

Appendix A: Draft PSPO

Sheffield City Council Public Spaces Protection Order 2024 (City Centre)

This order is made by Sheffield City Council (“the Council”) and shall be known as the Sheffield City Council City Centre Public Spaces Protection Order 2024 (“this Order”).

The Council in exercise of its powers under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 is satisfied on reasonable grounds that the conditions below have been met:

- that activities carried on in a public place within the Council’s area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and that they will have such an effect; and
- the effect, or likely effect, of the 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 Council is satisfied that the prohibitions imposed by this Order are reasonable to impose in order to prevent the detrimental effect of these activities from continuing, occurring, or recurring or to reduce that detrimental effect, or to reduce the risk of its continuance, occurrence, or recurrence.

The Council has had regard to the rights and freedoms set out in the European Convention on Human Rights incorporated into UK legislation under the Human Rights Act 1998. The Council has had particular regard to the rights and freedoms set out in Article 10 (Right to Freedom of expression) and Article 11 (Right to freedom of assembly) of the European Convention on Human Rights and has concluded that any restrictions on such rights and freedoms imposed by this Order are lawful, necessary and proportionate.

PROHIBITIONS	
1	<p>Alcohol on the streets:</p> <p>No person within the restricted area may consume alcohol and/or be in possession of alcohol or items suspected to be alcohol in a public place, in a manner that is causing or is likely to cause anti-social behaviour.</p> <p>Prohibitions and requirements relating to alcohol contained in this Order do not apply to premises authorised to be used for the supply of alcohol under the Licensing Act 2003, a place within the curtilage of such premises, or to premises or places otherwise exempt from the operation of this Public Spaces Protection Order by section 62 of the Anti-social Behaviour, Crime and Policing Act 2014.</p> <p>REQUIREMENTS</p> <p>Where a constable or an authorised officer reasonably believes that a person is or has been consuming alcohol or intends to consume alcohol in breach of this Order the person must when required to do so by the constable or authorised officer:</p> <p>(a) stop consuming alcohol or anything which the constable or authorised officer reasonably believes to be alcohol.</p> <p>(b) surrender anything in their possession which is, or which the constable or authorised officer reasonably believes to be alcohol or a container for alcohol (to the relevant constable or authorised officer).</p>
2	<p>Begging:</p> <p>No person within the restricted area shall make verbal, non-verbal, or written request(s) for money, donations or goods including the placing of hats, clothing, signage, or containers, in a manner that causes or is likely to cause harassment, alarm or distress to any person.</p>
3	<p>Loitering:</p> <p>No person within the restricted area shall loiter, in any temporary structure, in or adjacent to doorways, cash machines, banks or supermarkets in a manner that causes or is likely to cause harassment, alarm or distress to any person.</p>
4.	<p>Drug Use:</p> <p>No person within the restricted area will ingest, inhale, inject, smoke, or otherwise use a psychoactive substance (as defined in the Psychoactive Substances Act 2016 section 2 paragraph 1).</p> <p>REQUIREMENTS</p> <p>Where a constable or an authorised officer reasonably believes that a person is or has been using a psychoactive substance or intends to use a psychoactive</p>

	<p>substance in breach of this Order, the person must when required to do so by the constable or authorised officer:</p> <p>(a) stop using the psychoactive substance or anything which the constable or authorised officer reasonably believes to be a psychoactive substance.</p> <p>(b) Surrender anything in their possession which is, or which the constable or authorised officer reasonably believes to be a psychoactive substance, or which will be used in connection with taking psychoactive substances (to the relevant constable or authorised officer).</p>
5.	<p>Urination and/or defecation:</p> <p>No person within the restricted area will urinate and/or defecate in any public place (this does not include public toilets).</p>

6.	<p>ADDITIONAL REQUIREMENTS RELATING TO ALL PROHIBITIONS</p> <p>For the purposes of enforcing the provisions of this Order any person who a constable or an authorised officer reasonably believes has breached a restriction under Prohibitions 1 to 5 of this Order, shall when required to do so by the constable or authorised officer:</p> <p>(a) Provide their full name, address and date of birth to the officer. Any such request may be made either verbally or in writing and may stipulate the time within which such information should be provided to the constable or authorised officer. If any person having been asked to provide their details knowingly gives false, inaccurate or misleading information to the constable or authorised officer requesting that information, that person shall be deemed to have failed to comply with those requirements.</p> <p>(b) Leave and not return to the restricted area, without reasonable excuse, for a period of 24 hours. Where a person has a known or identifiable reasonable excuse for having to visit or enter the restricted area during the 24 hour period specified this should be identified and explained to the constable or authorised officer so that any such activity or requirement can be expressly permitted during this 24 hour period and can be excluded from the direction imposed.</p>
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Additional notes and definitions for the purpose of the Order

- i) **Alcohol** – has the meaning given to it under section 191 of the Licensing Act 2003. This is set out in full at Schedule 2.
- ii) **Authorised Officer** – means an ‘authorised person’ as defined under section 68(11) of the Anti-social Behaviour, Crime and Policing Act 2014 namely ‘*a person authorised for the purposes of this section by the local authority that made the order (or authorised by virtue of section 69(2)).*’
- iii) **Constable** – means constable as referred to under the Anti-social Behaviour, Crime and Policing Act 2014 and includes a Police Community Support Officer.
- iv) **The Council** – means Sheffield City Council.
- v) **Premises** – has the meaning given to it under section 193 of the Licensing Act 2003 and ‘*means any place and includes a vehicle, vessel or moveable structure.*’
- vi) **Psychoactive substance** - has the meaning given to it under section 2 paragraph 1 of the Psychoactive Substances Act 2016 subject to the exemptions set out at section 3 and schedule 1 of this Act. These sections of the Psychoactive Substances Act 2016 are detailed in full at Schedule 3.
- vii) **Public place** – has the meaning given to it under section 74(1) of the Anti-social Behaviour, Crime and Policing Act 2014 and 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.
- viii) **Section 62 of the Anti-social Behaviour, Crime and Policing Act 2014** - details the exemptions to the alcohol prohibition under a PSPO and is detailed in full at Schedule 4.

AREA COVERED BY THIS ORDER – (“THE RESTRICTED AREA”)

This Order applies to a public place within the authority’s area. The public place is delineated by the black line on the plan attached at Schedule 1 (“the restricted area”).

PERIOD FOR WHICH THIS ORDER HAS EFFECT

The effect of this Order is to impose the prohibitions and requirements detailed herein, at all times, save where specified exemptions apply.

This Order will come into force on the **XXX** and will expire at midnight on the **XXX**.

At any point before the expiry of this three year period the Council can extend the Order by up to three years if they are satisfied on reasonable grounds that this is necessary to prevent the activities identified in the Order from occurring or recurring or to prevent an increase in the frequency or seriousness of those activities after that time. The Council may extend this Order more than once.

In accordance with the requirements of section 61 of the Anti-social Behaviour, Crime and Policing Act 2014 the Council also has the power to vary the Order at any point whilst it is in force (a) by increasing or reducing the restricted area; or (b) by altering or removing a prohibition requirement included in the Order, or adding a new one.

FAILURE TO COMPLY WITH THIS ORDER

Section 67 of the Anti-social Behaviour Crime and Policing Act 2014 ("2014 Act") states that it is a criminal offence for a person without reasonable excuse – (a) to do anything that the person is prohibited from doing by a public spaces protection order, or (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order. A person guilty of an offence under section 67 is liable on conviction in a Magistrates' Court to a fine not exceeding level 3 on the standard scale.

Consuming alcohol in breach of a public spaces protection order is not an offence under section 67 of the 2014 Act but is covered under the provisions of section 63 of the 2014 Act.

Section 63 of the 2014 Act states that it is a criminal offence under section 63(6) for a person without reasonable excuse to fail to comply with a requirement imposed on him or her under subsection 63(2) of the 2014 Act by a constable or authorised officer.

Under section 63(2) where a constable or authorised officer reasonably believes that a person is, has been or intends to consume alcohol in breach of a prohibition in a public spaces protection order the constable or authorised officer may require the person – (a) not to consume, in breach of the order, alcohol or anything which the constable or authorised person reasonably believes to be alcohol; (b) to surrender anything in the persons possession which is, or which the constable or authorised officer reasonably believes to be, alcohol or a container for alcohol.

In relation to Prohibition 1 of this Order an offence under section 63(6) of the 2014 Act is only committed if any person without reasonable excuse fails to comply with the requirements detailed under this Prohibition.

A person guilty of an offence under section 63(6) of the 2014 Act is liable on conviction in a Magistrates' Court to a fine not exceeding level 2 on the standard scale.

FIXED PENALTY

In accordance with section 68 of the 2014 Act a constable or an authorised officer may issue a fixed penalty notice of up to £100 to anyone s/he believes has committed an offence under sections 63 or 67 of the 2014 Act in relation to a public spaces protection order. You will have 14 days to pay the fixed penalty. A fixed penalty notice is a notice offering a person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the local authority specified in the notice. If you pay the fixed penalty within the 14 days you will not be prosecuted.

APPEALS

In accordance with section 66 of the 2014 Act 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 an individual 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 variation, or to include particular prohibitions or requirements; or that one of the requirements of the legislation under Part 4, Chapter 2 of the 2014 Act has not been complied with. When an application is made, the High Court can decide to suspend the operation of the Order or variation 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.

GIVEN under the common seal of

the Sheffield City Council

On the day of 2024

THE COMMON SEAL of

The Sheffield City Council

was hereunto affixed to this deed in the presence of:

Signed:

Name:

Position:

SCHEDULE 1 – Proposed Sheffield City Centre Public Spaces Protection Order (“PSPO”) Restricted Area 2024-2027

The area shown below enclosed within the black line on the map identifies the PSPO Restricted Area.



SCHEDULE 2

Licensing Act 2003

Section 191

Meaning of “alcohol”

S191

- (1) In this Act, “alcohol” means spirits, wine, beer, cider or any other fermented distilled or spiritous liquor in any state, but does not include -
- (a) alcohol which is of a strength not exceeding 0.5% at the time of the sale or supply in question,
 - (b) perfume,
 - (c) flavouring essences recognised by the Commissioners of Customs and Excise as not being intended for consumption as or with dutiable alcoholic liquor,
 - (d) the aromatic flavouring essence commonly known as Angostura bitters,
 - (e) alcohol which is, or is included in, a medicinal product or a veterinary medicinal product,
 - (f) denatured alcohol,
 - (g) methyl alcohol,
 - (h) naphtha, or
 - (i) alcohol contained in liqueur confectionery.

(2) In this section—

“*denatured alcohol*” has the same meaning as in section 5 of the Finance Act 1995 (c. 4);

“*dutiable alcoholic liquor*” has the same meaning as in the Alcoholic Liquor Duties Act 1979 (c. 4);

“*liqueur confectionery*” means confectionery which—

- (a) contains alcohol in a proportion not greater than 0.2 litres of alcohol (of a strength not exceeding 57%) per kilogram of the confectionery, and
- (b) either consists of separate pieces weighing not more than 42g or is designed to be broken into such pieces for the purpose of consumption;

“*medicinal product*” has the same meaning as in section 130 of the Medicines Act 1968 (c. 67)

“*strength*” is to be construed in accordance with section 2 of the Alcoholic Liquor Duties Act 1979; and

“*veterinary medicinal product*” has the same meaning as in regulation 2 of the Veterinary Medicines Regulations 2006.

SCHEDULE 3

Psychoactive Substances Act 2016

2.— Meaning of “psychoactive substance” etc

- (1) In this Act “*psychoactive substance*” means any substance which—
- (a) is capable of producing a psychoactive effect in a person who consumes it, and
 - (b) is not an exempted substance (see section 3).

(2) For the purposes of this Act a substance produces a psychoactive effect in a person if, by stimulating or depressing the person’s central nervous system, it affects the person’s mental functioning or emotional state; and references to a substance’s psychoactive effects are to be read accordingly.

(3) For the purposes of this Act a person consumes a substance if the person causes or allows the substance, or fumes given off by the substance, to enter the person’s body in any way.

3.— Exempted substances

- (1) In this Act “*exempted substance*” means a substance listed in Schedule 1.
- (2) The Secretary of State may by regulations amend Schedule 1 in order to—
- (a) add or vary any description of substance;
 - (b) remove any description of substance added under paragraph (a).

(Schedule 1 lists the exempt substances)

Schedule 1

Exempted Substances

1. Controlled drugs (within the meaning of the Misuse of Drugs Act 1971).
2. Medicinal products.

In this paragraph “*medicinal product*” has the same meaning as in the Human Medicines Regulations 2012 (S.I. 2012/1916) (see regulation 2 of those Regulations).

3. Alcohol or alcoholic products.

In this paragraph—

“*alcohol*” means ethyl alcohol, and

“*alcoholic product*” means any product which—

- (a) contains alcohol, and
- (b) does not contain any psychoactive substance.

4. Nicotine.

5. Tobacco products.

In this paragraph “*tobacco product*” means—

(a) anything which is a tobacco product within the meaning of the Tobacco Products Duty Act 1979 (see section 1 of that Act), and

(b) any other product which—

(i) contains nicotine, and

(ii) does not contain any psychoactive substance.

6. Caffeine or caffeine products.

In this paragraph “*caffeine product*” means any product which—

(a) contains caffeine, and

(b) does not contain any psychoactive substance.

7. Any substance which—

(a) is ordinarily consumed as food, and

(b) does not contain a prohibited ingredient.

In this paragraph—

“*enactment*” includes—

(a) an enactment contained in subordinate legislation;

(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;

(c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;

(d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;

“*food*” includes drink;

“*prohibited ingredient*”, in relation to a substance, means any psychoactive substance—

(a) which is not naturally occurring in the substance, and

(b) the use of which in or on food is not authorised by an enactment

SCHEDULE 4

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.

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