

# WESTMORLAND AND FURNESS COUNCIL

## PUBLIC SPACES PROTECTION ORDER 2024 NO.003

### ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

Westmorland and Furness Council (“the Council”) in the exercise of its powers under section 59 of the Anti-social behaviour, Crime and Policing Act 2014 (“the Act”), hereby makes the following Order:-

*15<sup>th</sup> November 2024*

**THIS ORDER** is made on the <sup>^</sup> and shall effect for a period of 3 years thereafter, unless discharged or extended under the Council’s statutory powers.

#### 1. General Provisions

1.1 The Council is satisfied on reasonable grounds that the activities identified in this Order:

1.1.1 have had a detrimental effect, or likely to have a detrimental effect on the quality of life of those in the locality, or it is likely that those activities will be carried on in the Restricted Areas and that they will have such an effect; and

that the effect, or likely effect, of those activities:

1.1.2 is, or is likely to be, of a persistent or continuing nature;

1.1.3 is, or is likely to be, such as to make those activities unreasonable; and

1.1.4 justifies the restriction and prohibitions imposed by this Order.

1.2 The Council is satisfied that the prohibitions and restrictions imposed by this Order are reasonable to impose in order to prevent the detrimental effect of the activities from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

**THIS ORDER** applies to the public areas described in the Schedule to this Order (“the Restricted Areas”).

#### 2. Activity

##### 2.1 ALCOHOL CONSUMPTION

2.1.1 It is an offence for anyone who, without reasonable excuse, fails to cease drinking and surrender any alcohol or hand over any containers (sealed or unsealed which are believed to contain alcohol), when required to do so by an Authorised Officer to prevent public disorder in the area

identified in Schedule 1, save for the list of exceptions listed in Section 62 of the Act.

- 2.1.2 An Authorised Officer may intervene when they believe that the consumption of alcohol is or likely to cause harassment, alarm or distress to any other person, harm to the person concerned, or they believe that a person or persons consuming alcohol may be intoxicated or below the legal age for consumption of alcohol.

## **2.2 ANTI-SOCIAL BEHAVIOUR**

- 2.2.1 Challenging, threatening and other anti-social behaviour by groups or individuals that, in the opinion of the Authorised Officer, is causing or likely to cause harassment, alarm or distress to a person or persons, or otherwise disturb the peace or prevent the peaceful enjoyment of the area by others, within the area identified in Schedule 1.

## **3. Penalty**

### **3.1 Alcohol Consumption**

- 3.1.1 In accordance with section 63 of the Act, a person found to be in breach of 2.1.1 of this Order, without reasonable excuse, is guilty of an offence and is liable on summary conviction to a fine not exceeding Level 2 on the standard scale.
- 3.1.2 A warning may be issued upon the first instance of a breach. Further breaches may result in the issuing of a Fixed Penalty Notice by an Authorised Officer to anyone they have reason to believe has committed an offence under this Order. If a Fixed Penalty Notice remains unpaid after the time allowed by statute, then the offender may be liable for prosecution.

### **3.2 All Other Breaches**

- 3.2.1 In accordance with section 67 of the Act, a person found to be in breach of 2.2.1 of this Order, without reasonable excuse, is guilty of an offence and is liable on summary conviction to a fine not exceeding Level 3 on the standard scale.
- 3.2.2 An Authorised Officer may issue a Fixed Penalty Notice to anyone they have reason to believe has committed an offence under this Order. If a Fixed Penalty Notice remains unpaid after the time allowed by statute, then the offender may be liable for prosecution.

## **4. Appeal**

- 4.1 Any challenge to this Order must be made to the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or regularly visits the Restricted Areas. 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.
- 4.2 Interested parties can challenge the validity of this Order on two grounds:
- 4.2.1 That the Council did not have the power to make the order or variation, or to include particular prohibitions or requirements; or
  - 4.2.2 That the Council has not complied with one of the requirements of the relevant legislation.
- 4.3 Where an application is made the High Court can decide to suspend the operation of the Order pending the Court's decision, in part or in totality. The High Court has the ability to uphold the order, quash it or vary any of its prohibitions or requirements.

## **5. Supplementary and Definitions**

- 5.1 An Authorised Officer for the purposes of this Order is a Police Constable, Police Community Support Officer, an Officer of the Council or any other person authorised by written authority of Westmorland and Furness Council to enforce Public Space Protection Orders on behalf of the Council.
- 5.2 In order to exercise their powers under this Order and, in particular, paragraph 2.1 above, Authorised Officers may seize and retain any item or material, believed to be evidence of a breach of this Order. They may dispose of any alcohol seized by means of pouring it away, where this is considered necessary and expedient.
- 5.3 Authorised Officers may make such records and take photographs as required, at their discretion, in order to evidence potential breaches of this Order.
- 5.4 An Authorised Officer acting to ensure compliance of this order will show their authorisation to any interested party upon request.
- 5.5 Key factors authorised officers will consider when taking action is where behaviour (or the behaviour of visitors or associates) causes, or attracts anti-social behaviour and/or has a detrimental effect on the quality of life of those in the area.

5.6 Parks and Open Spaces are defined as being those parts of the Restricted Areas as set out on the attached Schedules, that are designated or are historically used as children's play areas, areas designed for the playing of ball games, gardens, plant nurseries, ponds, woodland and other defined areas owned or managed by Westmorland and Furness Council that are designed for the leisure and recreation of residents and visitors.

Dated 15<sup>th</sup> November 2024

The Common Seal of )  
**WESTMORLAND AND FURNESS COUNCIL** )  
is affixed in the presence of )



*P. Smith*  
.....  
~~Chief Legal and Monitoring Officer~~

## RESTRICTED AREAS

### Schedule 1

This Order shall apply to all the land and premises described below:

<b>South Lakeland Area:</b>
Kendal Town Centre
Parks and Open Spaces in Kendal
Bowness-on-Windermere
Windermere
Ambleside
Ulverston
<b>Eden Area:</b>
Penrith Town Centre
Kirkby Stephen
Appleby Town Centre
<b>Barrow Area:</b>
Barrow-in-Furness Town Centre (East and West)
Walney
Hindpool

