

BURNLEY BOROUGH COUNCIL
ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 PART 4, SECTION 59
THE TOWN CENTRES AND RETAIL AREAS PUBLIC SPACES PROTECTION ORDER

1) Purpose

Burnley Borough Council in exercise of the power under section 59 of The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act), being satisfied that the conditions set out in section 59 of the Act have been met, makes the following order:

Burnley Borough Council (referred to hereafter as "the Council") hereby make the following Public Spaces Protection Order (referred to hereafter as the "PSPO") that applies to any place to which the public have access within the area shown and edged black on the plan annexed to this order (the Prohibition Area) unless otherwise specified.

THE Order is made because the Council is satisfied on reasonable grounds that there are a number of activities, carried out or are likely to be carried out in a public space namely the area within The Town Centres (the Prohibition Area) that have had, or are likely to have, a detrimental effect on the quality of life of those in the locality. The effect or likely effect of these activities justifies the restrictions imposed in this order.

2) Prohibited Activities

a) Begging on the Street.

No person shall, whilst within the Prohibition Area, place themselves in a position that implies they are begging for money or attempting to solicit in a manner that is intimidating or obstructive and includes (but not limited to) repeated requests for money, following a person, placing themselves around cash machines, shop entrances or car park ticket and payment machines, intentionally hindering or obstructing the free passage of a person

b) Behaviour having a detrimental impact on the lives of others

No person shall loiter within the Prohibition Area if they are causing, or reasonably perceived to be causing, nuisance, intimidation, harassment, alarm or distress, or using or dealing drugs, directly or indirectly causing damage or other anti-social behaviour that is having a detrimental effect on the lives of those in the locality.

c) Those under 16 in the area 11pm - 5am

Any person in the Prohibition Area between the hours of 11pm and 5am, being unable to provide evidence that they are over the age of 16, must be accompanied by a responsible adult. If unaccompanied that person must leave the Prohibition Area immediately after being required to do so by an Authorised Officer, that direction made in the reasonable belief that such a direction is necessary to prevent public nuisance or disorder unless their place of residence is within the Prohibition Area, in which case they must return there.

d) Those under 14 in the area 9pm - 5am

Any person in the Prohibition Area between the hours of 9pm and 5am, being unable to provide evidence that they are over the age of 14, must be accompanied by a responsible adult. If unaccompanied that person must leave the Prohibition Area immediately after being directed to do so by an Authorised Officer that direction given in the reasonable belief that such a direction is necessary to prevent public nuisance or disorder, unless their place of residence is within the Prohibition Area, in which case they must return there

e) street harassment

No person shall direct verbal or physical attention, including attention of a sexual nature, at or towards a person or group of persons where that attention is likely to cause a person or persons present harassment, alarm or distress or is likely to undermine their sense of safety in a public place. Such attention includes – but is not limited to: • Unsolicited sexualised or obscene comments, propositions or gestures • Persistent questioning • Following someone • Sexist, homophobic or transphobic slurs • Flashing or exposing intimate body parts • Non-consensual physical contact • Whistling or catcalling

f) Misuse of skateboards, bicycles and scooters.

No person shall, at any time, use a skateboard, bicycle, scooter or similar wheeled conveyance in a manner that they know, or ought to know, will cause alarm, harassment or distress to others nearby.

g) People urinating or defecating in a public place.

No person shall urinate or defecate in a public place (other than publicly accessible toilets).

h) Unsolicited charity collection and face to face sales.

No person shall engage in or knowingly cause or permit the collection of or soliciting of money (whether by way of immediate payment, seeking a direct debit authority or standing order, or the selling of goods for charitable purpose) whilst within the Prohibition Area unless they have complied with the Burnley Council Collections and face to face Sales Code of conduct

i) Street trading

No person shall engage in peddling or trading goods whilst within the Prohibition Area unless they comply with the Burnley Council Collections and Face to Face Sales Code of Conduct.

j) Busking

No person shall busk within the Prohibition Area unless they comply with the Burnley Town Centre Busking Code of Conduct.

k) Consumption of alcohol on the street

No person shall, whilst within the Prohibition Area, consume alcohol or have an open alcohol container after having been requested by an Authorised Officer to cease consumption or surrender

(hand over) the container in the reasonable belief that such a request is necessary to prevent public nuisance or disorder, unless the consumption of alcohol is on premises or in public spaces licensed under the Licensing Act 2003, or where the consumption of alcohol is authorised pursuant to section 115E Highways Act 1980. A constable or an authorised person may dispose of anything surrendered (namely alcohol or anything reasonably believed to be alcohol) in whatever way he or she thinks appropriate.

l) Intoxicating Substances

No person shall, whilst within the Prohibition Area, ingest, inhale, inject, smoke or otherwise use intoxicating substances. An exemption will apply in cases where the Intoxicating Substance is being used for valid and demonstrable medical use, given to an animal as a medical remedy, are legitimate tobacco products or vaporisers or are food stuffs regulated by food health and safety legislation.

m) Use of Amplifiers

No person shall continue to use a loudspeaker or amplification by electronic means on the public highway within the Prohibition Area after having been requested by an Authorised Officer to cease from doing so.

n) Placement of street furniture

No person or business shall place an A-board, pavement sign, street furniture (including tables and chairs) in a place that could obstruct pedestrians from moving in a straight line along the pavements and pedestrianised areas within the Prohibition Area, unless they have authorisation from the Council.

o) Feeding Pigeons and vermin

No person shall deposit or throw down feed or food items (including but not limited to seeds, breads, grains and pastry) which is edible to wild birds and vermin whilst within the Prohibition Area.

3) Definitions

- a) "Authorised Officer" means a Police Constable, a Police Community Support Officer or
 - (a) any employee of the Council;
 - (b) any person by whom, in pursuance of arrangements made with the Council, any functions under this Act fall to be discharged; or
 - (c) any employee of any such person, who is authorised in writing by the council
- b) "Scooter" means a conveyance consisting of a footboard mounted on wheels and a long steering handle, propelled by resting one foot on the footboard and pushing the other against the ground or by electric motor, or any other variation of the same designed or adapted for a similar purpose, whether having a handle or otherwise.
- c) "Alcohol" has the meaning given by section 191 Licensing Act 2003

- d) "Intoxicating substances" means any substance with the ability to stimulate or depress the central nervous system
- e) "Responsible adult" means a parent, a step-parent, a guardian, a social worker or an adult who has parental rights, duties and responsibilities over the child.
- f) "Plan" means the plan annexed to this order in the Schedule
- g) "loiter" refers to the act of lingering or hanging around in a public place without a clear purpose or reason
- h) "Busk" means to sing, play music or perform for monetary donations

4) What happens if you fail to comply with this order?

a) Pursuant to section 67 of the Act any person who, without reasonable excuse, fails to comply with the requirements of this PSPO commits an offence and shall be liable, on summary conviction, to a fine currently not exceeding level 3 on the standard scale or to a Fixed Penalty Notice for an amount determined by the Council (currently £75)

b) Pursuant to section 63 of the Act a person found in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an Authorised Person is liable on summary conviction to a fine currently not exceeding level 2 on the standard scale or to a Fixed Penalty Notice for an amount determined by the council (currently £75)

The Authorised Officer may decide that a Fixed Penalty Notice is an appropriate way of dealing with any breach. If issued an appropriate payment would discharge any liability to prosecution for the offence. However, if payment is not made Court proceedings may be initiated for the offence of failing to comply with the Order.

c) If an Authorised Officer proposes to give a person a notice under this Public Spaces Protection Order, the Officer may require the person to give them their name and address.

A person commits an offence if —

- (a) they fail to give their name and address when required to do so, or
- (b) they give a false or inaccurate name or address in response to a requirement under that subsection.

A person guilty of an offence under subsection (4c) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

d) Any person directed to leave the Prohibition Area by a Police Officer, Police Community Support Officer or any Authorised Officer, shall do so and not return within a specified period of up to 48 hours. Such a direction may be given where the Authorised Officer is satisfied that the person concerned has breached this Order by engaging in a prohibited activity as identified in paragraph 2 of this Order.

A person commits an offence if, having been requested to leave the area, they fail to do so.

A person guilty of an offence under subsection (4d) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

e) An individual will not breach paragraph 4(d), if he attends a railway station or bus-stop within the Prohibition Area for the purpose of taking public transport out of the Prohibition Area, so long as he is not accompanied by any other person who has also been required to leave the Prohibition Area (except for a dependent person).

Right to challenge the validity of this order

An interested person may apply to the High Court to question the validity of this order. An interested person is someone who lives in, regularly works in, or visits the restricted area. An application must be made within the period of 6 weeks beginning with the date on which the Order is made.

This right to challenge also exists where an Order is varied by a Council. Interested persons can challenge the validity of a PSPO on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with.

When the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court has the ability to uphold the PSPO, quash it, or vary it.

5) Period for which the order has effect

This Order shall come into force on 3rd March 2025 and remain in place for a period of three years.

THE COMMON SEAL of the COUNCIL
OF THE BOROUGH OF BURNLEY was
hereunto affixed this 3rd day of MARCH,
2025 in the presence of:

Authorised signatory

JEC Janin

Authorised signatory

A. M. Lee



#1401

