

**North East Lincolnshire Council Public Space Protection Order**

The introduction of a Borough wide Public Space Protection Order under the new powers will replace outdated legislation relating to dog fouling and dog control.

Although, as an authority, we do recognise that the vast majority of dog owners are caring, responsible and respectful of their local communities, complaints are regularly received from residents about dog fouling and the behaviour of some dogs. Therefore to bring greater clarity and consistency to benefit all our residents, the prohibitions have been designed to be as simple as possible, clearly outlining expectations within our communities.

**Statutory Consultation**

As part of a review of delivery arrangements for littering and dog fouling enforcement, it was agreed to replace the old dog fouling legislation with a PSPO on dog control following consultation. We initially consulted with the Portfolio holders, which was supported. It was agreed that we would commence statutory public consultation commencing 1st November for 28 days on a number of proposed prohibitions with the final order being drafted after such consultation was completed taking into account comments recieved.

In short, the prohibitions include the following five key areas -

* Failure to clear up your dog’s mess.
* The keeping of dogs on leads within specified area e.g. cemeteries (including woodland burial areas) and council owned recreational parks
* Leads by order – this covers the need for people to put and keep a dog on a lead when directed to do so by an authorised officer.
* Exclusion of dogs from certain areas - this includes enclosed children’s play areas including school playgrounds, cemeteries outside opening hours, land dedicated for protection of wildlife and Cleethorpes beach during certain times of the year
* Carrying suitable means to remove dog fouling.

Exemptions to these prohibitions would include the following –

* Where a person is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 ; or

Where 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

**Consultation**

Between 01/11/2018 to 30/11/2018, there will be a consultation on the planned public space protection order.

The consultation will be carried out using:

1. Email to Elected Members, Parish Councils and other interested groups such as Humberside Police and the Police and Crime Commissioner.
2. Website/Survey link publicised on the Council’s websites Social Media (Twitter, Facebook) and a press release.

**For the purpose of this order:**

• 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;

• 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;

• 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

• “an authorised officer of the Authority” means an employee, partnership agency or contractor of North East Lincolnshire Council who is authorised in writing by North East Lincolnshire Council for the purposes of giving directions under the Order.

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| **The following prohibitions and requirements are to tackle the issue through a Public Spaces Protection Order:** | | |
| **PROHIBITIONS** | **REQUIREMENTS** | **WHEN** |
| **Dog Fouling**  If a dog defecates at any time on land to which this order applies, a person who is in charge of the dog at the time must remove the faeces from the land forthwith.  This prohibition would be in force across the borough of North East Lincolnshire |  | At all times, unless the dog owner  (a) 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. |
|  | **Leads must be worn**  A person in charge of a dog on the land below must keep the dog on a lead  This requirement would be in force within the following areas  1. During opening times for all cemeteries and woodland burial areas;  3. All sports grounds, fields, parks, play areas and pitches, which are maintained by the local authority and are not subject to ‘Dog Exclusion’, but only when in use for organised authorised events. These include gala’s, fairs, sporting matches, charitable events).  Clear signage will be erected in these locations | At all times, unless the dog owner  (a) 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. |
|  | **Leads by Order**  A person in charge of a dog on land to which this order applies must comply with a direction given to him by an authorised officer of the Authority to put and keep the dog on a lead.  An authorised officer 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.  This prohibition would be in force across the borough of North East Lincolnshire. | At all times, unless the dog owner  (a) 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. |
| **Dog exclusion areas**  A person in charge of a dog must not take it into, or keep it within a specified or signed area  This includes fenced / enclosed children’s play area and where there is a sign at its entrance(s) as a “dog exclusion area” (whether the sign uses those particular words or words and/or symbols having like effect) which is designated and marked for children’s play.  This also includes any area dedicated for protection of wildlife, including birds and where there is a sign at its entrance(s) as a “dog exclusion area” (whether the sign uses those particular words or words and/or symbols having like effect).  Dogs are not allowed on the beach from Wonderland Groyne to Cleethorpes Leisure Centre from Good Friday to 30 September each year. The beach map shows the areas that dogs are allowed at this time - see map Appendix 1  A dog exclusion zone will also apply outside of opening times for all cemeteries and woodland burial areas;  Clear signage will be erected in these locations |  | At all times, unless the dog owner:  (a) 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. |
|  | **Means to pick up**  A person in charge of a dog on land to which this order applies must have and produce on request the appropriate means to pick up dog faeces deposited by that dog  The obligation is complied with if, after a request from an authorised officer, the person in charge of the dog produces an appropriate means to pick up dog faeces.  This prohibition would be in force across the borough of North East Lincolnshire | At all times, unless the dog owner:  (a) 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. |
| **Additional notes and definitions for the purpose of the Order**  • A person who habitually has a dog in their 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;  • 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;  • 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  • “an authorised officer of the Authority” means an employee, partnership agency or contractor of North East Lincolnshire Council who is authorised in writing by North East Lincolnshire Council for the purposes of giving directions under the Order.   * ‘At all times, unless the dog owner: (a) has reasonable excuse for failing to do so – this will include guide dogs / assistance dogs – would consider incidents on a case by case basis if a disability would make it hard to comply and if it does, accept this as a reasonable excuse. | | |

**Dogs and Dog Control - Public Spaces Protection Order – Frequently Asked Questions.**

**Why introduce a Public Spaces Protection Order (PSPO)?**

The vast majority of the dog owners are responsible and caring; however a small minority do not always behave responsibly. Feedback from local residents has consistently raised the issue of dog fouling and nuisance behaviour from dogs that are not under proper control.

The adoption of this proposed Order will make it easier for the authority to deal quickly and efficiently with the small minority of dog owners who behave irresponsibly, while at the same time encouraging a culture of responsible dog ownership.

This order will bring a number of benefits, including the creation of a cleaner environment, reduction of health problems associated with dog faeces and the promotion of responsible dog ownership.

It represents a modern and effective way of enforcement when required and provide a common sense method of dealing with an issue of constant concern for our residents.

**DOG FOULING**

**Why clean up after your dog?**

Besides the unpleasant smell and the mess caused. When it gets on pram wheels, wheelchairs, shoes and clothing, there is a potential health risk associated with dog faeces.

Toxocara canis is a roundworm that lives in the dog’s gut. Eggs are passed out with the faeces and can survive in the soil for up to 3 years. The eggs hatch into larvae which, if ingested, will enter the bloodstream. The human blood is an alien environment and the larvae will remain dormant. However, if a larva lodges in the small blood capillaries behind the eye, it can cause partial loss of vision. Although this is very rare and the body’s defences will normally destroy the larvae, cleaning up after your dog will remove the risk.

**What will the proposed order require?**

The Order will require the person in charge of a dog to clean up after it immediately, if their dog defecates on any land where the Order applies.

**What land will this apply to?**

The requirement to clean up after your dog will apply to all public places in North East Lincolnshire. This means any place to which the public or any section of the public has access, on pavement or otherwise, as of right or by virtue of express or implied permission.

**Does this apply to land that is not owned by North East Lincolnshire Council?**

Yes, the requirement to clean up after your dog will apply to all public land that falls within the description set out above, including areas of land in private ownership that are used by the public (or a section of the public).

However, the owner, occupier or person in control of a piece of public land can give the person in charge of a dog permission not have to clean up after their dog on his/her land. They can give this permission to individuals, to groups of people, or to everyone that uses their land. By doing this, they can opt out of the order, so it will not apply to their land.

**Are rights of way covered?**

Yes, public rights of way qualify as land which is open to air and to which the public are entitled or permitted to have access.

**Some footpaths go across private land but the public have a right to be using them. Is it correct that a Fixed Penalty Notice could be issued for a dog fouling actually on the route of a footpath?**

Yes.

**What steps can I take to make sure that I comply with the Order?**

We would advise you to always take a poop scoop or carrier bag with you when you take your dog for a walk.

You should not leave bags of dog faeces lying around, even if you intend to pick them up later. Containers and deodorised bags can make them easier to carry. When you are out walking your dog it will be your responsibility to watch your dog at all times and to ensure you clean up after it. Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a suitable means of removing the faeces, is not a reasonable excuse for failing to comply with the order.

**Where should I dispose of dog waste?**

If your dog defecates on public land, the bagged dog waste can be placed in **any** public litter, dog waste bin or household waste bin.

**Are the any exemptions for Disabled People?**

This Part of the Order will not apply to a person who -

(a) is registered as partially sighted or blind.

(b) is registered as “sight-impaired”, “severely sight-impaired” or as “having sight and hearing impairments which, in combination, have a significant effect on their day to day lives”.

(c) has a disability which affects his mobility, manual dexterity, physical coordination, or ability to lift, carry, or otherwise move everyday objects, such that he cannot reasonably be expected to remove the faeces; or

(d) has some other disability, such that he cannot reasonably be expected to remove the faeces.

For the purposes of the Order, a “disability” means a condition that qualifies as a disability for the purposes of the Equality Act 2010.

**DOGS ON LEADS**

**What does this part of the Order do?**

A person in charge of a dog will be required to put their dog on a lead in specific area’s , where lack of control of dogs may cause a risk to the wellbeing of the public and wildlife or cause annoyance or disturbance to other people, birds or animals. .

**When am I required to put my dog on a lead?**

At all-time in designated areas.

**Why Does the Council want to be able to do this?**

We want to do this to bring greater clarity and consistency to benefit all our residents. The prohibitions have been designed to be as simple as possible, clearly outlining expectations within our community.

**What land will this apply to?**

This order applies to all cemeteries including woodland burial areas. All sports grounds, fields, parks and pitches, which are maintained by the local authority and are not subject to Dog Exclusion, but only when in use for organised events. These include gala’s fairs sporting matches, charitable events.

**DOGS ON LEADS BY ORDER**

**What does this part of the Order do?**

A person in charge of a dog can be asked to put their dog on a lead when an Officer believe this is necessary to prevent nuisance or behaviour by the dog that may cause annoyance or disturbance to other people, birds or animals. If the person does not take action to put their dog on a lead when requested to do so, a fixed penalty notice may be issued.

**Who can issue a direction, requiring a dog to be put on a lead?**

The direction can be given by "an authorised officer of the Council". This has a wide meaning and means any person who is authorised in writing by the Council for the purpose of giving directions under the Order. This can include a person who is not an employee of the Council, such as employees of a contractor or a partner agency.

**Why Does the Council want to be able to do this?**

We want to ensure all dog owners take action to keep their dog under control when it is reasonable to do so to prevent nuisance or behaviour by the dog that may cause annoyance or disturbance to other people, birds or animals.

**What land will this apply to?**

This order applies to all land open to the public in North East Lincolnshire Council.

**DOG EXCLUSION**

**What will the order require?**

The proposed order excludes dogs from all outdoor, enclosed children’s play areas within North East Lincolnshire, and will be enforced where the Council has erected signage to say that dogs are prohibited. The order also applies outside normal opening hours in all cemeteries and woodland burial areas. In addition it excludes dos from areas dedicated for the protection of wildlife and for part of the year to Cleethorpes beach.

**Will Cleethorpes Beach be affected?**

Yes, dogs will not be allowed on the beach from Wonderland Groyne to Cleethorpes Leisure Centre from Good Friday to 30 September each year. The beach map shows the areas that dogs are allowed at this time - see map Appendix 1

**What is a Children’s play area?**

A Children’s play area, is an area that is set aside for children to play in and that contains children’s play equipment such as slides, swings, climbing frames and other similar apparatus. It includes any enclosed school playground.

**What is an area dedicated for protection of wildlife?**

An area dedicated for protection of wildlife is any bird protection area or other wildlife protection area clearly signposted for this purpose.

**Where does the Order Apply?**

This Part of the Order applies to all enclosed children’s play areas in North East Lincolnshire that are open to the air and will be enforced where these have been identified as areas where dogs are prohibited by appropriate signage erected by or on behalf of the Council.

For these purposes, land which is covered is to be treated as land which is "open to the air" if it is open on at least one side.

The order only applies to outdoor children’s play areas that are enclosed on all sides by fences, gates, walls or other structures that mark the boundary of the play area. This will make it easy for people to identify the extent of the area where dogs are not allowed.

If there is a children’s play area within your local park that is fenced off from the rest of the park, dogs will not be allowed in to the fenced off play area. This will not stop you from taking dogs in to the rest of the park.

**Why does the Council want to exclude dogs from Enclosed Children’s play areas?**

The Council believes that children should be free to play on the play equipment provided in these areas without the fear of treading in or coming into contact with dog faeces. Dogs taken in to children’s play areas can also become aggressive if startled.

**Are there any exemptions for Disabled People?**

Yes, the dog exclusion will not apply to assistance dogs.

**ENFORCEMENT**

**What Happens if I fail to Comply with order?**

If the person in charge of a dog fails to comply with the requirements of the order, they will be committing a criminal offence and will be issued with £100 fixed penalty unless:-

a) they have the consent from the owner, occupier or person in charge of the land, not to comply with the order;

b) they have a reasonable excuse for failing to comply; or

c) they fall within one of the other exemptions within the order, such as the exemptions in the order for disabled people, assistance dogs and working dogs.

**Who is considered to be in charge of the dog?**

The person who normally has a dog in their possession is deemed to be in charge of the dog at any time, unless at that time of the offence, some other person is in charge of the dog.

This means that if your dog defecates in a public place or enter in to a children’s play area you will be responsible for it, unless you can show that somebody else was in charge of the dog at that time. If you have allowed someone else take your dog out for a walk, they will be in charge of it for the duration of the walk.

**What is the maximum Penalty for breaching the Order?**

A person who is found guilty of an offence in the Magistrates’ Court is liable on summary conviction to a fine not exceeding level 3 on the Court’s standard scale of fines (currently **£1,000**).

**Can I be issued with a Fixed Penalty Notice?**

Yes, A fixed penalty notice may be issued to a person who breaches this order, offering them an opportunity of avoid prosecution by paying a Fixed Penalty of up to **£100.**

In most cases, the Council will issue a fixed penalty notice to someone who breaches the order. However, we may decide to prosecute them instead, if we consider it more appropriate to do so. For example, we may consider prosecuting someone rather than issuing a fixed penalty notice if they behave inappropriately towards our enforcement officers, or if they have previously been issued with a fixed penalty notice for similar behaviour.

**When does the fixed penalty have to be paid?**

The fixed penalty is £100 and we must allow at least 14 days for it to be paid.

**What happens if I don’t pay my Fixed Penalty?**

If you fail to pay the fixed penalty, it is likely that you will be prosecuted in the magistrates’ court.

**How will North East Lincolnshire Council enforce the PSPO**?

Enforcement of the orders will be carried out by officers across a range of services and result in a higher public profile.

**How will North East Lincolnshire council manage this?**

North East Lincolnshire Council staff will enforce this order along with partner agency Kingdom Security who will be authorised to enforce the orders.

**Who else can enforce the orders?**

PSPO’s can be enforced by officers who are authorised to do so by North East Lincolnshire Council. This could include Enforcement Officers from within the council.

**OTHER MATTERS**

**Does the Order Apply to Working Dogs?**

The order does not apply to the normal activities of working dogs, whilst the dog is working. Therefore, we will not prosecute if we are satisfied that a dog was working at the time that when the Order was breached.

For example, we will not prosecute any breaches committed by:

 Any dog being used for emergency search and rescue work.

 Any dog being used for law enforcement work.

 Any dog being used by Her Majesty’s Armed Forces.

 Any dog being used for the herding or driving of cattle or sheep.

 Any dog being lawfully used for the capture or destruction of vermin.

 Any hounds or dogs that are being lawfully used for the purposes of hunting.

If you have a dog that you use for work, the Order will still apply to the dog when it is not working. For example, if you use a dog to hunt, you will still need to comply with the Order when you are not hunting with it.

**How will the areas be signed posted?**

Dog Fouling and Dogs on Leads by direction are borough wide offences and therefore advisory warning signs will be placed in hotspot areas. Dog exclusion areas will have advisory signs placed at entrances to the designated areas under these orders.

**How long will the Order last for?**

The Order will last for a period of 3 years, but it may be extended by the Council in due course. There is a statutory consultation process that we have to follow if we decide to vary this order, to extend it, or to make any additional orders.

**Why is this Order needed?**

We believe that the proposed Public Spaces Protection Order is a fair, balanced and proportionate response to the current problems that are experienced within the County. We believe that it is necessary and proportionate in terms of the controls that it imposes. It imposes reasonable controls that we think should apply to all dog owners except for those who have we have exempted.

Community Protection Notices will be used to deal with any other problems on a case by case basis, enabling us to impose conditions on the behaviour of irresponsible dog owners without affecting other dog owners who do behave responsibly.

**What will happen to existing Controls.**

We will no longer enforce the Dogs (Fouling of Land) Act 1996, as we will use the Public Spaces Protection Order to deal with dog fouling instead.

If any further help and advice is needed contact:

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