

Appendix 1 – Draft Public Spaces Protection Order



Anti-social Behaviour, Crime and Policing Act 2014 Part 4, section 59 Public Spaces Protection Order

The Public Spaces Protection Order - (Harborough District Council) 2016

Harborough District Council (in this order called “the Authority”) hereby makes the following Order:

This Order comes into force on [] 2016 and will be for a period of 3 years ending on [] 2019

Offences:

1. Dog Fouling

If within the administrative area of the Authority a dog defecates at any time on land 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 and a person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless:

- (a) he has reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

2. Leads by order

A person in charge of a dog shall be guilty of an offence if, at any time, within the administrative area of the Authority he does not comply with a direction given to him by an authorised officer of the Authority to put and keep the dog on a lead unless:

- (a) he has reasonable excuse for failing to do so; or

- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

An authorised officer of the Authority may only give a direction under this order if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, or to a bird or another animal.

3. Means to pick up

A person in charge of a dog shall be guilty of an offence if, at any time, within the administrative area of the Authority he does not have with him an appropriate means to pick up dog faeces deposited by that dog unless:

- (a) he has reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

The person shall not be guilty of an offence if after on request from an authorised officer, the person in charge of the dog produces an appropriate means to pick up dog faeces.

Exemptions

- i) Nothing in this Order shall apply to a person who:
 - (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
 - (c) has a disability which affects his mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.
- ii) For the purpose of this Order :
 - a) A person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
 - b) Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land;
 - c) Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces:

- d) “an authorised officer of the Authority” means an employee, partnership agency or contractor of Harborough District Council who is authorised in writing by Harborough District Council for the purposes of giving directions under the Order.
- e) Each of the following is a "prescribed charity" –
 - Dogs for the Disabled (registered charity number 700454)
 - Support Dogs Limited (registered charity number 1088281)
 - Canine Partners for Independence (registered charity number (803680)

Penalty

A person who is guilty of an offence under this order, under section 67 of the Act, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale. Or a fixed penalty notice of a maximum of £100.

Appeals

Any challenge to this order must be made in the High Court by an interested person within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. The right to challenge also exists where an order is varied by the Authority. Interested persons can challenge the validity of this order on two grounds: that the Authority did not have power to make the order, or to include particular prohibitions or requirements; or that one of the requirements of the legislation, for instance consultation, has not been complied with.

When an application is made the High Court can decide to suspend the operation of the order pending the Court’s decision, in part or in totality. The High Court has the ability to uphold the order, or quash it, or vary it.

Dated.....

The Common Seal of
 The District Council of Harborough
 Was affixed in the presence of

.....
 Chairman

.....
 Authorised Signatory