

Appendix 3

Operational Guidance Dog Fouling, Dogs (Fouling of land) Act 1996, Section 3(1)

Fixed penalty notices can be issued to person(s) in charge of a dog or dog(s) who fail to remove dog faeces from the land forthwith, where a dog control order is not in force. Thurrock Council does not currently have any dog control orders in force. Therefore, the Dogs (Fouling of land) Act 1996 currently applies.

Dogs (Fouling of land) Act 1996 Section 3 (1) - if a dog defecates at any time on designated land 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 –

- s/he has a reasonable excuse for failing to do so; or
- the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

For persons who fail to clear up after a dog in their charge has fouled designated land, the normal course of action will be to offer a FPN, providing the person is cooperative and is not someone who has failed to be deterred by previous FPNs.

The offence does not apply to persons who are registered blind or to a person who has a registered disability which affects his/her mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects.

For the purposes of this operational guidance:

- 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 a sufficient removal from the land; and
- 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.
- It applies to all land which is in the open air and to which the public has access. The law says it is an offence for a person in charge of a dog to let it foul and not to clear up afterwards. This person is responsible for cleaning up whether or not they are accompanying it at the time.

Designated land includes public parks, pavements, sports and leisure areas, grass verges, roads, walkways and shopping precincts. The act does not apply to land used for agriculture or forestry, marshland, moorland, heath land, rural common land or roads with speed limits over 40mph with grass verges alongside.

Defences that are not acceptable

- Allowing a dog to roam the streets – the owner is still legally in charge of it.
- Looking the other way and not seeing the dog foul.
- Not having a device such as a poop-scoop or other suitable means of removing the faeces.

Officers issuing fixed penalty notices for dog fouling will:

- Ensure Officer safety at all times – Officers are to ensure that they comply with and read the risk assessment for dealing with dogs - owners with dogs which appear to be 'dangerous dogs' are not to be approached – Dog warden assistance is to be requested
- Take photographic evidence where possible
- Make full comprehensive pocket book notes on scene or at the earliest opportunity
- Take note of the description of the person who has committed the offence and the dog

Officers will not issue fixed penalty notices for dog fouling offences when;

- The person is exempt from the law, such as blind or disabled people (not including the deaf) in respect of a dog on which they rely on for assistance
- The dog is on official duties on behalf of HM services (e.g. police dogs)