



BRIEFING PAPER

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Alcohol: drinking in the street

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Summary

There is no general prohibition on drinking in the street but certain offences relating to alcohol may be committed in public places.¹

Councils can use public spaces protection orders to restrict the consumption of alcohol in a public space where it is associated with anti-social behaviour. It is an offence to fail to comply with a request to stop drinking or to surrender alcohol in a controlled drinking area.

The police can disperse individuals engaged in anti-social behaviour where alcohol is a factor. It is an offence to fail to comply with a direction to leave an area.

Other offences include being drunk and disorderly in a public place and being drunk in any highway or other public place.

This Paper refers to the law in England and Wales.

¹ Generally, the term “public place” is taken to mean “any place to which the public have access, whether on payment or otherwise” (*Licensing Act 1872* s8 and subsequent Licensing Acts)

1. Public spaces protection orders

Public spaces protection orders (PSPOs) are designed to deal with a particular nuisance in a particular area by imposing conditions on the use of that area. They were introduced through the *Anti-social Behaviour, Crime and Policing Act 2014* and came into effect in October 2014.²

Councils are responsible for making PSPOs and can do so on any public space. Before making a PSPO, a council must be satisfied, on “reasonable grounds”, that the behaviour to be restricted:

- is having, or is likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.³

A PSPO can be used to restrict the consumption of alcohol in a public space where the above conditions have been met.⁴

A PSPO cannot be used to restrict the consumption of alcohol where a premises is licensed for the supply of alcohol - [licensing law](#) already includes safeguards against premises becoming associated with nuisance and anti-social behaviour.⁵

It is not an offence to drink alcohol in a controlled drinking area. However, it is an offence to fail to comply with a request to cease drinking or to surrender alcohol in the area. This is liable on summary conviction to a fine not exceeding level 2 on the standard scale.⁶

Further detail on PSPOs is available in section 2.5 of Home Office [guidance](#) (updated August 2019) on the 2014 Act.

² PSPOs replaced designated public place orders; for background see section 8.2 of Library research paper 13/34, [Anti-social Behaviour, Crime and Policing Bill](#), June 2013

³ Home Office, [Anti-social Behaviour, Crime and Policing Act 2014: anti-social behaviour powers -statutory guidance for frontline professionals](#), Updated August 2019, p49

⁴ Ibid, p54

⁵ Ibid, p54

⁶ Ibid, p55

2. Police dispersal powers

The *Anti-social Behaviour, Crime and Policing Act 2014* introduced a dispersal power enabling the police to disperse anti-social individuals in public places.⁷ The power can apply to individuals engaged in anti-social behaviour where alcohol is a factor.

The use of the dispersal power must be authorised by an officer of at least the rank of inspector. In order to use the power, two conditions have to be met:

1. the officer must have reasonable grounds to suspect that the behaviour of a person has contributed, or is likely to contribute, to:
 - members of the public in the locality being harassed, alarmed or distressed; or
 - crime and disorder occurring in the locality
2. the officer considers that giving a direction to the person is necessary for the purpose of removing or reducing the likelihood of anti-social behaviour, crime or disorder.⁸

The test includes behaviour that is likely to cause harassment, alarm or distress, allowing the dispersal to be used as a preventative measure.

A written notice must be given, unless this is not practicable, specifying the locality to which the direction relates and for how long the person must leave the area. Requirements can also be imposed as to the time by which the person must leave the area and the route they must take. The officer must tell the person that failure to comply is an offence.⁹

The police officer can require items associated with the behaviour of the person to be handed over (e.g. alcohol). It is an offence not to hand over an item if asked to do so.

Failure to comply with the direction is a summary only criminal offence which will be dealt with in the magistrates' court or youth court for people under the age of 18. On conviction it carries a maximum penalty of a level 4 fine and/or three months imprisonment, although those people under the age of 18 cannot be imprisoned. Failure to surrender items is also a criminal offence with a maximum penalty of a level 2 fine.¹⁰

Further detail on the dispersal power is available in section 2.3 of the Home Office [guidance](#).

⁷ The dispersal power replaces those available under s27 of the *Violent Crime Reduction Act 2006*; for background see section 7 of Library research paper 13/34, [Anti-social Behaviour, Crime and Policing Bill](#), June 2013

⁸ Home Office, [Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers -Statutory guidance for frontline professionals](#), Updated August 2019, p33

⁹ Ibid, p36

¹⁰ Ibid, p37

3. Other offences in public places

It is an offence to be drunk and disorderly in a public place.¹¹ The maximum penalty is a level 3 fine on the standard scale.

It is an offence to be drunk in any highway or other public place.¹² The maximum penalty is a level 1 fine on the standard scale.

4. Offences involving children and young persons

Under the [Confiscation of Alcohol \(Young Persons\) Act 1997](#), a constable may seize and dispose of alcohol where they “reasonably suspect” that a person in a “relevant place” is in possession of alcohol and where:

- he is under the age of 18; or
- he intends that any of the alcohol in his possession should be consumed by a person under the age of 18 in that or any other “relevant place”; or
- a person under the age of 18 who is, or has recently been, with him has recently consumed alcohol in that or any other relevant place.¹³

“Relevant place” means:

- any public place, other than licensed premises; or
- any place, other than a public place, to which the person has unlawfully gained access.¹⁴

Failure to comply is an offence and there is a power of arrest. The maximum penalty is a level 2 fine on the standard scale.

5. Penalty notices for disorder

Since the implementation of the *Criminal Justice and Police Act 2001*,¹⁵ fixed penalty notices have been available for some alcohol-related offences. If the penalty is paid, this discharges the liability for conviction. Otherwise, the person can elect to go to court. Offences that can be discharged with a £90 fixed penalty notice include that of being drunk and disorderly in a public place. Offences that can be discharged with a £60 penalty include that of being drunk on a highway or other public place. The Ministry of Justice has issued [guidance](#) (June 2014) on penalty notices for disorder.

¹¹ *Criminal Justice Act 1967*, s91

¹² *Licensing Act 1872*, s12

¹³ *Confiscation of Alcohol (Young Persons) Act 1997*, s1

¹⁴ *Confiscation of Alcohol (Young Persons) Act 1997*, s1(7)

¹⁵ *Criminal Justice and Police Act 2001*, ss1-11

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