

## **Torbay Council**

### **The Anti-Social Behaviour, Crime and Policing Act 2014 – Part 4, Section 59**

#### **Public Spaces Protection Order Alcohol Restrictions – Babbacombe Down, Torquay**

Torbay Council (the Council) in exercise of the power under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act), being satisfied that the conditions set out in Section 59 of the Act have been met, makes the following order:

1. The Order applies to the public areas as described in the Schedule of Land (the Restricted Area):
  - a) It shall be an offence for any person to refuse to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by a police officer or authorised officer in order to prevent public nuisance or disorder.
  - b) A constable or an authorised officer who imposes a requirement to stop drinking alcohol or hand over any containers (sealed or unsealed) must tell the person that failing without reasonable excuse to comply with the requirement is an offence.
  - c) A constable or an authorised officer may dispose of any handed over or surrendered containers (sealed or unsealed) which are believed to contain alcohol in whatever way he or she thinks appropriate.

#### **Definitions**

2. The Authority means Torbay Council (the Council)
3. Authorised Officer means a police officer, an employee, agent or contractor of the Council or other person who is authorised in writing by the Council.
4. Restricted Area means the land designated in the Schedule of Land to this Order.
5. The Order applies to all times of day and night.
6. This Order comes into force on 1<sup>st</sup> May 2021 and will remain in force for a period of three years from that date.

#### **Penalty**

7. Any person who, without reasonable excuse, fails to comply with this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### **Exceptions**

8. This Order does not apply to premises as described in Section 62 of the Anti-Social Behaviour, Crime and Policing Act 2014.

### **Schedule of Land**

This Order applies to all land within the Restricted Area in the maps below edged in red that is open to the air and to which the public are entitled to, or permitted to have access (with or without payment). For the purposes of this Schedule, land which is covered is to be treated as land which is 'open to the air' if it is open to the air on at least one side.

### **Challenging the Validity of Orders**

An interested person may apply to the High Court to question the validity of –

- a) This Order, or
- b) A future variation of this Order

“Interested person” means an individual who lives in the restricted area or who regularly works in, or visits, that area.

An appeal against this Order or a future variation of this Order may be made to the High Court within six weeks from the date on which the Order or variation is made, on the grounds that:

- a) Torbay Council did not have power to make the Order or variation, or to include particular prohibitions or requirements imposed by the Order (or by the Order as varied);
- b) A requirement under Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014 was not complied with in relation to the Order or variation.

Dated this First Day of May 2021

Signed for and on behalf of the Council: .....



Tara Harris

Assistant Director (Community & Customer Services)

Public Spaces Protection Order 2021  
Alcohol - Babbacombe Downs

TORBAY  
COUNCIL

