

North West Leicestershire District Council Anti-social Behaviour, Crime and Policing Act 2014

North West Leicestershire **Proposed** Public Spaces Protection Order 2021 Dog Related Anti-Social Behaviour

This Order may be cited as the North West Leicestershire Public Spaces Protection Order Ref:
xxxxxxx:2021

This Order is made by North West Leicestershire District Council (“the Council”) in exercise of its powers under section 59 and 72 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”)

1. Duration

This Order shall come into operation on **xx/xx/2021** and shall have effect for a period of three (3) years thereafter, expiring on **xx/xx/xx24** unless revoked, amended or extended by further orders under the Act.

2. Restricted Area

The administrative area of the Council 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.

3. Activities to which this Order relates:-

3.1 Dog Fouling

If a dog defecates within the restricted area 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:

- He/she has reasonable excuse for doing so; or
- The owner, or occupier or other person or authority having control of the land has consented (generally or specifically) to his/her failing to do so.

3.2 Leads By Order

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

- He/she has reasonable excuse for failing to do so; or
- The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his/her 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 other animal.

3.3 Exclusion

A person in charge of a dog within the restricted area shall be guilty of an offence if, at any time, he/she takes the dog onto, or permits the dog to enter or to remain on or in a fenced/enclosed children’s play area or the playing surface of any designated or marked out sports pitch or athletic area at any time within the restricted area unless:

- He/she has reasonable excuse for failing to do so; or

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

3.4 Means to pick up

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

- He/she has reasonable excuse for failing to do so; or
- The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his/her failing to do so.

The obligation is complied with if, after a request from an authorised officer of the Authority the person in charge of the dog produces an appropriate means to pick up the dog faeces.

4. Exemptions

Nothing in this order shall apply to a person who:

- Is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- Is deaf, in respect of a dog trained by Hearing Dogs for deaf People (registered charity number 293358) and upon which he/she relies for assistance; or
- A person with a disability affecting their mobility, manual dexterity or ability to lift, carry or move everyday objects and who relies upon a dog trained by a prescribed charity for assistance.

5. For the purpose of this order:

- a) A person who habitually has a dog in his/her 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 the Council who is authorised in writing by the Council for the purposes of giving directions under this Order.
- e) Each of the following is a “prescribed charity” –
- f) Dogs for the Disabled (registered charity number 700454)
- g) Support Dogs Limited (registered charity number 1088281)
- h) Canine Partners for Independence (registered charity number 803680)

6. Offences

It is an offence for a person without reasonable excuse -

- a) to do anything that the person is prohibited from doing by this Order, or
- b) to fail to comply with a requirement to which the person is subject under this Order.

A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

7. Fixed Penalty Notices

A constable or a person authorised by the Council may issue a Fixed Penalty Notice to anyone he/she has reason to believe has committed an offence in relation to this Order, this may, rely upon evidence from CCTV.

A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the Council.

Failure to pay a Fixed Penalty Notice may lead to prosecution.

8. Appeals

Any challenge to this Order must be made in the High Court by an interested person within six weeks of the Order being made. An interested person is someone who lives in, regularly works in, or visits the Restricted Area. The grounds on which an interested person may apply to the High Court are:

- a) That the Council did not have power to make the Order, or to include particular prohibitions or requirements imposed by the Order; or
- b) That the Council did not meet one of the requirements of Chapter 2 of Part 4 of the Act.

The right to challenge also exists where an Order is varied by The Council. When such an application is made, the High Court can decide to suspend the operation of the Order pending the Court's decision, in part or totality. The High Court also has the power to uphold the Order, quash the Order or vary the Order.

The Common Seal of North West Leicestershire District Council was affixed in the presence of XXXX