

WIRRAL COUNCIL

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014, SECTION 59

Public Spaces Protection Order 2019 - Dog Control

This Public Spaces Protection Order is made by Wirral Council under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014

1. Citation

- (i) This Order may be cited as **The Wirral Council Dog Control Order**.

2. Duration of The Wirral Council Dog Control Order

- (i) The Wirral Council Dog Control Order will remain in force for a period of 3 years from the commencement date given in paragraph 4(i) below.
- (ii) Before the expiry of The Wirral Council Dog Control Order, Wirral Council may extend the duration of it if satisfied on reasonable grounds that doing so is necessary to prevent occurrence or recurrence after that time of the activities listed at Paragraph 4(iii) below, or if it is satisfied on reasonable grounds that doing so is necessary to prevent an increase in the frequency or seriousness of the activities listed in Paragraph 4(iii) below after that time.
- (iii) The Wirral Council Dog Control Order may be extended more than once.

3. Definitions

Throughout The Wirral Council Dog Control Order:

- (i) reference to “The Act” is to The Anti-Social Behaviour, Crime and Policing Act 2014;
- (ii) a person who habitually has a dog in his or her possession shall be taken to be ‘in charge of’ that dog at any time unless it is shown that at that time some other person is in charge of that dog;
- (iii) reference to ‘the restricted area’ in respect of any requirement or prohibition contained in Schedules 1-6 of The Wirral Council Dog Control Order is to the area defined in the applicable Schedule;
- (iv) reference to ‘public place’ is to any place 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;

- (v) reference to ‘authorised officer’ is to an officer or agent of Wirral Council authorised for the purposes of the Act, or to a police officer;
- (vi) reference to ‘Interested Person’ is to an individual who lives in the restricted area or who regularly works in or visits that area.
- (vii) Reference to ‘suitable means of disposal’ is to a bag, device or other receptacle which would be appropriate for the disposal of dog faeces which is in the possession of the person in charge at the time of a request by an authorised officer.

4. Effect

- (i) The Wirral Council Dog Control Order comes into force on [.....] [.....] 2019¹.
- (ii) The Wirral Council Dog Control Order is made because Wirral Council is satisfied on reasonable grounds that the two conditions prescribed by section 59 of the 2014 Act are met, namely:
 - a. activities carried on in a public place within the authority’s area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and that they will have such an effect; and
 - b. the effect, or likely effect of the activities:
 - i. is, or is likely to be, of a persistent or continuing nature;
 - ii. is, or is likely to be, such as to make the activities unreasonable, and
 - iii. justifies the restrictions imposed by The Wirral Council Dog Control Order.
- (iii) The activities referred to at paragraph 4(ii) above are:
 - a. the fouling of land by dogs (see Schedule 1)
 - b. the carrying of means for the proper disposal of dog faeces (see Schedule 2)
 - c. dogs being on certain land at any time (see Schedule 3)
 - d. dogs not being on leads on certain land at all times (see Schedule 4)
 - e. dogs not being on leads when exhibiting certain behaviours (see Schedule 5); and
 - f. large number of dogs being walked by one person (see Schedule 6)
- (iv) Schedules to The Wirral Council Dog Control Order identify the restricted area for each activity, and:
 - a. prohibit specified things from being done by persons carrying on the activity identified (in the case of the restricted areas identified in Schedule 3); and
 - b. require specified things to be done by persons carrying on the activity identified (in the case of the restricted areas identified in Schedules 1, 2, 4, 5 and 6)

¹ Insert applicable date

- (v) The prohibitions and requirements imposed by The Wirral Dog Control Order are ones that Wirral Council has determined are reasonable to impose in order to prevent the detrimental effect continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

5. Offence of failing to comply with The Wirral Council Dog Control Order: section 67 of the Act

- (i) It is an offence for a person, without reasonable excuse:
 - a. to do anything that that person is prohibited from doing by The Wirral Council Dog Control Order; or
 - b. to fail to comply with a requirement to which that person is subject under The Wirral Council Dog Control Order.
- (ii) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (iii) A person does not commit an offence under section 67 of the Act by failing to comply with a prohibition or requirement that the local authority did not have power to include in The Wirral Council Dog Control Order.
- (iv) An authorised officer may issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under section 67 of the Act in relation to The Wirral Council Dog Control Order.
- (v) 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 not exceeding £100 to Wirral Council.

6. Variation & Discharge of The Wirral Council Dog Control Order: section 61 of the Act

- (i) Wirral Council may, in appropriate circumstances, vary The Wirral Council Dog Control Order by increasing or reducing the restricted areas and/or by altering or removing a prohibition or requirement included in The Wirral Council Dog Control Order, or by adding a new one.
- (ii) Wirral Council may discharge The Wirral Council Dog Control Order at any time.

7. Challenging the Wirral Council Dog Control Order: section 66 of the Act

- (i) Under section 66(1) of the Act an Interested Person may apply to the High Court to question the validity of The Wirral Council Dog Control Order, or the validity of any variation of it, on the grounds specified in section 66(2) of the Act, namely:

- a. that Wirral Council did not have power to make The Wirral Council Dog Control Order, or any subsequent variation of it, or to include particular prohibitions or requirements imposed by The Wirral Council Dog Control Order (or any subsequent variation of it); or
 - b. that a requirement under Chapter 2 of Part 4 of the Act was not complied with in relation to The Wirral Council Dog Control Order, or any subsequent variation of it.
- (ii) Under section 66(3) of the Act any application to challenge the validity of The Wirral Council Dog Control Order, or any subsequent variation of it, must be made by an Interested Person within the period of 6 weeks beginning with the date on which The Wirral Council Dog Control Order is made, or the date on which any subsequent variation is made.

THE COMMON SEAL of	[]
Wirral Council was this [X] day of	[]
[XXXX] 2019 ² hereto affixed in the	[]
presence of:-	[]

.....³
*[Name and Title of person signing]*⁴
Duly Authorised Officer of Wirral Council

² Insert date

³ Insert signature

⁴ Insert details

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Schedule 1
The Fouling of Land by Dogs

The Restricted Areas

- (i) Any public place within the Wirral Council local government area shown edged red on Map A annexed to The Wirral Council Dog Control Order.

The Requirements

- (ii) If a dog defecates on land within the restricted area defined in Schedule 1 at any time then a person who is in charge of that dog shall remove the faeces from the land forthwith unless:
 - a. that person has a reasonable excuse for failing to do so; or
 - b. the owner, occupier or other person or authority having control of the land has consented to him / her failing to do so.
- (iii) For the purpose of enforcing the provisions of The Wirral Council Dog Control Order any person who reasonably appears to an authorised officer to be in charge of any dog to which the provisions of The Wirral Council Dog Control Order apply, shall on request immediately provide their full name, address and date of birth to that authorised officer unless:
 - a. that person has a reasonable excuse for failing to do so; or
 - b. the owner, occupier or other person or authority having control of the land has consented to him / her failing to do so.

Additional Matters

- (iv) For the purpose of Schedule 1:
 - a. placing faeces in a receptacle on land provided for that purpose, or for the disposal of waste, shall be sufficient removal from the land;
 - b. being unaware of the defecation (whether by not being in the vicinity or otherwise) shall not be a reasonable excuse for failing to remove the faeces;
 - c. not having a device or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

Exemptions

- (v) A person who is blind.

(vi) A person in charge of a dog which defecates if that dog is a marked assistance dog.

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Schedule 2

The carrying of means for the proper disposal of dog faeces

The Restricted Areas

- (i) Any public place within the Wirral Council local government area shown edged red on Map A annexed to The Wirral Council Dog Control Order.

The Requirements

- (ii) A person in charge of a dog in the Restricted Areas fails to demonstrate that they have suitable means of disposal upon the request of an authorised officer in circumstances where the authorised officer has determined that that person has breached any of the Schedules contained within this Order.

Exemptions

- (iii) The offence does not apply to a person who:
 - a. is registered as a blind or deaf person, if the dog they are in charge of is a trained dog upon which that person relies for assistance (dogs must be clearly marked as assistance dogs); or
 - b. has a disability which substantially affects that person's mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, if the dog they are in charge of is a trained dog upon which that person relies for assistance (dogs must be clearly marked as assistance dogs).

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Schedule 3
The Exclusion of Dogs from Land

The Restricted Areas

- (i) All enclosed children's playgrounds, ball courts, multi-use games area, kickabouts and wheel parks listed in Schedule A to The Wirral Council Dog Control Order
- (ii) All enclosed tennis courts listed in Schedule A to The Wirral Council Dog Control Order
- (iii) All bowling greens listed in Schedule A to The Wirral Council Dog Control Order
- (iv) All fenced areas around Birkenhead lakes, being the areas edged red on Map B annexed to The Wirral Council Dog Control Order
- (v) The defined football and cricket pitch areas only within all marked football and cricket pitches listed in Schedule A to The Wirral Council Dog Control Order

The Prohibitions

- (vi) A person in charge of a dog shall not at any time take that dog onto, and shall not at any time allow that dog to enter onto, any land within the restricted areas described in paragraphs (i) and (iv) of Schedule 3.
- (vii) Any person in charge of a dog shall not allow that dog to enter onto any land within the restricted areas described in paragraph (v) of Schedule 3 between the following dates only:
 - a. in the case of football pitches between 1st August and 31st May inclusive each year; and
 - b. in the case of cricket pitches between 1st April and 30th September inclusive each year
- (viii) The Prohibitions at (iv) and (v) above shall apply to any person unless, in any case:
 - a. that person has a reasonable excuse for doing what is prohibited by Schedule 3; or
 - b. the owner, occupier or other person or authority having control of the land has consented to that person doing what is prohibited by Schedule 3.

The Requirement

- (iv) For the purpose of enforcing the provisions of The Wirral Council Dog Control Order any person who reasonably appears to an authorised officer to be in charge of any dog to which the provisions of The Wirral Council Dog Control Order apply, shall on request immediately provide their full name, address and date of birth to that authorised officer unless:
 - a. that person has a reasonable excuse for failing to do so; or
 - b. the owner, occupier or other person or authority having control of the land has consented to him / her failing to do so.

Exemptions

- (v) A person who is blind.
- (vi) A person in charge of a dog if that dog is a marked assistance dog.

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Schedule 4
Dogs on Leads at all Times

The Restricted Areas

- (i) All cemetery and crematoria (together with any access walkways / terraces and adjoining verges, landscaped areas and gardens) listed in Schedule A to The Wirral Council Dog Control Order
- (ii) The two enclosed designated picnic areas listed in Schedule A to The Wirral Council Dog Control Order

The Requirements

- (iii) A person in charge of a dog on any land within the restricted areas described in Schedule 4 shall at all times keep that dog on a lead of not more than 2 metres in length unless:
 - a. that person has a reasonable excuse for failing to do so; or
 - b. the owner, occupier or other person or authority having control of the land has consented to him or her failing to do so.
- (iv) For the purpose of this Schedule a ‘lead’ is defined as any rope, cord, leash or similar suitable item used to tether, control and/or restrain a dog and to ensure that the dog remains under the close control of the person in charge of the dog.
- (v) For the purpose of enforcing the provisions of The Wirral Council Dog Control Order any person who reasonably appears to an authorised officer to be in charge of any dog to which the provisions of The Wirral Council Dog Control Order apply, shall on request immediately provide their full name, address and date of birth to that authorised officer unless:
 - a. that person has a reasonable excuse for failing to do so; or
 - b. the owner, occupier or other person or authority having control of the land has consented to him / her failing to do so.

Exemptions

- (vi) None.

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Schedule 5
Dogs on Lead by Direction

The Restricted Areas

- (i) Any public place within the Wirral Council local government area shown edged red on Map A annexed to The Wirral Council Dog Control Order.

The Requirements

- (ii) A person in charge of a dog on any land within the restricted area described in Schedule 4 shall immediately comply with a direction given to him or her by an authorised officer to put and keep the dog on a lead of not more than 2 metres in length unless:
 - a. that person has a reasonable excuse for failing to do so; or
 - b. the owner, occupier or other person or authority having control of the land has consented to him or her failing to do so.
- (iii) For the purpose of this Schedule a lead is defined as any rope, cord, leash or similar suitable item used to tether, control and/or restrain a dog and to ensure that the dog remains under the close control of the person in charge of the dog.
- (iv) An authorised officer may only give a direction under Schedule 5 to put and keep a dog on a lead if such restraint is reasonable to prevent behaviour by the dog which is causing, or is likely to cause, a detrimental effect on the quality of life of those in the locality.
- (v) For the purpose of enforcing the provisions of The Wirral Council Dog Control Order any person who reasonably appears to an authorised officer to be in charge of any dog to which the provisions of The Wirral Council Dog Control Order apply, shall on request immediately provide their full name, address and date of birth to that authorised officer unless:
 - a. that person has a reasonable excuse for failing to do so; or
 - b. the owner, occupier or other person or authority having control of the land has consented to him / her failing to do so.

Exemptions

- (vi) None.

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Schedule 6
Number of Dogs Walked by an Individual

The Restricted Areas

- (i) Any public place within the Wirral Council local government area shown edged red on Map A annexed to The Wirral Council Dog Control Order.

The Prohibition

- (ii) Within the restricted area described in Schedule 6 a person must not walk more than 6 dogs at any time unless:
 - a. that person has a reasonable excuse for doing so; or
 - b. the owner, occupier or other person or authority having control of the land has consented to that person doing so.

Exemptions

- (iii) None.