

Request reference: 5269_14

1. West Midlands police procedures for dealing with confiscation of alcohol in a public place

Section 12 of the Criminal Justice and Police Act 2001 (as amended by section 199 and schedule 7 of the Licensing Act 2003) refers to the possession / consumption of alcohol in a designated public place.

This section of the Act allows for a constable who reasonably believes that any person is drinking or has been drinking alcohol in a designated public place, to cease. The police constable can confiscate AND dispose of the alcohol, (or anything he reasonably believes to be alcohol) AND its container.*

It does not matter that the container is closed as long as the police officer reasonably believes that this person has been or is drinking what they believe to be alcohol in a designated public place. This also applies to a person of ANY age.

This is a 'summary only' offence, which means if the person was prosecuted the matter would be dealt with at Magistrates Court.

In layman's terms, police officers are empowered to pour away alcohol, whether it be in open or closed containers, providing they believe it to be alcohol and that the person was or is drinking it in a designated public place.

*Commonsense should prevail. If the alcohol is in a can / tin that is of no intrinsic value, then the can / tin should be disposed of. If the alcohol were in a container of some value – for instance a hip flask – then the officer may wish to use their discretion in disposing of the alcohol before returning the container to the individual concerned. Clearly, if the officer were seeking to prosecute the offender then consideration as to 'best evidence' needs to be made in that the container may be required as an exhibit in court. Equally, if seizing alcohol from a juvenile the officer may wish to retain any container of value so that it can later be returned to an appropriate adult, rather than allowing the juvenile to retain it and put it to later use carrying more alcohol.