

Decision Maker: Adult and Community Portfolio Holder
for pre-decision scrutiny by Adult and Community Policy
Development and Scrutiny Committee

Date: 27th September 2011

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **BLUE BADGE GUIDANCE FOR APPLICANTS ELIGIBLE
"SUBJECT TO FURTHER ASSESSMENT"**

Contact Officer: Claire Lynn, Strategic Commissioner Mental Health and Substance Misuse
Tel: 020 8313 4034 E-mail: claire.lynn@bromley.gov.uk

Chief Officer: Terry Rich, Director of Adult and Community Services

Ward: Borough wide service

1. Reason for report

1.1 Introduction

The Blue Badge scheme is a national arrangement of parking concessions for people with severe walking difficulties who travel as drivers or passengers in cars. The scheme is operated in Bromley in accordance with the guidelines set out by the Department of Transport. In June 2011 the Department for Transport (DfT) released an updated national guidance document in conjunction with a Local Authority Circular (England) on eligibility changes; this was followed in July 2011 with a Good Practice Review document on delivery of improved Blue Badge administration, assessment and enforcement. This report updates the London of Bromley guidance on the administration of this national scheme within Bromley with reference to people who require further assessment.

RECOMMENDATION(S)

2.1 The Policy Development and Scrutiny Committee is asked to comment on the criteria for the discretionary or under the 'subject to further assessment category' for applicants for the Blue Badge Scheme.

2.2 The Portfolio Holder is requested to endorse the criteria for the discretionary or under the 'subject to further assessment category' for applicants for the Blue Badge Scheme.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Supporting Independence.
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Financial

1. Cost of proposal: Estimated cost £93,630 per annum
 2. Ongoing costs: Recurring cost.
 3. Budget head/performance centre: 8250125000
 4. Total current budget for this head: ££113,370
 5. Source of funding: Department of Health grant
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Staff

1. Number of staff (current and additional): 1.5 FTE occupational therapists; 1 FTE Customer Service assistant
 2. If from existing staff resources, number of staff hours: n/a
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Legal

1. Legal Requirement: Non-statutory - Government guidance.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 11,900
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments:

3. COMMENTARY

Background

- 3.1 The Blue Badge scheme is a national arrangement of parking concessions for people with severe walking difficulties who travel as drivers or passengers in cars. The scheme is operated in Bromley in accordance with the guidelines set out by the Department of Transport. In June 2011 the Department for Transport (DfT) released an updated national guidance document in conjunction with a Local Authority Circular (England) on eligibility changes; this was followed in July 2011 with a Good Practice Review document on delivery of improved Blue Badge administration, assessment and enforcement. The information below and in Appendix 1 outlines how the scheme is enacted within Bromley, in line with the guidance.
- 3.2 Eligibility for the blue badge scheme is either automatic, in accordance with set criteria, or discretionary now renamed as 'subject to further assessment category'. Under the current scheme applicants are automatically eligible if they:
- Receive the Higher Rate of the Mobility Component of the Disability Living Allowance or
 - Are registered blind (severely sight impaired); or
 - Receive a War Pensioner's Mobility Supplement (WPMS); or
 - Have been both awarded a lump sum benefit at tariffs 1-8 of the Armed Forces Compensation Scheme and certified as having a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.
- 3.3 People who may be issued with a badge after further assessment are those who are more than two years old and fall within one or more of the following descriptions:
- Drive a vehicle regularly, has a severe disability in both arms and is unable to operate, or has considerable difficulty in operating, all or some types of parking meter; or
 - Has a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.

In addition, children under the age of three may be eligible for a badge if they fall within either or both of the following descriptions:

- A child who, on account of a condition, must always be accompanied by bulky medical equipment which cannot be carried around with the child without great difficulty;
 - A child who, on account of a condition, must always be kept near a motor vehicle so that, if necessary, treatment for that condition can be given in the vehicle or the child can be taken quickly in the vehicle to a place where such treatment can be given.
- 3.4 The Department of Transport guidelines contain specific criteria for the assessment of walking difficulties and in the new Good Practice Review have recommended the use of proforma with a scoring system which Bromley will look to adopting to ensure transparency. The specific criteria are set out in the guidance in the Appendix.
- 3.5 In the current guidance the Department has stated that they consider that it would not be appropriate to refuse an applicant a Blue Badge on the sole basis that the applicant is due to have a medical procedure, such as a knee or hip replacement, which may or may not improve their mobility. If, at the time of assessment, the applicant has a permanent and substantial disability which means that they are unable to walk or that they have very considerable difficulty walking (which is unlikely to change unless they have medical intervention), then they should be issued with a badge. However, the applicant should be reminded in their decision letter that they have a duty to return the badge to the local authority if at any time their mobility improves. This was not covered in the previous guidance and if adopted would represent a change to the Council's current approach.

- 3.6 The guidance outlines the need for eligibility under the above categories to be carefully assessed to maximise the fairness and consistency of badge issue across England. Local authorities should also keep a record of the procedures used and the outcome of the assessment process. This will help the authority to provide greater transparency to applicants and to demonstrate that correct procedures have been followed in event of a complaint.
- 3.7 The Council has a responsibility for the administration of the Blue Badge scheme within Bromley; this is discharged through the following process:
- The Customer Contact Centre is responsible for administration of Blue Badges, related processes for people who are eligible and complaints about the service;
 - The Care Services division of Adult and Community Services is responsible for the assessments and the staffing by healthcare professionals for the mobility assessments;
 - The Environment Department is responsible for enforcement and monitoring of compliance with the terms of Blue Badge use.
- 3.8 For individuals who are not automatically eligible for the scheme and require further assessment the Council employs occupational therapists to provide the assessment service, with the administration of appointments and issuing of badges to successful applicants being carried out by the Council's Customer Service Centre. The Customer Service Centre also issue Blue Badges to people who meet the criteria for automatic entitlement, in line with the recent guidance. Applicants are advised that the processing of a further assessment application may take 8-10 weeks, this is kept under review. Currently all assessments are being considered within this timeframe.
- 3.9 There is no statutory appeal process if an applicant wishes to challenge the decision of the local authority and there is no right of appeal either to the Ombudsman or to the Secretary of State. In Bromley appeals are dealt with in accordance with the Adult and Community Services complaints procedure. In the first instance an assessment would be reviewed by another occupational therapist. If the applicant still wishes to pursue the complaint the assessment would be reviewed by a senior occupational therapist in the Adult and Community Care Services Division.
- 3.10 At any time there are approximately 11,900 Blue Badges in force. This compares to around 11,400 in Bexley and 9,500 in Croydon. Over the last three years the number of applications for new Blue Badges issued has been increasing. The increase in the number of applications may have been impacted by the introduction of exemption from the London Congestion Charge for holders of Blue Badges.

	2008-2009	2009-2010	2010-2011	April 2011-August 2011
Total Blue Badge Applications	4,733	3,869	4,064	1,405

To date in 2011/12 there have been a total of 1,405 applications; this would mean on current numbers there has been a drop this year in applications as the eligibility criteria is now robustly applied and advertised. Of these, 951 application were automatic with 454 (32%) requiring further assessment. Of this number 79 applications were refused (6% of the total number of applications). A total of 24 reviews were requested of which 4 were upheld. This is in line with national data on other authorities' performance figures.

4. POLICY IMPLICATIONS

- 4.1 The Blue Badge scheme supports the Council's aim to promote independence for people with disabilities.

4. FINANCIAL IMPLICATIONS

- 4.1 The cost of issuing Blue Badges to people who meet the automatic eligibility criteria has always been funded by the Council through the Environment Department.
- 4.2 As part of the funding changes by the Department of Health from April 2011 the funding for Blue Badges for applicants 'subject to further assessment' is now provided directly to local authorities (previously the PCT). The cost of this for 2011/12 is £93,605 which is allocated as follows:

Assessments (1.5 x FTE occupational therapists)	£68,279
Administration (1x FTE based in Customer Service Centre)	£25,326

5. LEGAL IMPLICATIONS

- 5.1 Blue Badges are issued in accordance with the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 200 (S.I. 2000/682) with amendments

Non-Applicable Sections:	Personnel implications
Background Documents: (Access via Contact Officer)	The Blue Badge Scheme Local Authority Guidance (England) June 2011 Disabled Persons (Badges for Motor Vehicles) (England) Regulations 200 (S.I. 2000/682) with amendments. Department of Transport. The Blue Badge Scheme. Improving Blue Badge administration, assessment and enforcement: good practice review (July 2011)



GUIDANCE ON CRITERIA FOR ELIGIBILITY SUBJECT TO FURTHER ASSESSMENT FOR THE BLUE BADGE SCHEME IN BROMLEY

1. Introduction

- 1.1 Bromley Council issue Disabled Parking Blue Badges in accordance with statutory guidelines set by the Department for Transport.
- 1.2 The Blue Badge scheme is to enable disabled people with severe mobility problems to easily access goods and services, by allowing them to park close to their destination. The scheme is open to eligible disabled people irrespective of whether they are travelling as a driver or as a passenger. The eligibility criteria are set nationally, with local authorities administering the application and allocation procedures. The badges must be available to all who meet the criteria, either as individuals or linked to an organisation providing services, in order to support their independence and access to facilities. Care must be taken to prevent abuse of the system at the allocation stage, so that eligible drivers and passengers are not disadvantaged.
- 1.3 Bromley Council is responsible for the administration and enforcement of the scheme in accordance with the governing legislation and Department for Transport (DfT) guidance. These guidelines are designed to ensure that the process for allocating the badges for applicants who are not automatically eligible is carried out fairly and consistently. The Council is also responsible for ensuring that information is provided about the scheme in accessible formats on its websites and at locations that are likely to be accessible to potential applicants. This information covers:
- who is eligible for a badge
 - how to apply for a badge
 - the parking concessions available to badge holders
 - the rules of the scheme and how badge holders should use their badge
 - how the scheme is enforced
 - when, and how, to renew a badge and
 - Who to contact at the local authority for further information about the scheme.

2. Eligibility Criteria

- 2.1 Eligibility for the blue badge scheme is either automatic, in accordance with set criteria, or discretionary now renamed as 'subject to further assessment category'. Under the current scheme applicants are automatically eligible if they:
- Receive the Higher Rate of the Mobility Component of the Disability Living Allowance or
 - Are registered blind (severely sight impaired); or
 - Receive a War Pensioner's Mobility Supplement (WPMS); or
 - Have been both awarded a lump sum benefit at tariffs 1-8 of the Armed Forces Compensation Scheme and certified as having a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.

Under no circumstances will a badge be issued to an applicant who does not meet one of the eligibility criteria. Badges are not issued to people solely on the basis of their age. See the link below for more information from the Department for Transport (DfT). <http://assets.dft.gov.uk/publications/topics/access/blue-badge-3/bluebadge.pdf>

- 2.2 People who may be issued with a badge after further assessment are those who are more than two years old and fall within one or more of the following descriptions:
- Has a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.

- Permanent disability: When applying for a Blue Badge, a disability will be considered permanent if likely to last for more than 18 months. Temporary disabilities such as a broken leg, awaiting or recovering from replacement hip or knee surgery, will not qualify for an automatic Blue Badge but if, at the time of assessment, the applicant has a permanent and substantial disability which means that they are unable to walk or that they have very considerable difficulty walking (which is unlikely to change unless they have medical intervention) then they should be issued with a badge. However, the applicant has a duty under regulation 9(1) (c) of the 2000 Regulations (SI 2000/682) to return the badge to the local authority if at any time their mobility improves.
- Drive a vehicle regularly, has a severe disability in both arms and is unable to operate, or has considerable difficulty in operating, all or some types of parking meter; or

In addition, children under the age of three may be eligible for a badge if they fall within either or both of the following descriptions:

- A child who, on account of a condition, must always be accompanied by bulky medical equipment which cannot be carried around with the child without great difficulty;
- A child who, on account of a condition, must always be kept near a motor vehicle so that, if necessary, treatment for that condition can be given in the vehicle or the child can be taken quickly in the vehicle to a place where such treatment can be given

People with a psychological disorder will not normally qualify unless their impairment causes very significant and not intermittent, difficulty in walking

3. Process for applicants “eligible subject to further assessment in Bromley

- 3.1 In Bromley, for applications under “eligible subject to further assessment” category, who have difficulty walking an occupational therapists will undertake an independent mobility assessment (IMA). Applicants to be assessed will be invited by appointment to attend a mobility assessment session at the Civic Centre or any other location earmarked by the Council for such purpose. The Council will not conduct mobility assessment at the applicant’s home. This mobility assessment is undertaken by a professional with expertise in mobility that is independent of the applicant and of their treatment or care. In all cases, entitlement depends on the applicant's difficulty in walking. Considerations such as difficulty in carrying parcels or luggage are not taken into account.

Medical conditions such as asthma, autism, psychological/behavioural problems, Crohn's disease/incontinent conditions and Myalgic Encephalomyelitis (M.E.) are not in themselves a qualification for a badge. People with these conditions may be eligible for a badge, but only if they are in receipt of Higher Rate of the Mobility Component of the Disability Living Allowance (HRMCDLA) on account of their condition or are unable to walk or have very considerable difficulty in walking, in addition to their condition. The assessment of mobility will consider the following criteria:

- 3.1.1 **The applicant cannot walk:** Being unable to walk means that they **cannot take a single step**. The applicant needs to show that, because of their permanent and substantial disability, they cannot put one foot in front of the other. Walking involves always having one foot on the ground. If the applicant's only way of getting about is to swing through two elbow crutches, then they will be considered unable to walk (provided it is due to a permanent and substantial disability and not due to legs being in plaster).

3.1.2 The applicant has very considerable difficulty in walking: The applicant will need to show that, as a result of their permanent and substantial disability, they are unable to walk very far without experiencing severe difficulty. Several factors may be relevant to determining this:

- **Excessive pain** reported by the applicant when walking, or as a consequence of the effort of walking. Pain is subjective, and some people have higher pain thresholds than others. Consideration may need to be given to cross-referencing an applicant's reported experience of pain with information they provide about their permanent and substantial disability, details of medication they take, coping strategies they have adopted and any courses of treatment designed to help them manage their pain.
- **Any breathlessness** reported by the applicant when walking, or as a consequence of the effort of walking. The applicant's reported breathlessness may need to be cross-referenced with details of diagnosed medical conditions known to cause breathlessness (e.g. emphysema) and any observations of the applicant's respiratory rate during a mobility assessment. It does not matter whether excessive pain or breathlessness occurs at the time of walking, or later - what counts is that it is a direct result of their attempt to walk.
- The **distance** an applicant is able to walk without excessive pain or breathlessness; taking due consideration of the environment the individual usually walks.
 - If an applicant is unable to walk 30 metres (33 yards) in total, then their walking ability is not appreciable and they can be deemed as having very considerable difficulty in walking.
 - The applicant *may* be deemed eligible if they can walk 30-80 metres (33-87.5 yards) without pain or breathlessness, but demonstrate very considerable difficulty in walking through a combination of other factors (e.g. extremely slow pace and/or their manner of walking).
 - Applicants who can walk more than 80 metres (87.5 yards) and do not demonstrate very considerable difficulty in walking through any other factors would not be deemed as eligible.
- The **speed** at which they are able to walk.
 - As a guide the average person can walk in a minute: -Brisk pace - >90 metres per minute -Normal pace - 61-90 metres per minute -Slow pace - 40-60 metres per minute -Very slow pace - <40 metres per minute
 - If an applicant cannot walk 40 metres (44 yards) in a minute (a pace of less than 0.67 metres/second), including any stops to rest, then this is an extremely slow pace which is likely to make walking very difficult when considered in isolation.
 - If an applicant can walk 40 metres (44 yards) in less than a minute (a pace of 0.67 metres/second or more), including any stops to rest, then the speed at which they walk is not likely to make walking very difficult when considered in isolation. The applicant *may* still be considered eligible if they demonstrate very considerable difficulty in walking through any other factors.
- The **length of time** that an applicant is able to walk for. For example, if an applicant is only able to walk for less than one minute in total then walking is likely to be very difficult for them.

- The **manner** in which the applicant walks. The applicant's posture, rhythm, coordination, balance and stride should be considered in terms of the degree of effect they have on their ability to walk.
- **An applicant's use of walking aids.** The fact that a walking aid is or is not used may be relevant to the eventual decision, but this alone will not determine whether or not a Blue Badge is issued. For example, if a person can walk relatively normally with the use of an artificial leg or walking stick, then they will not be considered as eligible to receive a Blue Badge. Consideration will be given to whether an applicant is using any walking aids in a correct manner when determining whether they have very considerable difficulty in walking. The assessment may also consider whether an applicant who is not using any form of walking aid at the time of their application could improve their walking ability, to the extent that they would no longer demonstrate very considerable difficulty in walking, through the correct use of such an aid.
- The applicant's **outdoor walking ability.** It is important to consider the person's ability to negotiate the types of pavement or road one would normally expect to find in the course of walking outdoors. No pavement or road is absolutely flat therefore a degree of "incline" and "decline" should be considered in the course of a mobility assessment. It is not necessary for the assessment to be completed outdoors. However, it is important the assessment enables the healthcare professional conducting the mobility assessment to determine how the applicant would cope with walking outdoors based on their indoor walking ability
- **Whether the effort of walking presents a danger to the applicant's life, or would be likely to lead to a serious deterioration in their health.** The applicant needs to show that they should not walk very far because of the danger to their health. This element is intended for people with serious chest, lung or heart conditions who may be physically able to walk normally. The serious deterioration does not need to be permanent but it should require medical intervention for them to recover. They will need to show that any danger to their health is a direct result of the effort required to walk. People with epilepsy will need to show that any fits were brought about by the effort required to walk.

Applicants will be notified of the outcome of their mobility assessment within one week. This will include the reasons for refusal if applicable.

- 3.2 For applicants who, because of a severe disability in both of their arms, are unable, or find it very difficult, to use on-street parking equipment Bromley follows the national guidance in requiring applicants to provide insurance documents which contain statements they drive an adapted vehicle. In addition, applicants who have registered their adapted vehicle with the DVLA will be able to present their driving licence which will contain codes that refer to the modifications made to the vehicle.
- 3.3 Where the applicant does not have an adapted vehicle, only drivers with the most severe disabilities in both of their arms (i.e. who cannot operate a parking meter) will be considered eligible. Bromley will treat each application as a special case.
- 3.4 Since 17 June 2011, children under the age of three have been eligible for a badge if they fall under the criteria: Bromley treats each application for children under the age of three as a special case. This may mean making arrangements to see the child, although this should not be necessary if the child's paediatrician is able to write a letter outlining the child's medical condition and any special equipment they need to use. It is made clear when issuing the

badge that it should be returned on expiry or if the recipient no longer needs it because the condition under which it was issued no longer applies. This is particularly relevant in the case of children with hip dysplasia, as this condition normally lasts between three and six months.

Examples of children under the age of three likely to fall into the criterion mentioned in the first bullet point may be those who need to be accompanied at all times by any of the following types of equipment:

- **Ventilators** - drive air through a tube placed into the windpipe. They blow oxygen-enriched air gently into the lungs through a tube that is passed through the mouth or nose, or via a tracheostomy.
- **Suction machines** - are portable suction apparatus used for aspirating fluids and vomit from the mouth and airway by sucking the material through a catheter into a bottle using a vacuum pump (piston, diaphragm, or rotary vane), bacterial filter, vacuum gauge, trap for moisture (or any debris accidentally drawn into the mechanism), a reservoir for the aspirated material, and a suction catheter or nozzle.
- **Feed pumps** - deliver fluid feeds via nasogastric tube to the child's stomach.
- **Parenteral equipment** - services intravenous lines providing nutrition if a child is unable to take food or fluids through his or her mouth. The line can also be used for injecting medication.
- **Syringe drivers** - are used to deliver medication by intravenous injection (e.g. antibiotics), or by subcutaneous injection (e.g. insulin to control
- **Oxygen administration equipment** - consists of a tank and regulator with supply equipment for oxygen; mask or nasal prongs and tubing.
- **Continuous oxygen saturation monitoring equipment** - involves a device usually strapped to the child's foot or hand. This shines light through the skin and monitors the amount of oxygen in the blood. It is used to monitor where a child may need access to oxygen.
- **Casts and associated medical equipment for the correction of hip dysplasia** – between birth and six months of age, a brace called a Pavlik Harness is often used to hold the baby's hips in position. The Pavlik harness is made of canvas, with straps, Velcro and buckles. From six months and over a child is often placed in a Spica cast after surgery. A Spica cast can be either plaster or fibreglass and will encase the child from the chest down to cover one leg or both. In both cases the apparatus is likely to be deployed for a period of up to three months per hip.

3.5 Examples of children with highly unstable medical conditions who need quick access to transport to hospital or home and are likely to qualify under the criterion are set out below. This group may also need to stop to perform an urgent medical procedure e.g. suction of a tracheostomy tube:

- children with tracheotomies
- children with severe epilepsy/fitting;
- children with highly unstable diabetes
- terminally ill children who can only access brief moments of outside life and need a quick route home.

4. Complaints and Decision Review

4.1 If applicants request a review of their decision because they feel they have been wrongly refused a Blue Badge although there is no statutory right of appeal, Bromley Council will review the application and the decision. In the first instance an assessment will be reviewed by another occupational therapist. If the applicant still wishes to pursue the complaint the assessment will be reviewed by a senior occupational therapist in the Adult and Community Care Services Division. The Blue Badge Office will confirm in writing the results of the review.

This decision is final and there is no appeal. Applicants may reapply for a Blue Badge after 6 months (or earlier if mobility has deteriorated significantly).

- 4.2 If an applicant is dissatisfied with the procedures used by Bromley Council in the assessment of the application, they can do this via the Council's complaints procedure.