

POLICIES & PROCEDURES

Blue Badge Scheme (Disabled Persons' Parking Scheme)



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Introduction

Wirral Council Customer Services is responsible for implementing the Blue Badge Policy. The operational delivery of the administration of Blue Badges is provided by Customer Services. Independent Mobility Assessments (IMA) are delivered by Occupational therapists in Wirral Council.

1. The application process

1.1. Handling initial enquiries

Initial enquiries about Blue Badge applications will be handled online, supported by Customer Service Staff., information on how to apply, what is required to apply and what to do if you are unable to apply online on the Wirral Council website

www.wirral.gov.uk

1.2. Applications by individuals

Wirral Council has implemented an online Blue Badge application form together with guidance notes issued as part of the DfT guidance. The process enables individuals and organisations to apply, submit relevant evidence and pay online for the blue badge fee. Customers will be notified by email whether they are eligible or not for a blue badge, need to submit further evidence or need to attend an independent mobility assessment appointment.

Unsuccessful applicants will be refunded the Blue Badge fee.

1.2.1. Checks at application

Wirral Council's online application form aims to ensure that key information is captured to establish a person's identity, they are who they claim to be and that they are a resident of Wirral, as part of a robust approach to reduce fraud and abuse of the system.

1.2.2. Declarations

Wirral Council's online application form includes a declaration at the end of the form for the applicant to review and accept content (digital signature).

Declarations, as a minimum, are used to confirm that the applicant:

- understands the application process and has answered the questions honestly.
- understands that they will need to abide by the rules of the scheme.
- understands how the data provided will be used by the council and has given permission for data sharing in accordance with the Data Protection Act; and gives their consent for the release of medical information required for assessing eligibility.
- understands that they may be required to undertake an independent mobility assessment to help determine their eligibility for a Blue Badge

1.3. Completion and submission of applications

A customer must register for a **MyWirral Account** before a Blue Badge online application can be submitted, along with the required photographs, supporting evidence and payment. To apply for a blue Badge;

Individuals can visit a [One Stop Shop](#) by appointment if they require assistance in completing their application form / creating a MyWirral Account.

1.4. Transsexual and transgender applicants

Wirral Council will deal with applications made by transsexual and transgender people sensitively, in accordance with Chapter 3.26 – 3.28 of the DfT Guidance³ and issue badges under the requested gender.

1.5. Terminally ill applicants

Wirral Council wants to provide a compassionate and effective service to people who have a terminal illness to make their life easier. Issuing Blue Badges in such situations the following applies:

- Applicants who submit a DS1500 or SR1 (provided by GPs and other health professionals) will be considered as eligible without further assessment but will be required to complete certain parts of the application form.
- No photograph is required.
- No fee is payable.
- Badges will be issued for the maximum period of 3 years.

1.6. Badge issue fee

The fee of £10 for Blue Badge relates to the administration, assessment, processing, production and issue of any successful application. This means a fee paid by those whose application is unsuccessful will be refunded.

A £10 fee will be charged to badge holders who request replacements for badges that have been reported as lost or stolen, damaged, confiscated or because they are not clearly legible.

1.7. Photographs

The photograph is a key feature in reducing abuse of the scheme and enabling effective enforcement.

Each applicant is required to supply one current passport style photograph clearly showing their full face so that they can be easily identified.

Guidance on acceptable photographs is made available with the application and can be obtained via the Council website www.wirral.gov.uk

Photographs or company logos do not need to be provided for organisational badges.

1.8. Independent Mobility Assessments (IMA)

All Independent Mobility Assessments (IMA) necessary to determine eligibility will be undertaken in one of the specified Council venues and therefore home visits will not be undertaken.

1.9. Expert Assessor Assessments (EAA) for non-visible/ Hidden applications

All Expert Assessor Assessments are undertaken without the applicant being present utilising a proforma to review the evidence submitted to ascertain whether a person qualifies under a non-visible (hidden condition). The expert assessor also supports clinical confirmation, when

requested by administrators, whether an applicant's medical condition is permanent and enduring, if a badge should be awarded or not and what further assessment process should be undertaken when required.

2. Determining the eligibility of individual applicants

2.1 The two types of eligibility criteria

An individual's eligibility for a Blue Badge is considered in terms of being 'eligible without further assessment' or 'eligible subject to further assessment.' 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.

2.2 Type 1: 'Eligible without further assessment'

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 a Personal Independence Payment (PIP) and their decision letter states that they meet appropriate 'Moving Around' descriptors within the Mobility Component i.e. score 8 or more, points; or
- Is registered blind (severely sight impaired) evidence by BD8; 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
- Receives the mobility component of PIP and has obtained 10 points specifically for Descriptor E under the "planning and following journeys" activity, on the grounds that you are unable to undertake any journey because it would cause you overwhelming psychological distress or;
- Receives a qualifying award under the Armed Forces Compensation Scheme and is certified as having a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.

2.3. Type 2: 'Eligible subject to further assessment'

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 which causes inability to walk or very considerable difficulty in walking, as determined by an Independent Mobility Assessor
- Has a non-visible (hidden) condition or disability, causing them to severely struggle with journeys between a vehicle and their destination or they are a high risk to themselves or others near vehicles, in traffic or car parks.

The term 'independent mobility assessment' refers to an eligibility assessment undertaken by a medical professional i.e. an occupational therapist with expertise in mobility that is

independent of the applicant and of their treatment or care. It is not necessary for the assessment to be carried out by a professional who is independent of the local authority.

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.

“Bulky medical equipment” can include any of the following –

- Ventilators
- suction machines
- feed pumps
- parenteral equipment
- syringe drivers
- oxygen administration equipment
- continual oxygen saturation monitoring equipment; and
- casts and associated medical equipment for the correction of hip dysplasia

2.4. Assessing people with walking disabilities

To qualify under this criterion, an applicant must have a permanent and enduring disability, and they cannot walk, or they have considerable difficulty walking, as determined by an Independent Mobility Assessor or that it is self-evident from the information available at the time of application. 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.

Applications will not be rejected solely on the basis that they are able to use public transport independently or because they already have a concessionary travel pass.

2.4.1 Assessing people with walking disabilities following surgery

Future planned or possible surgery is disregarded for the purposes of establishing whether an applicant has a permanent and substantial disability, which causes and inability to walk or very considerable difficulty in walking cases where individuals are recovering from surgery which may improve their functional mobility.

To allow for a sufficient period for recuperation and rehabilitation, an application for a Blue Badge cannot be made for a period of 12 weeks after the surgery was completed.

This will enable a more effective and representative assessment of an individual’s stable walking/ long term mobility.

Each Blue Badge application should be treated on a case-by-case basis and the final decision about whether an applicant meets the criteria remains with the Council.

In assessing people with walking disabilities, the following will be considered:

Table 1: Considerations for Assessing People with Walking Disabilities

The applicant cannot walk

Being unable to walk means that they cannot take a single step.

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 a temporary injury/illness from which they will recover).

The applicant has considerable difficulty in walking

The applicant will need to show that, because 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 including:

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 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, evidence from medical professionals coping strategies they have adopted, and any courses of treatment designed to help them manage their pain including pain management course.

Any breathlessness reported by the applicant when walking, or as a consequence of the effort of walking.

- The applicant's reported breathlessness may be cross-referenced with details of diagnosed medical conditions known to cause breathlessness (e.g. heart conditions asthma emphysema) and any observations of the impact upon 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 medical evidence to substantiate is required.

The **distance** an applicant can walk without excessive pain or breathlessness; taking due consideration of the environment in which the individual usually walks.

- 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.

- If an applicant can walk 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 considerable difficulty in walking through any other factors.

The **length of time** applicant can walk if 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, including. posture, rhythm, coordination, balance, and stride should be considered when determining the effect on their ability to walk.

An applicant's use of **walking aids**.

- When a walking aid is used it will not determine whether a Blue Badge is issued. For example, if a person can walk relatively normally with the use of a walking aid they will not be considered as eligible to receive a Blue Badge.
- It may be pertinent to consider whether an applicant who is not using any form of walking aid at the time of their assessment could improve their walking ability, to the extent that they would no longer demonstrate considerable difficulty in walking, through the correct use of such an aid.

The applicant's **outdoor walking ability**.

- A person's ability to negotiate pavement or road you would normally expect to find whilst walking outdoors should be considered. Therefore, a degree of "incline" and "decline" can be used during a mobility assessment. It is important the assessment enables the healthcare professional conducting the mobility assessment to determine how the applicant is managing walking outdoors.

2.5. Assessment

2.5.1. Desk Based Assessment

The desk-based assessment process draws on significant input from experienced occupational therapists, those closely involved in delivering independent mobility assessments. A quantitative scoring mechanism will be used for the desk-based assessments ensuring that such decisions are objective and only made by Occupational Therapist Administrative staff involved in undertaking the desk-based assessments will be trained and will be supported by documented procedures and have access to advice and guidance from the Independent Mobility Assessors. Applications that are not clearly eligible or ineligible based on the application form will be referred for an independent mobility assessment (IMA).

2.5.2. Independent Mobility Assessment (IMA)

As previously stated, the term 'independent mobility assessment' refers to an eligibility assessment undertaken by a healthcare professional with expertise in mobility that is independent of the applicant and of their treatment or care. It is not necessary for the assessment to be carried out by a professional who is independent of the local authority.

An IMA will be undertaken where it is not clear whether a person has a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking from the information provided by the applicant.

IMAs will be offered dependent on appointment availability and could take up to 12 weeks.

The assessments involve the Independent Mobility Assessor observing the applicant moving and walking, talking with them about their condition and medication and impact upon walking (as outlined in Table 1).

Although applicants are seen in person, the independent mobility assessment also relies upon information provided in response to the questions included in the application form.

All IMAs will be documented and will use agreed standard documentation (which is subject to revision and update as required).

2.5.3. Expert Assessor Assessment (EAA)

An 'expert assessor assessment' refers to an eligibility assessment undertaken by a healthcare professional with expertise in health and care, clinical conditions and mobility that is independent of the applicant but considers their condition, symptoms, and impact on them when they undertake a journey from their vehicle to the destination.

2.6. 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 assessing applicants under this criterion the following will be considered:

- 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 these criteria. 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.

Most drivers with disabilities in both arms drive an adapted vehicle and should be able to provide insurance documents which contain statements to this effect.

Where the applicant does not have an adapted vehicle, only drivers with the most severe disabilities in both of their arms (i.e. who cannot operate a parking meter) should be considered eligible. This may cover disabled people with, for example: a limb reduction deficiency of both arms; bilateral upper limb amputation; muscular dystrophy; spinal cord injury; motor neurone disease; or a condition of comparable severity. In these cases, a decision on eligibility will be made in conjunction with the Independent Mobility Assessor. Additional information and clarity can be sought in such cases.

2.7. Assessing children under the age of three

Children under the age of three are 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.

"Bulky medical equipment" can include any of the following (both lists are indicative only and are not intended to be exhaustive to allow for new advances in technology and treatment equipment) -

- Ventilators
- suction machines

- feed pumps
- parenteral equipment
- syringe drivers
- oxygen administration equipment
- continual oxygen saturation monitoring equipment; and
- casts and associated medical equipment for the correction of hip dysplasia

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 criteria 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/seizures
- children with highly unstable diabetes
- terminally ill children who can only access brief moments of outside life and need a quick route home.

Although each application for children under the age of three should be treated as a special case. Applicants should produce a letter from a healthcare professional that is involved in the treatment of the child (e.g. paediatrician or GP) giving details of the child's medical condition and the type of medical equipment they need or provide contact details of the healthcare professionals so they can be contacted for this purpose.

When issuing the badge, it will be made clear that it should be returned on expiry or if the recipient no longer needs it because the condition under which it was issued no longer applies.

2.8. Residency

All applicants must prove they are a Wirral 'resident.' e.g. being registered for Council Tax and/or the Electoral Register or providing relevant proof of their address. Applicants who are not Wirral residents will be unable to apply and if an application is submitted it will be rejected, and the applicant will be notified.

3. Determining the eligibility of organisational applicants

3.1. Organisational eligibility criteria

An organisational badge may be issued to an organisation for use in a motor vehicle or vehicles when they are used to carry disabled people who would themselves be eligible for a badge as specified in Section 4(2) of the 2000 Regulations (SI2000, No 682).

An 'organisation' is defined in the 2000 Regulations as meaning an organisation concerned with the care of disabled persons to which a disabled person's badge may be issued in accordance with section 21(4) of the Chronically Sick and Disabled Persons Act1970.

To be eligible for an organisational badge the organisation in question, must:

- Care for and transport disabled people who would themselves meet one or more of the eligibility criteria for an individual Blue Badge; and
- Have a clear need for an organisational badge rather than using the individual Blue Badges of people it is transporting.

It is unlikely that taxi or private hire operators and community transport operators would be eligible for an organisational Blue Badge as they are not usually concerned with the care of disabled people who would meet one or more of the eligibility criteria for a badge. Such operators are however able to use an individual's Blue Badge when carrying that person as a passenger.

3.2. Assessing organisational badge applications

Applications for badges from organisations caring for disabled people should be examined to ensure that they are genuine and necessary. Common examples of organisations that may be eligible include residential care homes, hospices or local authority social services departments that transport groups of people who would meet the eligibility criteria for an individual Blue Badge. Applications received from nursing homes will be deemed as eligible due to the nature of their work and the number of residents they have who would otherwise be eligible for a Blue Badge in their own right.

To help determine eligibility of applications the Council will ask, as a minimum, for organisations:

- To confirm that they provide care for persons who would themselves qualify for an individual Blue Badge
- To confirm that as part of providing such care that they provide transport for persons who would themselves qualify for an individual Blue Badge
- About the number of qualifying disabled people being cared for
- About the type of vehicle(s) being used to carry them, whether it is adapted
- How often the badge is likely to be used and for what purpose.
- Details of relevant registrations e.g. CQC, OFSTED, etc. which contains information related to the organisations need for a badge e.g. details about social trips etc

Although there is nothing in the Regulations governing the scheme about the actual numbers to be 'cared for' to qualify for a badge, where relatively few people meet the eligibility criteria for a badge in the organisation, it would be preferable for the disabled people themselves to apply for badges, rather than have one issued to an organisation. This then allows the holder to use their badge in any vehicle in which they are travelling, as either a driver or passenger. For organisational badges it is unlikely that applications where the numbers of people being cared for is below six will be eligible.

In all circumstances, badges must be issued to the organisation and not to individual employees. All employees of the organisation using the badge should be reminded that they must only use the badge for the purposes of transporting disabled people who meet one or more of the eligibility criteria for a badge. These employees should be reminded that if they use the badge to take advantage of the concessions when there are no passengers in the vehicle who are themselves eligible for a badge, they could face a fine of up to £1,000.

Photographs or company logos do not need to be provided for organisational badges.

Organisations can be issued with more than one badge, but a judgement on the number of badges that one organisation will be issued will be made by the Council, taking into account considerations outlined above. The issue of one or more organisational badges to an organisation does not automatically make such organisations eligible for issue of further organisational Blue Badges.

A fee of £10 is payable for each organisational badge issued.

4. Administering the scheme after the assessment

4.1 Unsuccessful applications

Under regulation 8 of the 2000 Regulations (SI 2000/No 682), a local authority may refuse to issue a Blue Badge if:

- a) the applicant holds or has held a badge, and misuse has led to a relevant conviction; or
- b) the applicant fails to provide the local authority with adequate evidence of their eligibility, either as an individual or as an eligible organisation; or
- c) the local authority has reasonable grounds for believing that
 - i. the applicant is not the person they are claiming to be, or
 - ii. would permit another person to whom the badge was not issued to use the badge.

A 'relevant conviction' is defined in regulation 2(3) and 2(4) of the 2000 Regulations. Essentially, this covers convictions for contravening or failing to comply with road traffic regulation orders made by local authorities and wrongful use of a disabled person's badge. The Council's decision to refuse an application because the applicant has a relevant conviction will be informed by the nature of the conviction, the number of relevant convictions and when the conviction(s) occurred. However, the Council will normally refuse an application from an individual where any relevant conviction exists within the preceding 12 months. More information on convictions and the wrongful use of a Blue Badge is provided in section 7.

An applicant that does not meet the eligibility criteria for receiving a badge, cannot re-apply for period of 6 months from the date they were notified of the outcome of the original process or following any reviews that the applicant requested in line with the policy for 'reviewing decisions' detailed later in this document. However, if their mobility or condition deteriorates significantly within this period or they are awarded a qualifying benefit the applicant may re-apply for a Blue Badge sooner.

Decisions to refuse to issue a badge on the grounds that the applicant is not the person they claim to be, or that they would permit another person to use their badge should not be taken lightly. In all cases the final decision should be taken after careful examination of the facts.

Every applicant who is refused a badge should be given a detailed explanation of the grounds for refusal in their decision letter. It is not sufficient to simply state that the applicant did not meet the eligibility criteria.

Unsuccessful applicants may contact the council after finding out their application has been refused to either:

- a) query the decision as they believe it has been wrongly refused and that they wish for the decision to be reviewed.
or
- b) advise that they are unhappy with the manner or conduct of the Council staff involved, or they feel the policy/procedures have been unfairly or inconsistently applied in consideration of their application, and that they wish to complain.

4.2 Requesting a review of the decision

The term 'request for review of decision' is used here because it is more appropriate than 'appeal.'

Applicants who are refused a Blue Badge and believe that their application has been wrongly refused and wish to query that decision can request a review of the decision within 30 days of the decision notice. This will be specified in correspondence notifying applicants that their application has been unsuccessful.

To 'request a review of decision' applicants must write a letter or Email requesting a review of the decision and explain why they think the decision should be changed. For example, they may believe the information they have provided has not been fully considered or they may wish to offer further information to support their case. The onus is on the individual to provide information and evidence in support of their request for a review.

As eligibility can be determined either with or without an IMA, then there are two different pathways for reviewing decisions. In both cases the process should involve two stages.

Eligibility determined without an IMA

Stage 1: If an IMA was not undertaken then the Independent Mobility Assessor will consider the request looking at the original submission and supporting information provided. If after reviewing this information the Independent Mobility Assessor confirms that the original determination of ineligibility remains unchanged the applicant will be advised accordingly. However, the Assessor may judge that an IMA should be undertaken based on a review of the information to further determine eligibility. Following the IMA the applicant will be advised of the outcome of the review. If successful, the normal steps will be taken to arrange its issue.

Stage 2: If the applicant still feels that the application has been wrongly refused then they must ask for a further review, within 30 working days of the date of the stage 1 decision, providing further explanation and information why they think the decision should be changed. Unless further explanation, information or facts are provided in addition to those already considered/reviewed as part of the original assessment and/or the Stage 1 review, then a Stage 2 review should not be undertaken. As the Independent Mobility Assessor has already been involved in Stage 1 the original submission and supporting information will be reviewed by the Assessor's line-manager or an Officer of commensurate standing and expertise. If after reviewing this information the Assessor's line-manager confirms that the original and subsequent determination of ineligibility remains unchanged then the applicant will be advised accordingly. However, the Assessor's line-manager may judge that an IMA or a further IMA should be undertaken based on a review of the information to further determine eligibility – in this case it will not be undertaken by the original Independent Mobility Assessor. Following the review the applicant will be advised of the outcome of the review. If successful, the normal steps will be taken to arrange its issue.

Eligibility determined with an IMA or Expert Assessor Assessment

Stage 1: If an IMA or Expert Assessment was undertaken then the Assessor's line-manager (or an Officer of commensurate standing and expertise) will consider the request looking at the original submission and supporting information. The applicant will be advised of the outcome of this review, if successful the normal steps will be taken to arrange its issue.

Stage 2: If the applicant still feels that the application has been wrongly refused then they must ask for a further review, within 30 working days of the date of the stage 1 decision, providing further explanation and information why they think the decision should be changed. Unless further explanation, information or facts are provided in addition to that already considered/reviewed as part of the original assessment and/or the Stage 1 review, then a Stage 2 review should not be undertaken. The request for review of the decision will be dealt with by

an Officer higher within the management structure. If after reviewing this information the reviewing Officer confirms that the original and subsequent determination of ineligibility remains unchanged then the applicant will be advised accordingly. However, the reviewing Officer may judge that a further IMA should be undertaken based on a review of the information to further determine eligibility – in this case it will not be undertaken by anyone involved in the original assessments or reviews. Following the review the applicant will be advised of the outcome of the review. If successful, the normal steps will be taken to arrange its issue.

Irrespective of whether an IMA was originally used to determine eligibility no further request for reviews will be undertaken beyond Stage 2. This does not affect an applicant's right to make a complaint.

4.3 Complaints

The term 'complaint' is used to deliberately distinguish this from the request for a review of a decision. Some Blue Badge applicants may be aggrieved not by the eligibility decision of the authority but rather the way in which the process has been conducted. For example, they may view aspects of the process as unfair.

All complaints should be directed to:

Wirral Council, Blue Badge Service, PO Box 290, Brighton Street, Wallasey, Wirral. CH27 9FQ

<https://www.wirral.gov.uk/about-council/complaints-compliments-and-feedback/complain-or-give-compliment-wirral-council>

4.4 Appeals to the Secretary of State

A local authority (under Regulation 8(2)(a) of the 2000 Blue Badge regulations) may refuse to issue a badge where the applicant holds or has held a badge, and misuse has led to a relevant conviction. In these circumstances, where a local authority receives an application and refuses to issue a badge, they are required (under Regulation 8(3)) to issue a notice stating the grounds for refusal to the applicant (a 'notice of determination').

Under regulation 9(2), a local authority may require the return of a badge on account of its misuse leading to a relevant conviction, or where the authority is satisfied that the badge was obtained by false representation.

Where an applicant has been refused on the grounds specified in regulation 8(2)(a), or the holder of a badge has been required to return it in accordance with regulation 9(2), they may appeal to the Secretary of State against the determination of the local authority's, decision. These are the only circumstances in which appeals may be made to the Secretary of State.

The appeal must be made within 28 days from the date of the local authority's decision notification ('notice of the determination'). Where the appeal to the Secretary of State is unsuccessful, a person may appeal to a magistrates' court, whose decision will be final.

There is no right of appeal to the Secretary of State against a decision by a local authority to refuse to issue a badge on the grounds that the applicant does not meet the eligibility criteria.

4.5. Successful applications

Successful applicants will be provided with information relating to their 'rights and responsibilities' when they are provided with their Blue Badge. In particular badge holders

should also be reminded that they have a duty under Regulation 9 of the 2000 Regulations to return the badge if:

- the badge expires.
- the badge holder is no longer eligible, or in the case of an organisational badge, the organisation no longer exists or is no longer eligible.
- it is a replacement badge for one that is lost or stolen, and the original is found/recovered (in this case the original badge should be returned so that it can be securely destroyed);
- the badge is so damaged/faded that the details on it are illegible.
- the badge is no longer required by the holder (e.g. where they have become confined to the house); or the badge holder dies.

It should also be noted that the badge remains the property of the Council which has powers to withdraw the badge in some circumstances.

4.6 Blue Badge issue

Wherever practicable, the Council requires badges to be issued/delivered to the applicant's home address or organisations address. Where this is not feasible (e.g. multi occupancy) a badge can be delivered to a council office for collection.

In addition, the applicant should return their old badge to the local authority (address below) so that it can be officially destroyed.

Wirral Council, Blue Badge Service, PO Box 290, Brighton Street, Wallasey, Wirral. CH27 9FQ

4.7 Period of issue

In accordance with the regulations that govern the scheme most badges must be issued for three years. However, certain exceptions apply, outlined below:

- In the case of children under three, the badge should be issued for a maximum period ending on the day immediately following their third birthday.
- Where entitlement for a Blue Badge is linked to Higher Rate Mobility Component of Disability Living Allowance (HRMCDLA), Personal Independence Payment (PIP) or War Pensioner's Mobility Supplement (WPMS) the period of issue should be linked to the period of receipt of that allowance, where that period is less than three years. In this specific context there is no minimum period of issue for a Blue Badge. For example, a badge can be issued for 9 or 12 months if this corresponds with the period of issue of HRMCDLA, PIP or WPMS.

Where HRMCDLA, PIP or WPMS has been granted for a period longer than three years, the badge should still only be issued for the standard three-year period. The badge should continue to be renewed on a three yearly cycle provided the applicant remains eligible.

In no circumstances should a badge be issued to applicants with a temporary disability.

4.8 Renewing individual Blue Badges

Issuing badges for a maximum three-year period allows local authorities the opportunity to upon renewal:

- Confirm that individuals who were awarded their badge under the 'without further assessment' criteria remain in receipt of qualifying benefits. If they no longer receive these

benefits, then it may be necessary for the applicant to be assessed against the 'subject to further assessment' criteria to determine whether the applicant remains eligible to receive a Blue Badge.

- Check that applicants who were awarded the badge under the 'subject to further assessment' criteria continue to meet the eligibility criteria and are therefore in need of a badge. Although a badge holder may still have the same disability, it is possible that their degree of mobility may have improved to such an extent that they no longer meet the eligibility criteria.
- Where a badge holder has a permanent disability which will not change (e.g. where there has been a loss of limbs), the opportunity to renew the badge allows the local authority to ensure that the applicant's personal details, such as their address, remain correct, that the information on the badge remains legible and that an up-to date photograph is obtained.

Individuals who are unable to confirm and re-establish their eligibility upon renewal will no longer qualify for a Blue Badge.

Renewal applications will be dealt with as efficiently as possible. Eligibility is to be re-established at the renewal stage. Applicants should allow a reasonable time for processing a renewal application and apply in a timely way to ensure no gap in issue. Applicants can reapply for a renewal up to two months before their current badge expires.

4.8.1 Renewing individual Blue Badges – Eligible without further assessment

Applicants must declare that they are still eligible for a Blue Badge without further assessment and submit recent proofs of their eligibility, identify and address. If the applicant can no longer produce proof of their eligibility, then it may be necessary for the applicant to be assessed against the 'subject to further assessment' criteria to determine whether the applicant remains eligible to receive a Blue Badge – in such cases a 'new' online application will need to be completed.

4.8.2 Renewing individual Blue Badges – Eligible subject to further assessment

Applicants must declare that they are still eligible for a Blue Badge under at least one of the 'eligible subject to further assessment' criteria as outlined in Section 4.

The Council may still identify that a renewal application requires an IMA for other reasons including, but not limited to, complexity, or conflicting information.

If during the original assessment the Independent Mobility Assessor determined that their disability and mobility impairments were unlikely to change, they may indicate that no further assessment is required on renewal.

4.9 Renewing organisational Blue Badges

Organisations can complete the renewal process, but they are still required to provide the same information and evidence each time they apply for a Badge.

4.10 Replacement of damaged, lost, and stolen badges

Where a badge has been lost, stolen, or destroyed, or has become so damaged or faded that it is illegible, Council can issue a replacement badge.

The expiry date shown on the replacement badge should be the same as the date that appeared on the original badge. The record of the original badge is updated to show that it is no longer valid, and a replacement has been issued.

In the case of lost and stolen badges, if a badge is subsequently found or recovered then the original badge should be returned to the issuing authority so that it can be officially destroyed.

A specific online application form will need to be completed by individuals/organisations where they request a replacement badge.

Applicants will need to pay the Blue Badge fee again for replacement badges.

Damaged badges should also be returned to the Council to be officially destroyed.

No more than 1 replacement badge will be issued during the period that the badge is valid for unless there are exceptional circumstances.

4.11 Replacing confiscated badges

The Police can seize (confiscate) a badge under Section 19 of the Police and Criminal Evidence Act 1984. The seizure may be for several reasons including being expired, illegible or tampering.

Individuals can apply for a replacement badge. In such cases the applicant must provide details of the confiscation. The Council will investigate the nature of the confiscation and history of confiscations for the applicant (including any that are pending), to determine whether there are grounds to refuse the issue of a Blue Badge in line with Section 6.1 above.

4.12 Deaths

When a Blue Badge holder dies, their badge should be immediately returned to the Council (regulation 9(1) of the 2000 Regulations).

The Council should include details of how to return Blue Badges in their death registry packs and part of its 'Tell Us Once' scheme.

The Council may cross reference information on deaths to establish if Blue Badges need to be returned. In such situations the Council will ensure that any follow up action is timely and sensitive.

The Council will update, with date of death, the appropriate electronic records that could be involved in issuing communication to badge holders.

5. Enforcing the Scheme

The misuse of Blue Badges undermines the benefits of the scheme, impacts upon local traffic management, and creates hostility amongst other badge holders and members of the public.

Abuse is happening at all points in the system from the initial application, through requests for replacements, to on-street usage. For this reason, it is vital that both issuing teams and parking enforcement teams are alert to criminal or fraudulent behaviour and attempt to prevent fraud and abuse before it happens.

Each individual case of fraud / misuse reported or noted by enforcement officers will be investigated on its own merits and the appropriate review and action undertaken, including:

- the badge being seized.
- Awareness letter issued to the Blue Badge holder for first instance of misuse reminding them of the rights and responsibilities for use of a badge.

- Warning letter issued to the Blue Badge holder for second instance of misuse or where someone is caught in the act of misuse,
- Blue Badge being cancelled for persistent misuse and Blue Badge holder informed that they cannot apply for 6 months, or their medical condition changes and where a new badge is issued, and misuse is reported again the badge is cancelled immediately.
- A fine not exceeding £1,000 may be issued and a period may be set, before they are eligible to apply for a Blue Badge again.

5.1 Types of abuse/misuse

The following is not an exhaustive list, but illustrates several ways in which badges can be misused, from minor to more serious transgressions:

By the badge holder:

- Parking in the wrong place or parking for too long where there is a time limit
- Use of a badge that is no longer valid
- Use of a badge that has been reported as 'lost' or 'stolen'
- Letting a friend or relative use the badge
- Use of a copied badge
- Altering the details on the badge, for example, the expiry date / photograph
- Making a fraudulent application (e.g. providing false information in the application form) or using a badge obtained fraudulently.

By a third party:

- Using someone else's badge (with or without the badge holder's knowledge) without the badge holder being present in the vehicle at some point during the trip
- Using a badge belonging to someone who has died
- Copying, altering, or making badges
- Using a stolen badge
- Using a fake badge
- Using an expired badge
- Using a cancelled badge

The Council may develop a range of tools and techniques to deal with different types of offenders and different types of offences. Conventional enforcement complemented by additional preventative measures is more likely to be successful in the long term.

5.2 Badges the Council Assesses or Issues

The Council should ensure that only eligible people get badges and that independent mobility assessments are used where eligibility is unclear.

As part of this process, the Council will make checks on the applicant's identity and address to confirm that they are who they say they are and that they are resident in the local authority area. A declaration of these facts from the applicant is required as part of the online application process, which also supports any subsequent enforcement action by local authorities where it is later found that the applicant has supplied false information.

Furthermore, a declaration that the badge holder will not allow someone else to use their badge is also required during the application process.

The Council should take reasonable steps to ensure that all successful applicants are properly informed of - and understand - what they can and cannot do with a badge (and when/how it should be returned to the issuing authority).

5.3 Enforcement Activities

There is already a wide range of legislation available to local authorities to use in their enforcement activities such as a Penalty Charge Notice, fine upon conviction or seizure of the Blue Badge by police. The Council will be flexible in how it uses these powers, to address local circumstances and the specifics of each case, Wirral will record and monitor cases of enforcement and ensure appropriate action is undertaken.

5.4 Suspicion of badge misuse

In the event a parking enforcement officer suspects misuse or abuse of a badge they should deal with the badge holder in a sensitive manner. No assumptions or questions should be raised about why the individual has been issued with a badge, as this is not the enforcement officer's role. Such concerns about misuse and abuse can be raised through other agreed processes to report potential misuse of badges. In addition, some disabilities may not be immediately visible. Enforcement officers are given suitable training to be able to carry out their duties appropriately.

5.5 Uncovering abuse and gaining evidence

The most reported forms of abuse tend to relate to misuse of the Blue Badge by the friends and family of the badge holder. Where this is a problem and the Council wishes to act, it is important that the Council is sure that misuse is taking place and have obtained sufficient evidence, especially if a prosecution is to be pursued.

5.6 Sharing information

Badge holders must have given their consent to sharing their personal information under the General Data Protection Regulation. This should be done at the initial application stage in the declaration section of the Blue Badge online application form. In addition to parking enforcement officers having access to the Blue Badge Enforcement Scheme database (DFT Central record), the Council may provide on-street enforcement teams with data on local badge holders, particularly in relation to badges that have been reported as lost or stolen so that these badges can be recognised if used on the street.

6. Retention of documents

All evidence obtained and used as part of assessing an application for a Blue Badge are held securely on systems used by the Council to administer Blue Badges in accordance with the corporate data retention policy.

7. Data Protection

To ensure compliance with the General Data Protection Regulation (GDPR) 25th May 2018 the Council will consult guidance produced by the Information Commissioner's Office. This clarifies the steps local authorities need to take to share sensitive personal data between departments for secondary uses.

8. Visitors from outside of the UK

There are currently no formal reciprocal arrangements in place for disabled parking badges issued outside the UK.

The UK Government has informal reciprocal agreements in place with other European Union Governments to accept Blue Badges from these countries. In England and Wales, a parking clock is required to be displayed with the Blue Badge on double yellow lines and in other areas where parking is time limited.

The official publication of the European Commission “Parking card for people with disabilities in the European Union: conditions in the Member States” states that in the UK “the parking card is used in conjunction with a parking clock.

However, people from other countries who display the parking card without a parking clock will be given the same concessions.”

Customer Services should ensure that parking enforcement teams are made aware of this information.

Recognition is voluntary, rather than mandatory, and so local authority enforcement officers can refuse to recognise an overseas badge if they have reasonable grounds to believe that it is fake or forged.

Disabled parking badges from countries outside the EU vary in design and it would be hard for local enforcement officers to verify their authenticity. [DfT](#) advise people visiting the UK from non-EU countries that they should bring their disabled parking badges with them and check with the local police or local authority in the areas they intend to visit to see if their badge would be recognised but emphasise that this entirely at the discretion of the police and the Council.

9. Equality Act 2010

Section 20 of the Equality Act 2010 (EA2010)⁵ requires service providers to take reasonable steps to ensure that disabled people are not put at a substantial disadvantage compared to people who do not share the disability, when accessing services. This requirement has implications for car park operators who may have to demonstrate that, as well as marking out disabled persons’ parking spaces, they have taken reasonable steps to ensure that they are available to disabled people.

The EA2010 introduces a new Public Sector Equality Duty which requires public bodies – including local authorities - to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation, and any other conduct prohibited by the EA2010.
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not.

This new Duty came into force on 5 April 2011. It brings three existing duties on race, disability, and gender together into a single duty and extends to cover age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment. To meet this duty, the Council must embed equality considerations in everything it does, including decisions relating to the design

and delivery of parking enforcement. Guidance on the Public Sector Equality Duty is available on the Equality and Human Rights Commission website.

10. Operational Procedures.

This policy & procedure framework will be used to devise documented operational procedures and timescales necessary to ensure processes are:

- fair and consistent in their treatment of Blue Badge applicants.
- customer-friendly and clear.
- timely and cost-efficient; and
- resistant to abuse.

These procedures will be jointly developed by Customer Services, Health & Social Care and Parking Services. They will be subject to routine and periodic refresh and revision to reflect changes in the policy framework or operational necessity.