

DISABLED PERSONS' PARKING BADGES BILL

QUESTIONS AND ANSWERS

General

Q. Why are you amending the Blue Badge legislation?

The substantial financial value of a badge provides an incentive to commit fraud and abuse the scheme. This deprives disabled people of parking spaces and the National Fraud Authority (NFA) estimate it to be costing local authorities up to £46mn per annum in lost parking revenue. These changes will help local authorities to enforce the scheme effectively.

Q. What changes are you making?

The Bill will:

- Provide local authorities with a power to cancel badges that have become lost or stolen or which are no longer in the holder's possession;
- Extend local authority inspection powers to officers in plain clothes;
- Enable local authorities to recover badges that have been cancelled, have expired, are being misused by a third party or are fake;
- Remove ambiguity from the existing Blue Badge misuse offences so that it is clear that it is an offence to use a badge that should have been returned to the issuing authority;
- Remove the requirement for the Government to publish the full badge specification in regulations;
- Extend eligibility for a badge to Armed Forces personnel and their families resident overseas on UK bases who meet the qualifying criteria for a badge; and
- Remove the route of appeal to the Secretary of State in cases where a badge is withdrawn for misuse so that the Local Government Ombudsman will instead review complaints against local authorities.

Q. How will it make it better?

The new powers will give local authorities the ability to undertake more effective enforcement activity should they wish to do so. Making enforcement easier for local authorities should encourage enforcement and improve operational efficiency.

The changes will improve the credibility of the scheme and result in the greater availability of parking spaces, protecting the scheme for genuine badge holders who have the most need.

Q. Will new enforcement powers target disabled people?

No. Changes will be aimed at those who abuse the scheme. We know disabled people are frustrated when they cannot park because someone is misusing a badge. We want to protect the scheme for genuine badge holders who have the most need.

Q. How else is the scheme to be improved?

The Government has already amended regulations so that a badge can be withdrawn for misuse following one (as opposed to three) convictions. They have also introduced non-regulatory improvements to the scheme including a new, fraud-resistant badge design and a common, shared ICT structure across the UK that will prevent multiple and fraudulent applications and enable quick and easy validity checks.

Q. Why are enforcement powers not compulsory for local authorities?

The Government believes that it is the responsibility of local authorities to determine their own enforcement policies based on local circumstances. Misuse of the scheme varies greatly across local authorities.

The Bill

Clause 1 – Form of parking badges

Q. Why does the Bill remove requirement for the Secretary of State to prescribe the badge design in regulations ?

This will protect the confidential high-security features of the badge from disclosure, so helping to prevent forgery. It will also enable greater flexibility to change both the form of the badge and the detailed specification in response to sophisticated forgeries that may appear on the black market.

The badge specification will still be made available on request to certain organisations who genuinely need it e.g. manufacturers and enforcement authorities.

Clause 2 – Cancellation of parking badges

Q. Can't local authorities already cancel badges? What is the purpose of this power?

Current legislation states that a badge which is required to be returned may not be displayed on a vehicle. Such badges will be taken out of circulation and are therefore effectively cancelled. However in some circumstances the badge holder cannot return the badge e.g. where it is lost/stolen and not in their possession. This power will enable the local authority to cancel a missing badge on the national IT system, so that its status is never in doubt.

Q. Does cancellation of a badge mean the holder will lose his badge for good?

No. If a badge holder loses a badge or has it stolen they can apply for a replacement. The original, missing badge would be cancelled.

Clause 3 – Use of parking badges that are no longer valid

Q. Why does the Bill make it an offence to use a badge that should have been returned?

It does not make a new offence. It is already an offence to use a badge that is not issued under the Section 21 of the Chronically Sick and Disabled Persons Act 1970 or not used in accordance with the regulations made under the Act.

This should include using a badge that should have been returned. However the legislation is ambiguous and as provisions that concern criminal offences should be spelled out clearly we are seeking to put the matter beyond doubt.

Q. Is this really necessary? Isn't the offence disproportionate to the crime?

It would be inappropriate to maintain the ambiguity of the existing criminal offence. Regulations allow local authorities to refuse to issue, or to withdraw, a Blue Badge following a 'relevant conviction'. It is therefore essential that the meaning of the offence is clarified beyond doubt so that local authorities fully understand what type of Blue Badge misuse can be prosecuted and the circumstances in which they may refuse to issue or withdraw badges.

You could make it an offence not to return a badge that the holder was liable to return under the regulations. However, as an individual might genuinely have forgotten/overlooked the need to return a badge, this would be disproportionate. However if an individual continues to use a badge that they should have returned, that is a proportionate offence.

Clause 4 – Enforcement

Q. Why does the Bill allow officers in plain clothes to inspect badges?

There is currently an inspection power for enforcement officers in uniform. However, this denies local authorities the possibility of using specialist fraud teams, for example. The change will give local authorities more flexibility in the way they enforce the scheme and facilitate more effective enforcement.

Q. How will the public know if the enforcement officer is authorised?

The Bill requires that the officer is authorised in writing by the authority to carry out inspections and carries “appropriate evidence of authority”.

Q. Why does the Bill give local authorities a power to recover badges?

Badges belong to local authorities but they currently have no general power of recovery. This means that when an enforcement officer inspects a badge that should have been returned, is fake or is a valid badge being misused by a third party, s/he is obliged to return it to an offender. This hinders the ability of local authorities to enforce the scheme properly. Taking such badges out of circulation will help prevent further abuse and builds on a recommendation of the Transport Select Committee.

Q. Does this mean a civil enforcement officer can use force to recover a badge. Won't it lead to confrontation?

No. The legislation states that an enforcement officer may retain a badge that has been produced to them e.g. handed over voluntarily. The legislation does not allow enforcement officers to forcibly remove a badge from somebody or forcibly enter vehicles. If someone refuses to hand over a badge, the officer would need to either seek Police assistance or take no further action.

Q. What badges can be recovered on-street?

A badge that has already been cancelled, is due for return because, for example, it has expired, is being misused or is a fake.

Q. If a badge is recovered for misuse, will the holder lose it for good? What if they don't know that a third party is using it?

If a third party is misusing someone else's valid badge, it is right to take it from that person to prevent ongoing abuse. However regulations to be made under this power will require the local authority to return it to the badge holder.

Q. Do local authorities have to use this power?

Local authorities are under no obligation to use these powers and will only do so if they are satisfied that the benefits in fraud prevention make it worthwhile. However 90% of local authorities surveyed said they would use this power if it were available.

Q. Will enforcement officers be trained in badge-recovery?

It is not appropriate for central government to be involved in the training of civil enforcement officers. It will be for those local authorities that decide to use this power to decide on whether additional training might be necessary, taking into account the content of existing staff training schemes.

Clause 5 – Repeal of the provisions providing for an appeal process

Q. Why does the Bill propose to abolish a badge holder's right of appeal to the Secretary of State for Transport when a local authority refuses to issue, or withdraws, a badge for reasons of misuse?

It is not appropriate for the Secretary of State for Transport to deal with complaints of this nature.

It is local authorities who administer the Blue Badge scheme and complaints about possible local authority administrative fault fall within the jurisdiction of the Local Government Ombudsman, under powers contained in the Local Government Act 1974.

The Ombudsman already considers complaints from members of the public concerning Blue Badges. Where badge misuse is at the heart of a local authority decision, members of the public will still have recourse to an appeal and review procedure involving the local authority and then the Ombudsman.

This repeal will simplify legislation and provide individuals with greater consistency in respect of appeals concerning local authority service failure.

Q. Won't badge holders be worse off as a result?

No, the Local Government Ombudsman is free to users and has the expertise of dealing with over 10,000 complaints per year.

Q. What if a local authority refuses to act on the Ombudsman's recommendation?

Refusal to comply with the Ombudsman's recommendations is very rare. The reasonableness of any such decisions may be challenged in the courts by judicial review.

Clause 6 – Parking badges for disabled service personnel etc overseas

Q. Why are you allowing Armed Forces personnel and their families posted overseas on UK bases to apply for badges?

Current legislation provides that a badge may be issued to an eligible disabled person "resident in the area of the issuing authority". However, members of HM Armed Forces and their families may be posted to UK bases overseas and may cease to be resident in the area of any issuing authority. In addition, if resident on a UK base overseas, they may not be considered to be resident in the country in which the base is located for the purpose of local equivalents of the Blue Badge Scheme. This is not fair and the Bill seeks to rectify the situation.

Eligibility

Q. Some people who get badges seem to be able to walk. Why doesn't the Bill stop this?

When a local authority is assessing whether someone has a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking, an independent mobility assessment must be used (unless it is self-evident that the applicant is eligible or ineligible).

Independent mobility assessments will help to ensure that badges are issued fairly, increasing the credibility of the scheme and protecting accessibility benefits for those most in need.

Q. Will the Bill allow people with temporary disabilities to have a badge?

There are no provisions to extend eligibility to other groups of disabled people, such as those with temporary disabilities. An extension of this kind would be costly to implement at a time of pressure on public sector resources. In addition, with over 2.5 million badges already on issue, it is important that we ensure the scheme remains sustainable and protects preferential parking facilities for those who most need them.

Local authorities have recently been issued with advice on how they could use existing powers to provide locally determined parking concessions within their areas. For example, some local authorities grant parking concessions to assist their elderly residents. They could, if they wish, use the same powers to help those with temporary disabilities.

Q. Will the Bill allow people with cognitive impairments (such as autism and dementia) or behavioural problems to access the scheme?

There are no plans to extend eligibility to these groups of disabled people on sole account of their condition. However, the Bill is not changing the level of entitlement that people with these conditions already have. If they receive the Higher Rate Mobility Component of DLA, or if they have a permanent and substantial disability that severely affects their ability to walk then they will continue to be eligible for a badge. The DfT plans to consult shortly of the impact of welfare reform and the change to Personal Independence Payments and eligibility for a badge.

With over 2.5 million badges already on issue, it is important that we ensure the scheme remains sustainable and protect preferential parking facilities for those who most need them.

Extending eligibility to more groups of people limits the number of spaces available to Blue Badge holders. The Bill focuses the scheme on helping those individuals with the most severe mobility problems and the greatest accessibility needs, such as those who would be physically incapable of travelling to shops and services unless they are able to park close by.

Other

Q. Will the Bill change rules for parking on yellow lines?

Disabled people understandably want to be able to park for longer on yellow lines but it is important to consider road safety issues and obstructions to traffic, which may cause traffic congestion.

Conversely, some town centre managers want the concession to be shorter but this would reduce the benefits of the scheme to disabled people. Therefore no changes are proposed to the concession itself.

Q. Most of the problems with the scheme are because it doesn't apply to supermarket / hospital / private car parks. What does the Bill do about that?

Enforcement of off-street disabled persons' parking bays is a matter for the individual owner or operator concerned. In the case of local authority off-street car parks, traffic regulation orders may be used to enforce the bays. In private off-street car parks, the charges and conditions of use are essentially a contractual matter between the owner and the motorist.

Q. Why not extend the scheme so that it includes off-street parking?

I do not believe the Government should impose a prescriptive regulatory scheme on car parks which are very often privately owned. The Equality Act 2010 already places a broad duty on the providers of services, including car parks, to take reasonable steps to ensure that disabled people are not substantially disadvantaged compared to non-disabled people, when accessing a service. This has implications for car park owners who may have to demonstrate that, as well as marking out disabled person's parking spaces, they have taken reasonable steps to ensure that they are made available to disabled people.