

Questions

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Enforcement

Question 1: Do you agree with the general aim of the Bill to provide for better enforcement?

Yes. The Blue Badge Improvement Service has done a tremendous amount of work in this area and this has involved an impressive level of co-operation between the Scottish and Westminster Governments and others. It is recognized that in order to make the work of the Blue Badge Improvement Service effective some legislative underpinning such as the proposed Bill is necessary.

Better enforcement not only clarifies the law but also helps in educating the driver to know what is expected and what the penalties are for failing to comply. Enforcement is also a "stick" to deal with the recalcitrant, but if the education element is pushed, then there is less need for the stick. The present situation is that enforcement is so rare that it is almost an encouragement to break the law.

Question 2: Do you think that police traffic wardens and local authority parking attendants should be allowed to confiscate a Blue Badge which they suspect is fraudulent or is being misused?

Yes. Civil enforcement is clearly the preferable route to take and the involvement of the Police should be restricted to cases where it is clear that a crime is being committed (for example continuing to use the Blue Badge after the death of your grandmother can be prosecuted as fraud at common law as it contains both a false pretence and a practical result).

Those who are against this action will quote cases where misuse is not proven or the badge is genuine as being prejudicial to the disabled, but we must presume that traffic wardens and parking attendants would have a high certainty of their case before they made a confiscation. If enforcement is going to be stronger, then those who are doing the enforcing need to have authority to take action given reasonable certainty.

Question 3: Do you think local authorities should have the power to appoint persons (other than Parking Attendants in uniform) to examine and/or confiscate suspect Blue Badges as a result of their investigations?

Yes. Effective enforcement is essential to maintain public confidence in the Blue Badge Scheme. Misuse of the Blue Badge undermines such confidence and is prejudicial to the interests of the vast majority of honest blue badge holders.

It would probably not be necessary in the cities where parking attendants are plentiful, but in rural councils where there may be only one or two parking attendants for a large geographical area then this might be the only practicable solution. The question is, who would be appropriate people to appoint to this function?

Question 4: Do you think that local authorities should have the power to cancel Blue Badges that are lost or stolen?

Yes. It is the local authorities who issue the badges in the first place. A person entitled to a blue badge should be able to reapply (one would hope without an additional fee in the case of one which had been stolen).

Question 5: Do you think that a new offence of displaying a cancelled badge should be created?

Yes, provided it can be shown that the person displaying the Badge knew or had reasonable cause to suspect that the Badge had been cancelled.

Presumably the only people who would display a cancelled badge would be those who had stolen one (and didn't know it had been cancelled) and who therefore would not be entitled to display a badge.

Design Specifications

Question 6: Do you agree that the requirement to publish in regulations the detailed specification for the Blue Badge should be removed?

Yes. An administrative matter, and no longer necessary. All that is required is that the Badge should be of a design approved by the Scottish Ministers.

Appeals against eligibility decisions

Question 7: Is there a need for a statutory process of appeal for a Blue Badge?

Probably yes. The 'advice' in the code of practice needs to be more than advice - a specified requirement.

Question 8: If you consider that a statutory appeals process is necessary. What format should this take?

Possibly a two-stage process as outlined in the code – a review by an independent assessor within the local authority, and the final stage reference to the ombudsman.

Another view expressed is that a statutory appeals process is not really necessary, but if it is decided to introduce one it should be the simplest form possible – namely by summary application to the Sheriff on the ground that the local authority has made a manifest error. The decision of the Sheriff should be final. A “manifest error” arises where a decision is clearly wrong (for example the local authority has misunderstood medical information supplied by the applicant).

Equality

Question 9: Does the proposed Bill have any substantial positive or negative implications for Equality Groups?

It is thought that fairer and better enforcement processes for Blue Badges should have positive implications for disabled people and others affected by the misuse of Blue Badges.

Resources

Question 10: What is your assessment of the likely financial implications (if any) of the proposed Bill?

Stricter enforcement will bring costs relating to employment of the enforcers – enforcement can't be done simply within the current number of staff and hours worked. Even if part of the enforcing is

the imposition of significant fines, as the education process takes hold and hopefully the rate of offending decreases the income from fines would become less and therefore the number of enforcers would have to decrease. There is a time-line element in this, and there would have to be finance to cover these gaps.

We would expect that any extra costs incurred by local authorities will be more than offset by the benefits arising from better enforcement, namely, increased confidence in the integrity of the Blue Badge scheme and fewer complaints about misuse.

General

Question 11: Do you have any other comments or suggestions relevant to the proposals?

It is important to build on the work of the Blue Badge Improvement Service by creating a level playing field for the administration and enforcement of Blue Badges in Scotland and to continue to strive for the improvement of the Blue Badge Service throughout the United Kingdom

Responses should be submitted by **20 March 2013** and sent to:

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