

## **CONSULTATION PACK**

### **Proposed declaration of a new City Centre Noise Public Space Protection Order to control anti-social behaviour with respect to excessive noise levels in the street from the use of amplification equipment, musical instruments and items being used as musical instruments.**

#### **1. Introduction**

Birmingham City Council's Regulation and Enforcement Division has two Public Space Protection Orders operating within the City Centre which are aimed at controlling noise levels on the street around residential accommodation. The PSPOs were brought in as a result of complaints from residents about noise from street-based activities such as busking, street preaching and street entertaining and the detrimental impact that this was having on residents use and enjoyment of their homes. These PSPOs were introduced for a 3 year period and are due to expire on the 15<sup>th</sup> August 2025.

In view of an increasing number of complaints about noise levels on the street outside the existing PSPO areas and the impact that it is having on residents and businesses, Regulation and Enforcement are consulting on the proposed declaration of a new wider PSPO area within Birmingham City Centre aimed at controlling the wider noise issues that are being experienced. The proposed PSPO is designed to address anti-social behaviour in respect of excessive noise levels on the street from the use of amplification equipment, musical instruments and items being used as musical instruments.

In responding to this consultation, please consider the Council is under a duty to deal with anti-social behaviour as well as seeking to create a welcoming and positive impression for those working, living, or visiting the city centre. The proposed PSPO is also designed to assist the Council in discharging its legal duties with regards to statutory nuisance under the Environmental Protection Act 1990. We would welcome any suggestions on alternative solutions or different conditions for the proposed PSPO.

The **restricted area** covers all "public place" which 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. This includes public highway, private forecourts, and car parks.

#### **THE PUBLIC SPACES PROTECTION ORDER PROHIBITS THE ABOVE ANTI-SOCIAL BEHAVIOUR IN THE FOLLOWING TERMS:**

A person is prohibited at all times from using amplification equipment, musical instruments or other items used as musical instruments within the restricted area.

The consultation will run from 14<sup>th</sup> April 2025 until 25<sup>th</sup> May 2025.

A local authority can make a PSPO if satisfied on reasonable grounds that there are activities, carried out or likely to be carried out in a public space namely the area within and surrounding Birmingham City Centre shown outlined on the map attached (the restricted area) that have had, or are likely to have, a detrimental effect on the quality of life of those in the locality. The effect or likely effect of these activities is of a persistent or continuing nature such as to make these activities unreasonable, and justifies the restrictions imposed in this order. (Anti-social Behaviour Crime and Policing Act 2014 (for full details see [www.legislation.gov.uk](http://www.legislation.gov.uk)).

There will be a limited number of exemptions to the proposed PSPO namely; the Prohibitions do not apply to:

- i. Anyone who holds a current street trading consent or written authorisation from the Council.
- ii. Emergency Response e.g. Police, Fire, Rescue Authority, Ambulance Services or Statutory Undertakers for the purpose of public safety and/or the prevention of crime and disorder.
- iii. Warning or alarm sounds associated with vehicles and machinery to keep the public safe on shared highway e.g. reversing signals.
- iv. Organised public processions in accordance with the Public Order Act 1986.
- v. A political demonstration or a demonstration supporting or opposing a cause or campaign associated with a shop or business within the restricted area or any other lawful protest.

## **2. Background**

For a number of years, the City Council has been receiving complaints about noise levels on the street within the main retail area in the City Centre from activities such as street entertaining, street preaching and busking. As amplification equipment has become smaller, more portable and affordable, there has been an increase in its use on the streets giving rise to an increasing number of complaints.

The City Council has a statutory duty to investigate and, where necessary, take enforcement action when a statutory noise nuisance exists under the Environmental Protection Act 1990. The Council's powers under the Environmental Protection Act 1990 are primarily designed to deal with noise issues around a static noise source for example a neighbour playing their television too loudly. The powers are not suited to deal with the transient nature of people using the street in Birmingham City Centre. Where enforcement action has been taken under existing enforcement arrangements, the noise source has very quickly been replaced and the process has had to be started again. As a result there has been little or no improvement for businesses and residents who have been experiencing the noise issue.

In September 2021, Officers sought legal advice which recommended that a PSPO would be the most viable option for dealing with the noise issues that were being experienced.

In August 2022, the Regulation and Enforcement Division introduced two PSPOs aimed at controlling noise levels around two distinct residential areas of the city centre, namely the New Street and High Street area and the New Street and Temple Street area. These PSPOs have been very effective in controlling noise levels on the street in these areas. Where issues have been identified, the PSPOs have enabled Officers to be able to deal with issues quickly and effectively, often without the need for any formal enforcement action to be taken. This has had a significant positive impact on City Centre residents enjoyment of their properties.

As the existing PSPOs are coming to their end, there has been some apprehension amongst residents about their pending expiry and concern over the likelihood of returning to pre-PSPO noise levels. As such the proposed new PSPO area is designed to encompass the two existing PSPO areas along with a wider area which has been identified as a result of recent complaints from residents and businesses living and operating outside of the current areas.

### **3. Evidence**

Birmingham City Council has gathered evidence from the list of groups, organisations, and individuals listed below:

- At the City Centre Local Community Safety Partnership meeting
- In discussion with Councillors who have expressed support
- With Officers from the Central Business Improvement District who have expressed concerns about the impact that noise levels are having on their members.
- With residents and businesses who have expressed their concerns regarding the impact that noise levels have been having on them.

Between April 2024 and March 2025, Environmental Health received 49 formal complaints about noise levels from activities undertaken on the street in Birmingham City Centre through the Council's contact centre and website from residents and businesses. This is believed to be a significant under-recording of the extent of issues that residents and businesses have been experiencing as many complaints have been reported indirectly through third parties such as the BID and through direct contact with Officers on the street, by telephone or email.

As a result of an increasing number of complaints being received, between 18<sup>th</sup> April 2024 and 8<sup>th</sup> July 2024 businesses were asked to keep a diary of incidents where noise from street-based activities such as busking, street preaching has a detrimental impact on the operation of their business. During this period a total of 232 incidents were reported outside of the existing PSPO areas which suggests that businesses are experiencing an almost daily issue with noise.

In addition to the above, a number of statements have also been received from businesses within the proposed PSPO area outlining the impact that excessive noise levels from street-based activities have been having on the operation of their businesses. Evidence has also been received from the Central BID with regards to complaints and incidents reported to them by their members. These reports are continuing to be received and are likely to increase as we move into a period of better and warmer weather. The excessive noise levels have been having a range of impacts

on both businesses and residents from causing difficulties in communicating with customers, relaxing at home or holding telephone conversations through to impacting on mental health and wellbeing. Landlords have reported difficulties in letting both residential and commercial properties within the city centre due to the noise levels. On one occasion, an Officer recorded suffering temporary threshold shift (temporary hearing loss) as a result of noise levels experienced when they approached an individual who was using amplification equipment.

The majority of the recorded incidents were in the High Street and New Street area of the City Centre where there is a significant footfall and as a result this forms the basis for this consultation. Excessive noise levels in this area are particularly problematic as the streets are relatively narrow with high-sided buildings either side leading to sound being echoed. In some instances, noise levels at higher levels can be significantly greater than at street level.

Attempts to resolve this matter informally through a voluntary code of conduct and through engagement with individuals on the street have been unsuccessful.

#### **4. Impact of Proposed PSPO Intervention**

The Council is proposing to declare a Public Space Protection Order (PSPO) covering the highlighted area on the map below. The **restricted area** covers all “public place” which 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. This includes public highway, private forecourts and car parks.

This aims to restrict anti-social behaviour, which causes harassment, alarm, or distress. The PSPO is designed to provide a swift enforcement approach to the offending individuals and ensure they are dealt with immediately. The powers can be provided to a range of officers and once identified, the offenders will experience immediate enforcement action as well as retrospective enforcement action. The impact of this proposal will be to “spread the load” to ensure that enforcement can be across a number of different services and organisations, so it is effective for the community. It will also address efforts to continue to trade and adversely affect the community.

The proposed PSPO area has been defined to cover the areas where complaints about noise levels have been received.

#### **What is a Public Space Protection Order?**

Public Space Protection Orders (PSPOs) were introduced under the Anti-Social Behaviour Crime and Policing Act 2014. This power gives the local authority the ability to impose conditions on the use of a particular geographical area to tackle anti-social behaviour that affects the quality of life of those who live or work in the locality. Anti-social Behaviour is defined as any activity that causes harassment, alarm, or distress.

#### **What happens if someone doesn't comply with requirements of a PSPO?**

It is a criminal act to breach the requirements of a PSPO. This may result in a Fixed Penalty Notice (FPN) being issued by a police officer or council officer. If the FPN is not paid, the offence may be reported to the magistrate's court, and a person can

be fined up to £1,000.

A breach occurs when a person without reasonable excuse:

- Does anything they are prohibited from doing by a PSPO.
- Fails to comply with a requirement of a PSPO.

It is the intention that the proposed PSPOs will be in place for a period of 3 years.

As part of the process, we would like to give you the opportunity to comment on the proposals. These will be reviewed before a decision is taken as to whether the proposed PSPOs should be declared.

## **5. Consultation**

This public consultation invites views on the proposed PSPO from people with an interest in the affected area. This will include identifying people who reside in the area, work in the area, visit the area to access services in the area, people who pass through and visit the area. While all views are welcome, more weight will be given to those who are directly affected by the behaviours complained of and by the proposed prohibitions and restrictions.

We are now at the consultation phase for these Orders, which will conclude on 25<sup>th</sup> May 2025.

The Council will consult with the Police, whatever community representatives the local authority thinks appropriate to consult, owners and occupiers of land within the restricted area. In addition, there will be an online survey, and the City Centre Local Community Safety Partnership.

A copy of the proposed prohibitions, along with a map of the geographical areas that the Order will apply to can be found at section 8 below.

Should any person have difficulty in accessing services on-line or attending any of the consultation events provision will be made for any person who may need additional support in making their views heard. Please contact 0121 675 8452 for any help with consultation or any questions.

## **6. Following Consultation**

The responses to the consultation exercise will be considered and inform the decision on whether to implement a Public Space Protection Order. In making any decision particular regard will be had to rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention. Convention has the meaning given by section 21(1) Human Rights Act 1998.

For further information, please visit:

<https://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2>

Or contact: [ehcitycentre@birmingham.gov.uk](mailto:ehcitycentre@birmingham.gov.uk)

## **7. Draft Public Space Protection Order**

### **The Anti-Social Behaviour, Crime and Policing Act 2014**

### **BIRMINGHAM CITY COUNCIL (CONTROL OF NOISE ON THE STREET) PUBLIC SPACE PROTECTION ORDER 2025**

This Order shall come into force on XX August 2025 at 00:00 hrs and for a period of three (3) years and will expire on the XX August 2028 at 23:59 hrs.

THIS ORDER is made by Birmingham City Council (“the Council”) under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act), because the Council is satisfied on reasonable grounds that there are a number of activities, carried out or likely to be carried out in a public space, within the Restricted Area that have had, or are likely to have, a detrimental effect on the quality of life of those in the locality. The effect or likely effect of these activities is of a persistent or continuing nature such as to make these activities unreasonable, and justifies the restrictions imposed by this Order.

#### **Geographical Scope**

This Order applies to the public spaces within the designated City Centre area. The extent of which is defined in the map annexed to this Order (Appendix 1)

#### **THIS ORDER PROHIBITS the following things being done in the Restricted Area:**

A person is prohibited at all times from using amplification equipment, musical instruments or other items used as musical instruments within the restricted area.

#### **These activities include but not limited to:**

- 1) Noise associated with busking; street entertaining, street preaching and public speaking affecting residential dwellings and businesses within the restricted area.

#### **Definitions:**

<b>“Authorised Person”</b>	means a Police Constable, Police Community Support Officer, Council Officer or an Officer working on behalf of the City Council and must be able to present their authority upon request.
<b>“Restricted Area”</b>	any public place within the areas outlined on the attached map.
<b>“Amplification Equipment”</b>	microphones, speakers, loudspeakers, megaphones, loudhailers public address systems or any other similar equipment used for the amplification of voice, music or pre-recorded audio-tracks, but not apparatus designed and used as an aid to defective hearing, as an aid

for speech or speech replacement, or apparatus used where the sound is received through headphones, or apparatus whilst being used to undertake personal private communication.

**These Prohibitions do not apply to:**

- vi. Anyone who holds a current street trading consent or written authorisation from the Council.
- vii. Emergency Response e.g. Police, Fire, Rescue Authority, Ambulance Services or Statutory Undertakers for the purpose of public safety and/or the prevention of crime and disorder.
- viii. Warning or alarm sounds associated with vehicles and machinery to keep the public safe on shared highway e.g. reversing signals.
- ix. Organised public processions in accordance with the Public Order Act 1986.
- x. A political demonstration or a demonstration supporting or opposing a cause or campaign associated with a shop or business within the restricted area or any other lawful protest.

**Penalty on breach (s67 of the Act)**

It is an offence for a person, without reasonable excuse:

- to do anything that the person is prohibited from doing by the PSPO, or
- to fail to comply with a requirement to which the person is subject under the PSPO

A person does not commit an offence by failing to comply with a prohibition or requirement that the Council did not have power to include in the PSPO.

A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. The FPN can be issued by a police officer, or other authorised person. In making the decision to issue a FPN, the officer should consider that if issued, payment of the FPN would discharge any liability to conviction for the offence. However, where the FPN is not paid within the required timescale, court proceedings can be initiated (prosecution for the offence or failing to comply with the PSPO).

This Order shall come into force on XX August 2025 and shall remain in effect for a period of three years, unless extended, varied or discharged by the Council in accordance with statutory provisions.

Given under the COMMON SEAL of BIRMINGHAM CITY COUNCIL on XXX day of August two thousand and twenty five.

The COMMON SEAL of Birmingham City Council was hereunto affixed to this Order in the presence of:

SIGNED

SIGNED

Duly Authorised Officer  
Executive Director of City Operations Directorate

Duly Authorised Officer  
Superintendent, West Midlands Police

Any enquiries relating to this Order may be made from 09.00-16.00 hrs Monday to Friday at:  
[ehcitycentre@birmingham.gov.uk](mailto:ehcitycentre@birmingham.gov.uk)



## **Right to Appeal**

You have the right to appeal against this Notice to the Birmingham High Court as appropriate within a period of 6 weeks beginning with the date of service of the Order by an interested person. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those are directly affected by the restrictions have the power to challenge. This right to challenge also exists where the Order is varied by a Council.

Interested persons can challenge the validity of a PSPO on two grounds. They could argue that the Council did not have the power to make the Order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with.

Where the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court has the ability to uphold the PSPO, quash it, or vary it.

## **Offence and Penalty on breach**

It is an offence for a person, without reasonable excuse, to:

- Do anything that the person is prohibited from doing by a PSPO; or
- Fail to comply with a requirement to which the person is subject under a PSPO.

A person does not commit an offence by failing to comply with a prohibition or requirement that the Council did not have the power to include in the PSPO. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. The FPN can be issued by a Police Officer, or other authorised person. In making the decision to issue a FPN, the Officer should consider that if issued, payment of the FPN would discharge any liability to conviction for the offence. However, where the FPN is not paid within the required timescale, Court proceedings can be initiated (prosecution for the offence of failing to comply with the PSPO).

**Public Space Protection Order map (Appendix 1)**

**Restricted area highlighted in blue**

