

**The Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”)
The Public Spaces Protection Order – Dog Control (Malvern Hills District Council)
2022**

Malvern Hills District Council (in this order called “the Authority”) hereby makes the following Order under section 59 of the Act having had particular regard to the rights of freedom and expression and freedom of assembly secured in Articles 10 and 11 of the European Convention on Human Rights and having carried out the necessary consultation, notification and publicity required by section 72 of the Act.

This Order comes into force on 1 May 2022 for a period of 3 years.

General provisions:

1. This Order applies to all land in the administrative area of the Authority to which the public or any section of the public has access, on payment or otherwise, as or right or by virtue of express or implied permission.
2. A person who fails to comply with any obligation imposed by this Order is guilty of a criminal offence by virtue of section 67(1) of the Act and liable to a fine on summary conviction not exceeding level 3 on the standard scale.
3. A police officer or an authorised officer of the Authority may issue a fixed penalty notice to a maximum of £100 to anyone he or she believes has committed an offence as an alternative to prosecution.

Obligations on persons with dogs:

4. 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 immediately 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.

5. 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 a police officer, community support officer or 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.

A direction under this order may only be given 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.

6. Exclusion

A person in charge of a dog must not take it into or keep it within a fenced/enclosed children's play area and signed 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 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.

7. Means to pick up

A person in charge of a dog on land to which this order applies must 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 obligation is complied with if, after a request from a police officer, community support officer authorised officer of the Authority, the person in charge of the dog produces an appropriate means to pick up dog faeces

8. Exemptions

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) 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.

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 Malvern Hills District Council who is authorised by Malvern Hills District Council for the purposes of giving directions under this Order.

9. The Council is satisfied that the conditions set out in sections 59 and 72 of the Act have been met and that it is, in all the circumstances, expedient to make this Order.

10. An ‘interested person’ as defined by section 66(1) of the Act may apply to the High Court to question the validity of this Order on the grounds specified in section 66(2) of the Act within 6 weeks of the date that this Order has been made.

Dated this 23 day of February 2022

THE COMMON SEAL of MALVERN HILLS DISTRICT COUNCIL was hereunto affixed in the presence of:-

Deputy Chief Executive: Andy Baldwin



