

BRIGHTON & HOVE CITY COUNCIL
ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT
2014
BRIGHTON & HOVE CITY COUNCIL (The Fouling of Land
by Dogs) PUBLIC SPACES PROTECTION ORDER 2023

Brighton & Hove City Council (“the Council”) is satisfied that the requirements of Sections 59 and 72 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) have been fulfilled and that it is, in all the circumstances, appropriate to make this Order.

1. This Order shall come into operation on XX October 2023 and shall have effect until XX October 2026 unless extended before that date under the Council's statutory powers.
2. This Order applies to the land specified in Schedule 1.

Offence

3. (1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that 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) Nothing in this article applies 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) has a disability which affects their mobility, manual dexterity, physical co-ordination, or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which they rely for assistance.

(3) For the purposes of this article:-

- (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 the 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) each of the following is a “prescribed charity”:-
 - (i) Dogs for the Disabled (registered charity number 700454)
 - (ii) Support Dogs (registered charity number 1088281)

- (iii) Canine Partners for Independence (registered charity number 803680)

Penalty

3. A person who is guilty of an offence under Article 3 shall be liable on summary conviction to a fine not exceeding Level 3 on the standard scale.

Validity of Order

4. The Council is satisfied on reasonable grounds that the activity specified by this Order (“the Offence”) having been carried on or being likely to be carried on in those Public Spaces as identified in Schedule 1 have or will have a detrimental effect on the quality of life of those in the locality. The effect or likely effect of this is of a persistent or continuing nature such as to make this unreasonable, and justifies the restrictions imposed by this Order.

5. If any interested person desires to question the validity of this Order on the grounds that the Council had no power to make it or to include particular prohibitions or requirements imposed by the Order, or that any requirement of the Act has not been complied with in relation to this Order, they may apply to the High Court within six weeks from the date on which this Order is made.

Dated this day of October 2023

The Common Seal of
Brighton & Hove City Council was affixed
to this Order in the presence of

.....
Authorised Officer

SCHEDULE 1

Description of land, or lands, to which the Order applies

1. Subject to the exception in paragraph 2 below, all land which is in the administrative area of the Council and which is:-
 - a. Open to the air (which includes land that is covered but open to the air on at least one side) and;
 - b. To which the public are entitled or permitted to have access (with or without payment)
2. Excepted from the description in paragraph 1 above is land that is used for agriculture¹, woodland and Forestry Commission Land.²

¹ “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, and livestock breeding and keeping, and the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds.

² “Forestry Commission Land” is land that is placed at the disposal of the Forestry Commissioners under Section 39(1) of the Forestry Act 1967