

# **Earlswood Public Space Protection Order (PSPO)**

## **Frequently Asked Questions**

### **What is a Public Space Protection Orders (PSPO)?**

A Public Space Protection Order (PSPO) is a power under the Anti-Social Behaviour, Crime and Policing Act 2014. They are intended to allow a Council to deal with a particular nuisance or problem behaviour that is detrimental to the local community's quality of life in a particular area. They allow Councils to impose either restrictions or requirements in that particular area that will apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces safe from anti-social behaviour.

### **Are there time restrictions on a PSPO?**

The conditions of the PSPO will apply all day every day. The PSPO will last for three years and can be extended, amended or discharged following a review.

### **Will there be any extra policing to enforce the PSPO?**

No. The Safer Neighbourhood Team will continue to patrol and respond to incidents as part of their community response. As these powers are in place for any police officer or police community support officer to use there may be key times where more officers patrol the area or operations are run where the power is used.

### **I'm a resident, does the PSPO apply to me?**

Yes. The Order prohibits certain specified behaviour and applies to anyone carrying them out.

## **What are the benefits of a PSPO?**

The main benefits of a PSPO are to help tackle the anti-social behaviours that are highlighted in the Order. They are all aimed at making Earlswood a safer and a more pleasant place to be.

## **What will the PSPO control?**

The PSPO comprises of four key conditions to stop anti-social behaviour. In summary, these are:

### **PART I – PSYCHOACTIVE SUBSTANCES**

1. A person commits an offence if they possess or consume a psychoactive substance.
2. For the purposes of this Part, a “psychoactive substance” has the meaning given in Section 2 of the Psychoactive Substances Act 2016, and a person consumes a psychoactive substance if they cause or allow the substance, or fumes given off by it, to enter their body in any way.

### **PART II – CAR CRUISING**

3. A person commits an offence if they are the driver or passenger of a motor vehicle (including, but not limited to, cars, vans, trucks, motorbikes, quadbikes and mopeds) in circumstances where car cruising takes place.
4. A person commits an offence if they promote, organise or publicise via e-mail, the internet (including social media) or any publication or broadcast, any event at which car cruising will take place in contravention of this Order.

5. A person commits an offence if they attend a car cruising event as a spectator.
6. For the purposes of this Part, car cruising means the use of a motor vehicle in congregation with at least one other motor vehicle and in connection with any of the following activities:
  - (a) speeding;
  - (b) racing;
  - (c) driving in a convoy;
  - (d) performing stunts;
  - (e) sounding horns;
  - (f) playing music;
  - (g) using foul or abusive language;
  - (h) using threatening or intimidating behaviour towards another person;
  - (i) causing obstruction on a highway or in a publically accessible place (whether moving or stationary);
  - (j) excessively revving an engine; or
  - (k) carrying out any other activity which a reasonable person would consider to constitute participation in a car cruising event,

provided such activity is carried out in a manner causing, or calculated to, or likely to cause excessive noise, or increased danger or risk of injury to road users (including pedestrians), damage or risk of damage to property, risk of harm, nuisance or annoyance to others in the locality.

### **PART III – LOITERING**

7. A person commits an offence if they are loitering and causing, or are reasonably perceived to be causing (or likely to cause), intimidation, harassment, alarm or distress to another person.
8. In circumstances where a constable or an authorised person reasonably believes that a person is loitering in breach of the Order, the constable or authorised person may require that person to cease loitering immediately and leave an area specified by the constable or authorised person.
9. A person who fails without reasonable excuse to comply with a requirement imposed on them under Article 10 (see full order) commits an offence.

### **PART IV – ALCOHOL**

12. A person commits an offence if they fail to cease drinking alcohol or to surrender the alcohol when directed by a constable or authorised person.
13. Nothing in Article 12 applies to alcohol consumed on –
  - (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 for the supply of alcohol;
  - (c) a place within the curtilage of premises within paragraph (a) or
  - (d) premises which, by virtue of Part 5 of the Licensing Act 2003 (temporary event notices, etc.), 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; or

(f) Council-operated licensed premises when the premises are being used for the supply of alcohol or within 30 minutes after the end of a period during which the premises have been used for the supply of alcohol.

14. In circumstances where a constable or an authorised person reasonably believe that a person is consuming, has consumed, or intends to consume alcohol in breach of the Order, the constable or authorised person may require that person –

(a) not to consume, in breach of the Order, alcohol or anything which the constable or authorised person reasonably believe to be alcohol, and / or

(b) to surrender anything in their possession which is, or which the constable or authorised person reasonably believe to be, alcohol or a container for alcohol.

15. A constable or authorised person imposing a requirement under Article 14 must tell the person subject to the requirement that failing without reasonable excuse to comply with the requirement is an offence.

16. A requirement imposed by an authorised person under Article 14 is not valid if the authorised person fails to show evidence of their authorisation on request to the person who is subject to the requirement.

17. A constable or an authorised person may dispose of anything surrendered under Article 14 in whatever way they think appropriate.

18. A person who fails without reasonable excuse to comply with a requirement imposed on them under Article 14 commits an offence.

The full Order can be found online at - :

<https://www.stratford.gov.uk/crime-nuisance/public-space-protection-order.cfm>

### **What are the penalties for breaching the PSPO?**

A person who is guilty of an offence under Part I, Part II or Part III above shall on summary conviction be liable to a fine not exceeding level 3 on the standard scale (£1000).

A person who is guilty of an offence under Part IV above shall on summary conviction be liable to a fine not exceeding level 2 on the standard scale (£500).

A constable or an authorised person may issue a fixed penalty notice to anyone he has reason to believe has committed an offence under this Order, and where that fixed penalty is paid that person shall not be liable to conviction for the offence.

The penalty specified in a fixed penalty notice shall be no more than £100, or such lower amount as may be specified in the fixed penalty notice.

### **What is an “authorised officer”?**

An authorised person shall be a Police Constable, Police Community Support Officer or a designated Stratford-on-Avon District Council Officer who can enforce the conditions on the order. At present no Stratford-on-Avon District Council officers are delegated as authorised officers.

## **Will the PSPO stop me from having an alcoholic drink with a family picnic?**

No, the aim of the PSPO is to stop anyone who is committing anti-social behaviour through drinking alcohol. If someone is having a glass of wine with a picnic and this is not causing any anti-social behaviour then they will not be affected by this order.

## **Would people still be able to drink and hold bottles in public?**

Yes. The PSPO does not make it illegal to drink alcohol in a public place, however, if a person was to drink beyond the legal boundary of a licensed premise and they cause anti-social behaviour and do not stop drinking or hand over alcohol when asked to do so by a police officer or other authorised officer then they would be committing an offence under the PSPO.

## **Are licensed premises affected?**

No, the order states that licensed premises are not affected. For full details see the Order on the website.

## **What about street parties and events in parks?**

Events within a public place authorised by a license (or a Temporary Event Notice) will be excluded from the PSPO powers.

The PSPO is not an outright ban on drinking in a public place. It is not an offence to consume alcohol in a public place; the offence is failing to comply with an officer's request to stop drinking or to handover alcohol. Police may engage with you if they believe you are consuming alcohol and causing anti-social behaviour. As a result they may then make a request to stop drinking or to handover alcohol.

## **Will there be signs in Earlswood alerting people to the PSPO?**

Yes. Signs will be located in and around key public places within the designated area, they will also be placed around key routes into the designated area to signify that there is a PSPO in operation.

## **What happens if a person cannot afford to pay the fine associated with the new PSPO?**

It is helpful to understand that a Fixed Penalty Notice (FPN) is not a fine. Only the Courts have powers to fine and issue sanctions following a conviction. A FPN is a tool that can be used in certain circumstances where an individual accepts that they have 'broken the law' but does not wish to be summoned to court and would rather pay a sum of money to discharge their liability for a criminal conviction.

If an individual either has no money to pay or felt that they were innocent, then they could then appear in front of a Magistrate and plead their case. If they were found guilty then it would be up to the Courts to impose a sanction, and they would take into account their ability to pay.

## **What if someone who breaches the order is vulnerable?**

Guidance will be provided to officers who enforce the order about support and referrals that can be made should they come across individuals who are vulnerable.

## **I've received a FPN but want to appeal it?**

There are no formal grounds of appeal against an FPN, as it is an invitation to expel your liability to be summonsed to court for

prosecution. While this is not an admission of guilt, you agree that an offence has been committed and by paying the sum of money specified no further action will be undertaken by the council. Dealing with it in this manner saves the time for everyone (including the offender) in prosecuting cases at court, and costs associated to FPN's are a lot lower than any fine imposed by the courts. If you do not agree that you committed the offence for which you received the FPN then the matter will be dealt with through formal prosecution via the courts. It will then be up to the court, on receiving evidence, to determine whether or not an offence was committed and therefore whether or not any penalty should be imposed. Effectively this means that the formal court route becomes the mechanism for those wishing to appeal an FPN.

### **Where can I find out more information about the order and the law?**

The legislation relating to PSPO is contained in Sections 59 to 75 of the Anti-social Behaviour, Crime and Policing Act 2014.

You can find more information about the Earlswood PSPO from the website: <https://www.stratford.gov.uk/crime-nuisance/public-space-protection-order.cfm>

### **I have expressed concerns over other behaviours, why are they not included in the Order?**

A number of other concerns were raised throughout the consultation phase, such as use of fireworks around the lakes/illegal drug dealing/taking.

Fireworks were not included, as there is legislation in place under the Firework Act of 1993 that states a breach of this act is a criminal offence and offenders can receive a fine of up to £5,000 or a prison

sentence up to 6 months. Police already have the necessary powers to enforce this.

In addition illegal drug dealing/taking is covered by a wide range of legislation currently available to police therefore they do not need additional powers in the PSPO to tackle this behaviour.

If you are affected by any negative behaviours in Earlswood please continue to report to the appropriate agencies listed below.

### **Who do we report any concerns about parking/littering/drugs/ASB to?**

Parking (double yellow) contraventions in Warwickshire can be reported via the WCC portal:

<https://www.warwickshire.gov.uk/contraveningparkingrestrictions>

You can also report littering and fly tipping on Stratford District Council land at:

<https://www.stratford.gov.uk/environment/environmental-crime-and-anti-social-behaviour.cfm>

If a parked vehicle is causing a live obstruction call the Police via 101.

Please report any criminal/anti-social behaviour to the Police on 101 or 999 in an emergency.

### **What if I've got a question that has not been answered?**

You can get in touch with Stratford-on-Avon District Council's Anti-Social Behaviour Team on Email at [Community.Safety@Stratford-dc.gov.uk](mailto:Community.Safety@Stratford-dc.gov.uk) or by calling 01789 267575.