

## **London Borough of Bromley**

### **PART 1 - PUBLIC**

#### **Briefing for Adult Care and Health Policy Development and Scrutiny Committee 19<sup>th</sup> September 2018**

## **BLUE BADGES**

Contact Officer: Stephen John, Director: Adult Social Care  
Tel: 020 8 313 4754 E-mail: [Stephen.John@bromley.gov.uk](mailto:Stephen.John@bromley.gov.uk)

Chief Officer: Ade Adetosoye, Deputy Chief Executive and Executive Director (ECHS)  
Tel: 020 8313 4652 E-mail: [Ade.Adetosoye@bromley.gov.uk](mailto:Ade.Adetosoye@bromley.gov.uk)

### **1. Summary**

1.1 This briefing provides updated information regarding changes to eligibility for Blue Badges brought about by introduction of Personal Independence Payment (see Section 4) and new enforcement powers available under the Disabled Persons Parking Badges Act 2013 (Section 7). It has been informed by an extensive independent programme of work undertaken on behalf of the DfT by Integrated Transport Planning Ltd (ITP) and the TAS Partnership Ltd (TAS) 1.

1.2 Additional information regarding amendments following 'The Blue Badge Scheme Local Authority Guidance (England) October 2014 is available at this link:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/519091/blue-badge-scheme-local-authority-guidance-paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/519091/blue-badge-scheme-local-authority-guidance-paper.pdf)

1.3 The Blue Badge Scheme is also subject to imminent changes and implementation as a result of a recent consultation on eligibility which is available at this link:

<https://www.gov.uk/government/consultations/blue-badge-disabled-parking-scheme-eligibility-review/blue-badge-scheme-consultation-on-eligibility>

### **2. THE BRIEFING**

2.1 Bromley Council issue Blue Badge (Disabled Persons' Parking) Scheme in accordance with statutory guidances as set out by Department for transport (DfT).

2.2 The Blue Badge (Disabled Persons' Parking) Scheme was introduced in 1971 under Section 21 of the Chronically Sick and Disabled Persons Act 1970 ('the 1970 Act').

2.3 The aim of the scheme is to help disabled people with severe mobility problems to 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.

- 2.4 The scheme provides a national range of on-street parking concessions to Blue Badge holders. It allows them to park without charge or time limit in otherwise restricted on-street parking environments, and allows them to park on yellow lines for up to three hours, unless a loading ban is in place.
- 2.5 Local authorities should note that the DfT cannot intervene in the case of individual applications or eligibility decisions. In addition, the DfT cannot provide local authorities or applicants with individual legal advice on the interpretation of the legislation that governs the scheme.
- 2.6 LB Bromley is responsible for the day-to-day administration and enforcement of the scheme. The local Authority is responsible for determining and implementing administrative, assessment and enforcement procedures which they believe are in accordance with the governing legislation. It is important that there is effective communication between the teams that issue Blue Badges and those that conduct on-street enforcement.
- 2.7 It is the responsibility of each local authority to ensure that badges are only issued to residents who satisfy one or more of the eligibility criteria set out in the legislation that governs the scheme. Under no circumstances should anyone who does not satisfy at least one of the criteria receive a badge.

### **3. Determining the eligibility of individual applicants**

#### **3.1 The two types of eligibility criteria**

An individual's eligibility for a Blue Badge is considered in terms of being 'eligible without further assessment' (previously known as 'automatic') or 'eligible subject to further assessment' (previously known as 'discretionary').

In no circumstances should a badge be issued to an applicant who does not meet one of the eligibility criteria set out in the legislation which governs the scheme. Badges should never be issued to people solely on the basis of their age.

#### **3.2 Type 1: 'Eligible without further assessment'**

##### **The 'eligible without further assessment' criteria**

People who may be issued with a badge without further assessment are those who are more than two years old and fall within one or more of the following descriptions:

- Receives the Higher Rate of the Mobility Component of the Disability Living Allowance (HRMCDLA); or
- Receives 8 points or more under the "moving around" activity of the mobility component of Personal Independence Payment (PIP); or
- Is registered blind (severely sight impaired); or
- Receives a War Pensioner's Mobility Supplement (WPMS); or
- Has 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.

(NOTE: Armed Forces Independence Payment (AFIP) awards are not included in the Type 1 eligibility criteria.

### 3.3 Type 2: 'Eligible subject to further assessment'

#### The 'eligible subject to further assessment' criteria

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:

- Drives 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 that 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.

It is not appropriate to refuse an applicant a Blue Badge solely on the basis that they are able to use public transport independently or because they already have a concessionary travel pass.

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

Please see appendix 1 which outlines the full process of applications in a flowchart

## 4. Assessing people with walking disabilities

- 4.1 In Bromley, applications under 'eligible subject to further assessment', an occupational therapist will carry out an independent mobility assessment (IMA). Applicants will be invited to attend a mobility assessment at either the civic centre or another location identified by the Council. The council will not conduct any mobility assessment at the applicant's home. In all cases, entitlement to the concession depends on the applicant's ability in walking. Considerations such as difficulties in carrying parcels or luggage are not taken into account.
- 4.2 To qualify under this criterion, an applicant must have **any** permanent (i.e. likely to last for the duration of a person's life) and substantial disability that means they **cannot walk, or means they have very considerable difficulty walking**. Each application should be considered against this criterion, regardless of the particular condition. Applicants will need to demonstrate that their ability to walk is affected to the extent that they would be unable to access goods and services unless allowed to park close to shops, public buildings and other facilities.
- 4.3 Local authorities should be aware that it is not appropriate to refuse an applicant a Blue Badge solely on the basis that they are able to use public transport independently or because they already have a concessionary travel pass.
- 4.4 In all cases, entitlement depends on the applicant's difficulty in walking, and considerations such as difficulty in carrying parcels or luggage are not to be taken into account.

4.5 In addition, the DfT considers that it would not be appropriate to refuse an applicant a Blue Badge on the sole basis that they are due to have a medical procedure which may or may not improve their mobility. If, at the time of assessment, the applicant is deemed as having 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. In all cases it remains the responsibility of the local authority to decide whether the applicant's disability is permanent or temporary. When a badge is issued in these circumstances the applicant should be reminded in their decision letter that they have a duty under regulation 9(1) (c) of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 to return the badge to the local authority if at any time their mobility improves.

4.6 Whilst medical conditions such as asthma, Crohn's disease/incontinent conditions, autism, Myalgic Encephalomyelitis (M.E.) and other mental/cognitive/intellectual disabilities are not in themselves a qualification for a badge, people with these conditions may be eligible for a badge if they are unable to walk or have very considerable difficulty in walking. Eligibility is not determined by the presence or absence of any particular diagnosis or condition. Provided that an applicant has a permanent and substantial disability, a local authority's eligibility decision should be based on whether the applicant's difficulty in walking meets the criterion in the regulations. Each application should be considered on its merits – not on a “one size fits all” basis. **The final decision about whether an applicant meets the criterion is for the issuing authority to make. The DfT has no power to intervene in eligibility decisions in individual cases.**

4.7 **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).

4.8 **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 should 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 should not be considered as eligible to receive a Blue Badge.
- It may be pertinent to consider whether an applicant is using any walking aids in a correct manner when determining whether they have very considerable difficulty in walking.
- It may also be pertinent to 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.

#### **4.9 Assessing people with severe disability in both arms**

This criterion is intended to cover disabled drivers who, because of a severe disability in both of their arms, are unable, or find it very difficult, to use on-street parking equipment.

When making an assessment under this criterion, local authorities will need to consider whether the applicant meets all of the following:

- Regularly drives an adapted or non-adapted vehicle; and
- Has a severe disability in both arms; and
- Is unable to operate, or has considerable difficulty operating, all or some types of parking meter.

For this purpose a 'parking meter' includes a machine for issuing pay-and-display tickets which shows that a charge has been paid and the period of parking paid for, as well as a parking meter which itself indicates that a charge has been paid and whether the period paid for has expired.

Only a very small number of people are likely to qualify under this criterion. In no circumstances should anyone who does not satisfy all three of the conditions set out above receive a badge. In particular, a badge should not be issued to a person who travels solely as a passenger or a person who has difficulty carrying parcels, shopping or other heavy objects such as luggage.

#### **4.10 Assessing children under the age of three**

Since 17 June 2011, children under the age of three have been eligible for a badge if they fall under either or both of the following criteria:

- 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.

It may be necessary to make transitional arrangements for those children under the age of two who were issued with a Blue Badge before the new regulations entered into force and whose

current badge will expire on the day following their second birthday. For more information, please see the Local Authority Circular, published in May 2011.

A parent or guardian must apply on behalf of a child under the age of three.

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 diabetes) this can be given by using a small pump known as a syringe driver. A syringe is attached to the syringe driver and the drug is released through a small needle.
- 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.

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 tracheostomies;
- 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.

DfT recommends that local authorities treat 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. A medical assessment should not be necessary.

Local authorities should make it clear when issuing the badge that it should be returned to them 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.

Local authorities should note that the lists provided above are indicative only and are not intended to be exhaustive in order to allow for new advances in technology and treatment equipment.

## **5. Appeals, Reviews and Complaints**

- 5.1 If applicants request a review of their decision because they feel they have been wrongly refused a concessionary Blue Badge, Bromley Council will review the application and the decision despite there is no statutory right of appeal. In the first instance, the appeal will be reviewed by a senior or manager of the Occupational

If your application is refused and you believe that the decision did not take into account all the factors affecting your mobility you may request a review within the time limit of 28 days from the date of rejection. We aim to process reviews within 6 - 8 weeks.

Therapy (OT) service in the presence of the OT IMA. The Blue Badge administrator will confirm in writing the result of the review. The decision is final and there is no appeal. Applicants may reapply in 6 months with fresh medical evidence or earlier if the mobility has deteriorated significantly.

- 5.2 If an applicant is dissatisfied with the procedure used by Bromley Council in the assessment of the Blue Badge application, they can let us know by this using the Bromley complaint procedure. If they remain unhappy with the outcome of their complaint then they have the right to approach the Local Government Ombudsman, PO Box 4771, Coventry CV4 0EH. (Further information on the LGO's website at [www.lgo.org.uk](http://www.lgo.org.uk) or the advice line is 0300 061 0614).

BLUE BADGE PROCESS FLOW CHART

