

Number: WG27484



Llywodraeth Cymru
Welsh Government

www.gov.wales

Welsh Government

Consultation Document

Blue Badge Scheme in Wales

Changes to eligibility to include people with temporary impairments, assessment and enforcement 2016



Date of issue: **19 January 2016**

Action required: Responses by **16 February 2016**



Overview The Blue Badge Scheme in Wales provides access to services and facilities for people with permanent mobility impairments who meet the eligibility criteria. This consultation outlines proposals to include people with temporary mobility impairments within the eligibility criteria.

This paper also consults on proposals to streamline the application processes for some people who have previously been issued a badge.

Additionally this paper consults on proposals to improve enforcement in cases of abuse and misuse of the Blue Badge Scheme.

How to respond The consultation will run from **19/01/2016** to **16/02/2016**. You can respond to this consultation by completing the questionnaire attached to this document or the document provided on our web site below. Please ensure that your response reaches us by **16/02/2016** at the postal or email address below.

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, audio and alternative language versions of this document are available on request.**

If you would like hard copies of this document or the questionnaire you can contact us at the address below:

Further information on the Blue Badge Scheme in Wales can be found at <http://wales.gov.uk/consultations/transport/bbscheme/?status=closed&lang=en>

Contact details For further information:

Blue Badge Team
Public Transport Team
Department for Economy, Science and Transport
Welsh Government
Cathays Park
CARDIFF CF10 3NQ

By tel to: 029-2082 6586

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

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 staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

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 response. 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 to reveal the information.

The Foreword

I know that the Blue Badge Scheme offers a lifeline to disabled people by allowing them to park close to their destination, either as a passenger or driver. It is vital that those who need a badge get one in order to access goods, services and facilities which are otherwise impossible to get to without the badge.

Eligibility for the Scheme is set down in legislation and generally restricted to people with permanent impairments. I recognise that some people have temporary impairments that require substantial periods of treatment and rehabilitation, and as a consequence their recovery programme lasts over a year. I believe in these cases a person should also be able to receive a Blue Badge, and that this will contribute to their well being and recovery.

I understand that there has been a great deal of concern about the Blue Badge Scheme in Wales. This paper outlines proposals to improve access to the Scheme so that every applicant is treated equally.

Further, I propose that enforcement against abuse and misuse of the Scheme is tightened so that the valuable concessions provided by the Scheme are reserved for those who need them most. It is important that the Scheme is protected for those with the greatest needs and that those who misuse and abuse the Scheme are made aware of the impact of their actions.

Background

Currently, the Blue Badge Disabled Parking Scheme (“the scheme”) enables people who meet the eligibility criteria to access services and facilities through a range of parking concessions. The scheme has been in existence since 1971 and there are a number of eligibility criteria that are detailed in regulations. Certain criteria provide automatic access to the Scheme as detailed below. Other criteria require further assessment to confirm if the person is eligible for a Blue Badge (“Badge”). Responsibility for administering the scheme lies with local authorities and it is a matter for them to assess applications and determine eligibility.

The scheme has undergone extensive reviews in the last 5 years. In particular, the Minister commissioned a review by a group of experts¹ in 2013, then a further review by a Task and Finish group in 2015. The 2015 report considered a wide range of evidence in all aspects of the Blue Badge scheme, from the eligibility criteria to assessment and enforcement. It makes thirteen recommendations as to how the scheme can be improved in these areas throughout Wales.

Automatic eligibility criteria:

- Applicant is in receipt of Higher Rate Mobility Component of Disability Living Allowance (HRMCDLA)
- Applicant is in receipt of Personal Independence Payment (PIP), because they meet Mobility Activity 1(f) (12 points)
- Applicant is in receipt of Personal Independence Payment (PIP), because they meet Mobility Activity 2 (c, d, e, f) (8 - 12 points)
- Applicant is in receipt of War Pensioners’ Mobility Supplement
- Applicant is in receipt of Armed Forces Compensation Scheme (tariff 1-8) with a mobility impairment
- Applicant is registered as having a ‘severe’ sight impairment

Under these arrangements, a person who is able to produce evidence that they meet one of these eligibility criteria would not be subject to further assessment by the local authority.

Criteria subject to further assessment are:

- Children under the age of three who require bulky life supporting equipment or may need access to emergency life saving treatment
- Applicant is a driver who has severe disability in both arms and is unable to operate or has considerable difficulty in operating all, or certain types of parking meter

¹ <http://gov.wales/topics/transport/road-users/bluebadgeschemeinfo/bbmodernising/?lang=en>
<http://gov.wales/topics/transport/road-users/bluebadgeschemeinfo/bbmodernising/?skip=1&lang=cy>

- Applicant is unable to walk or has considerable difficulty in walking (for instance they walk extremely slowly or only with excessive pain and would qualify for an award of HRMCDLA or PIP Mobility Activity 2 (c - f) if they applied)
- Applicant is unable to plan and follow any journey without the assistance of another person because of a cognitive impairment (they would qualify for an award of PIP Mobility Activity 1 (f) if they applied).

This document outlines:

- Plans for extending eligibility to the Scheme to people with temporary impairments which require extensive treatment and rehabilitation which impacts on their mobility
- Proposals to streamline administrative processes in cases where the applicant has previously undergone a robust assessment.

This document also seeks views on the enforcement of Badges against fraud and misuse, including whether a local authority should have the ability to cancel a Badge without requiring a relevant conviction.

There are specific questions asked within the body of the consultation. The same questions are also repeated at the end of the document for convenience and provided on the web site as a separate document. It is intended that respondents complete the Consultation Responses Form.

This consultation applies to Wales only.

Blue Badges for People with Temporary Impairments

Issue

Eligibility for Badges is set down in The Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 (“the 2000 Regulations”). The scheme is currently limited to people with permanent impairments. A recent review of the scheme by the Minister’s Task and Finish group identified that some people with temporary impairments which restrict their mobility should be issued with a badge. In order to insert a new temporary impairment eligibility criteria within the existing eligibility criteria, the 2000 Regulations would need to be amended.

Evidence for Change

In 2002, the Disabled Persons Transport Advisory Committee (“DPTAC”) completed a review of the Blue Badge Scheme and put forward 47 recommendations. One recommendation, supported by independent research, was that people with a clearly defined mobility impairment expected to last for a temporary period (but not less than 12 months) should be eligible for a Badge.

There are other temporary impairments that can affect the mobility of people, for instance, many lower limb fractures can severely limit mobility, though this is usually for a short period (approximately three months). Whilst it is accepted that mobility is severely limited this has to be balanced against the needs of current Badge holders. If Badges are issued to everyone with a lower limb fracture it will reduce the availability of designated parking provision on a day to day basis to some of the most vulnerable members of society.

Scotland

Regulations in Scotland (The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2007 (“the 2007 Scottish regulations”) allow Badges to be issued for periods of between one and three years. The relevant eligibility criteria with the 2007 Scottish Regulations is “unable to walk or has considerable difficulty in walking by reason of a temporary but substantial disability which is likely to last for a period of at least 12 months”.

During 2012-13 Scotland issued 1,164 Badges under the temporary impairment category (1.35% of the badges issued that year). The assessment of discretionary applications in Scotland is undertaken by Independent Medical Assessments and has minimal impact on local authority resources.

The exact extent of the impact that extending eligibility in this way will have on people in Wales is unknown. However, considering the impact in Scotland as a rough guide, it is not anticipated that this change will result in a significant increase in badges issued. Therefore it would be unlikely to have a disproportionately negative impact on current parking provision. However, if a broader range of temporary impairments were to be included in the scheme in

Wales, then there would obviously be a more significant impact on the current parking provision.

Proposals

Welsh Government proposes to amend the 2000 Regulations to allow Badges to be issued to people who are *“unable to walk or have considerable difficulty in walking by reason of a temporary but substantial disability which is likely to last for a period of at least 12 months”*.

Question 1

Do you agree that people who are *“unable to walk or have considerable difficulty in walking by reason of a temporary but substantial disability which is likely to last for a period of at least 12 months”* should be issued with a temporary Badge?

It is currently intended that this will capture people:

- with complex leg fractures with external fixators
- who have experienced a stroke or head injury and are making a slow but steady recovery
- with spinal trauma with neurological leg functional loss and are making a slow but steady recovery
- with severe functional leg impairments who are awaiting or undergone joint replacement and are making a slower recovery than expected

Question 2

Do you think that people with the impairments listed above should qualify for a badge?

Question 3

Do you consider that there are temporary impairments that would not be covered in the proposed eligibility criteria, but should be?

Due to the complexity of these impairments and in particular the duration that they are likely to last, Welsh Government proposes that applications under this category should be supported by the health professionals with responsibility for the applicant's treatment and/or rehabilitation programme such as consultants, surgeons and relevant specialists. Alternatively, applicants could be referred to an independent occupational therapist in order to determine eligibility.

Question 4

Do you think that it is reasonable to ask applicants under the proposed temporary impairment eligibility criteria to provide evidence from their health professionals, or to be referred to an occupational therapist?

It is proposed that badges issued under these criteria are only issued to people who have a impairment which is likely to last for a period of 12 months or more. We propose this threshold in order to capture those with the greatest need for a badge, without putting overwhelming pressure on the scheme and disadvantaging those who currently rely on badges.

Question 5

For how long should Badges be issued under the proposed temporary impairment eligibility criteria?

Streamlined Assessment Processes

Issue

DPTAC in their 2002 report recommended that applications under the discretionary criteria should not be supported by the applicant's general Practitioner (GP).

In response Welsh Government consulted on this issue in 2011. The consultation responses identified that the assessment of eligibility requires a systematic approach that will include a combination of desk based assessment and structured interviews with some independent functional assessments.

Welsh Government has provided local authorities with resources and non-statutory guidance to implement a desk based assessment system underpinned by an Independent Advisory Service.

Evidence for Change

The Task and Finish group reviewed the scheme in 2015. They reviewed evidence from a number of sources and took verbal and written evidence from witnesses. They noted that local authorities administer the scheme in different ways and that this has resulted in an inconsistent delivery of the scheme, particularly with respect to assessment of the discretionary mobility criteria.

The Task and Finish group have recommended that GPs are removed from the process and that independent functional assessments are undertaken where needed.

A report by the Department for Health in 2006² set out that using alternative arrangements to GP input has the potential to improve the speed of delivery, highlighting that whilst GP response times vary, it can take anything up to 12 weeks.

Proposals

It is proposed that Welsh Government amend regulations to require that local authorities only use independent health professionals, rather than information from the applicant's GP, if they need further advice to inform their decision on applications under the discretionary mobility eligibility criteria.

Question 6

Do you agree that local authorities should refer to only independent health professionals, and not GPs (where additional medical expertise is required) to determine whether applicants meet the discretionary mobility eligibility criteria?

² Department of Health – Care Services Efficiency Delivery Programme – Blue Badge Initiative - 2006

Question 7

Are there circumstances where you think information from a GP should be used in assessing an application for a Badge? If so, what are these circumstances?

Issue

The process for applying for a Badge requires applicants to provide proof of identification, residence and evidence to show they meet the eligibility criteria. Badges expire after three years to ensure against wear and tear and to allow the badge security features to change in case of fraud and forgery.

Evidence for Change

The Task and Finish group identified that the application process for a badge can be burdensome when undertaken every three years. They recommended that where badge holders have received a badge following a suitably robust assessment and it was identified that their impairment would not improve, then the processes for renewing their badge should be streamlined.

Robust assessments for the purposes of this process are those undertaken by an independent health professional, who is a specialist in the fields of functional mobility or cognitive impairments.

The group accepted that the applicant will still need to provide proof of identity and residence but should not have to undertake the full assessment procedure.

Proposals

It is proposed that Welsh Government arrange for streamlined processes to be put in place for Badge holders to replace their badges when they expire, where they receive a suitably robust assessment and their impairment is not expected to improve. It is intended that specific guidance as to how this is determined would be issued in consultation with qualified health professions.

Question 8

Do you agree that streamlined processes should be put in place for Badge holders to replace their badges when they expire without re-assessment?

Issue

There are a number of “automatic” eligibility criteria for a Badge (i.e. where someone is eligible without any further assessment) that are linked to receipt of welfare benefits; the Higher Rate Mobility Component of Disability Living Allowance (HRMCDLA), Personal Independence Payment (PIP), Mobility Activity 1(f) (12 points) or Mobility Activity 2 (c, d, e, f) (8 – 12 points).

In DPTAC in their 2002 report recommended that **only** people over 65 years should be able to apply for a Badge under the discretionary mobility criteria. This is because people over 65 are not able to apply for Disability Living Allowance (DLA), which includes HRMCDLA. PIP is also limited to people of working age. The Blue Badge discretionary mobility criteria of “unable to walk or has considerable difficulty walking” is equivalent to the criteria used in the assessment for HRMCDLA and the prescribed rates of the mobility component of PIP.

Some people currently applying for a Badge have been turned down for HRMCDLA or the prescribed rates of the mobility component of PIP. In these cases, by virtue of the equivalent criteria used in assessment, they have already had an assessment, undertaken by relevant professionals, to determine whether they meet discretionary mobility criteria a Badge. The Welsh Government proposes that local authorities, in cases where a person has recently been assessed as not eligible for HRMCDLA or the prescribed rates of the mobility component of PIP as outlined, should be able to decline the application. This is on the basis that it would not be appropriate for the local authority to disregard such professional assessments and the assessment would accurately reflect the mobility of the applicant as assessed against equivalent criteria as that for a badge

If a person has been declined HRMCDLA or the prescribed rates of the mobility component of PIP, they can ask for reconsideration by the Department of Work and Pensions, either at the time, or at a later time if their impairment deteriorates. People over 65 years old who receive the Lower Rate Mobility Component of DLA are not able to apply for reconsideration. If their mobility deteriorates and they apply for a Badge they will require further assessment by the local authority.

There may be people who are eligible for the prescribed rates of the mobility component of PIP or HRMCDLA, but have not applied. However, they may still benefit from a Badge, and should therefore still be able to apply for a badge under the discretionary mobility criteria.

Evidence for Change

Responsibility for processing applications for a Badge lies with the relevant local authorities. The Welsh Government has issued non statutory guidance to assist local authorities.

Local authorities rely on information from applicants and other agencies to determine whether an applicant meets the criteria for a Badge. Where an applicant has undergone an assessment for HRMCDLA or PIP it makes best use of available information to passport to a Badge. Welsh Government believes it also makes best use of available information to refuse an application without assessment in cases where the applicant has already been assessed and been turned down for HRMCDLA or PIP.

Proposals

The Welsh Government therefore proposes that local authorities only accept applications under the discretionary mobility criteria from;

- people over 65 who do not receive HRMCDLA or the mobility component of PIP,
- working age people (16-64) who are eligible for the prescribed rates of the mobility component of PIP but have not made an application, and,
- applications on behalf of children with impairments.

This will ensure the best use of all available information, avoid duplication and make for a better customer journey.

Question 9

Do you agree that local authorities should not have to process applications for a Badge under the discretionary mobility criteria when the applicant has been assessed for welfare benefits that use the same criteria and has been turned down?

Question 10

It is intended that the proposal in question 9 should only apply to people who have undergone an assessment for the relevant benefits and failed to meet the eligibility criteria within the previous 12 months. Do you agree that this is a reasonable timescale?

Enforcement

Issue

Continued misuse and abuse of the Scheme means fewer spaces are available for genuine badge holders and brings the Scheme into disrepute.

The 2000 Regulations allow local authorities to refuse to issue a Badge to a person when their Badge has expired, if they have evidence that they have allowed their Badge to be misused. This action can only be taken when a Badge expires.

The Disabled Persons' Parking Badges Act 2013 ("the 2013 Act") empowers local authorities to better enforce the continued abuse, misuse and fraud surrounding the Blue Badge. The 2013 Act allows Civil Enforcement Officers or other local authority empowered individuals to retain a Badge suspected of being misused. However, the power to retain a Badge does not mean indefinitely. Whilst this is significant progress towards eliminating misuse, it continues to be an issue that both local authorities and genuine Badge holders have to contend with.

Current Badge regulations stipulate that a Badge can only be retained and permanently withdrawn by a local authority following a prosecution for such abuse. Securing a prosecution for the abuse or misuse of a Badge is both difficult and expensive for local authorities. This is more difficult for authorities who do not have Civil Parking Enforcement Powers.

Evidence for Change

The Welsh Government continues to receive reports of abuse and misuse of the Blue Badge scheme throughout Wales. Local authorities are responsible for administering and enforcing the scheme.

Under current regulations a local authority can refuse to issue or cancel a badge in a number of circumstances, including misuse of a badge that has led to a "relevant conviction", which is a conviction of a badge holder or third party of specified offences under the Chronically Sick and Disabled Persons Act 1970 and the Road Traffic Regulation Act 1984³. The relevant offences are intended to address misuse of a real badge by a third party or use of a fake/altered badge by a badge holder or third party. However in Wales to date, despite reports of abuse and misuse, there have only been two known prosecutions for abuse, misuse or fraud surrounding a Badge.

Proposal

Regulations could be amended to allow a local authority to cancel a Badge due to misuse without a "relevant conviction", if there is clear evidence of ongoing and persistent abuse or misuse of a badge.

³ Section 21(4B) of the Chronically Sick and Disabled Persons Act 1970 and sections 115 and 117 of the Road Traffic Regulation Act 1984

Question 11

Do you think that local authorities should be able to cancel a Badge for misuse where sufficient evidence shows that a Badge has been persistently misused or abused, without a “relevant conviction”?

Question 12

If you answered yes to question 11 above, under what circumstances do you consider that refusing to issue or cancelling a badge would be justified?

Question 13

What would you consider to be sufficient evidence of misuse or abuse to refuse to issue or to cancel a badge, short of a “relevant conviction”?

Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Question 1

Do you agree that people who are “*unable to walk or have considerable difficulty in walking by reason of a temporary but substantial disability which is likely to last for a period of at least 12 months*” should be issued with a temporary Badge?

Yes

No

Comments

Question 2

Do you think that the list below is appropriate?

- People with complex leg fractures with external fixators
- People who have experienced a stroke or head injury and are making a slow but steady recovery
- People with spinal trauma with neurological leg functional loss and are making a slow but steady recovery
- People with severe functional leg impairments who are awaiting or undergone joint replacement and are making a slower recovery than expected

Yes

No

Question 3

Do you consider that there are temporary impairments that would not be covered in the proposed eligibility criteria, but should be?

Yes

No

Comments

Question 4

Do you think that it is reasonable to ask applicants under the proposed temporary impairment eligibility criteria to provide evidence from their health professionals, or to be referred to an occupational therapist?

Yes No

Comments

Question 5

For how long should Badges be issued under the proposed temporary impairment eligibility criteria?

One year Two years Three years

Comments

Question 6

Do you agree that local authorities should refer to only independent health professionals, and not GPs (where additional medical expertise is required) to determine whether applicants meet the discretionary mobility eligibility criteria?

Yes No

Comments

Question 7

Are there circumstances where you think information from a GP should be used in assessing an application for a Badge? If so, what are these circumstances?

Yes No

Comments

Question 8

Do you agree that streamlined processes should be put in place for Badge holders to replace their badges when they expire without re-assessment?

Yes

No

Comments

Question 9

Do you agree that local authorities should not have to process applications for a Badge under the discretionary mobility criteria when the applicant has been assessed for welfare benefits that use the same criteria and has been turned down?

Yes

No

Comments

Question 10

It is intended that the proposal in question 9 should only apply to people who have undergone an assessment for the relevant benefits and failed to meet the eligibility criteria within the previous 12 months. Do you agree that this is a reasonable timescale?

Yes

No

Comments

Question 11

Do you think that local authorities should be able to cancel a Badge for misuse where sufficient evidence shows that a Badge has been persistently misused or abused, without a “relevant conviction”?

Yes

No

Comments

Question 12

If you answered yes to question 11 above, under what circumstances do you consider that refusing to issue, or cancelling a badge would be justified?

Yes

No

Comments

Question 13

What would you consider to be sufficient evidence of misuse or abuse to refuse to issue or to cancel a badge, short of a “relevant conviction”?

Comments

Question 14: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: