

## **CONSULTATION PACK**

### **Proposed Declaration of a Public Space Protection Order (PSPO) in Coventry Road, Birmingham, to control anti-social behaviour in respect of illegal street trading, peddling goods and/or services and obstruction of the highway.**

#### **1. Introduction**

Birmingham City Council's Regulation and Enforcement Division is consulting on the proposal to introduce a Public Space Protection Order (PSPO) for a section of Coventry Road and its adjacent residential streets. This is to address anti-social behaviour in respect of illegal street trading, peddling goods and/or services and obstruction of the highway. The area specified in this proposed PSPO is adjacent to legitimate businesses.

In responding to this consultation, please consider that 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 Coventry Road. 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:**

##### **1) Street Trading**

Any person is prohibited from, at any time, trading goods or services (with or without payment) within the restricted area without an appropriate consent issued by the Council.

##### **2) Peddling**

Any person is prohibited from, at any time, peddling goods or services (with or without payment) within the restricted area.

##### **3) Charity Cash or Digital Collection**

Any person is prohibited from soliciting for cash or digital donations for commercial or charity gain without appropriate consent/licence for such collection issued by the Council.

##### **4) Obstruction of the public highway**

Any person is prohibited from obstructing the highway in any way that hinders the use of the highway without lawful authority issued by the Council.

The consultation will run from Friday, the 6<sup>th</sup> of December 2024, until the 17<sup>th</sup> of January 2025.

A local authority can make a PSPO if satisfied on reasonable grounds that there are a number of activities carried out or are likely to be carried out in a public space, 'the restricted area', shown outlined on the map attached 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)))

## **2. Background**

Over a number of years, there has been an increase in illegal street trading and/or peddling on specific roads in Birmingham during the Ramadan period, most notably Coventry Road, Bordesley Green and its adjacent residential streets. This has been accompanied by many complaints to the Council and the Police from residents, businesses and Members asking for intervention to prevent illegal and other activities from taking place, which then act as a focal point for anti-social behaviour.

This illegal street trading/peddling encourages large numbers of people to visit the area. The capacity of the pavement footprint is not able to cope with the number of people who spill into the live carriageway.

This trading is causing the production of large amounts of waste and litter both from trading activities and visitors.

Legitimate businesses are not able to trade as many of their entrances are blocked, and the illegal traders are illegally setting up on their forecourts. In addition, this is unfair competition from illegal traders that are not compliant with the law. Many are selling hot food products, drinks and sweets. These traders are not registered food businesses, and food and drink are not appropriately labelled and are, therefore, potentially unsafe.

There are a high number of vehicles visiting the area and driving in an inconsiderate or dangerous manner. It is also common for individuals to park inappropriately in areas where such trading is occurring. These issues cause notable congestion and serious safety issues for pedestrians and other road users. Roads are blocked, there is double parking, and cars are parked on pavements and across dropped kerbs. This has caused gridlock and danger, and residents cannot get to work by car, etc.

Complaints to the Council have related to all of the above issues and have also highlighted issues around noise nuisance preventing residents (including children) from sleeping as the activities continue into the early hours, an unpleasant environment with throngs of people, being unable to go in and out of the area due to the level of congestion and parking and the large accumulations of rubbish arising from the illegal trading.

### **3. Investigation and Evidence**

Birmingham City Council have, over the years, received representation from Councillors and members of the public about anti-social behaviour emanating from activities during the Ramadan period at various locations in Birmingham, including Coventry Road. However, during 2023, the majority of issues raised related to Coventry Road, such as activities of illegal street trading, commenced at the beginning of Ramadan and continued throughout the 30-day Ramadan period. The Council was consistently asked to intervene and prevent the illegal activities from taking place as local residents and businesses were being severely impacted by the influx of people congregating in a small residential area.

During Ramadan 2024, City Council officers and West Midlands Police patrolled on virtually all 30 days of Ramadan. Whilst on patrol, they were approached on numerous occasions by residents and legitimate business operators, thanking them for their interventions and informing them how they had been suffering due to the illegal activities and the impact it had on their daily lives.

i) There has been engagement with the local community, including a local Mosque and a local Muslim community group, and views of local residents and Councillors.

ii) Birmingham City Council have gathered evidence from the list of groups, organisations, and individuals below:

- Meetings with West Midlands Police, who have confirmed their support of the proposal.
- The East Birmingham Local Community Safety Partnership meeting confirmed their support.
- In discussion with Councillors who have expressed support.
- With businesses who have expressed concerns to Birmingham City Council officers during patrols in Ramadan 2024.
- With residents who have expressed their concerns regarding crime and anti-social behaviour during patrols in Ramadan 2024.

The evidence can be summarised as follows:

A number of successful prosecutions have been undertaken in Birmingham regarding illegal street trading activity since 2020 (introduction of the Street Trading Policy), and more are in the judicial system. However, this process takes time and can be costly to conclude. Many of the illegal sellers continue to operate despite court proceedings due to the time frame involved in bringing proceedings and the limitations of the fine (£1000).

The Council has a robust street trading policy and consents to street trading activity within the whole of the city on consented streets (the majority). Illegal street trading and peddling undermines this policy and undermines legitimate traders operating under consent in the city.

However, tackling illegal street trading and peddling has caused very specific problems when occurring on Coventry Road, Bordesley Green. Attempts by Birmingham City Council officials and Police to reason with the individuals concerned have failed. Where information is sought from the individuals there is always a risk of aggression from both the illegal street trader/peddler and also other people in the vicinity. Any action needs a dynamic risk assessment and there is a risk of a flashpoint occurring for anti-social behaviour towards Council Officers and the Police. In 2024, an individual was arrested in relation to illegal street trading, and bail was requested to prohibit him from returning to the area due to his behaviour inciting others to engage in criminal offences (illegal trading).

In 2023, there was a significant increase in illegal street trading, with traders setting up tables in Coventry Road, Bordesley Green. Officers from Trading Standards attended with the Police and sought to engage and prevent these activities; however, they were met with significant intimidation, which led to officers being assaulted, high levels of media coverage and subsequent arrests. Online videos appeared showing some of this anti-social behaviour conducted by these individuals and the consequences of challenging them about their illegal activity.

A large-scale operation with a pre-planned approach was adopted during Ramadan 2024. This operation was extremely resource intensive as it ran for 30 days, from the 10<sup>th</sup> of March 2024 until the 9<sup>th</sup> of April 2024. It involved joint patrols of officers from Regulation and Enforcement, Street Intervention and West Midlands Police, as well as the presence of Highways parking control. Patrols varied as tactics were employed by illegal traders to avoid intervention, but they typically ran from late afternoon to beyond midnight. There was some aggression and resistance from some traders and attendees, but overall, it was a peaceful operation. No officers were assaulted, and there were no reports of any violence. However, there was a significant amount of enforcement action taken by Birmingham City Council officers and West Midlands Police, which included:

- 1412 PCN's issued.
- 1238 vehicles moved on.
- 6 vehicles were seized.
- One trailer was seized, and two were towed off the highway.
- One arrest was made to expedite an investigation relating to illegal street trading.
- One voluntary interview was arranged related to illegal street trading.
- Two Street Trading Licences were issued.
- Counterfeit items seized.
- Other items seized that were in breach of food/labelling legislation, including abandoned food (public health concern).

Examples of reported issues to West Midlands Police include:

- 4087-050424 Officers looking at illegal trading and obstruction parking enforcement.
- 2833-020424 Stolen money from charity box.
- 4531-010424 Disorder people fighting.
- 529-260324 Illegal traders mobile food container seized.
- 2327-200324 A number of traders reporting assaults.
- 5249-150324 Vehicle blocking road causing obstruction for people coming to visit illegal street traders.
- 4273-150324 Robbery/theft – Cash stolen out of the charity box.
- 2069-190423 Female jumping in and out of traffic.
- 4237-170423 Patrols in response to increased ASB/parking traffic issues from illegal traders.
- 3488-150423 Joint police operation with BCC, trading standard and highways targeting illegal trading/ASB.
- 4467-080423 Dangerous driver.
- 3915-090423 Someone setting up illegal stall refusing to move.
- 3577-080423 Vehicles blocking road due to late night illegal markets.
- 93-040423 Lots of vehicles blocking road also reporting illegal food stalls with no food hygiene.
- 5167-290323 Disorder in progress.
- 23-290323 4/5 cars parked blocking the road.
- 4372-260323 Road is being blocked by small illegal traders.

These activities undermine legitimate businesses and consumers. They have a very negative impact on the residents. Consumers are undermined as they do not have details of the sellers and may be misled into buying goods that are counterfeit, unsafe or of poor quality. Consumer rights are non-existent in these transactions as the identities of the individuals are unknown and have no traceability. Furthermore, the extensive use of open fires and gas burners (barbeques) in illegal food preparation presented a health and safety hazard to passersby as well as the traders being non-compliant with food legislation.

In Ramadan 2024, businesses in the area spoke to Birmingham City Council officers and expressed concerns about the negative impact the illegal street trading/peddling was having on their businesses. They were scared of the illegal traders and were closing their shops early to avoid them. They felt unable to challenge the setting up of stalls on their forecourts due to threats from those setting up. They also said that customers could not get to their business as the entrance ways were blocked. Furthermore, they said their forecourts and the pavement were left in a terrible mess the following morning. Illegal street traders consistently told officers that they had permission from the business owner to trade on the business's forecourt. There was never any evidence of this, and every business owner who spoke to officers indicated that no permission had been given.

In Ramadan 2024, officers noted that significant numbers of residents were approaching them to thank them for their intervention and the significant reduction in illegal street trading/peddling and illegal parking, hence the reduction in anti-social behaviour, including large crowds congregating into the early hours causing nuisance, noise, alarm, harassment, and distress.

In Ramadan 2024, numerous illegal street traders/peddlers argued that they were not selling goods or services but were giving these away for free. This was an attempt to circumvent the relevant legislation related to illegal street traders. However, officers consistently saw money changing hands.

The anti-social behaviour described above has a detrimental impact on those visiting, working or living in the area and provides a negative image of the city that may discourage others from visiting the city. This type of behaviour causes intimidation, alarm or distress to those involved.

### **How Legal Street Trading Differs from Illegal Street Trading and Peddling**

Birmingham City Council have a Street Trading Policy that clearly states, "The aim of this Street Trading Policy is to create a street trading environment which is sensitive to the needs of the public and businesses, provides quality consumer choice and contributes to the character and ambience of the local environment whilst ensuring public safety, and preventing crime, disorder and nuisance."

It is very detailed, and readers of this consultation pack are advised that they should read the entire contents of the Policy to ensure a full understanding of the matters considered when managing street trading in Birmingham. It can be found at [Street Trading policy | Birmingham City Council](#)

Crucially, section 8 of the Policy refers to the 13 criteria that will be considered when determining an application for a street trading consent.

These are: Public safety, Prevention of Crime and Disorder, Prevention of Nuisance, Suitability of Applicant, Suitability of Trading Unit, Power, Advertising, Barriers, Hours of Trading, Cumulative Impact, Selling the Right Goods, Site Assessment, Other Criteria such as holding a commercial waste contract, lighting etc.

It is important to recognise these criteria, include consideration of highway safety and obstruction, nuisance, annoyance or disturbance, design and size of the unit, cumulative impact (no street trading unit within 30 metres of another) etc. The goods cannot cause or contribute to crime and disorder – including the selling of fake or counterfeit goods.

In considering the suitability of the applicant, this includes considering unspent convictions and previous street trading activity and compliance. The site assessment is essential to prevent potential obstruction, safe passage, access/egress and pedestrian flow of pedestrian, vehicular, wheelchair users or other disabled people. Many applications for a street trading consent in the city centre have been refused as they do not meet the rigorous criteria. Street trading consents may be suspended or revoked if the conditions of the consent are not adhered to or if complaints are received.

However, all the considerations taken before approving a street trading consent become meaningless if illegal street traders and pedlars then congregate in the same area, causing obstacles to the use of the highway, nuisance etc. and not subject to the same rigorous checks as the legal street traders. There is no ability to consider whether these individuals have any unspent convictions that would prohibit them from gaining a street trading consent under the Street Trading Policy and hence, whether they are putting consumers at risk. Uncontrolled numbers of peddlers undermine our ability to ensure the safety of pedestrian areas and the minimising of obstructions. Where one legal street trader with a small queue may not cause a nuisance or obstruction as they have been sited at a carefully chosen location, if they are then surrounded by 10 pedlars and/or illegal street traders (as happens in a location such as High Street Birmingham or Coventry Road, Bordesley Green) then clearly the free flow of pedestrians etc is hindered and potentially obstructed. Additionally, illegal street traders and pedlars provide no consumer protection as there is no course of redress available because consumers will not know who they are transacting with. This has resulted in anti-social behaviour because aggression and fighting have occurred where the consumer has realised they have been duped.

#### **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 map relates to a section of Coventry Road, Bordesley Green and adjacent streets where illegal street traders/peddlers sell goods or services either statically or by approaching individuals. Some of these interactions can be alarming for those individuals who do not wish to engage. This will also deter those who set up "pop up" stalls or blankets obstructing the highway again attempting to sell fake merchandise, dangerous products, or unsafe food.

As the proposed PSPO area is where there is heavy footfall, this attracts illegal street traders and peddlers who operate in the area and obstruct the pavement (highway), causing people to spill into the live carriageway. There are concerns with the increase in vehicles visiting the location, driving inconsiderately, and parking inappropriately. These issues cause notable congestion and serious safety issues for pedestrians and other road users.

Examples of the types of activities this PSPO is seeking to restrict.

- Illegal street trading, peddling and provision of goods and/or services, and obstruction of the highway.
- Pedestrian and traffic congestion and illegal parking, due to the congregation of large groups of people visiting the illegal street trading (and other activities) on foot or by vehicle.
- Safety concerns relating to the use of open fires and gas burners.
- Safety concerns as the risk of pedestrians walking in a live carriageway is increased due to congestion and illegal parking on the pavement.
- Increased risk of traffic accidents due to inconsiderate or dangerous driving caused by visitors to the illegal street traders.
- Noise nuisance to local residents due to the congregation of large groups of people and vehicular traffic until the early hours of the morning.
- Large accumulations of rubbish due to the illegal trading activity.

### **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 the 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 this Order, which will conclude on the 17<sup>th</sup> of January 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 engagement with the East 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 7 below.

Should any person have difficulty accessing services online or attending any of the consultation events, provisions will be made for any person who may need additional support in making their views heard. Please contact 0121 303 9367 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 given to the 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) of the Human Rights Act 1998.

For further information, please visit:

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

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

## 7. Draft Public Space Protection Order



### Birmingham City Council (Coventry Road) Public Space Protection Order

#### Anti-Social Behaviour, Crime and Policing Act 2014 – Section 59

##### **Public Space Protection Order**

**The Order shall come into force on xx 2025 at 00.00hrs**

**If you do not obey the order you will be committing a criminal offence and may be prosecuted by the Council within a Magistrates' Court for an offence under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014**

THIS ORDER is made by Birmingham City Council (the Council) under section 59 of the Anti- Social Behaviour, Crime and Policing Act 2014, because the Council is satisfied on reasonable grounds that there are activities, carried out or are 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.

These activities include:

- Street trading of goods and services.
- Any peddling of goods and/or services.
- Charity Cash or Digital Collections.
- Obstructing the highway.

**THIS ORDER PROHIBITS** the following things being done in any public space in the restricted area.

**AND REQUIRES** specified things to be done by persons carrying on specified activities in the restricted area.

## **5) Street Trading**

Any person is prohibited from, at any time, trading goods or services (with or without payment) within the restricted area without an appropriate consent issued by the Council.

## **6) Peddling**

Any person is prohibited from, at any time, peddling goods or services (with or without payment) within the restricted area.

## **7) Charity Cash or Digital Collection**

Any person is prohibited from soliciting for cash or digital donations for commercial or charity gain without appropriate consent/licence for such collection issued by the Council.

## **8) Obstruction of the public highway**

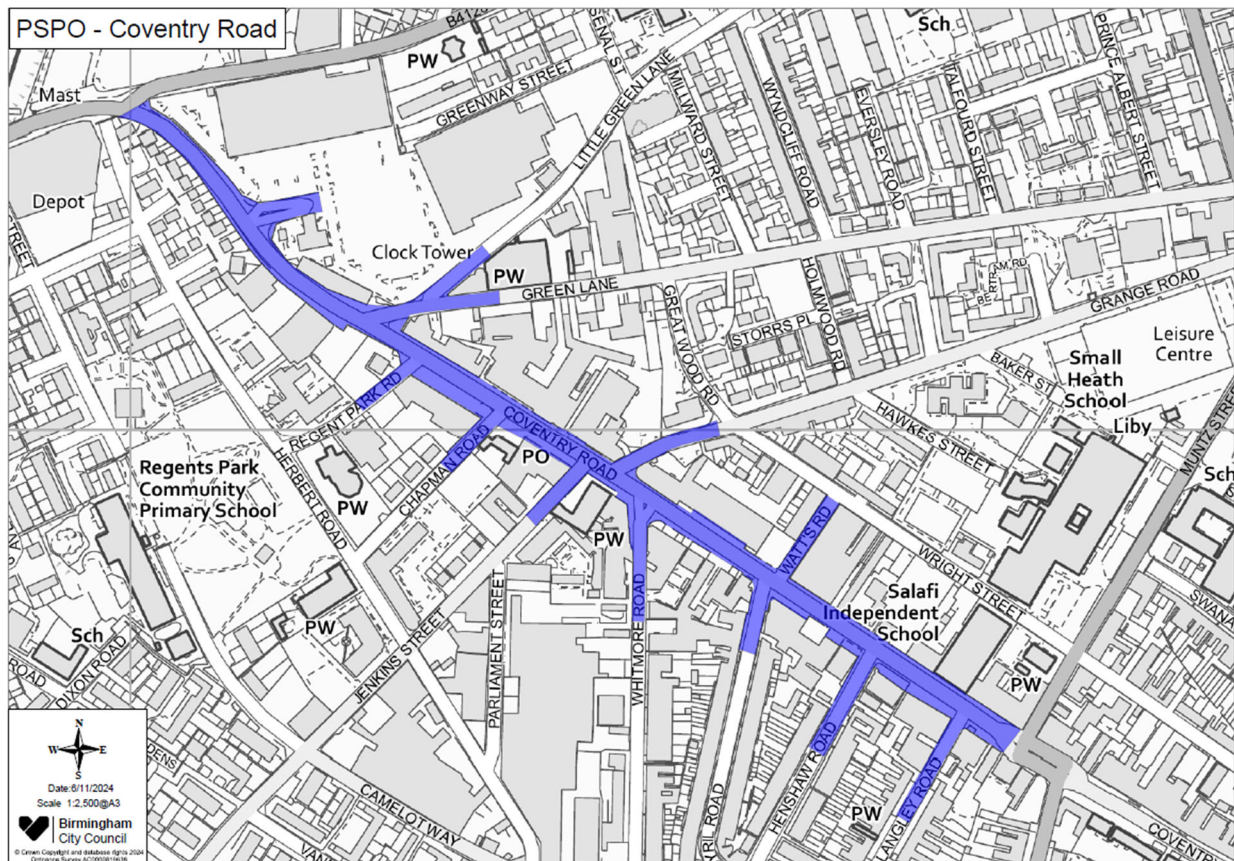
Any person is prohibited from obstructing the highway in any way that hinders the use of highway without lawful authority issued by the Council.

## **Definitions**

"Authorised Officer" means a Police Constable, Police Community Support Officer or Council Officer, The Council Officer shall present their authority upon request (as long as it is practicable to do so)

"Restricted Area" shown outlined on the map attached.

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 PUBLIC SPACE PROTECTION ORDER WILL BE EFFECTIVE FROM 2 WEEKS BEFORE RAMADAN, DURING RAMADAN, DURING EID AL-FITR AND TWO WEEKS AFTER EID-AL-FITR .**

**THIS PUBLIC SPACE PROTECTION ORDER WILL BE EFFECTIVE FROM 2 WEEKS BEFORE EID-AL-ADHA, DURING EID-AL-ADHA AND TWO WEEKS AFTER EID-AL-ADHA .**

**THIS ORDER WILL BE IN FORCE FOR A PERIOD OF 3 YEARS AND WILL EXPIRE ON THE XX 2028 AT 23.59HRS.**

### **Right to challenge the validity of this order**

An interested person may apply to the High Court to question the validity of this order. An interested person is someone who lives in, regularly works in, or visits the restricted area. An application must be made within the period of 6 weeks beginning with the date on which the Order is made. This right to challenge also exists where an 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.

When 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.

SIGNED      DATED

Duly Authorised Officer

Executive Director of City Operations Directorate

SIGNED      DATED

Duly Authorised Officer

West Midlands Police

Any enquiry relating to this order may be made from 09.00 – 16.00 hours Monday to Friday at:

[Tradingstandards@birmingham.gov.uk](mailto:Tradingstandards@birmingham.gov.uk)

### **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 or failing to comply with the PSPO).