



## PROCEDURE FOR DOG FOULING AND ISSUING OF FIXED PENALTY NOTICES

### Dog Fouling (Scotland) Act 2003

**The following is a guide for the standard procedure to be employed in delivering Fixed Penalty Notices for dog fouling in Moray.**

It is an offence under the Dog Fouling (Scotland) Act 2003 if a dog defecates on any public open place and the person who is in charge of the dog at that time fails immediately to remove the faeces. Note this act does not apply to agricultural land.

#### **For the purpose of the Act and this procedure**

##### **Ownership**

A person who habitually has possession of a dog shall be taken to be in charge of the dog

##### **Removal**

Throwing, depositing, dropping or otherwise putting faeces onto any other place shall not be sufficient removal

Being unaware of the defecation or not having the device for, or any other suitable means of removing the faeces, shall not be a reasonable excuse for failing to remove the faeces.

##### **Authorised Officers**

Only Community Wardens and Animal Services Officers are authorised by The Moray Council to issue fixed penalty notices for dog fouling under the Dog Fouling (Scotland) Act 2003.

Police Officers are also classed as authorised officers, under their existing police powers and the same legislation.

##### **Witnesses**

The Act states that it shall be lawful to convict any accused on the evidence of one witness. We shall satisfy ourselves that the witness is of reasonable character.

##### **Issuing of Penalty**

Authorised Officers must satisfy themselves that there is '*Clear Intention*' on the part of the offender to not remove the faeces.

The Authorised Officer should note if the offender takes two or more clear steps away from the faeces

The Authorised Officer should ask the offender if they have any poop bags/scoop on their person

***If the offender takes two or more clear steps or has no bags/scoop on their person then this is sufficient to show clear intention of not removing the faeces.***

##### **Exceptions to the Act**

- The person in charge of the dog can show that they have a reasonable excuse as laid out in the Act i.e. the dog is a guide dog, a working dog on a farm, a dog on official duties with the armed forces, customs and excise or the police force, a dog engaged in emergency

rescue work or if the individual has a physical impairment which affects their mobility and the dog assists them with such impairment.

- The person in charge of the dog is under 16 years of age. If this is the case the Authorised Officer shall visit the child's parent/guardian and advise them of the requirements of the Act. This visit shall be followed up by a letter advising that if they re-offend they may be issued with a fixed penalty notice.

## **FIXED PENALTY NOTICES – PROCEDURE & PAYMENT**

When a fixed penalty notice is issued the top (white) copy will be issued to the offender.

The bottom (green) copy must be forwarded to and retained by the Antisocial behaviour office.

Any fixed penalty issued should be responded to within 28 days

Any Fixed Penalty Notices issued should be paid within 28 days to the Antisocial Behaviour Unit

At any point within the 28-day period the individual can give notice requesting a hearing in respect of the offence.

### **Methods of Payment**

**Payment must be made by cheque or postal order made payable to 'The Moray Council' and sent to the Antisocial Behaviour Office, The Moray Council, High Street, Elgin IV30 1BX.**

This should be in writing and should be sent to the Antisocial Behaviour Co-ordinator, The Moray Council, High Street, Elgin IV30 1BX.

If the FPN remains unpaid after the 28 days, and no hearing has been requested, a reminder letter will be issued asking for payment, of the increased amount of £60, within 7 days.

Where a hearing has been requested the fixed penalty notice shall not be payable.

If, after 7 days, still no payment has been received the case will be passed to the Procurator Fiscal for prosecution.

The case will be passed to the Procurator Fiscal to proceed to a hearing.

**NOTE** It is the responsibility of the person who issued that fixed penalty notice to prepare and submit the case to the Procurator Fiscal.

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