable, a designated Police Community Support Officer or an officer with delegated authority from the Council to enforce the Order

“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

“restricted area” means any public place in the part of Tunbridge Wells shown edged red on the plan attached at Schedule 1 of this Order

GIVEN under the Common Seal of Tunbridge Wells Borough Council on the 25th day of September 2021

The COMMON SEAL of Tunbridge Wells Borough Council

Was hereunto affixed in the presence of :-

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Schedule 1 - The Restricted Area

