

**IN THE MATTER OF BLACKPOOL BOROUGH COUNCIL**

**AND A**

**PUBLIC SPACES PROTECTION ORDER**

***DRAFT ORDER***

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**Definitions**

1. For the purposes of this Order, the following definitions will apply:
  - ‘Alcohol’ has the meaning given by section 191 of the Licensing Act 2003;
  - ‘Authorised person’ means a constable, a police community support officer or a person authorised in writing by Blackpool Council; and
  - ‘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.
  
2. Upon considering all the information provided during a consultation period running from 11<sup>th</sup> June 2015 to 31<sup>st</sup> August 2015, Blackpool Council is satisfied that the following activities are taking place within the restricted area (the Land outlined in red on the attached map in Schedule 1):
  - Consumption of alcohol in a public place (So-called ‘Street Drinking’);
  - So-called ‘Rag Mag’ sales / Purporting to be Collecting for a Charitable Cause;
  - The sale of Lucky Charms and Heather;
  - The Use of Psychoactive Substances (known as ‘legal highs’);
  - The act of Loitering around Cash Machines/Shop Entrances as a means of appropriating monies (i.e. an extension of begging); and
  - The act of Engaging Youths in Card Tricks as a means of appropriating monies;

3. Blackpool Council is further satisfied that the activities referred to in paragraph 2 above are having or are likely to have a detrimental effect on the quality of life of those in the locality and it therefore makes a Public Spaces Protection Order, the terms of which are explained below.

*Prohibited and Required Activities*

4. Unless otherwise stated, the prohibitions and requirements detailed in parts A to F below shall apply at all times of the day and all days of the week throughout any calendar year throughout the entirety of the restricted area.

A – Drinking in a public place

5. All persons are prohibited from drinking alcohol in any public place located within the restricted area. This provision does not apply to alcohol being consumed within premises licensed for the sale of alcohol for consumption on the premises under the Licensing Act 2003 or with a Street Café Licence under s115E of the Highways Act 1980.
6. Where an authorised person reasonably believes that a person is consuming alcohol or has been consuming alcohol in breach of this Order; or where an authorised person reasonably believes that a person intends to consume alcohol in circumstances which would be a breach of this Order, then the authorised person can take the following steps:
  - a) To prohibit the person from consuming alcohol or anything which the authorised person reasonably believes is an alcoholic beverage in breach of this Order; and
  - b) To require that the person must surrender any alcohol, or anything which the authorised person reasonably believes to be alcohol, that is in the person's possession, including a container for alcohol.

#### B – So-called ‘Rag Mag’ sales

7. All persons are prohibited from selling, offering to sell, exposing for sale (or asking for a donation) any publication, unless:
  - a) They are a registered newspaper seller;
  - b) They are an authorised seller of the ‘The Big Issue’; or
  - c) They have prior written authorisation from Blackpool Council.

#### C – Sale of Lucky Charms and Heather

8. All persons are prohibited from selling, offering to sell, exposing for sale (or asking for a donation) any lucky charms, lucky heather or any other article purporting to bring good luck.

#### D – Psychoactive substances (so-called ‘Legal Highs’)

9. All persons are prohibited from ingesting, inhaling, injecting or smoking any substance which has the capacity to stimulate or depress the central nervous system.
10. This prohibition does not apply where:
  - a) The substance is used for a valid and demonstrable medicinal purpose;
  - b) The substance is given to an animal as a medicinal remedy;
  - c) The substance is a cigarette (tobacco) or vaporiser; or
  - d) The substance is a food product regulated by food, health and safety legislation.

### E - Loitering Around Cash Machines/Shop Entrances

11. All persons are prohibited from loitering around Cash Machines and shop entrances for the purposes of begging. For the purposes of this prohibition, loitering means ‘standing or waiting around without apparent purpose’. Begging is not limited to approaching people and/or asking for money, or placing a receptacle for donations.

### F – Participating in or engaging others in Card Tricks

12. All persons are prohibited from participating in, or engaging youths or other persons in, any card tricks or similar activities for the purposes of gaining monies or other consideration.

### *Penalties for Non-Compliance*

#### Offences

13. If, without reasonable excuse, a person is found to be in breach any of the prohibitions or requirements in respect of activities B-F above, they will commit a criminal offence for which the maximum penalty upon summary conviction is a fine not exceeding level 3 on the standard scale.
14. In respect of activity A above, namely the consumption of alcohol in a public place, whilst it is not an offence in the same way as activities B-F, it is an offence if a person fails, without any reasonable excuse, to comply with an authorised person’s request as per paragraph 6 (a) and (b) above. An authorised person who imposes a requirement under paragraph 6 (a) or 6 (b) must tell the person that failing without reasonable excuse to comply with the requirement is an offence.

15. In the event of such a failure, a person will commit a criminal offence for which the maximum penalty upon summary conviction is a fine not exceeding level 2 on the standard scale.

#### Fixed Penalties

16. An authorised person may issue a fixed penalty notice (FPN) of up to £100 to anyone he or she has reason to believe has committed an offence as described in paragraphs 5 - 12 above.

17. A FPN is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority specified in the notice.

18. Where a person is issued with a notice under this section in respect of an offence:

- a) no proceedings may be taken for the offence before the end of the period of 14 days following the date of the notice; and
- b) the person may not be convicted of the offence if the person pays the fixed penalty before the end of that period.

19. A FPN will give reasonably detailed particulars of the circumstances alleged to constitute the offence; it will state the period during which proceedings will not be taken for the offence; it will specify the amount of the fixed penalty; it will state the name and address of the person to whom the fixed penalty may be paid and specify the permissible methods of payment.

20. This Order shall come into effect on 1<sup>st</sup> November 2015

21. This Order shall have effect for a period of 3 years

## *Schedules*

1. Map of restricted area