

IN THE HIGH COURT OF JUSTICE

Claim No: CO/2060/2018

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

BY WAY OF PART 8 CLAIM PURSUANT TO S.66 ANTI-SOCIAL BEHAVIOUR,
CRIME AND POLICING ACT 2014

BETWEEN

SARAH WARD

Claimant

-and-

BOURNEMOUTH CHRISTCHURCH & POOLE COUNCIL

Defendant

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GROUNDS OF CLAIM

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1. This is an application by the Claimant, an “interested party”, under s.66(1) of the Anti-Social Behaviour, Crime and Policing Act 2014 to question the validity of a Public Spaces Protection Order made by the Defendant on 16 April 2018. By CPR 8.1(6) and paragraph 3.2 and Part B of PD8A the Claimant is required to use the CPR Part 8 procedure to make the application and to file it in the Administrative Court.
2. The court is asked to decide pursuant to s.66(2) & (5) of the 2014 Act whether the Defendant had the power to include prohibitions 3(b-e) imposed by the Public Spaces Protection Order and/or whether a requirement under Chapter 2 of Part 4 of the 2014 Act was not complied with in relation to the Order and the interests of the applicant have been substantially prejudiced by the that non-compliance.
3. Prohibitions 3(b-e) (“the Prohibitions”) are as follows:

“3b All persons are prohibited from approaching another person either in person, with a sign or gesture or verbally in order to beg for money, food or drink. You

must immediately stop when requested to do so by a Police Constable or Authorised Person.

3c All persons are prohibited from sitting or loitering in a public place with any receptacle used to contain monies from the public for the purpose of personal gain. You must immediately stop when requested to do so by a Police Constable or Authorised Person.

3d No person shall leave any unattended personal belongings, such as bedding, bags, etc in the designated area. Such items must be removed when instructed by a Police Constable or Authorised Person or they may be removed by the Borough of Poole, their representative or contractor.

3e Without reasonable excuse no person shall cause an obstruction in any doorway belonging to any retail, licenced or commercial premises or public building, or any car park or public area including hallways, stairwells, landings, etc or refuse to leave when requested to do so by the landowner, business owner, landlord, their representative, Police Constable or Authorised person.”

4. The remedy the Claimant seeks is that the Prohibition(s) are quashed on the following Grounds.

THE GROUNDS

Ground 1: Having regard to the material available the Defendant could not lawfully be satisfied on reasonable grounds that the first and second conditions in s.59(2) & (3) of the 2014 Act were met in relation to the activities that are the subject of Prohibitions.

Ground 2: The Prohibitions were not reasonable to impose pursuant to s.59(5) even if the Defendant was lawfully satisfied that the first and second conditions in s.59(2) & (3) of the 2014 Act were met.

Ground 3: The Defendant breached the statutory guidance on anti-social behaviour powers under the Anti-social Behaviour, Crime and Policing Act 2014 (the “Guidance”) as the Prohibitions target rough sleepers by prohibiting activities not reasonably within their control. It also failed to consult on the Prohibitions in accordance with the Guidance.

Ground 4: The Defendant failed to consult on the Prohibitions in accordance with s.72(3) of the Act.

Ground 5: The Prohibitions are incompatible with (a) Article 3, 8, 10 and 11 ECHR and therefore the Defendant failed to comply with s.6 Human Rights Act 1998 and/or (b) s.72(1) of the 2014 Act and/or (c) the common law duty not to create an unacceptable risk of illegality.

Ground 6: The Defendant failed to comply with the public sector equality duty contained in s.149 Equality Act 2010.

Jamie Burton

Doughty Street Chambers

31 October 2019

