

Appendix 3 - Draft Order



Draft Order for Proposed PSPO

London Borough of Hammersmith & Fulham

Community Safety Unit

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The Anti-social Behaviour, Crime and Policing Act 2014

Section 59 Public Spaces Protection Order

London Borough of Hammersmith & Fulham Consumption of Alcohol Public Spaces Protection Order 2023

The Council of the London Borough of Hammersmith & Fulham, in exercise of its powers under sections 59 and 72 of the Anti-social Behaviour, Crime and Policing Act 2014 ("the Act") and all other enabling powers, hereby makes the following order:

1. This Order comes into force on 20 October 2023 and ends on 19 October 2026 unless extended by further Orders under the Council's statutory powers.

2. This Order applies to the public spaces described in the Schedules to this Order ("the restricted areas").

3. The Council is satisfied that the two conditions below have been met, in that -i. activities carried on in the restricted area as described below have had a detrimental effect on the quality of life of those in the locality, or it is likely that these activities will be carried on in the public place and they will have such an effect; ii. 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 the Order.

4. The effect of the Order is to impose the following prohibitions and/or requirements in the restricted areas at all times:

Restrictions

The effect of the Order is to impose the following prohibitions and/or requirements in the restricted areas at all times:

(i) Alcohol

Persons in the restricted area detailed in Schedule 1 (1) of this Order will, on the request of a Police Officer, Police Community Support Officer or authorised person from the Council cease drinking alcohol and will dispose of or surrender any alcohol in their possession when asked to do so, unless subject to exemptions listed in Schedule 1 (2).

Penalty

Any person who fails without reasonable excuse to comply with any of the requirements or prohibitions at Articles 4 (i), (ii), (iii), (iv) and (v) in this Order shall be liable on summary conviction to a fine not exceeding level 3 (currently £1,000) on the standard scale.

Fixed Penalty

A constable or authorised person may issue a fixed penalty notice to anyone he or she believes has committed an offence. A person committing an offence will have 14 days to pay the fixed penalty of £100 (or £60 if paid within 7 days), failing which they may be prosecuted.

Appeals

Any challenge to this Order must be made at the High Court by an interested person within 6 weeks of it being made. An interested person is someone 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 right to challenge. The right to challenge also exists where an order is varied by the Council.

Interested persons can challenge the validity of the Order on two grounds: that the Council did not have the power to make the Order or to include particular prohibitions or requirements; or that one of the requirements of the legislation, for instance consultation, has not been complied with.

When 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 whole. The High Court can uphold, quash or vary the Order.

This order shall remain in place until 19 October 2026.

Schedule 1

1. Restricted Areas All areas of land which are open to the air and to which the public are entitled or permitted to have access (with or without payment) within the London Borough of Hammersmith & Fulham

2. Exemptions Nothing in this Schedule shall apply to —

(a) 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 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 115 of the Highways Act 1980 (highway related issues);

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

This order shall remain in place until 19 October 2026

..... NEIL THURLOW, Assistant
Director of Community Safety, Resilience and CCTV

..... CRAIG KNIGHT,
Superintendent, METROPOLITAN POLICE