

## **Torbay Council**

### **The Anti-Social Behaviour, Crime and Policing Act 2014**

#### **Public Spaces Protection Order Dog Fouling 2021**

1. Torbay Council (“the Council” in exercise of its powers under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 and under all other enabling powers, makes the following Order known as:

#### **Torbay Council Public Space Protection Order Dog Fouling 2021**

2. The Order applies to all public places within the Torbay Council area including but not limited to roads, footpaths, pavements, alleyways, beaches and foreshores, all grass verges and parks and open spaces including wooded areas. For this purpose, a ‘public place’ means any land to which the public has access, on payment or otherwise, as of right, or by virtue of express or implied permission.
3. The Council, on making this order, is satisfied on reasonable grounds that:
  - (i) The activities identified below have had detrimental effect on the quality of life of those in the locality;
  - (ii) The effect, or likely effect of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable;

And justifies the restrictions imposed by the order.

4. The order shall come into force on 8th April 2021 for a period of up to 3 years.

#### **Offence**

If a dog defecates at any time on land to which this order applies, and the 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 –

- (i) That person has a reasonable excuse for failing to do so; or
- (ii) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so.

#### **Penalty**

A breach of this Order is a criminal offence and will result upon summary conviction, to a fine not exceeding level 3 on the standard scale.

For the purpose of this order –

- (a) A person who being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a suitable device or other means of removing the faeces shall not have a reasonable excuse for failing to remove the faeces.
- (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.

### **Exemptions**

1. Nothing in this order shall apply to a person who –

- (i) Is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948; or
- (ii) Has a physical or mental impairment which has a substantial and long term adverse effect on the ability to carry out normal day to day activities that would prevent them picking up dog faeces.

### **APPEALS**

Any challenge to this Order must be made at the High Court by an Interested Person within 6 weeks of it being made. Interested Persons can challenge the validity of the Order on two grounds: 1) that the Council did not have the power to make the Order or to include particular prohibitions or requirements; or 2) that the requirements under chapter 2 Part 4 of the Anti-Social Behaviour Crime and Policing Act 2014, have 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, quash it, or vary it.

Dated this 8th day of April 2021

Signed for and on behalf of the Council



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Tara Harris  
Assistant Director of Community and Customer Services, Torbay Council