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Consultation Document

Changes to the Blue Badge Scheme in Wales

Date of issue: 9 August 2011

Action required: Responses by 31 October 2011



TIME OF ARRIVAL / AMSER CYRRAEDD

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DISABLED PERSON'S PARKING DISC
FOR USE ONLY WITH A VALID BLUE BADGE
DISG PARCIO PERSON ANABL, I'W DEFNYDDIO
GYDA BATHODYN GLAS DILYS YN UNIG



TIME LIMIT
CYFYNGIAD
AMSER

3 HOURS
AWR

Overview **Large print, Braille, easy read and alternate language versions of this document are available on request.**

This Scheme has been in place for some 40 years, though originally as the Orange Badge Scheme, and there are now over 230,000 Blue Badges on issue in Wales. The Blue Badge is recognised as a valuable resource and the number of badges in circulation has increased over the years.

Following consultation a Blue Badge Action Plan was published in January 2010, which includes a number of priorities to reform and improve the scheme, which will help to enhance the quality of life for disabled people.

The priorities in the Action Plan will be delivered through our proposals for extending eligibility, parking concessions, administration and enforcement. This consultation document is seeking views on a number of issues; the Blue Badge fee, assessment procedures and enforcement.

How to respond The consultation will run from 09/08/2011 to 31/10/2011. Please ensure that your response reaches us by that date at the postal or email address below. If you would like further copies of this document you can contact us at the address below:

Blue Badge Team
Integrated Transport Unit
Local Government and Communities
Welsh Government
Cathays Park
CARDIFF CF10 3NQ

By fax to: 029-2082-3712

Or by email to blue.badge@wales.gsi.gov.uk

Please state whether you are responding as an individual, representing the views of an organisation or both, when responding to this document. If responding on behalf of an organisation please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Further information and related documents **Large print, Braille, easy read and alternate language versions of this document are available on request.**

‘A Modern Blue Badge Scheme for Wales: Action Plan for key stakeholders’ (December 2009)

<http://wales.gov.uk/topics/transport/?lang=en>

‘A Strategic Review of the Blue Badge Scheme’ by Rob Smith (Department of Transport, 2007)

<http://www.dft.gov.uk/transportforyou/access/bluebadge/reform/researchandstats/>

Joe Simpson ‘Local, Regional, National: What services are best delivered

where?',

<http://wales.gov.uk/topics/localgovernment/publications/lnrdelivery/;jsessionid=J11NTRLQMnpQncLPQqwYcN0JfQG1QL1Qhtl2GFLDy1NXrLQTQQsN!-505488680?lang=en>

'Care Services Efficiency Delivery Programme Blue Badge Initiative' by Peter Gerschon (Department of Health)

<http://www.rcoe.gov.uk/rce/aio/20055>

Contact details

For further information:

Blue Badge Team
Integrated Transport Unit
Local Government and Communities
Welsh Government
Cathays Park
CARDIFF CF10 3NQ

Email: blue.badge@wales.gsi.gov.uk

Telephone: 029 2082 1520

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government officials dealing with the issues which this consultation is about. It may also be seen by other Welsh Government officials to help them plan future consultations. It will also be shared with members of a Task and Finish Group that is helping the Welsh Government take this work forward.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the summary. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in

touch with the person and ask their views before we finally decided whether to reveal the information.

Summary

The Blue Badge (Disabled Parking) Scheme ('the Scheme') provides a vital lifeline to disabled people in Wales. The Badge provides the holder with significant independence and helps improve quality of life by enabling the Badge holder to access important services. Seventy-five per cent of Badge holders say that they would go out less often if they did not have a Badge.

The Scheme gives a concession to people who meet the eligibility criteria to park where parking restrictions for other motorists may otherwise generally apply. The Scheme plays an important role in helping these people overcome some of the barriers they face when accessing jobs, shops and other important services. To maximise the accessibility of services, we want to continue to provide preferential parking to people who find that the substantial distance between the provision of parking spaces and the services they need is a barrier to access. That is, people who are unable (or virtually unable) to walk because of a permanent and substantial impairment or who are registered as sight impaired.

Since the introduction of the Scheme in the 1970s there has been a huge increase in the number of Badges in circulation. There are currently over 230,000 Blue Badge holders in Wales, many of whom say that they would be unable to travel without the certainty that they will be able to park close to where they need to be. The Welsh Government is committed to ensuring that this vital Scheme continues to provide preferential parking concessions for those in most need.

This consultation is seeking views on a number of proposals to improve the Scheme in Wales to reflect the significant social changes that have taken place over the past 40 years, and to ensure the Scheme is administered efficiently, consistently and fairly.

The Blue Badge Action Plan ('the Action Plan') was published in January 2010 and sets out the Welsh Government's priorities to reform and improve the scheme that will help to enhance the quality of life and access for people who experience high levels of disability. A copy of the Action Plan is available on our website at: <http://wales.gov.uk/topics/transport/integrated/bluebadgescheme/?skip=1&lang=en>.

The main priorities in the Action Plan will be delivered through our proposals for extending eligibility, parking concessions, administration and enforcement. This consultation document is seeking views on a number of issues; the Blue Badge fee, assessment procedures and enforcement.

It is also important that any proposals for change are informed by the report by Joe Simpson 'Local, Regional, National: What services are best delivered where?', that sets out findings and recommendations on how services could best be delivered by local authorities.

The Welsh Government has established a Steering Group made up of representatives across Public Sector and from various other organisations and access groups. The Steering Group and the Welsh Government are working hard to deliver the Blue Badge Action Plan within a Social Model framework.

Introduction

This consultation paper :-

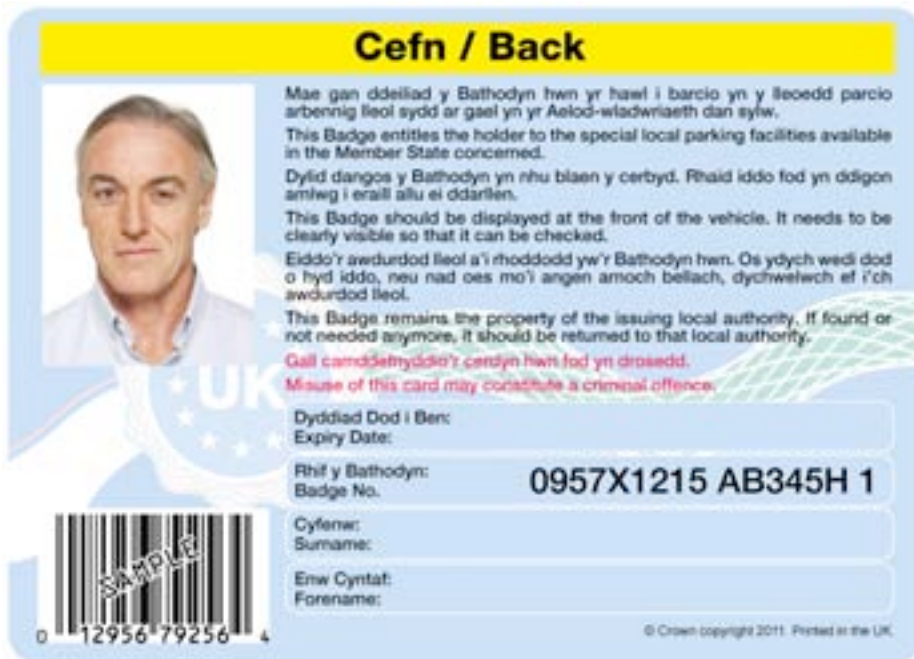
1. Provides information about our plan for a new Blue Badge Improvement Service ('BBIS'); and
2. Seeks views on our proposals for:
 - a. change to the Blue Badge fee
 - b. the assessment of eligibility (Annex 1); and
 - c. enforcement (Annex 2).

Please note that the consultation is wide ranging, and there is no need to answer all sections.

1. The Blue Badge Improvement Service ('BBIS')

The Welsh Government is working with the Department of Transport to deliver the BBIS. This will give local authorities in Wales, England and Scotland an opportunity to work together and share services to ensure that the administration of the Scheme is fair, no matter where an applicant lives in the UK. The BBIS will also help to prevent fraud and to reduce high levels of abuse.

The BBIS will allow applicants to apply for a Blue Badge on-line or direct to the local authority in the usual way. It will allow information to be shared between local authorities to reduce fraudulent use of the



To ensure that administrative functions are effective, Welsh Government will provide new guidance for Badge holders and local authorities. Interim changes to guidance will be made as reforms to the Scheme are implemented, but finalised documents will not be produced until all significant changes have been made. In addition, in response to strong support from authorities, an all-Wales application form for prospective Badge holders is being developed. The application form will be developed collaboratively with authorities, and will need to reflect the introduction of the BBIS. This will ensure that all applicants across Wales are asked for the same information to assess their eligibility for the scheme. This will help to ensure greater consistency and fairness in decision making.

2. Consultation proposals

A). Badge Fee

The current fee that local authorities are able to charge for provision of a Blue Badge is up to £2. This fee has not changed for almost 30 years and already fails to cover the costs of administering the scheme by local authorities. The new Badge and data sharing system will make the scheme much less open to fraud and misuse which should lead to a better service for genuine Badge users but will cost more to provide. There will be a charge of £4.60 (excluding VAT) per badge for using the IT system and secure badge printing service. The Welsh Government is looking at options around increasing the fee that local authorities are able to charge for providing the new Badge which better reflects this requirement.

However, the Welsh Government is mindful that these increased costs may have a disproportionate impact on disabled people. Disabled people are more likely to live in poverty than non-disabled people and are also likely to face higher day to day costs.¹ The Welsh Government will take this into account when deciding the level of fee for a Blue Badge. England and Scotland either have or are in the process of increasing the fee to £10 and £20 respectively.

Question 1

What would be a reasonable charge for a Blue Badge?

- a). £5.50 which will cover the cost of the badge and data-sharing system only;
- b). £7.50 which will cover the cost of the badge and data-sharing system and contribute £2.00 to the administrative costs of the local authority (as is the case now), or
- c). £10.00 which will cover the cost of the badge and data-sharing system and help to cover most of the administration costs of the local authority.

Question 2 Are there any other related points that you would like to make regarding the Blue Badge fee?

¹ Disability Poverty in the UK, Leonard Cheshire Disability 2008

B. Determining Eligibility

Current policy

Eligibility for the Scheme is considered in terms of being ‘eligible without further assessment’ (sometimes referred to as ‘automatic’ making up around 40% of Badges in circulation) or ‘eligible subject to further assessment’ (sometimes referred to as ‘discretionary’ making up around 60% of Badges in circulation). These are described in more detail below;

Eligibility is;

- 1) Automatic without the need for further assessment for those:
 - receiving the Higher Rate Mobility Component of the Disability Living Allowance (HRMCDLA)²,
 - registered as blind under section 29(4)(g) of the National Assistance Act 1948³, or,
 - in receipt of a War Pensioner’s Mobility Supplement (WPMS)⁴.

Under these arrangements, a disabled person who is able to produce evidence that they meet one of these eligibility criteria can use it as a ‘passport’ for a Blue Badge and so would not be subject to further assessment by the local authority. The proposals set out in this consultation annex will not affect these arrangements.

Eligibility is;

- 2) Discretionary, subject to further assessment, for those:
 - with a severe disability in both arms, and who regularly drive a motor vehicle but cannot turn the steering wheel of a motor vehicle by hand even if the steering wheel is fitted with a turning knob, or

² The Department for Work and Pensions are currently considering proposed changes to the Disability Living Allowance.

³ The formal notification required to register as severely sight impaired is a Certificate of Vision Impairment (Wales) signed by a Consultant Ophthalmologist. The CVI(W) was formerly known as the ‘BD8’ form.

⁴ Welsh Ministers have agreed to bring forward legislation extending eligibility for a Blue Badge (without the need for further assessment) to seriously injured armed forces personnel and war veterans who receive a guaranteed payment under tariffs 1 – 8 of the Armed Forces Compensation Scheme and who have been certified by the Secretary of State as having a permanent and substantial impairment which causes inability to walk or have considerable difficulty in walking.

- who have a permanent and substantial impairment so are unable to walk or have considerable difficulty walking (for instance they walk extremely slowly or only with excessive pain, comparable to conditions that would be eligible for HRMCDLA)⁵

There are different ways of thinking about disability and the Welsh Government have adopted the Social Model of Disability. This model makes an important distinction between 'impairment' and 'disability'. It recognises that people are disabled by barriers that exist in society. Those barriers can be physical, attitudinal or organisational. In simple terms, it is not the inability to walk that disables a person but the existence of stairs with no alternative ramp or lift that is accessible.

The Welsh Government is working closely with our partners to ensure that we deliver the Scheme in a way which reflects the social model approach to disability.

The proposals set out in this consultation paper have implications for the way that authorities determine eligibility under the discretionary criteria.

Current Arrangements

All applicants for a Blue Badge are required to complete an application form which asks them to provide information in support of their application.

Sometimes, the application form is completed by the applicant and returned to the local authority. Alternatively, an application form may be completed by a local authority officer following a face to face interview or a telephone call with the applicant.

Once an application is complete and all supporting evidence is provided some local authorities may refer the application to an independent medical professional (e.g. occupational therapist) for assessment and advice before making a decision. Others rely on the advice of the applicant's General Practitioner (GP) when determining eligibility. In some cases, the decision to award a Blue

⁵ Welsh Ministers have also agreed to bring forward legislation extending eligibility to children under 3 with specific medical conditions and people with severe disabilities in both arms who drive a vehicle and are unable to operate or have difficulty operating all or some types of parking meter.

Badge is made by the local authority's case officer through a desk based assessment.

The various approaches used by local authorities across Wales has resulted in inconsistent decision making. It has also resulted in significant differences in Badge issue rates amongst local authorities.

What we want to achieve?

The overall aim of the Action Plan is to modernise the Scheme and make it fit for purpose. To do this, we want to make sure that decisions on eligibility for a Blue Badge are fair, open and transparent. This will ensure that everyone is treated the same and that the criteria are applied in a consistent way across Wales.

With the help of Task and Finish Group, the Welsh Government has identified a number of objectives that need to be met if we are to deliver what we want to achieve.

Objectives

1. Accurate Identification of Eligible Applicants

The main aim of the assessing applicants for a Blue Badge under the discretionary criteria is to ensure that people who can demonstrate that they meet the eligibility criteria are issued with a Badge. Trained staff and appropriate guidance will help to advise and inform applicants both before and during the application process.

2. Consistency and Fairness in Decision Making

The Scheme needs to deliver a consistent service across Wales. Applicants for a Blue Badge will want to see decisions made in an open and transparent way and set against a single decision framework to promote fairness and establish credibility for the Scheme. In addition, it will be important to set minimum quality standards that must be met everywhere whilst providing the context for local flexibility and innovation. This will also help people who do not satisfy the eligibility criteria understand why their application has been refused and so avoid repeat applications and minimise complaints.

3. An Efficient Service that Minimises Duplication

It is important that local authorities process applications in a way that uses resources and information efficiently. The applicant may already be applying for other local authority services and it will be important to avoid the applicant being asked to attend different assessments. We are keen to encourage local authorities to share relevant information, professional opinions and assessments to help stream line processes. This will reduce the need for repeat assessments.

4. Feasibility

This is a crucial step in examining the potential success of each of the possible options. Looking at the feasibility of each of the options will allow us to test the strength and weaknesses of each proposal. At the same time, we can also consider the risks associated with each approach and what measures would be needed to mitigate them. Each option has different costs and benefits and these will need to be tested against each of the objectives to provide a proper balance for deciding whether to proceed with the option.

5. Deliverability

We will also need to consider the future impacts of each option and the factors that can influence success. This includes the need for any changes to legislation, the impact of other regulatory factors such as equality and diversity as well as the capacity of certain sectors to be able to meet increasing demand for their services (e.g, occupational therapists). Technical improvement put in place by the Blue Badge Improvement Service ('BBIS') may also make some of the proposals more attractive than others.

6. Acceptability to service providers

Any approach must be acceptable to those working to provide the service. Local authority staff together with the medical profession will need to deliver the service efficiently and award Blue Badges on a consistent basis. It will be important to avoid any duplication and additional financial burdens on local authorities, Blue Badge holders and others.

7. Acceptability to customers

The system must be acceptable to customers. Customers will need to find the system easy to access and to understand. They will

need to understand the eligibility criteria, the supporting evidence needed and have confidence that the assessment process is applied equally and fairly across Wales. These factors should reduce inappropriate applications, and help the applicant to understand why applications have not been successful.

8. Value for money

At a time when public funding is tight and public services are asked to do more for less it is important that the preferred approach to determining eligibility can demonstrate clear value for money by becoming more efficient and effective. The approach must allow the Scheme to be targeted at those most in need whilst avoiding any additional financial burdens. It must allow information to be shared effectively whilst minimising error and fraud and at the same time improving customer engagement. Overall, the approach must help to provide a high quality service that will maximise the investment being made in the new BBIS and leaner administrative process.

Proposals

The Task and Finish Group have looked at a variety of different approaches to determining eligibility for a Blue Badge and these are described below. The approaches will need to be considered alongside the proposed BBIS.

OPTION 1 – Do Nothing

Option 1 is to retain the status quo, leaving the variety of current practices in place across Wales. Local authorities will continue to decide how they can best determine eligibility and respond to local needs. This would mean that local authorities would be able to use self assessment by applicants, interviews by local authority staff, applications supported by general practitioners or other medical professionals, paper based or medical examinations/assessments by occupational therapists (both in-house or independent) or a range of medical practitioners.

OPTION 2 – Do the Minimum

Under this option local authorities would still be allowed to decide how they determine eligibility, implementing the systems they wish to have in place. This could include self assessment by applicants, interviews by local authority staff, applications supported by general practitioners or other medical professionals, paper based or medical

assessments by occupational therapists (both in-house or independent) or a range of medical practitioners. However, the Welsh Government would provide detailed guidance and a decision framework setting out the criteria to be used for the assessment. Consequently there will still be a range of processes in place but they will have to adhere to a common approach to determine eligibility.

OPTION 3 – Self Assessment

Option 3 involves self assessment by the applicant who will need to complete an assessment form themselves to determine their eligibility. The assessment form will be standardised and accompanied by guidance to help the applicant identify whether they meet the eligibility criteria. This will mean that the assessment will rely on an accurate and honest assessment by the applicant based on a consistent guidance framework. It will also require the local authority to accept the applicant's self assessment without further challenge.

It will be important to avoid the applicant making unsupported claims on the self assessment forms whilst ensuring that the most vulnerable members of society are not disadvantaged.

OPTION 4 – Clinical / Functional Assessment

Under option 4 all assessments under the discretionary criteria would be made by a suitably qualified independent health professional, for example an occupational therapist as recommended in 'A Strategic Review of the Blue Badge Scheme' undertaken by Rob Smith for the Department of Transport published in 2007. It would be similar to the independent medical tests that will be introduced by the Department of Work and Pensions as part of the planned changes for Disability Living Allowance.

This option will require all applicants who do not qualify automatically for a Blue Badge to undergo an assessment by an independent health professional to determine eligibility. The Welsh Government would provide guidance for the health professionals along with a decision framework. This will mean that the same assessment framework is adopted by health professionals across Wales and will help to remove the current inconsistencies identified in the Scheme.

OPTION 5 – Desk Based Assessment with Support

Option 5 would involve a desk based assessment by a local authority case officer who would be able to seek advice from independent health professionals such as occupational therapists or others before making a decision. This approach was recommended in the 'Independent Review of Public Efficiency' by Peter Gerschon which led to the Department of Health 'Care Services Efficiency Delivery Programme Blue Badge Initiative'.

It puts in place a system where local authority staff process applications and identify those with the appropriate supporting evidence, either automatic or discretionary and issue Blue Badges accordingly. If little or no supporting evidence is available further advice may be required from an occupational therapist (either in-house or with the local health board) before making a paper based assessment.

Again, this option would be supported by appropriate guidance provided by the Welsh Government.

OPTION 6 – Structured Interview Assessment

Option 6 enables local authority customer service staff to assess applications for a Blue Badge through a structured interview process (either face to face or by telephone) for both automatic and discretionary applications. They will identify those with the appropriate supporting evidence including; relevant welfare benefits, health records, Statements of Special Educational Need or Unified Assessments by social workers or occupational therapists. It will enable them to process applications comprehensively and should reduce the need for further assessments and consequently delay. It will require robust guidance and training from the Welsh Government for the staff to understand the eligibility criteria, implement them consistently and to explain the requirements to applicants.

In some very rare circumstances staff may need to seek further advice on an application either through their management structure or as a last resort from another professional. This advice would be provided by a health professional making a paper based assessment but will only happen in exceptional circumstances.

Reported research⁶ into assessments for a Blue Badge has shown that applicants meeting the eligibility criteria could be correctly identified in 88% of cases based on a structured interview approach with the applicant or applicant's carer. It will be important to manage the expectations of applicants as the final decision on eligibility will rest with the local authority.

Question 3 To help us to consider the best way forward you are invited to complete the attached table to compare each option against the objectives that have been set. A scale of 1 – 5 is being used (as described below) to decide how each option meets the key objectives. Please score each option against each objective using the following scoring system;

- 1 - Does not meet the objective**
- 2 - Meets part of the objective**
- 3 - Neutral or no opinion**
- 4 - Meets most of the objective**
- 5 - Meets the objective**

⁶ Morrissey, N, Guyan, P, Alexander, CM (2004) An audit of an evidence-based assessment tool for the blue badge disabled parking scheme International Journal of Therapy and Rehabilitation 11 (7):324-328

OPTIONS	Can eligible applicants be accurately identified?	Is decision making consistent and fair?	Will it provide an efficient service and minimise duplication?	Is it feasible?	Is it deliverable?	Is it acceptable to service providers?	Is it acceptable to customers?	Does it provide value for money?
1. Do Nothing								
2. Do the Minimum								
3. Self Assessment								
4. Independent Clinical / Functional Assessment								
5. Desk Based Assessment with Support								
6. Structured Interview Assessment								

Question 4 Are there any other comments you wish to make regarding the assessment process?

C. Enforcement**Current position**

Misuse of the Scheme can lead to those that are entitled to Badges having difficulty finding a parking space. Common forms of misuse of the Badge include:

- Use of lost, stolen, duplicated or forged Badges;
- Misuse of valid Badges by friends or relatives; and
- Individuals who misrepresent themselves or who make false statements about their impairment during the application process.

The Audit Commission and the National Fraud Initiative have reported that the misuse of Blue Badges is one of the most common types of fraud committed against Councils. Whilst the BBIS will assist in reducing opportunities for some of these 'administrative style' frauds it does not assist us with dealing with the misuse or abuse of Badges by people when parking on the highway or in local authority owned car parks.

Responsibility for on-street enforcement typically falls to local parking enforcement officers, or less commonly to police officers and traffic wardens depending on whether the local authority has Civil Parking Enforcement (CPE) powers. Eleven of the twenty two local authorities in Wales now have these CPE powers.

Police officers, traffic wardens, parking attendants and civil enforcement officers have the legal right to inspect a Badge where it is displayed on a vehicle. Individuals who, without reasonable excuse, refuse to produce a Badge for inspection are breaking the law and can be fined up to £1,000.

However, only police officers currently have the power to seize a misused Badge on the spot if it is required as evidence in a criminal prosecution. For this reason, a number of local authority parking enforcement teams have been carrying out alternative targeted surveillance operations and prosecuting people through other legislative routes.

There is anecdotal evidence to suggest that abuse of the Scheme has become a significant problem, particularly in urban areas

where high parking charges and limited parking spaces are increasing the appeal of the Badge's concessions. Demand for a Badge is also being fuelled by its use for other concessions which are not formally part of the Scheme, for example to access off-street accessible parking bays.

We are aware that the off-street parking concessions provided outside of the Scheme for Badge holders are equally or more valued by Badge holders than the formal on-street concessions. In May 2011 the UK Local Transport Minister Norman Baker MP announced that he had written to all major supermarkets urging them to do what they could to enforce the Scheme on their premises. Since then Aldi; Marks & Spencer; Morrisons; Sainsbury's; Tesco; Waitrose and Lidl have all responded positively in support of the drive to ensure strict enforcement of the parking bays in their car parks which are privately owned.

Outline of current enforcement powers

There is a wide range of legislation currently available to local authorities to address the misuse, abuse or fraud associated with the Scheme. We have set out below the enforcement remedies available to a local authority to control the misuse and abuse of the Scheme:

Where an *applicant* makes multiple or fraudulent applications, it may be possible to bring a prosecution under section 2 of the Fraud Act 2006. This carries a penalty of a fine of up to £5000 and or maximum 12 months imprisonment on summary conviction. If a Badge has been issued, the local authority can require its return under regulations 9(2)(b) of the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000.

For a *Badge holder* who uses an expired or illegible Badge, a Badge that was lost or stolen and for which a replacement has been issued, or a Badge which they are no longer entitled to use:

- could be issued with a Penalty Charge Notice for the parking contravention in a civil enforcement area or a Fixed Penalty Notice in other areas;
- can be prosecuted and receive a fine of up to £1,000 on conviction under section 21 of the Chronically Sick and Disabled Persons Act 1970;
- can be prosecuted and receive a fine of up to £1,000 on conviction under section 117 of the Road Traffic Regulation Act

1984;

A Badge holder who *allows someone else to use their Badge* can have their Badge withdrawn by the issuing authority under regulation 9 of the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000, but only after three relevant convictions.

A person *using a Badge holder's Badge for their own benefit* can face:

- prosecution and fine of up to £1000 on conviction under section 21 Chronically Sick and Disabled Persons Act 1970;
- prosecution and fine of up to £1000 on conviction under section 117 Road Traffic Regulation Act 1984;
- issuing of a Penalty Charge Notice or Fixed Penalty notice for any parking contravention

For offences that involve either the Badge holder or anyone else copying, altering, faking or forging a Badge, the following legislation may be used depending on the circumstances:

- offenders can be prosecuted under section 115 Road Traffic Regulation Act 1984 and are liable on summary conviction to a fine of up to £5000 and up to 2 years imprisonment on indictment;
- the Fraud Act 2006 and the Forgery and Counterfeiting Act 1984 may be used. These carry heavier penalties;
- offenders can be prosecuted under section 117 Road Traffic Regulation Act 1984 and fined up to £1000 if convicted of using a forged Badge; and
- they can be issued with a Penalty Charge Notice or a Fixed Penalty Notice for any parking contravention.

In the case of other offences:

- the Fraud Act 2006 and the Theft Act 1968 can be used to prosecute anyone found guilty of stealing and/or using stolen Badges;
- when a stolen Badge is being used but there is insufficient evidence to obtain a conviction under the Theft Act, section 329(1) of the Proceeds of Crime Act 2002 may offer another means of obtaining a conviction;
- it is possible in certain circumstances for courts to disqualify persistent offenders from driving for a period of time under section 146 Powers of Criminal Courts (Sentencing) Act 2000;

- the Badge remains the legal property of the issuing local authority, so it is unlawful to sell a Badge. The issuing authority can take civil action to recover a Badge and the person offering the Badge for sale can be prosecuted under section 7 Fraud Act 2006.

Section 21 (4BA) Chronically Sick and Disabled Persons Act 1970 permits the police, a traffic warden, a civil enforcement officer or a parking attendant to require a person using a Blue Badge in a vehicle to produce the Badge for inspection. A person who fails to produce a Badge without reasonable excuse is guilty of an offence and liable to a fine of up to £1000.

The police may also seize Badges that they believe to be fake, forged or being used by the wrong person under section 19 Police and Criminal Evidence Act 1984.

The issuing local authority can withdraw the Badge for a number of reasons under regulation 9 of the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000. These are:

- the period for which the badge was issued has expired;
- death of the holder or, in the case of an institutional badge, the institution ceases to exist;
- holder ceases to meet the eligibility criteria or, the institution ceases to be eligible under regulations;
- a replacement badge has been issued to replace a lost or stolen badge and that original badge is found or recovered;
- the badge has become mutilated or faded as to be no longer clearly legible when displayed on a vehicle;
- ceases to be required by the badge holder;
- council refuses to allow the badge to continue in use on account of its misuse leading to at least three relevant convictions; and
- that the council is satisfied that the badge was obtained by false representation.

Under the provisions of the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000, local authorities are able to issue replacement Badges and can request Badges to be returned under certain circumstances. But the legal status of the Badge remains unchanged and so it, arguably, remains a valid document. Local authorities do not currently have a power to cancel Badges.

We therefore propose to give issuing local authorities a power to

cancel Badges:

that:

- have been reported lost or stolen;
- have expired (including as a result of the death of the holder);
- have been withdrawn for repeated misuse;
- where the holder ceases to meet the eligibility criteria or no longer requires a Badge.

Question 5 Are there any other situations where the local authority should be able to cancel a Badge?

Yes

No

Comment

Question 6 Should it be an offence to not return a Blue Badge when required?

Yes

No

Comment

One of the priorities in the Blue Badge Action Plan is to introduce new powers to allow civil parking enforcement officers to seize Badges that are being misused on the spot.

This would enable specialised parking enforcement teams (either in or out of uniform) to operate more independently and make them less reliant on the police. Once the new Badge design and the BBIS are in place, it will be easy and quick for officers to check whether or not a Badge has been cancelled.

On-the-spot confiscation would only occur where the Badge was

already in an authorised officer's hands following an inspection, or in cases where a third party has voluntarily handed it over.

Once a Badge has been confiscated, the authorised officer will be able to either return it to the issuing local authority or to the genuine Badge holder, or to keep it for the purposes of evidence in a prosecution. The cancelled Badge will be returned to the issuing local authority once a prosecution had been completed. Officers would also be empowered to confiscate fake or forged Badges.

When an enforcement officer believes that a Badge is being used by someone other than the Badge holder it is unhelpful for the enforcement officer to have to give the Badge back to that person. In these circumstances, it might be appropriate for the enforcement officer to be able to confiscate the Badge and to return it to the issuing local authority without delay. The authority may then want to return it to the Badge holder with a letter stressing the importance of them looking after the Badge and making sure as far as possible that it is only used when they are present in the vehicle.

There would need to be strong safeguards built into any new power to ensure that Badges were not confiscated in situations where there might be any doubt about whether or not the right person was using the Badge. We would want to avoid situations where Badges were confiscated from disabled people in ways or circumstances that might cause distress.

Question 7 In what circumstances should authorised council officers have the right and powers to seize (confiscate) Badges? (Please tick as many as appropriate)

Circumstance	Yes	No
An original Badge is being used which has been reported lost or stolen and for which a replacement has been issued		
Badge holder has died		
The Badge is more than 1 month out of date		
The Badge had been tampered with i.e. date		

changed		
The Badge details cannot be read i.e. text has faded		
A Badge that any UK council has requested to be returned to them for whatever reason		
Use of an invalid Badge i.e. copy		
Person other than the Badge holder using the Badge for obtaining a concession provided to genuine Badge holders		
A person offering for sale a Blue Badge		

Comment

To support the implementation of this new power, we propose to introduce a new offence of obstructing an authorised officer who is seeking to confiscate a Badge. The penalty for this would be the same one that is currently in place for failing to hand over a Badge for inspection – prosecution and a fine of up to £1,000.

Where a Badge has been cancelled or withdrawn, as outlined above, by the issuing local authority there remains the difficulty of ensuring that the Badge is returned for it to be destroyed.

We would be interested to receive your comments and suggestions on measures that could and should be taken to remove invalid Badges from circulation, and any evidence of whether or not measures are needed.

Question 8 What would be the most effective ways of removing cancelled Badges from circulation?

Comment

We have heard of cases where some Badge holders are often parking in contravention of the rules of the Scheme and are being issued with large numbers of parking fines. The three relevant convictions requirement applies both to regulation 8: *refusal to issue a Badge* and also to regulation 9: *withdrawing a Badge*.

One of the most common reasons to refuse issue of a Badge is because the Badge holder has had at least three relevant convictions related to misusing their Badge. Local authorities that operate decriminalised parking regimes, argue this rule does not take account of any civil contraventions. While one conviction could have resulted from a genuine error 'at least three relevant convictions' is felt by some local authorities to be overly restrictive and inflexible.

We are looking to extend the withdrawal of a Blue Badge to where the Blue Badge holder is convicted of one serious offence involving the Scheme. This could be allowing their Badge to be copied, forging or altering details on a Badge etc. We do not wish to include parking fines or failing to display a Badge in accordance with the regulations. And secondly, where a person other than the holder of a Blue Badge is convicted of abuse.

Question 9 Do you agree that we should reduce the current 'three relevant convictions' requirement in the legislation as described above for conviction of a:

a) Blue Badge holder

Yes		No	
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b) Third party abuse of a Badge

Yes		No	
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What would be the advantages and disadvantages of removing the current three relevant convictions requirement from the legislation?

Comment

Where the Badge holder is clearly abusing the Scheme, or

allowing others to use their Badge, we believe that local authorities ought to be able both to withdraw a Badge, and to refuse to issue any more Badges to that person for a certain period of time. We could either specify a time in the legislation, for example, 12 months. Or we could allow local authorities to refuse to issue a Badge for as long as may be considered 'reasonable', given the circumstances of each case and the grounds for refusal.

Question 10 A Blue Badge has been taken away or the local authority refuses to issue any more Badges to that person for a period of time to be decided by the local authority based on each individual case. For how long should the refusal to issue a Blue Badge be in place?

Not issue a Badge for a set period	Yes		No	
If Yes, not issued for: 6 months	Yes		No	
1 year	Yes		No	
2 years	Yes		No	
3 years	Yes		No	
Other period (Please specify)				

Comment

Question 11 Should there be any additional grounds for refusing to issue a Badge? If so, what would you suggest and why?

Yes

No

Comment
