

Welsh Government response to the report by the Equality, Local Government and Communities Committee on the Blue Badge Scheme in Wales: Eligibility and Implementation

The Equality, Local Government and Communities Committee have undertaken an inquiry into the Blue Badge scheme in Wales with the following terms of reference;

1. The impact of extending the eligibility criteria for a Blue Badge in Wales, and whether further extensions to the criteria are needed;
2. The practical implementation and consistency of the Blue Badge scheme across Wales, including assessments, fees and enforcement, and
3. The support and information that is available to Blue Badge applicants in Wales.

On the 8th July 2019 following their Inquiry, the Equality, Local Government and Communities Committee published its report, '**Blue Badge Scheme in Wales: Eligibility and Implementation**'. I would like to take this opportunity to thank the committee members for their hard work.

The report lists 19 recommendations of which; 18 are for Welsh Government to action and; one is directed to me as Minister for Economy and Transport.

I have set out my responses to the report's recommendations below.

The Blue Badge Scheme is a valuable scheme that provides parking concessions for people who have severe challenges to their mobility to enable them to access services and facilities. In Wales a greater proportion of people hold a Blue Badge than in the other administrations as over 210,000 people benefit from the scheme and it is important to ensure that they can continue to do so.

The primary legislation for this national scheme is the Chronically Sick and Disabled Act 1970 which places duties on local authorities, to deliver the scheme in their area. The secondary legislation is the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 as amended, this sets out matters such as the eligibility criteria, form of the badge, and issue period.

Current criteria includes people with the greatest challenges to their mobility. Applicants are identified either through the benefits they receive or, for people who are unable to apply for disability benefits or who choose not to apply for benefits, through further assessment.

Local authorities administer the scheme in their area and are responsible for deciding who is eligible for a badge. This is a difficult role and in order to promote consistency across Wales, the Welsh Government provide guidance and access to an independent assessment service.

Since 2002 the scheme has been subject to a number of reviews and reports looking at various aspects of the scheme; eligibility, administration and enforcement. As a result Welsh Government has previously worked to deliver changes in conjunction with stakeholders, through public consultation and regulations. The Blue Badge scheme has been subject to a great deal of scrutiny to ensure that those with the greatest need can benefit from the parking concessions and that the process of obtaining a badge is as efficient, effective and stress free as possible.

The Committee in their report have highlighted areas they have identified as needing to be addressed. I have considered the evidence that the Committee received that has led to its recommendations but must note that not all the recommendations can be delivered.

There are many challenges to face especially in ensuring the Blue Badge scheme is there for those that meet the criteria and who rely on for their daily activities and whilst trying to maintain their independence. As identified in the report tackling misuse and abuse of the scheme by a minority who, intentionally or not, jeopardise the Blue Badge scheme is a concerning area and I welcome future working with local authorities to monitor this and any enforcement action carried out as a consequence.

Detailed responses to the report's recommendations are set out below:

Recommendation 1. We recommend that the Welsh Government undertakes a review of the eligibility criteria for a blue badge. The review should consider whether there are further conditions which should automatically qualify a person to receive a blue badge, whether the process for undertaking further assessment is robust enough to respond to the various needs of those who apply, and whether the needs of those who receive a cancer diagnosis are adequately met.

Response: Accept

The last consultation into the changes to the eligibility criteria took place in 2016 and the regulations were amended to include temporary mobility impairments under the further assessment eligibility criteria. We accept this recommendation based on further research being undertaken to consider eligibility, assessment and guidance. Officials will consider and explore further research through joint working between the four nations (England, Northern Ireland and Scotland) in order to reflect the Blue Badge scheme as a national scheme. The findings from this exercise will inform the next steps.

Financial Implications:

There will be a cost to undertaking further research; however the cost could be reduced if joint research is undertaken with England, Scotland and Northern Ireland to share costs. As costs are currently being determined, it cannot be confirmed whether the work can be funded within current budgets.

Recommendation 2. We recommend that the Welsh Government updates its guidance to local authorities to ensure that the current arrangement of expediting applications by those with a terminal diagnosis becomes mandatory.

Response: Reject

The importance of ensuring that people with terminal illnesses who are eligible for a badge receive their badge as soon as possible is acknowledged. The current guidance for discretionary mobility eligibility criteria already, includes people who have a terminal illness and mobility impairment with their applications being treated as a special case. Evidence to support applicants in these cases includes an original DS1500 form, supporting letter from McMillan nurse or relevant health specialist. (The DS1500 form can be requested by patients or their representatives from their general practitioner and sets out some medical facts relating to people with cancer and other

progressive, life limiting conditions). Once this form is provided no further assessment is required and the Blue Badge can be expedited.

Therefore, we are rejecting this recommendation. However, as part of the review on the eligibility criteria consideration of this issue and the review of the guidance documentation will specifically consider whether the six months terminal diagnoses timing is appropriate. (See recommendation 3). Work will also be undertaken to ensure that the service is working to the benefit of these applicants.

Financial Implications:

The cost of a review is covered in recommendation 1 above. Administrative costs will be absorbed within current budgets.

Recommendation 3. We recommend that the Welsh Government updates its guidance to local authorities to ensure that the role of carers in applying for a blue badge on behalf of the person for whom they care is made clear.

Response: Accept

We will ensure the guidance is clear on this issue.

Financial Implications:

The administrative cost will be absorbed within current budgets.

Recommendation 4. We recommend that the Welsh Government explores options for introducing a concessionary parking scheme, separate to the Blue Badge scheme, to meet the needs of those who require swift access to amenities, such as carers, those with incontinence problems and those suffering a temporary impairment expected to last less than 12 months, without impacting on the availability of parking spaces for those with mobility problems.

Response: Reject

This would require a firm evidence base and will be included within the review identified in recommendation 1 above with consideration given to the 'Just can't wait card scheme'.

The management and operation of car parks is the responsibility of the car park operator, whether local authority or private company provision. A number of private operators already operate specific parking schemes e.g. for vehicles with children.

These are courtesy schemes and are not enforceable. Welsh Government does not have jurisdiction to introduce concessionary parking schemes.

Financial Implications: N/A

Recommendation 5. We recommend that the Welsh Government updates its guidance to local authorities to ensure there is clarity that eligible organisations can apply for a blue badge in their own right. The guidance should specify that when an organisation meets the criteria of caring for and transporting people who are eligible, that organisation should be allowed a blue badge of its own, rather than relying on the badges of individuals.

Response: Accept

We will ensure the guidance is clear on this issue. (See recommendation 3)

Financial Implications:

The administrative cost will be absorbed within current budgets.

Recommendation 6. We recommend that the Welsh Government updates its guidance to specify that consistent and appropriate consideration should be given to information provided by appropriate professionals in support of an applicant's claim for a blue badge.

Response: Accept

We will ensure that the guidance is clear on this issue. (See recommendation 3)

Financial Implications:

The administrative cost will be absorbed within current budgets.

Recommendation 7. We recommend that the Welsh Government updates its guidance to local authorities to clearly specify that all staff who undertake blue badge assessments are trained to understand, and apply, the social model of disability.

Response: Reject

Guidance cannot specify that all staff who undertake Blue Badge assessments are trained to understand and apply, the social model of disability. Welsh Government will however ensure the guidance is clear and recommends that all staff who undertake Blue Badge assessments are trained to understand and apply, the social model of disability.

Financial Implications:

The administrative cost will be absorbed within current budgets.

Recommendation 8. We endorse recommendation 8 made by the Economy, Infrastructure and Skills Committee in its report on the future development of transport for Wales, that the Welsh Government moves swiftly to engage with stakeholders in developing the next White Paper on the legislation required to establish Joint Transport Authorities. The Welsh Government should set out how it envisages a role for those with lived experience of the blue badge system in the establishment of Joint Transport Authorities, particularly as their current focus appears to be related to public transport.

Response: Reject

The Improving Public Transport White Paper proposals relate to buses, taxis, and private hire vehicles. It also included initial proposals in relation to regional working arrangements for the management and delivery of bus services.

The Welsh Government are working closely with the Welsh Local Government Association and other stakeholders to develop more detail around the future regional working arrangements and whilst the main focus will be on the management and delivery of bus services, Welsh Government will be open to discuss other activity areas which local authorities may wish to administer on a regional footprint.

Financial Implications: N/A

Recommendation 9. We recommend that the Welsh Government takes the necessary action so that Section 21 of the Chronically Sick and Disabled Persons Act 1970 is amended to require local authorities to put in place a “reconsideration” or “review” process to deal with applicants who wish to challenge the authority’s decision on a blue badge application. The amendment to that Act should include a power for the Welsh Ministers to make regulations and issue statutory guidance on the detail of the process.

Response: Reject

This requires the amendment of primary legislation and there is no capacity in the legislation programme for this Assembly term.

Although there is no legal requirement for local authorities to have an appeals procedure in place if someone disagrees with the reason why their application for a Blue Badge was not successful, the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 provide that where a local authority receives an application for a badge and refuses to issue one, it must let the applicant know in writing why their application was refused. Furthermore, the guidance recommends that local authorities have a clear policy on how they will review decisions should they be challenged by an applicant.

As a result, local authorities generally already have their own processes in place to consider requests for a review of the decision to refuse to issue a badge. However, Welsh Government will work with local authorities to review current guidance and consider how to ensure consistency and promote best practice.

Financial Implications:

The administrative cost will be absorbed within current budgets.

Recommendation 10. We recommend that the Welsh Government takes the necessary action so that Section 21 of the Chronically Sick and Disabled Persons Act 1970 is amended to require the Welsh Ministers to establish a national formal appeals process to deal with those who are dissatisfied with the outcome of their initial appeal. The amendment to that Act should include a power to make regulations on the detail of the process, including which body should be responsible for dealing with the appeals.

Response: Reject

This requires the amendment of primary legislation and there is no capacity in the legislation programme for this Assembly term.

Although there is no legal requirement for local authorities to have an appeals procedure in place if someone disagrees with the reason why their application for a Blue Badge was not successful, the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 provide that where a local authority receives an application for a badge and refuses to issue one, it must let the applicant know in writing why their application was refused. Furthermore, the guidance recommends that local authorities have a clear policy on how they will review decisions should they be challenged by an applicant.

As a result, local authorities generally already have their own processes in place to consider requests for a review of the decision to refuse to issue a badge. However, Welsh Government will work with LAs to consider how to amend current guidance and ensure consistency and promote best practice.

Financial Implications:

The administrative cost will be absorbed within current budgets.

Recommendation 11. We recommend that the Welsh Government considers the most effective way of amending the Chronically Sick and Disabled Persons Act 1970 to enable the issuing of statutory guidance in relation to the Blue Badge scheme, and take the necessary action to implement such a change. This should include considering whether the scope of the Public Transport Bill, which the Welsh Government is expected to introduce, can be expanded to include the necessary change and the changes we have proposed in recommendations 9 and 10, or whether a separate Bill should be introduced to achieve this.

Response: Reject

The Welsh Government do not consider that a power to issue statutory guidance in respect of the Blue Badge scheme is required. Welsh Government will work with LAs to review current guidance and consider how to ensure consistency and promote best practice.

Financial Implications: N/A

Recommendation 12. The Welsh Government should work with the Welsh Local Government Association to establish a statutory working group of local authority representatives for the Blue Badge scheme. Once established, the group should meet regularly to share knowledge and good practice in implementation. The group should include representatives with lived experience of the scheme to ensure that the views of those directly affected are represented.

Response: Accept

Welsh Government will establish a panel of local authority representatives to meet on regular bases to consider opportunities to improve knowledge and understanding of the guidance and toolkit, review guidance material and share experiences of any complaints. Engagement with representatives who have lived experience of the scheme will be sought where appropriate. (See recommendation 3)

Financial Implications:

The administrative cost will be absorbed within current budgets and costs associated with a panel meeting can be met under the current budgets.

Recommendation 13. We recommend that the Welsh Government works with the Welsh Local Government Association to develop a process to enable those suffering with a life-long or deteriorating condition to renew their blue badge automatically, without further assessment. The working group we have recommended be established would be an obvious forum to facilitate such discussions.

Response: Reject

The burden on eligible badge holders in undertaking a full re-application process when their badge expires has been previously identified. The Blue Badge Digital Service (BBDS), which has been in operation since February this year, is developing a streamlined process and has recently added a function where local authorities can flag on the system if a Blue Badge is awarded for life and therefore will not require re-assessment. Although the Department for Transport has raised awareness of this service Welsh Government will remind local authorities of this function.

Financial Implications: N/A

Recommendation 14. We recommend that the Welsh Government should establish a mechanism for collecting official data on the misuse of blue badges which is specific to Wales in order to better understand the scale of the problem in Wales.

Response: Accept

We will engage with local authorities to determine what data is available to be collected regarding misuse of the Blue Badge scheme which will help inform the problems and extent of misuse in Wales.

Financial Implications:

The administrative cost will be absorbed within current staffing budgets.

Recommendation 15. We recommend that the Minister provides an update to the Assembly by July 2020 on how blue badge misuse has been improved as a consequence of all local authorities having civil enforcement officers in place.

Response: Accept

The Minister will provide information to the Assembly, however, in order to allow for his officials to undertake the work in recommendation 14; establish what information is currently recorded; what data is required to be collected from local authorities; and to put in place data collection arrangements the Minister will report to the Assembly in the winter of 2020.

Financial Implications:

The administrative cost will be absorbed within current staffing budgets.

Recommendation 16. We recommend that the Welsh Government works with the UK Government to explore options for expanding the range of penalties imposed on those proven guilty of misusing the blue badge system, up to and including the possibility of issuing penalty points.

Response: Reject

It is important to note that there are a number of offenses that are relevant to Blue Badge misuse, not all of which are road traffic offences. In addition, the penalties for the relevant road traffic offences are already significant.

The National Assembly for Wales cannot legislate in respect of road traffic offences, including the systems of penalty points, however the Welsh Government has agreed to work with the UK Government on an upcoming review to consider how to improve enforcement and tackle fraudulent use and misuse of badges.

Financial Implications: N/A

Recommendation 17. We recommend that the Welsh Government works with local authorities and health bodies to proactively promote the “Who is Eligible for a Blue Badge?” booklet by ensuring that hard copies are available at places people go to get information, such as libraries, local authority “hub” centres, Citizen’s Advice and health settings.

Response: Accept

Welsh Government has previously promoted and circulated the “Who is eligible for a Blue Badge?” booklet. However, as part of ongoing work Welsh Government will send out supplies as appropriate.

Financial Implications: N/A

Recommendation 18. We recommend that the Welsh Government uses its social media platforms to raise awareness of its “Who is eligible for a Blue Badge?” booklet.

Response: Accept

We will through our social media platform raise awareness of the ‘Who is eligible for a Blue Badge?’ by using the Welsh Government communications team to tweet on a regular bases.

Financial Implications:

The administrative cost will be absorbed within current staffing budgets.

Recommendation 19. We recommend that the Welsh Government writes to local authorities to remind them of the importance of taking account of the guidance on accessible parking in Manual for the Streets and Parking for Disabled People when taking forward planning policy and making planning decisions. Local authorities should also be encouraged to consult with access groups to ensure the needs of disabled people are fully considered when decisions are taken.

Response: Accept in principle

A new edition of Planning Policy Wales (PPW) was published in December last year which puts place making at the heart of national planning policy. Place making requires an integrated approach to development and facilitates accessible environments, requiring high quality places which are barrier-free and inclusive to all members of society.

Where and how cars are parked can have a major influence on the quality of a place. The new edition of PPW acknowledges that car parking provision is a major influence on the pattern of development and requires the needs of disabled people to be recognised and adequately provided for through development plan and management decisions.

The Welsh Government acknowledges the wider place making approach will require a culture change both within local planning authorities and the development industry. Welsh Government Planning Directorate are currently examining ways in which Welsh Government can give support to those implementing the policy, such as Local Planning Authorities, through additional guidance and training. As part of this process we will be seeking to promote the use of existing guidance such as Manual for Streets and Parking for Disabled People.

Financial Implications:

The administrative cost will be absorbed within current budgets.

Ken Skates
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