

Guidance on the standard and discretionary powers awarded to Police Community Support Officers (PCSO), including excluded powers.

PCSO excluded powers

[Schedule 10 of the Policing and Crime Act 2017](#) lists the powers which Community Support Officers cannot be designated.

They are:

1. Any power or duty of a constable to make an arrest.
2. Any power or duty of a constable to stop and search an individual or a vehicle or other thing.
3. The power of a constable, under section 36(4) of the Police and Criminal Evidence Act 1984, to perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.
4. Any power that is exercisable only by a constable of a particular rank.
5. Any power of a constable under:
 - (a) the Terrorism Act 2000;
 - (b) the Terrorism Act 2006;
 - (c) the Counter-Terrorism Act 2008;
 - (d) the Terrorism Prevention and Investigation Measures Act 2011;
 - (e) the Counter-Terrorism and Security Act 2015.
6. Any power of a constable under the Official Secrets Acts 1911 to 1989.
7. The power of a constable to make an application on behalf of the Commissioner of Police of the Metropolis under section 19 or 21 of the Investigatory Powers Act 2016 (applications for warrants under Chapter 1 of Part 2 of that Act).

Issuing FPNs under coronavirus regulations

[Health Protection Act \(Coronavirus Regulations England\) 2020 Regulations.](#)

An authorised person (Police Officer and PCSO) may issue a fixed penalty notice to any person that the authorised person reasonably believes:

- (a) has committed an offence under these Regulations, and
- (b) is (in the case of an individual) aged 18 or over.

Derbyshire PCSO powers

Standard powers



- **To issue fixed penalty notices for cycling on a footpath.**

Offence contrary to section 72 of the Highways Act 1835; Power granted under section 54 of the Road Traffic Offenders Act 1988 and Section 38(6B)(a) of the Police Reform Act 2002. The legislation makes reference to a person who wilfully rides upon any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot passengers. This would not seem to incorporate pedestrianised areas in a town centre as they are not by the side of a road.

- **To issue fixed penalty notices for littering.**

Offence contrary to section 87 of the Environmental Protection Act 1990; Power granted under Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

- **To require name and address of a person who the PCSO has reason to believe has i) committed a relevant offence; ii) been acting, or to be acting, in an anti-social manner; or iii) failure to obey lawful traffic directions of a police constable or PCSO.**

Power granted under schedule 11 of the Policing and Crime Act 2017 and Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

“Relevant offence” in the case of subsection i) means; an offence for which the PCSO is authorised to give a penalty notice; an offence under section 3 or 4 of the vagrancy Act 1824; an offence committed under the Parks Regulations Act 1872 (contravening regulations);

Failure to comply with a dispersal order (section 39 Anti-Social Behaviour, Crime and Policing Act 2014); an offence listed under a byelaw or any offence which appears to the PCSO to have caused injury, alarm or distress to any other person or loss of, or damage to, any other persons property.

- **To require persons drinking in areas where a Public Spaces Protection Order is in force to surrender alcohol.**

Power granted under section 63 of the Anti-Social Behaviour, Crime and Policing Act 2014 and Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

- **To require persons aged under 18 to surrender alcohol and to search if they fail to comply.**

Power granted under section 63 (2) of the Anti-Social Behaviour, Crime and Policing Act 2014 (where in breach of prohibition in order); section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 (for under 18s) and Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

- **To search for and seize tobacco or cigarette papers from a person aged under 16 and to dispose of the tobacco/papers.**

Power granted under section 7(3) of the Children and Young Persons Act 1933 and Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.



- **To seize controlled drugs (including power to require name and address of person in possession).**

Power granted under Section 38 (6B) of the Police Reform Act 2002, Schedule 3C. This refers to any controlled drug and will apply when a PCSO finds a controlled drug in a person's possession (whether or not they find it in the course of searching the person in the exercise of a power or duty conferred or imposed by their designation under section 38), and reasonably believes that it is unlawful for the person to be in possession of it. The PCSO may seize the drug and may require the person in possession of it to provide their name and address.

- **To enter and search any premises, in their police area, for the purposes of saving life and limb or preventing serious damage to property.**

Section 38 (6B) of the Police Reform Act 2002, Schedule 3C extends the powers granted to a constable under Section 17 of the Police and Criminal Evidence Act 1984 to Community Support Officers.

It is important to note that under this power there is no requirement to reasonably believe that a person is on the premises but that there is only a power to search to the extent that is reasonably required for the purpose for which the power of entry was exercised.

- **To seize vehicles used to cause alarm or distress (that is, careless and inconsiderate driving or prohibited off-road driving).**

Powers granted under section 59 of the Police Reform Act 2002 and Section 38 (6B) of the Police Reform Act 2002.

- **To remove abandoned vehicles.**

Powers granted under Section 99 of the Road Traffic regulation Act 1984 and Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

This refers to any vehicle or part of a vehicle which is parked illegally, obstructively or dangerously on a road or other land and also to any vehicle or part of a vehicle which appears to have been abandoned (whether by virtue of position, condition or circumstance) or has broken down on a road or other land.

- **To stop bicycles.**

Powers granted under Section 163 of the Road Traffic Act 1988 and Section 38 (6B) of the Police Reform Act 2002.

- **To control traffic for purposes other than escorting a load of exceptional dimensions.**



Powers granted under sections 35 and 37 of the Road Traffic Act 1988 and Section 38 (6B) of the Police Reform Act 2002.

These powers are general powers to control traffic and pedestrians and would include the power to help agencies such as the Vehicle Inspectorate and local authorities to conduct roadworthiness and emissions tests and to conduct traffic surveys.

- **To carry out road checks.**

Powers granted under Section 38 (6B) of the Police Reform Act 2002. This gives Community Support Officers the powers of a police officer to carry out an authorised road check under section 4 of the Police and Criminal Evidence Act 1984.

Road checks can be authorised by a Superintendent in writing and allow officers to stop any vehicle in a specified locality for the purposes of ascertaining whether a vehicle is carrying; a person who has committed an indictable offence; a person who is witness to an indictable offence; a person intending to commit an indictable offence or a person who is unlawfully at large.

- **To place traffic signs.**

Powers granted under Section 67 of the Road Traffic Regulation Act 1984.

This gives the power to place on a road (or any structure on a road) any traffic signs of prescribed dimensions as may be necessary or expedient to prevent or mitigate congestion or danger in consequence of extraordinary circumstances for a maximum period of seven days.

- **To photograph persons away from a police station.**

Powers granted under Section 116 of the Serious and Organised Crime and Police Act 2005. The circumstances in which this might apply is when a person has been arrested or given a notice in relation to a fixed penalty notice offence by a Community Support Officer.

Discretionary powers

- **To issue penalty notices in respect of offences of disorder:**

Powers granted under Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

These offences are:

- Being drunk in a public highway, other public place or licensed premises (section 12 of the Licensing Act 1872).
- Throwing fireworks in a thoroughfare (section 80 of the Explosives Act 1875). Knowingly giving a false fire alarm to a fire brigade (section 31 of the Fire Service Act 1947).



- Trespassing on a railway (section 55 of the British Transport Commission Act 1949).
- Throwing stones etc. at trains or other things on railways (section 56 of the British Transport Commission Act 1949).
- Buying or attempting to buy alcohol for consumption in a bar in licensed premises by a person under 18 (section 149 of the Licensing Act 2003).
- Disorderly behaviour while drunk in a public place (section 91 of the Criminal Justice Act 1967).
- Wasting police time by giving false report (section 5(2) of the Criminal Law Act 1967).
- Using public telecommunications system for sending message known to be false in order to cause annoyance (section 127 of the Communications Act 2003).
- Behaviour likely to cause harassment, alarm or distress (section 5 of the Public Order Act 1986).
- Consumption of alcohol in breach of a prohibition in a public spaces protection order (Section 63 Anti-Social Behaviour, Crime and Policing Act 2014).
- **To issue fixed penalty notices for truancy.**

Powers granted under section 444A of the Education Act 1996 for offences under Section 444 of the Education Act 1996 and Section 38 (6B) of the Police Reform Act 2002.

If a child of compulsory school age, who is a registered pupil at a school, fails to attend regularly at the school, their parent is guilty of the offence.

There are a number of defences to this section which officers should familiarise themselves with.

- **To issue fixed penalty notices for excluded pupil found in a public place.**

Powers granted under section 105 of the Education and Inspections Act 2006 and Section 38 (6B) of the Police Reform Act 2002. These powers refer to offences under section 103 of the act and to situations when a pupil who has been excluded from a school on disciplinary grounds is found in a public place during school hours. This will only apply during the first five days of the exclusion.

- **To issue fixed penalty notices for dog fouling on designated land.**

Powers granted under section 4 of the Dogs (Fouling of land) Act 1996 and Section 38 (6B) of the Police Reform Act 2002.

The 1996 act has now been repealed in England and Wales but the power continues to have effect in respect of any land which remains designated land under the original act.



- **To issue fixed penalty notices for graffiti and fly-posting.**

Powers granted under section 43 and 43B of the Anti-Social Behaviour Act 2003 and Section 38 (6B) of the Police Reform Act 2002.

This also gives the power to require a person's name and address when issuing the notice. Fixed penalty notices cannot be issued for racially or religiously aggravated offences.

- **To issue fixed penalty notice for relevant byelaw offences.**

Powers granted under Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

- **To enforce byelaws.**

Powers granted under Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

- **To deal with begging.**

Powers granted under sections 3 and 4 of the Vagrancy Act 1824 and Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

- **To require a person to give their name and address if believed to have committed a relevant offence under paragraph 3(3) of Schedule 3C.**

Powers granted under Section 38 (6B) of the Police Reform Act 2002, Schedule 3C.

Relevant offences under this paragraph are:

- Any offence for which a CSO could issue a penalty notice.
- An offence under sections 3 and 4 of the Vagrancy Act 1824.
- An offence committed in a specified park which by virtue of section 2 of the Parks Regulation (Amendment) Act 1926 is an offence against the Parks Regulation Act 1872.
- An offence under section 39 Anti-Social Behaviour, Crime and Policing Act 2014.
- An offence listed under a byelaw.
- Any offence, the commission of which appears to have caused injury, alarm or distress to any other person or the loss of, or damage to, any other persons property.
- **To require a person to give their name and address if believed to have committed a relevant licensing offence under paragraph 3(4) of Schedule 3C.**

Powers granted under section 38 (6B) of the Police Reform Act 2002, Schedule 3C.



Relevant licensing offences under this paragraph are all offences against the Licensing Act 2003 as follows:

- Sale of alcohol to person who is drunk (section 141).
- Obtaining alcohol for a person who is drunk (Section 142).
- Sale of alcohol to children (Section 146(1)).
- Purchase of alcohol by or on behalf of children (Section 149 (1)(a), (3)(a) or (4)(a)).
- Consumption of alcohol by children (Section 150 (1)).
- Allowing the consumption of alcohol on relevant premises (Section 150 (2) and sending a child to obtain alcohol (Section 152 (1)).

- **To remove truants and excluded pupils to designated premises etc.**

Powers granted under Section 16(3) or (3ZA) of the Crime and Disorder Act 2002 and Section 38 (6B) of the Police Reform Act 2002.

A superintendent may direct that officers in a specified area during a specified time may remove any child that he reasonably believes to be truanting to a designated premise. In practical terms this will usually be the school from which they are absent.

- **To issue closure notices to premises persistently selling alcohol to children.**

Powers granted under Section 24 of the Violent Crime Reduction Act 2006 and Section 38 (6B) of the Police Reform Act 2002.

A PCSO may give notice if there is evidence that a person has committed an offence of selling alcohol to a person under 18, the evidence is such that if the person were prosecuted there would be a realistic prospect of them being convicted and that, at the time when the notice is given, they hold a premises licence in respect of those premises. The notice proposes a prohibition for a maximum of 48 hours and offers the person the opportunity to discharge all criminal liability in respect of the alleged offence.

- **To seize psychoactive substances.**

Powers granted under Section 38 (6B) of the Police Reform Act 2002, Schedule 3C and will include times when a Community Support Officer has lawfully searched a person under the power above and items have been found.

The PCSO may seize the substance and may require the person in possession of it to provide their name and address.



- **To stop vehicles for testing of roadworthiness.**

Powers granted under section 67 of the Road Traffic Act 1988 and Section 38 (6B) of the Police Reform Act 2002.

This means that PCSOs in uniform have the power to stop vehicles for the purposes of an authorised vehicle examiner to test it for roadworthiness.

- **To direct traffic for the purposes of escorting a load of exceptional dimensions.**

Section 38 (6B) of the Police Reform Act 2002.

- **To issue a fixed penalty notice for certain offences under Section 42 of the Road Traffic Act 1988.**

Powers also granted under Section 38 (6B) of the Police Reform Act 2002.

These offences are:

- Cycling without lights.
- Sounding a horn when stationary or at night.
- Not stopping engine when stationary.
- Causing unnecessary noise with a motor vehicle and opening a door so as to cause injury or danger.

- **To issue a fixed penalty notice for certain offences under the Road Traffic Act 1988.**

Powers also granted under Section 38 (6B) of the Police Reform Act 2002 and Schedule 3 of the Road Traffic Offenders Act 1988.

These offences are:

- Failing to comply with traffic signs; carrying a passenger on a cycle.
- Cyclist failing to comply with a traffic direction.
- Failing to stop for a constable.
- **To issue a fixed penalty notice for certain offences under sections 5(1) and 8(1) of the Road Traffic Regulations Act 1984.**

Powers also granted under Section 38 (6B) of the Police Reform Act 2002.



These offences are:

- Parking in a restricted area outside schools.
- Driving the wrong way down a oneway street.
- Contravening bus lane prohibition or restriction.
- **To confirm the identity of a charity collector.**

Powers granted under section 4 and 6 of the House to House Collections Act 1939 and Section 38 (6B) of the Police Reform Act 2002.

- **To give a dispersal direction.**

Powers granted under section 35, 37 and 40 of the Anti-Social Behaviour, Crime and Policing Act 2014 and Section 38 (6B) of the Police Reform Act 2002.

Where an authorisation is in force under section 34 of this act a Community Support Officer may require in writing that a person leave an area for up to 48 hours so long as two conditions are satisfied.

The first condition is that the constable has reasonable grounds to suspect that the behaviour of the person in the locality has contributed or is likely to contribute to:

- (a) members of the public in the locality being harassed, alarmed or distressed, or
- (b) the occurrence in the locality of crime or disorder.

The second condition is that the constable considers that giving a direction to the person is necessary for the purpose of removing or reducing the likelihood of the events mentioned in subsection (a) or (b).

A Community Support Officer is also empowered to request the surrender of any item that could be used to facilitate any of the events mentioned in subsections (a) and (b) above.

- **To issue a Community Protection Notice (CPN).**

Powers granted under section 35 of the Anti-Social Behaviour, Crime and Policing Act 2014 and Section 38 (6B) of the Police Reform Act 2002.

Following the issuing of a written warning (above) a PCSO can issue a Community Protection Notice against any person aged 16 or over, business or organisation that is committing anti-social behaviour in the manner described above and spoiling the community's quality of life.

- **To issue a fixed penalty notice for failure to comply with a CPN.**



Powers granted under section 52 of the Anti-Social Behaviour, Crime and Policing Act 2014 and Section 38(6B) of the Police Reform Act 2002.

- **To issue a fixed penalty notice for failure to comply with a Public Space Protection Order.**

Powers granted under section 68 of the Anti-Social Behaviour, Crime and Policing Act 2014 and Section 38 (6B) of the Police Reform Act 2002.

