

**BRACKNELL FOREST BOROUGH COUNCIL
(CONTROL OF ON-STREET PARKING)
(No. 1) ORDER 2017**



Bracknell Forest Borough Council (hereinafter referred to as "the Council") in exercise of the powers conferred by Sections 1(1), 2(1) to (3), 4(2) and Part IV of Schedule 9 of the Road Traffic Regulation Act 1984 ("the Act of 1984"), as amended and the Traffic Management Act 2004 ("the 2004 Act") and of all other enabling powers and after consultation with the Chief Officer of Police in accordance with Part III of Schedule 9 to the Act of 1984, hereby makes the following Order:-

**PART I
CITATION AND INTERPRETATION**

Citation

1. This Order shall come into operation on the 7th December 2017 and may be cited as the Bracknell Forest Borough Council (Control of On-Street Parking) (No. 1) Order 2017.
2. The Bracknell Forest Borough Council Control of On-Street Parking Plans ("the Plans") are incorporated into this Order.

Interpretation

3. In this Order, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:-

"authorised officer" means the Director of Environment, Culture & Communities for the Council or any other officer of the Council (to whom the Council has delegated all relevant powers) to be designated by the Council;

"bus" has the same meaning as in Regulation 22 of the 2002 Regulations;

"bus stop area" means any area of carriageway in any of the lengths of road or on the side of a road specified in this Order intended for the waiting of buses which is comprised within and indicated by a road marking complying with the appropriate diagram relative thereto under Schedule 6 to the 2002 Regulations;

"carriageway" means a way constituting or comprised in a highway being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;

"civil enforcement officer" means a person authorised by or on behalf of the Council to supervise the parking places and enforce the restrictions imposed by this Order;

"controlled areas of a pedestrian crossing" means the area of carriageway indicated by road markings complying with Schedule 4 to the Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 and diagram 1003.1 in Schedule 6 to the 2002 Regulations;

"cycle track" has the same meaning as in section 329(1) of the Highways Act 1980.

"delivering" and "collecting" in relation to any goods includes checking the goods for the purpose of their delivery or collection;

"disabled person's badge", "disabled person's vehicle" and "parking disc" have the same meanings as in the Local Authorities' Traffic Orders (Exemption for Disabled Persons) (England) Regulations 2000;

"dispensation certificate" means a certificate duly issued on behalf of the Council by an Authorised Officer permitting a specified vehicle to wait in specified circumstances on a length or lengths of roads where the waiting or loading of that vehicle would otherwise be prohibited;

"driver", in relation to a vehicle waiting in a parking place or on a road or length of road, means the person driving the vehicle at the time it was left in that parking place or road or length of road;

"enactment" means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment and any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, applied, consolidated, re-enacted by or as having effect by virtue of any subsequent enactment;

"footway" has the same meaning as in section 329(1) of the Highways Act 1980.

"goods" means goods or burden of any description and includes postal packets of any description;

"hackney carriage" means a vehicle licensed under Section 37 of the Town Police Causes Act 1847, Section 6 of the Metropolitan Carriages Act 1869, or any similar enactment;

"hackney carriage stand" means an area of carriageway which is comprised within and indicated by road markings complying with diagram 1028.2 in Schedule 6 to the 2002 Regulations;

"loading" means the loading or unloading of goods to or from a vehicle;

"no loading hours" means in relation to any no loading road the hours during which loading and unloading is restricted as specified on the Plans;

"no loading road" means any of the sides or lengths of roads specified on the Plans where loading is prohibited provided that the expression "no loading road" shall not include any parking place;

"no stopping road" means any of the sides or lengths of roads specified on the Plans where stopping and waiting is prohibited;

"owner", in relation to a vehicle means the person who is named in the vehicle registration document as the registered keeper of a goods or passenger vehicle or

the person who has the use of such a vehicle and who is entitled to use such a vehicle as though he/she were the registered keeper thereof;

"PCSO" means a Police Community Support Officer as designated by the Chief Police Officer;

"*pedestrian crossing*" means a zebra, pelican, puffin or toucan crossing established by the Council under section 23 of the Act of 1984 and which is indicated by road markings complying with Schedule 4 to the Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 and diagram 1003.1 in Schedule 6 to the 2002 Regulations;

"*penalty charge*" and "*reduced penalty charge*" means a charge set by the Council under Section 77 of Part 6 and Schedule 9 of the 2004 Act, which is to be paid to the Council following the issue of a penalty charge notice (PCN) and within 28 days beginning with the date of issue of the notice, or 14 days in the case of a reduced penalty charge;

"*penalty charge notice*" means a notice issued by or served by a Civil Enforcement Officer pursuant to the provisions of 'The Civil Enforcement of Parking Contraventions (England) General Regulations 2007';

"*public service vehicle*" has the same meaning as in Section 1 of the Public Passenger Vehicles Act 1981;

"*prohibited hours*" means in relation to any prohibited road the hours during which waiting or loading is prohibited as specified on the Plans;

"*prohibited road*" means any of the sides or lengths of roads specified on the Plans where waiting is prohibited provided that the expression "prohibited road" shall not include any parking place;

"*restricted hours*" means in relation to any restricted road the hours during which waiting is restricted as specified on the Plans;

"restricted road" means any of the sides or lengths of roads specified on the Plans where waiting is restricted or specific activities are restricted during the restricted hours provided that the expression "restricted road" shall not include any parking place;

"relevant position" in respect of: -

- (a) a disabled person's badge or dispensation certificate means;
 - (i) in the case of a vehicle fitted with a front windscreen, that the badge or dispensation certificate is exhibited with the front facing forward and is legible on the nearside of the vehicle and immediately behind the windscreen; or
 - (ii) the case of a vehicle not fitted with a front windscreen, that the badge or dispensation certificate is exhibited and is legible in a conspicuous position on the front or nearside of the vehicle;
- (b) a disabled person's parking disc, means that the side showing the time is facing forward or outward and immediately behind the windscreen or side window nearest to the kerb;

"telecommunication system" has the same meaning as in the Telecommunications Act 1984;

"the 2002 Regulations" means the Traffic Signs Regulations and General Directions 2002;

"vehicle" means a motor vehicle as defined in Section 136(1) of the Act of 1984; and

4. Except where otherwise stated, any reference in this Order to a numbered Article or Schedule is a reference to the Article or Schedule bearing that number in this Order;
5. The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

PART II

PROHIBITION AND RESTRICTION OF WAITING, LOADING AND STOPPING

Prohibition of Waiting

6. Save as provided in Articles 14, 15, 16, 17, 18, 19, 20 and 21 no person shall, except upon the direction or with the permission of a Civil Enforcement Officer in uniform, Police Constable in uniform or PCSO in uniform, cause or permit any vehicle to wait at any time on any prohibited road as specified on the Plans.

Restriction of Waiting

7. Save as provided in Articles 14, 15, 16, 17, 18, 19, 20 and 21 no person shall, except upon the direction or with the permission of a Civil Enforcement Officer in uniform, Police Constable in uniform or PCSO in uniform, cause or permit any vehicle to wait on any restricted road during the restricted hours as specified on the Plans.

Limited Waiting

8. Save as provided in Articles 15, 17, 18, 19 and 20 no person shall, except upon the direction or with the permission of a Civil Enforcement Officer in uniform, Police Constable in uniform or PCSO in uniform, cause or permit any vehicle to wait on any restricted road in respect of which there is specified on the Plans a period during the restricted hours in which waiting is allowed, for a period longer than specified on the Plans or if a period less than that specified on the Plans as being the period in which the vehicle shall not return has elapsed since a previous period of waiting by the same vehicle on the same side of length of road.

Restriction on Loading and Unloading

9. Save as provided in Articles 14, 15, 18, 19 and 20 no person shall, except upon the direction or with the permission of a Civil Enforcement Officer in uniform, Police Constable in uniform or PCSO in uniform, cause or permit any vehicle to wait for the

purpose of enabling goods to be loaded or unloaded from the vehicle on any no loading road during the no loading hours as specified on the Plans.

Prohibition of Stopping

10. Save as provided in Articles 15, 16, 18, 19 and 20 no person shall, except upon the direction or with the permission of a Civil Enforcement Officer in uniform, Police Constable in uniform or PCSO in uniform, cause or permit any vehicle to stop and wait on any no stopping road as specified on the Plans.

Prohibition of Double Parking

11. Save as provided in Articles 14, 15 and 21 no person shall, except upon the direction or with the permission of a Civil Enforcement Officer in uniform, Police Constable in uniform or PCSO in uniform, cause or permit any vehicle to park on the carriageway in such a way that no part of the vehicle is within 50 centimetres of the edge of the carriageway.

Prohibition of Parking at Dropped Footways

12. Save as provided in Articles 14, 15, 21 and 22 no person shall, except upon the direction or with the permission of a Civil Enforcement Officer in uniform, Police Constable in uniform or PCSO in uniform, cause or permit any vehicle to park on the carriageway adjacent to a footway, cycle track or verge where:
 - (a) the footway, cycle track or verge has been lowered to meet the level of the carriageway for the purpose of:
 - (i) assisting pedestrians crossing the carriageway,
 - (ii) assisting cyclists entering or leaving the carriageway, or
 - (iii) assisting vehicles entering or leaving the carriageway across the footway, cycle track or verge; or
 - (b) the carriageway has been raised to meet the level of the footway, cycle track or verge for the purpose of:
 - (i) assisting pedestrians crossing the carriageway,
 - (ii) assisting cyclists entering or leaving the carriageway, or

- (iii) assisting vehicles entering or leaving the carriageway across the footway, cycle track or verge.

Prohibition of Stopping on Pedestrian Crossings

- 13. Save as provided in Articles 15 and 23 no person shall, except upon the direction or with the permission of a Civil Enforcement Officer in uniform, Police Constable in uniform or PCSO in uniform, cause or permit any vehicle to stop and wait within the controlled area of a pedestrian crossing.

Exemptions

- 14. Nothing in Articles 6, 7, 9, 11 and 12 shall render it unlawful to cause or permit any vehicle to wait in any of the roads, lengths of road or on the sides of road specified therein for so long as may be necessary to enable a person to board or alight from the vehicle.
- 15. Nothing in Articles 6, 7, 8, 9, 10, 11, 12 and 13 shall render it unlawful to cause or permit any vehicle to wait in any of the roads, lengths of road or on the sides of road specified therein for so long as may be necessary to enable:
 - (a) the vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in connection with any of the following operations, namely:-
 - (i) building, industrial or demolition operations;
 - (ii) the collection of waste by a local authority;
 - (ii) the removal of any obstruction to traffic;
 - (iii) the maintenance, improvement or reconstruction of the said lengths or sides of road; and
 - (iv) the laying, erection, alteration or repair in or on land adjacent to the said lengths or sides of road of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity or of any telecommunications apparatus kept or installed for the purposes of a telecommunications code system or of any telecommunications apparatus lawfully kept installed in any position;
 - (b) the vehicle, if it cannot conveniently be used for such purposes in any other

road, to be used in the service of a local authority or of a water authority in pursuance of statutory powers or duties;

- (c) the vehicle of a universal service provider (as defined in section 4(3) and (4) of the Postal Services Act 2000) to be used for the purpose of delivering and/or collecting mail;
- (d) the vehicle to be used for Fire and Rescue, Ambulance or Police purposes;
or
- (e) the vehicle to be stationary in any case where the person in control of the vehicle,
 - (i) is required by law to stop;
 - (ii) is obliged to stop so as to prevent an accident, or
 - (iii) is prevented from proceeding by circumstances outside his/her control

16. Nothing in Articles 6, 7 and 10 shall render it unlawful to cause or permit any vehicle being a manned hackney carriage that is standing or plying for hire, to wait upon a hackney carriage stand.

17. Nothing in Articles 6, 7 and 8 shall render it unlawful to cause or permit a disabled person's vehicle which displays in the relevant position a disabled person's badge and a parking disc, on which the driver or other person in charge of the vehicle has marked the time at which the period of waiting began, to wait in any of the roads, lengths of road or on any of the sides of road identified as prohibited roads or restricted roads on the Plans for a period not exceeding three hours (not being a period separated by an interval of less than one hour from a previous period of waiting by the same vehicle in the same length of road or on the same side of road on the same day); PROVIDED THAT, no vehicle shall so wait in any length of road at any time when a prohibition of waiting for the purpose of loading or unloading applies to that length of road.

18. Nothing in Articles 6, 7, 8, 9 and 10 shall render it unlawful to cause or permit a vehicle which is displaying in the relevant position a valid dispensation certificate and is waiting in accordance with the terms and conditions of the said certificate to wait in any of the roads or lengths of road identified as prohibited roads, restricted roads, no loading roads or no stopping roads on the Plans.

19. Nothing in Articles 6, 7, 8, 9 and 10 shall prevent a vehicle being used in the provision of a local service within the meaning of the Transport Act 1985 or a school bus or a works bus to stop and wait in a bus stop area.
20. Nothing in Articles 6, 7, 8, 9 and 10 shall prevent a public service vehicle to stop and wait in a bus stop area when they are being used to carry passengers for hire or reward at separate fares and being operated in accordance with a timetable other than when they are being used in the provision of a local service within the meaning of the Transport Act 1985.
21. Nothing in Articles 6, 7, 11 and 12 shall prevent any person from causing or permitting a vehicle to wait in any prohibited road or restricted road for as long as may be necessary for the purpose of delivering or collecting goods or merchandise or loading or unloading the vehicle at premises adjoining that road if it cannot conveniently wait for any such purpose within the curtilage of those premises or in any other road:
PROVIDED THAT, unless notice is given at least five working days in advance to the Council and a dispensation certificate is obtained, no vehicle shall so wait on any day and during such hours;
- (i) in any part of a restricted road identified in the Plans where loading and unloading is prohibited;
 - (ii) in any other part of a prohibited road or restricted road for a period of more than 20 minutes during the restricted hours; or
 - (iii) in any part of a prohibited road or restricted road during the restricted hours if a period of less than 1 hour has elapsed since the termination of the last period of waiting (if any) of the vehicle on that length of road.
22. Nothing in Article 12 shall prevent a vehicle being parked adjacent to a lowered kerb outside residential premises by or with the consent, but not consent given by reward, of the occupier of the premises. This exception does not apply if the lowered kerb serves a shared driveway.

23. Nothing in Article 13 shall prevent a vehicle from stopping within the limits of a pedestrian crossing controlled area for the purposes of making a left or right turn.

Dispensation Certificates

24. The Council may issue a dispensation certificate on receipt of written application with at least five working days notice and may impose terms and conditions as appropriate.
25. A dispensation certificate may be cancelled at any time at the sole discretion of the Council and shall thereupon immediately cease to be valid. Notification of such cancellation shall be sent by post to the holder of the certificate at any address that the Council believes to be that person's address and the certificate shall forthwith be surrendered to the Council.

PART III

DESIGNATED PARKING PLACES FOR DISABLED PERSONS' VEHICLES

26. The areas of land identified in the Plans and therein designated "Disabled Parking Spaces" may be used, subject to the provisions of this Order, as parking places for disabled persons' vehicles, in such positions as are identified on the Plans.
27. Where there is a sign and surface marking which indicates that a parking bay is available only for a disabled person's vehicle, no person shall cause or permit a vehicle to wait in the parking bay unless it is a disabled person's vehicle which displays in the relevant position a disabled person's badge.

PART IV
CONTRAVENTION OF ORDER

Contravention

28. If a vehicle is left in any road or length of road in contravention of any provision of this Order, a Penalty Charge shall be payable.
29. In the case of a vehicle in respect of which a Penalty Charge is payable A penalty charge notice showing the information required by the 2004 Act may then be issued by a civil enforcement officer in accordance with the requirements of the 2004 Act or any subsequent applicable legislation.

Penalty Charge Notice

30. In the case of a Vehicle in respect of which the Penalty Charge may have been incurred, it shall be the duty of a Civil Enforcement Officer to either hand the Penalty Charge Notice to the driver of the vehicle, post the Penalty Charge Notice to the Owner of the vehicle or attach the Penalty Charge Notice to the vehicle in a conspicuous position. The notice shall include the following particulars:
- (a) the registration mark of the vehicle or, where the vehicle is being used under a trade licence, the number of the trade plate carried by the vehicle;
 - (b) the grounds on which the Civil Enforcement Officer believes that a Penalty Charge is payable in respect of that vehicle;
 - (c) the date the contravention occurred;
 - (d) the date of issue of the Penalty Charge Notice;
 - (e) the amount of Penalty Charge required to be paid;
 - (f) that if the Penalty Charge is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the Penalty Charge will be reduced by the specified proportion or amount;
 - (g) that if the Penalty Charge is not paid before the end of the 28 day period a Notice to Owner may be served by the Council on the person appearing to be the owner of the vehicle; and
 - (h) the address to which payment of the Penalty Charge must be sent.

Manner of payment of Penalty Charge

31. The Penalty Charge shall be paid to the Council within 28 days of the issue of the penalty charge notice either;
- (a) by cheque, bankers' draft, money order or postal order delivered or sent by post as indicated on the penalty charge notice, or
 - (b) by cheque, postal order, in cash by credit card or debit card in person at any Bracknell Forest Borough Council office which accepts such payments, or
 - (c) by credit card or debit card over the phone using the number specified on the Penalty Charge Notice, or
 - (d) by internet using the Bracknell Forest Borough Council web site:

Provided that, if the said twenty eighth day falls upon a day on which the said Department or office is closed, the period with in which payment of the said charge shall be made to the Council shall be extended until 4.30pm on the next full day on which the said Department is open.

32. If the Penalty Charge is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the Penalty Charge will be reduced by the specified proportion.
33. If the owner fails to pay the Penalty Charge by the end of the 28 day period, a Notice to Owner may be served; and if the charge is not paid within a further 28 days it may be increased by 50% on the issue of a Charge Certificate in accordance with the provisions of the 2004 Act.
34. Continuing failure to pay the Penalty Charge may result in a judgement in the County Court against the owner to enable the Council to recover the payments due.

Indications as Evidence

35. The particulars given in the Penalty Charge Notice in accordance with Article 30 shall be treated as evidence in any proceedings relating to failure to pay such Penalty Charge.

Restriction on Removal of Notices

36. Where a Penalty Charge Notice has been issued in accordance with the provisions of Article 30 of this Order, no person, not being the driver of the vehicle, a Civil Enforcement Officer in uniform, Police Officer in uniform or PCSO in uniform or some other person duly authorised by the Council, shall remove the notice from the vehicle unless authorised to do so by the driver.

PART V REVOCATIONS

Revocations

37. Bracknell Forest Borough Council (Control of On-Street Parking) (No.1) Order 2016 will be consolidated into this Order and revoked in its entirety.
38. Bracknell Forest Borough Council (Disabled Parking Spaces) (Phase 1) Order 2016 will be consolidated into this Order and revoked in its entirety.

THE COMMON SEAL of BRACKNELL
FOREST BOROUGH COUNCIL was
hereunto affixed on the 4th day of
December 2017 in the presence of :


.....
BOROUGH SOLICITOR

