

Explanatory Memorandum to the Disabled Persons (Badges for Motor Vehicles) (Amendment) Regulations 2014

This Explanatory Memorandum has been prepared by the Department for Economy, Science and Transport and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Disabled Persons (Badges for Motor Vehicles)(Amendment) Regulations 2014.

I am satisfied that the benefits outweigh any costs.

Edwina Hart

Minister for Economy, Science and Transport

18 November 2014

1. Description

These regulations will amend Statutory Instrument 2000 No. 1786 (W.123) The Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 (as amended) (“the Principal Regulations”).

The regulations extend eligibility for a disabled person’s badge (“Blue Badge”) to people with a Cognitive Impairment who are unable to plan and follow any journey and cannot, or chose not to, apply for Personal Independent Payment (PIP) because of their age. The regulations also improve enforcement and makes further minor amendments to the eligibility criteria.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

The regulations are made under section 21 of the Chronically Sick and Disabled Persons Act 1970 (“the CSDPA”). This instrument is subject to annulment by the National Assembly for Wales (the negative procedure).

The Regulations will come into force on 15th December 2014.

4. Purpose & intended effect of the legislation

These regulations make changes to the Blue Badge Scheme in the following areas:-

- i. Eligibility for a Blue Badge
- ii. Blue Badge Enforcement

Eligibility for a Blue Badge

One proposal set out in the Welsh Government 2010 Action Plan to modernise the scheme was to include people with the most severe cognitive impairments in the eligibility criteria for a Blue Badge. In addition, more recently, a review of the scheme by a group of experts established by the Minister for Economy, Science and Transport in 2013 recommended that the current eligibility criteria to include people with cognitive impairments, who are unable to travel safely and independently.

This was partially achieved when eligibility for a badge was extended to people of working age who are awarded PIP benefits as detailed in the

Disabled Persons (Badges for Motor Vehicles) (Wales) (Amendment) Regulations 2013 WSI 2013 No.438 (W.54). PIP will replace Disability Living Allowance for working age people and will be rolled out across Wales by 2017.

The Disabled Persons (Badges for Motor Vehicles) (Amendment) Regulations 2014 will allow people with cognitive impairments or difficulties to apply for a Blue Badge under the “subject to further assessment” criteria. The criteria in this case will include people not of working age i.e. those between the ages of three and 16 years and people over 65.

The detailed criteria will capture applicants who are unable to plan or follow any journey and who require supervision to ensure the safety of the individual and others in their vicinity. In the case of children the supervision will be significantly over and above what is expected for their chronological age. In these cases the application will be considered by local authorities and verified by supporting evidence such as;

- The applicant is on the local authority learning disability register,
- The applicant attends a memory clinic,
- The application is supported by a relevant health specialist, or
- The application will be verified by the Independent Advisory Service.

The Regulations will also link to the Armed Forces Compensation Scheme (AFCS) under automatic criteria. Eligibility in these cases will be based on people receiving AFCS Level 6 - Permanent mental disorder, causing severe functional limitation or restriction.

Relevant Legislation

The Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 (SI 2000/1786 (W.123)),

The Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2011 (SI 2011/1588)(W.183),

The Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2012 (SI 2012/309)(W.50),

The Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2012 (SI 2013/438)(W.54).

The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/2552).

Blue Badge Enforcement

These regulations are aimed at improving enforcement procedures and tackling abuse of the Blue Badge Scheme whilst protecting the genuine badge holder.

Section 7(2) of the Disabled Person's Parking Badges Act 2013 stipulates that the Act will come into force on whatever day or days the Secretary of State appoints by order made by statutory instrument. A Commencement Order has been made by the Department for Transport (DfT) for this purpose (S.I. 2013/2202). In addition, amendments to the Principal regulations are needed to:

- remove the requirement to prescribe the form of a badge in the Principal regulations (section 1 of the 2013 Act refers)
- provide Welsh Ministers with power to prescribe what is to be done with a badge retained under the Principal Regulations (section 4(4) of the 2013 Act refers).

The policy intention is to protect the high-security features of the new Blue Badge design from public disclosure, thereby mitigating the risk of forgery and enabling greater flexibility to change both the form of the badge and the specification in response to sophisticated forgeries that may nevertheless appear on the black market.

Although the detailed badge specification will no longer be prescribed on the face of the Principal Regulations, it will be made available to organisations contracted to supply the badge and local authorities have been made aware of the badge security features for enforcement purposes.

It is the intention of the Welsh Government to stipulate that if a badge is retained through enforcement action that it is returned to the holder as soon as practicable. Furthermore, the local authority must consider on a case by case basis what further action needs to be considered when misuse or abuse of the Blue Badge scheme has been identified.

- A. In addition, amendments to the Principal regulations are being made following a recommendation by Parliamentary Counsel to the Department for Transport in relation to the English equivalent regulations. The amendments are needed to ensure that an individual may only hold one badge.

Relevant Legislation

The Disabled Persons' Parking Act 2013

5. Consultation

A public consultation on these proposals began on 17 October 2013 and ended on 8 January 2014. 79 responses were received from a variety of stakeholders.

The comments received were taken into account when formulating these Regulations. Details of the consultation exercise together with the Welsh Government's response are included in the Regulatory Impact Assessment below.

PART 2 – REGULATORY IMPACT ASSESSMENT

The Minister for Economy Science and Transport established an Expert Review Group in May 2013. The Group is made up of key stakeholders from the third sector representing people with cognitive impairments. The group was asked to consider the Disabled Persons Badge Scheme (“Blue Badge scheme”) generally but also specifically how to extend eligibility to people who are unable to apply for PIP because of their age but would otherwise meet the eligibility criteria of PIP Mobility Activity 1, descriptor f. That is, the person is unable to plan or follow any journey. The Review Group report was published in June 2013 with the following main recommendations:

- A. Amend regulations to extend the current eligibility criteria to include people with cognitive impairments, who are unable to travel safely and independently, by April 2014. This will include service veterans in receipt of the highest tariff for mental disorders under the Armed Forces Compensation Scheme (AFCS).
- B. Instruct local authorities to no longer use General Practitioners' (GPs) assessments to support blue badge applications, and promote the use of the assessment toolkit by April 2014.
- C. Recruit seven Blue Badge Ambassadors, one for each Local Health Board. They will assess badge applications for people with cognitive impairments and provide independent advice across Wales to enhance consistency of decision making. They will need to be in post to support the amended eligibility criteria.
- D. The Group recognises that effective and consistent enforcement is key to the success of the scheme. The Group recommends that the Blue Badge Ambassadors will need additional support within their office to ensure enforcement is prioritised. This will mean appointing more enforcement officers.

E. Introduce a dedicated application form for people applying under the discretionary cognitive impairment or safety criteria, with a focus on using plain and simple language.

F. Develop guidance that is robust and not open to interpretation.

Where practicable, these recommendations will be addressed by the proposed regulations. The proposals will mean a UK first for extending eligibility to people with a cognitive impairment across Wales.

Options considered for implementation;

Option 1 - Do nothing

Option 2 - Make regulations covering the proposals

A. Option 1 – Do Nothing to Change Regulations on Eligibility Criteria

Not making regulations to extend eligibility to people with a severe cognitive impairment who are not able to apply for PIP will mean that current rules and regulations will continue to apply. That would mean that only those of working age who qualify for PIP under the “Planning and Following a Journey” descriptor because of a cognitive and sensory impairment would qualify for a Blue Badge. Those who are unable to apply for PIP because they are not of working age will therefore be at a disadvantage and treated less favourably.

Costs and benefits

Not making regulations will mean the status quo is maintained and therefore there is no impact on costs. However those people who have cognitive impairments and are not of working age would remain unable to apply for a Blue Badge and will be at a disadvantage.

A. Option 2 – Make Regulations to extend Eligibility

Strong representation has been received over a number of years from individuals and organisations in Wales who believe that eligibility needs to be extended on the basis of safety. There is particular concern for children on the autistic spectrum, people with dementia and Alzheimers and people with cognitive impairments whose presenting behaviour is such that they require constant supervision. In addition, strong support for making regulations to extend eligibility was received in response to a public consultation held 17 October 2013 to 8 January 2014.

Given that eligibility for a Blue Badge is currently passported to applicants who qualify for PIP under the “Planning and Following a Journey” Descriptor, unless regulations are put in place to allow discretionary applications by people who

are unable to apply for PIP, the scheme will not be fair on the basis of age discrimination.

Costs and benefits

Making the regulations as proposed will incur costs to Welsh Government through consequent changes to BBIS to allow applications under the new eligibility criteria to be processed. It is estimated that changes to BBIS will cost up to £22,000 and this can be met from current EST budgets.

Blue Badges are free to people who meet the eligibility criteria in Wales with the supply costs being met by the local authority. Welsh Government provides funding of approximately £420,000 through the Revenue Support Grant (RSG) to local authorities to meet the costs based on 76,000 badges issued in Wales a year. There are no plans to increase the settlement through RSG. The administrative costs associated with the expected 15,000 further eligible people under the proposals would be incurred by local authorities. There would be no additional cost to the Welsh Government.

However, the Department of Work and Pension (DWP) have estimated that because of a more rigorous, face to face assessment process for PIP fewer people will be eligible for PIP than are currently eligible for Higher Rate Mobility Component Disability Living Allowance (HRMCDLA). Subsequently fewer people will be eligible for a Blue Badge through the passported benefit route. Furthermore, Welsh Government are promoting a desk based assessment tool kit across Wales to promote consistent decision making and ensure only eligible people receive a badge whilst reducing reliance on supporting letters from the applicant's General Practitioner. It is expected that even with the additional eligibility criteria the overall number of badges on issue will remain fairly consistent.

In order to support local authorities in their role assessing applications made under the proposed regulations and to support the use of the desk based assessment toolkit Welsh Government will be funding an Independent Advisory Service. This service will be available to all local authorities to assist in making decisions on the most difficult applications made under the discretionary criteria. Funding of £100,000 (plus VAT) per year has been allocated for two years. The service will be subject to ongoing monitoring to determine effectiveness and enable a process of continuous improvement to the desk based assessment tool kit. The aim is that local authorities will adopt the desk based tool kit to assess applications and reduce the use of the applicant's General Practitioners in the application process. Removing General Practitioners from the decision making process would result in savings to Local Health Boards of over £600,000.

The Welsh Government will be funding an Independent Advisory Service for £120,000 (inclusive of VAT) per annum whilst making savings of at least

£600,000 per annum, with an overall benefit of approximately £500,000 per year.

Work to improve enforcement is also being taken forward. It is acknowledged that extending eligibility as proposed could impact on enforcement and create difficulties for Civil Enforcement Officers because cognitive and sensory impairments can be 'hidden disabilities'; whereas people with mobility issues are generally easier to identify.

B. Option 1 – Do Nothing to Change Regulations on Enforcement

Not making regulations to change the rules on enforcement following abuse of a Blue Badge will mean that the existing rules and regulations will continue to apply. However, as a Parliamentary Act, the Disabled Persons Parking Badges Act 2013 has been commenced and came in to force on 8th October 2012. The powers brought forward by the Act extend to Wales and as such, by doing nothing, the Welsh Ministers and local authorities would be acting ultra vires.

This Act allows the Welsh Ministers to stipulate what is to be done with a retained badge which is necessary to ensure that genuine badge holders are protected and also ask the local authority to consider the appropriate further enforcement actions to be taken after the badge has been retained. For example, warning the suspected offender and informing them of the rights and responsibilities, or commencing legal proceedings.

Currently the identified misuse of the Blue Badge Scheme is rarely taken to court due to the difficulty of proving misuse of the Blue Badge. It is therefore difficult to achieve the required conviction before enforcement action can be taken to recover a Blue Badge when it has been continuously misused.

Research undertaken across the UK assessed fraud levels to be between 2% and 4% of badges in circulation. This was based on data supplied by those authorities that were able to respond because they collected data and identified abuse.

Costs and benefits

Strong representation has been received from a number of individuals and organisations in Wales who have seen and been upset by what they perceive as abuse of the Blue Badge Scheme. Many comments and observations have been forwarded as part of the recent consultation identifying abuse as a problem. Abuse of the Scheme puts at serious disadvantage badge holders who have as a consequence been unable to find and use accessible parking facilities.

If abuse of the Blue Badge scheme is not addressed then people who are correctly issued with a Blue Badge and comply with the rules governing its use will continue to experience difficulty in finding and using accessible parking facilities. This will reduce their ability to access services and facilities so that the very vulnerable people that the scheme was aimed to help will lose opportunities to lead more independent lives. If the abuse of the scheme is not addressed it will also impact on the reputation of the scheme.

B. Option 2 – Make Regulations on Enforcement

Blue Badges are the property of the issuing local authority and these regulations will allow;

- The Welsh Government to prescribe what is to be done with a badge once retained

Costs and benefits

Rigorous enforcement will reduce fraud and abuse. It will remove those Blue Badges in circulation that are not being used as intended to allow access to services and facilities by people who meet the eligibility criteria for the Scheme. Fewer Blue Badges in circulation will increase the availability of accessible parking facilities and improve the lives and independence of legitimate badge holders.

By prescribing what is to be done with a retained badge, we can ensure a consistent approach across Wales. Existing legislation stipulates that a badge must be returned to the badge holder as soon as practicable. (provided that the authority does not have grounds, under the Principal Regulations, for withdrawing the badge). This is designed to offer protection to badge holders in circumstances where a badge that is being misused by a third party is retained by an enforcement officer.

Further asking that, for example, a badge holder collects in person from the local authority would offer the added benefit of completing an interview under caution whilst explaining the rules and responsibilities to the badge holder and finally the consequences of misuse, abuse or fraud.

Consultation

A consultation on these proposals began on 17 October 2012 and ended on 8 January 2013. 79 responses were received during the consultation period. The consultation was carried out by email to local authorities, voluntary organisations and others with a direct interest who were invited to contribute. The consultation document was also made available on the Welsh Government's website in Welsh, English and Easy Read formats

There was overwhelming support for the proposal to extend eligibility as detailed with only two respondents against the idea. Equally, responses supported the proposal that eligibility be based on safety as apposed to just mobility and that it not be restricted by age as is currently.

A detailed analysis of the consultation responses is at Appendix A.

Post implementation review

These changes will be reviewed in the next three years as part of the wider action being taken to modernise the Blue Badge Scheme in Wales.

Changes to the Blue Badge Scheme in Wales Consultation 2013/14

Summary of Consultation Responses

Background

The Blue Badge Scheme was created to promote independent mobility and social inclusion. It allows access to shops and services.

The Blue Badge Action Plan ('the Action Plan') was published in January 2010 and sets out the Welsh Government's priorities to reform and improve the scheme that will help to enhance the quality of life and access for people who experience high levels of disability. Implementation of the Action Plan has already seen eligibility extended to severely injured war veterans, children under the age of three who require bulky medical equipment or access to vehicles for emergency medical treatment, to those who drive but are unable to operate or have difficulty operating equipment to pay for parking, and to people with a cognitive or sensory impairment who qualify for Personal Independent Payment under the Planning and Following a Journey descriptor.

In May 2013, the Minister for Economy, Science and Transport commissioned an Expert Review Group to report on the scheme. In September 2013, the Minister agreed to take forward their recommendations.

A consultation exercise was undertaken from 17 October 2013 to 8 January 2014 to seek views on:

- Including cognitive impairments under the eligibility criteria;
- Appointing Blue Badge Ambassadors based within Local Health Boards to assess applications under the cognitive impairment; and
- Improving enforcement and investigation in cases of abuse of the scheme.

Questions were set out in proforma-style documents and provided online. The formats included standard, easy read and a format that could be used with a screen reader to ensure the consultation was accessible. Braille and hard copies were available on request (although no such requests were received).

Three workshops were held in Merthyr Tydfil, Aberystwyth and Llandudno Junction to explore the consultation questions and issues more fully with interested parties.

Summary of Responses

79 written responses were received as part of the consultation exercises;

Response form	34
Easy read response	24
Sight impaired response form	0

Other responses 21
The responses were received from groups and individuals;

Local authorities, councils, etc	15
Interest groups	19
Members of the public	21
Anonymous	1

Two interested groups held focus groups events with Easy Read documents capturing a response of a total of 23 individuals. The above numbers include their response as a group as well as the individuals they represent – it is for this reason that the figures above are slightly askew.

A list of those who contributed and agreed to share their details can be found at **Appendix 1**.

Scope of Analysis

Many responses included personal experiences from people who know or care for a person with some form of a cognitive or sensory impairment. Other personal responses highlighted the importance of enforcement to reduce abuse and so enable genuine Blue Badge holders to better access the Scheme's concessions.

20 qualitative responses were received from individuals, organisations and carers that gave personal experiences but did not directly answer the questions raised within the consultation. **All 20** responses provided positive examples of how extending eligibility - as was proposed - would benefit and improve the lives of people with a cognitive and sensory impairment.

It is apparent from the responses received and the workshop discussions that there is some misunderstanding of the rules governing the scheme. This can result in misuse of Blue Badges, sometime inadvertently, and highlights the importance of clear guidance for Blue Badge holders, their families, friends and carers, as well as the general public. Raising awareness will be crucial to ensure responsible use of the Badge and accessible parking bays by both Badge holders and the general public. This may well alleviate many of the issues of misuse and abuse identified through this consultation exercise. This may well result in better access for badge holders as designated spaces are therefore made available.

Some of the points raised highlighted issues that have already been addressed and others demonstrate a limited understanding of the scheme (which is not unexpected if individuals have no first hand experience). For example, one respondent suggested that the police should be given the power to approach Badge holders and to retain a Badge where required. The police retain legal powers to take such action but generally enforcement is undertaken by Civil Enforcement Officers. Another respondent suggested that a uniform Badge design be introduced on a UK-wide basis. The introduction

of the Blue Badge Information Service (BBIS), a centralised production and distribution contract means that all Blue Badges in Wales, Scotland and England are of the same design and produced in the same place.

Specific Issues

The analysis of responses has been split into three areas to reflect the consultation paper:

- Extending eligibility
- Blue Badge Ambassadors
- Enforcement

In more general terms, the responses highlighted four major areas where concerns were expressed:

1. Cost

Many local authority responses expressed concern that costs will escalate due to the increased number of Badges as a result of extending eligibility. As well as this, it was suggested that further additional costs would arise from the proposed Ambassador and Investigator roles.

2. Capacity

A number of respondents queried some general administrative functions of the Blue Badge Ambassadors. For example, if only seven Ambassadors are employed, what systems would exist to cover the role when people take annual or sick leave.

3. Training

A number of responses from individuals asked what would qualify an Ambassador to assess such individuals, and to examine applicants' personal records. The need for a comprehensive training package was highlighted as an essential part of the role.

4. Communication

A number of respondents highlighted the need for a robust and comprehensive communications plan so that.

- Applicants better understand the eligibility criteria
- Badge holders understand their rights and responsibilities
- The general public understand the importance of Blue Badge allocated spaces and repercussions of misusing parking spaces

Extending Eligibility

Question 1: Do you agree that eligibility for a Blue Badge in Wales should be extended to people with cognitive impairments who do not qualify for PIP, as they are not of working age?

Yes	No
54	7

Further responses provided anecdotal information supporting the proposal. The overwhelming majority of respondents were in favour of extending eligibility. A number of responses outlined the significant difference these changes would make to people's lives.

For example, one person commented positively stating that being able to park closer to a destination for a person, for example with dementia, would enable them to retain their independence for longer. Those people on the autism spectrum who had a Blue Badge would avoid the stress and anxiety connected to having to use public transport or the disruption to routine that can come from having to search for a parking space. Another organisation similarly commented that extending Blue Badges in this way would greatly assist older people with these impairments, and their carers, to access services and remain active and independent. Furthermore, the response highlighted that it is essential if extending eligibility in this way, that the assessment process must be accessible, understandable and fair.

Some people who did not agree that eligibility should be extended noted that a Blue Badge should only be made available to those who have issues with mobility. This is because of the potential increase in current badges and the impact on available accessible parking spaces. In addition, those against the proposals highlighted the need for the extra space provided with disabled parking which is essential for people in a wheelchair or who are carrying lots of equipment.

Only one local authority believed that eligibility should not be extended and further commented that the scheme should be restricted for the benefit of individuals with physical impairments which affect mobility.

A number of respondents also expressed a concern that extending eligibility as proposed might lead to an initial deluge of applications from people who will become eligible and from others who believe themselves to be eligible. One respondent commented that applications may be made on behalf of people who are simply forgetful but who would not have difficulties undertaking journeys and that applications will need careful consideration.

Question 2: Do you agree that eligibility for a Blue Badge in Wales should be based on the ability of the person to travel safely and not be restricted by an applicant's age?

Yes	No
57	2

There was clear support for the proposition that eligibility for a Blue Badge in Wales should be based on the ability of the person to travel safely and not be restricted by an applicant's age.

15 local authorities stated that eligibility should not be restricted by age. One authority suggested that eligibility should be based on the applicant's ability to 'plan and follow a journey' - which is the term used by the Department for Work and Pensions when determining eligibility for Personal Independence Payment - rather than 'travel safely'.

One respondent commented that to restrict eligibility on the basis of age would be discriminatory.

Respondents who answered "No" to this question also commented that the scheme has not historically been in place to allow people to 'travel safely' and was in fact originally set up to benefit people with mobility issues.

Question 3: Do you agree that who are in receipt of Level 6 - Permanent mental disorder, causing severe functional limitation or restriction - be included as automatically eligibility for a Blue Badge?

Yes	No
26	6

There was a clear majority of support for extending eligibility to Service veterans and personnel in receipt of Level 6 - Permanent mental disorder, causing severe functional limitation or restriction.

One organisation commented that to be as fair and equal as possible, these applicants should be eligible as they are unable to apply for PIP. Another organisation stated that extending eligibility as is proposed is consistent with the ethos of the UK Government's Armed Forces Covenant with society.

One local authority in favour of extending eligibility to such individuals also commented that these people would qualify for PIP if they were not in receipt of Armed Forces Compensation Scheme, and to exclude them could be considered as discriminatory.

A number of the respondents replied 'No' but did go on to comment that people with mobility issues should qualify. Other people believed that such people should be eligible, but should instead come under the discretionary criteria whereby they are assessed separately by the authority and not simply be passported through automatically.

A number of respondents did not address this question and left no further comments.

Welsh Government's Response to Questions 1, 2 and 3

The Welsh Government's proposals on extending eligibility have been broadly supported by the responses we have received to the consultation on this issue. However, we acknowledge the potential difficulties posed by determining eligibility under this criteria.

The Welsh Government intends making regulations to allow, subject to an assessment, people with cognitive impairments such as Alzheimer's, dementias, autism, learning and mental health disabilities who have the most severe need to be issued with a Blue Badge. It is proposed that both the regulations and supporting guidance will limit the scope of the eligibility criteria to ensure only those who have been formally assessed by medical professionals and identified as being unable to undertake any journey without supervision or guidance are issued badges. For children applying under the criteria the supervision will need to be over and above what is expected for their age.

In this way, existing assessments will be accessed and used to inform decisions. The applications by service personnel and veterans will be supported by formal awards under the Armed Forces Compensation Scheme (AFCS) and will be included under the without further assessment criteria. The automatic link between the award of AFCS and Blue Badge reduces the need for further assessment and cuts down on paperwork, time and costs, which impacts on both local authorities and applicants.

Blue Badge Ambassadors

Question 4: Do you think this is a good approach to assessing people who are unable to travel safely because of cognitive impairments?

Yes	No
24	7

There was clear support for the proposal to create the Blue Badge Ambassador roles.

One organisation positively stated that the proposed way of assessing Blue Badge eligibility could establish a precedent in how to deal with all Blue Badge recipients in the future.

One response from an unknown respondents explained that a better independent system of assessment would be required, although no suggestions were offered.

Five respondents questioned how Ambassadors would be trained and what would qualify them to undertake such assessments. A specific query concerned the expertise of Ambassadors in all cognitive impairments.

One local authority interestingly commented that relying on decisions from an Ambassador will mean similar waste processes to those currently seen in using GP assessments (delays, duplication & cost). This is likely to create an 'avoidable contact' overhead for the local authorities. This would be further complicated where the Local Health covers several local authorities who have several application points, processes and standards. Furthermore, the respondent continued to clarify that the assessment may need more information than medical and health records such as third sector, education and social services.

Six responses, most of which were from local authorities, expressed concerns about general administrative functions of the Blue Badge Ambassadors and related processes. For example, the need for an appeals process was highlighted. Questions were also asked of how annual leave arrangements would be made for Ambassadors and what would happen in the event that an Ambassador is absent. Concern was communicated about the additional burden, however big or small, being placed on local authorities in managing such a referral processes and processing additional applications through the BBIS system.

Welsh Government's Response to Question 4

The Welsh Government acknowledges the issues likely to arise in assessing applications under the proposed new eligibility criteria. It is accepted that specialist professionals working with the applicants are best placed to come to an appropriate decision on eligibility for a Blue Badge. It is also noted that requests for reports from these professionals by the applicant, their carers or the local authority may not be appropriate.

In light of subsequent feedback from Local Health Boards about challenges with the specific model proposed in the consultation, we will develop an expert support function to support local authority decision-makers.

The expert support role would be to consider the available information and make a decision on the applicant's eligibility. It is accepted that in order to undertake this role any individual would require training to understand the

criteria, the challenges faced by people with cognitive impairments and the Blue Badge scheme. They will also need access to health, social and educational records to ensure that the information is comprehensive.

The proposed arrangements will be designed to address concerns raised by local authorities about the administrative functions and potential addition costs. We will address the need for a robust and comprehensive training package.

Enforcement

Question 5: Whilst empowered enforcement officers will have the power to retain a badge being misused by a third party, existing legislation means that the local authority must return it to the Badge holder. How should local authorities return a Badge once retained?

Circumstance	Yes	No
Return immediately and directly to the badge holder informing them of the rules regarding Blue Badge use by post.	5	12
Return to the issuing authority for return to the Badge holder with a written warning by post.	13	10
Ask the Badge holder to collect the badge in person and explain their rights and responsibilities.	13	9

Responses to this question were inconclusive as between the second and third options above. The responses highlight the need for such decisions to be made on a case by case basis.

One organisation stated that there are some reasons why none of the three scenarios would be relevant. For example, there may be no facilities to allow Blue Badge holders to attend local authority offices and collect a retained badge. The response also highlighted the need for written and verbal warning information to be accessible. This is not always as simple as a letter explaining the rules and clarifying the rights and responsibilities.

It was highlighted that protecting vulnerable Badge holders is of paramount importance, especially when retaining a Badge for the first time, because they would be without their Badge for a time. One local authority response stated that *“It needs to be very clearly outlined and communicated why and when a Badge would be retained, and if it does need to be returned it would seem to make sense to send it by post rather than making someone who, by the very*

fact that they are eligible for a Blue Badge, would have difficulty in travelling to collect the Badge in person”.

One organisation also put forward the suggestion that, if the Badge has been issued to a person with cognitive impairment, they may need a nominated third party to assist with the logistics of the Badge. The third party should receive the Badge and be responsible for preventing possible fraud.

Question 6: The Welsh Government consulted on the principles of this enforcement activity in August 2011. Based on the responses to this previous consultation we therefore propose that local authorities cancel Badges for the below reasons. Do you agree with this?

Yes	No
56	1

One local authority stated that, for consistency, all local authorities should be issued with a directive and guidance from Welsh Government as to how many occasions a Badge would have to have been misused before the local authority is able to cancel the Badge.

The respondent who answered ‘No’ to this question went on to state that it depends on the capacity of the Badge holder to understand that their Badge has been misused, lost or stolen.

21 responses to this question specifically stated that more needs to be done generally to better enforce Blue Badge abuse and misuse.

Question 7: Do you agree that greater emphasis should be placed on securing prosecutions and that investigation officers should be in place to deal with the prosecution of the most severe cases of abuse, misuse and fraud?

Yes	No
51	4

Many local authority responses highlighted a concern for escalating costs associated with a dedicated investigatory role. One local authority commented that to successfully achieve this, additional resources would need to be found as local authorities do not have now and are unlikely to have for the foreseeable future sufficient capacity to fulfil such a role.

Three organisations commented that successful prosecutions would go some way to raising awareness of the repercussions associating with abusing the scheme.

Three responses highlighted the need to protect vulnerable and often innocent Badge holders who are unaware that their Badge has been or is being misused.

One organisation commented that all local authorities have dedicated fraud staff undertaking duties relating to benefits and corporate fraud. These fraud teams result from welfare reform and the creation of the Single Fraud Investigation Service.

It was stated that if the funding is not available, a sufficient sanction would be to take the Badge away. The enhanced emphasis should be proportionate to the outcome and sensitive to changes in local authority.

Welsh Government's Response to Questions 5, 6 and 7

The Welsh Government notes the responses and recognises that the process by which a Badge may be returned following seizure must be decided on a case by case basis. It will be important to consider the circumstances of the Badge holder and any previously reported abuse. As such, the Welsh Government will prepare guidance for local authorities to be issued in due course.

However, as legislation stands, a retained badge must be returned to the Badge holder and only following a successful prosecution can a Badge be retained indefinitely. The Welsh Government will investigate further to determine whether a Badge can be cancelled by a local authority in any other circumstances.

The circumstances under which a badge should be cancelled will be implemented as previously consulted and in line with the proposals of this consultation. However, it is recognised that no Badge should be cancelled without full consideration and investigation of the circumstances of the Badge holder.

With regards to Blue Badge Investigators, whilst the concept of the role was well received by all respondents, it is recognised that there may be resource challenges. The Welsh Government will further investigate the concept of shared services as well as making better use of existing fraud detection and prevention units already in place at local authority level. We will work with local authorities in order to develop an investigatory role where expertise is available though it is noted that this role may not be a dedicated Blue Badge service.

The introduction of the Disabled Persons Parking Badges Act 2013 will further empower Civil Enforcement Officers to better enforce the scheme. The Welsh Government will issue guidance regarding this Act.

Question 8: 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:

A number of respondents commented on the need for temporary Badges. Specifically, it was suggested that a Badge be issued to people who have lower limb fracture or dislocation and have considerable difficulty walking.

A number of other individual comments related to improved enforcement, parking polices at supermarkets as well as a suggestion that duplicate Badges be issued for people with more than one vehicle.

Four individual respondents gave a personal experience of how extending eligibility would benefit the lives of those with a severe cognitive and sensory impairment and the people who support them.

One local authority commented that the current guidance document for local authorities, issued in April 2012, needs to be updated with a number of key points clarified.

Finally, one organisation commented the “spot checks” on users should be made on a regular basis which would in turn act as a deterrent in the abuse of the Blue Badge. Furthermore, the organisation commented that offences and enforcement action should be highlighted in the press.

Welsh Government’s Response to Questions 8

Welsh Government are considering enforcement issues further and are currently preparing full guidance for local authorities.

The issue of temporary Badges was raised and investigated by the Welsh Government previously. This took the form of discussions with local authorities who expressed concern about the return of the Badge when it was no longer required. It was also considered by the Blue Badge Expert Review Group. The anecdotal evidence gathered suggested that, despite applicants signing declarations agreeing to inform the local authority of changes in circumstances or returning the Badge when it is no longer required, this was rarely done.

The Welsh Government therefore does not intend to legislate at this time to allow Badges to be issued for temporary conditions.

List of Contributors

Local Authorities, councils, etc.

Merthyr County Borough Council
Ceredigion County Council
Bridgend County Borough Council
Torfaen County Borough Council
Isle of Anglesey County Council
Conwy County Borough Council
Pembrokeshire Council
Powys County Council

Cardiff Council
Wrexham County Borough Council
Neath Port Talbot County Borough Council
Rhondda Cynon Taff County Borough Council
Carmarthenshire County Council
Caerphilly County Borough Council

Interest Groups

Pembrokeshire Disability Access Group
Bridgend People First
Breather Easy Neath Valley
Age Cymru
Disability Wales
Cardiff 50+ Forum/Access Focus Group
Vale 50+ Strategy Forum
Diverse Cymru
Alzheimer's Society
National Autistic Society Cymru
Grwp Cefnogi Aspergers/ Awtistiaeth Gwness a Mon
Tai Pawb
All Wales Forum for Parents and carers of people with Learning Disabilities
Neath Port Talbot Council for Voluntary service
Young Voices for Choices Youth Forum
Cardiff and Vale Parents Federation
Conwy BIG community Voice Forum
British Medical Association
Children's Commissioner for Wales
Customer Focus Wales
Older People's Commissioner for Wales
Welsh Local Government Association

Members of the Public

Tony Birdwood
Colin Jones
David Evans
Emma Davies
Hayley Green
Jane Harris

Ian Cross
Verena Evans
Tracey Pattison
Sarah Powell Davies
Prof. Morton Warner
G.M Reid

Ffiona Smith
Cath Dyer
Philippa Williams
Margaret Bernard
Lisa Morgan