

SPICe Briefing

Disabled Parking and the Blue Badge Scheme

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This briefing examines the Blue Badge scheme in Scotland, including the eligibility criteria for being awarded a badge; what possession of a badge enables holders to do and what penalties are imposed for the misuse of a Blue Badge.

It also considers where Blue Badge holders are able to park; the enforcement of disabled parking places; the penalties for non-Blue Badge holders who park in enforceable disabled parking places and the process of applying for the creation of an enforceable disabled parking place.



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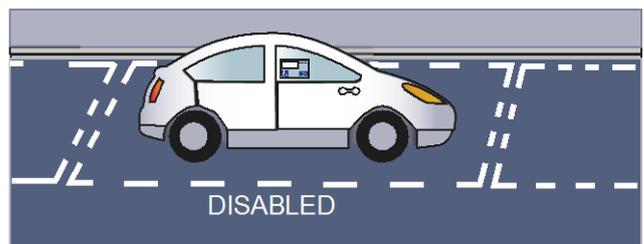
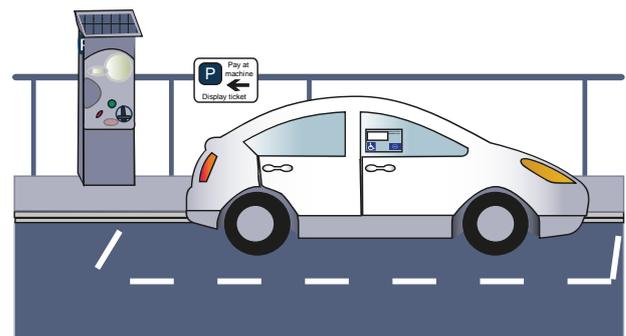
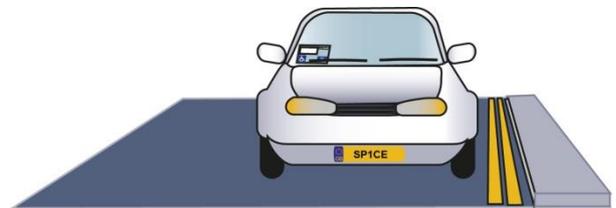
EXECUTIVE SUMMARY

The Blue Badge scheme operates UK-wide, is administered by local authorities and applies primarily to on-street parking. The scheme has been in operation since the 1970s and there are approximately 232,000 Blue Badges currently on issue in Scotland.

Administration of the Blue Badge scheme is devolved to the Scottish Parliament and Scottish Ministers have the power to define and amend the eligibility criteria for badges. Transport Scotland is responsible for setting out the framework of the scheme and for providing support to local authorities, which have responsibility for administering the scheme.

The Blue Badge scheme enables holders to access parking bays situated closer to where they want to go, for example, their place of employment or the shops. Badges relate to the individual, not a particular vehicle. Badge holders are exempt from certain parking restrictions and therefore, in Scotland, are allowed to park:

- on single or double yellow lines for as long as is required, unless there are restrictions on loading or unloading as indicated by yellow kerb dashes and/or signs on plates
- for free, and for as long as required, in on-street parking bays managed by parking meters and pay-and-display machines
- for free, and without a time limit (unless signs state otherwise) in on-street disabled parking bays, which are indicated by signs with a blue wheelchair symbol.



Individuals and organisations that support disabled people must apply to their local authority for a badge. If the applicant is over two and meets certain criteria, for example, they receive the higher rate of the mobility component of Disability Living Allowance or Personal Independence Payment at the appropriate rate; or if blind or registered blind, they are eligible for a badge without the need for assessment. In this instance receipt of a Blue Badge is known as a passported benefit. If an applicant is not in receipt of a passported benefit they will have to undergo an assessment in order to determine their eligibility for a badge.

Local authorities in Scotland are able to charge a statutory fee of up to £20 for issuing a Blue Badge. Not all local authorities in Scotland currently charge this fee, although the vast majority do.

Most on-street disabled parking bays in Scotland are enforceable. Anyone who is found to have parked in an on-street disabled bay who is not a Blue Badge holder is liable to receive a parking ticket. Misuse of Blue Badges by holders – for instance giving the badge to a family member to use for their benefit - is a criminal offence which can result in a £1,000 fine and confiscation of the badge.

The Blue Badge scheme does not apply to most off-street car parks, for example, it does not operate in privately owned car parks at supermarkets or airports. Off-street car park operators should provide parking spaces for disabled people, however, it is up to the car park owner to decide whether badge holders can park free of charge and whether or not they enforce use of the disabled parking spaces.

THE BLUE BADGE SCHEME

The Blue Badge scheme operates UK-wide, is administered by local authorities, applies primarily to on-street parking and is applicable to some off-street car parks. However, the Blue Badge scheme does not apply to all off-street parking, for example, in privately operated car parks at supermarkets.

Originally known as “the Orange Badge scheme”, the Blue Badge scheme has been in place since 1971 as a result of section 21 of the Chronically Sick and Disabled Persons Act 1970. This introduced a badge: “of a prescribed form to be issued by local authorities for motor vehicles driven by, or used for the carriage of, disabled persons.” Administration of the Blue Badge scheme is devolved to the Scottish Parliament and Scottish Ministers have the power to define and amend the eligibility criteria for badges. There are currently approximately 232,000 Blue Badges on issue in Scotland (Transport Scotland, Personal Communication, January 2016).

In addition, Blue Badges can also be issued to organisations supporting disabled people but must not be used by non-disabled staff members/volunteers for their own benefit. A Blue Badge issued to an organisation should only be displayed when picking up or dropping off disabled passengers.

The Blue Badge scheme enables holders to access parking bays situated closer to where they want to go, for example, their place of employment or the shops. Badge holders are exempt from certain parking restrictions and therefore, in Scotland, are allowed to park:

- on single or double yellow lines for as long as is required, unless there are restrictions on loading or unloading as indicated by yellow kerb dashes and/or signs on plates (individual local authorities can choose to exempt Blue Badge holders from this restriction)
- for free, and for as long as required, in on-street parking bays managed by parking meters and pay-and-display machines
- for free, and without a time limit (unless signs state otherwise) in ‘on-street’ disabled parking bays, which are indicated by signs with a blue wheelchair symbol. Drivers are encouraged to try to use these bays instead of parking on yellow lines (Transport Scotland, 2013a).

The scheme does not allow badge holders to park indiscriminately. For instance, badge holders cannot park over pedestrian crossings or in bus stops during their hours of operation. If a badge holder parks where their vehicle would cause an obstruction or danger to other road users, they

can be fined, receive a parking ticket, or have their vehicle removed (Transport Scotland, 2013a).

The Blue Badge scheme is recognised in all European countries. In 1998 the European Council (under [recommendation 98/376/EC](#)) introduced a standardised model for the format of Blue Badges and allowed for the reciprocal recognition of disabled parking badges. Anyone displaying a Blue Badge is entitled to the same concessions made to holders in that country, no matter their EU country of origin.

ELIGIBILITY

ELIGIBILITY FOR BLUE BADGES

The current eligibility criteria for Blue Badges are as follows.

Blue Badges can be issued by a local authority automatically, **without assessment**, if the applicant is over two and:

- receives the higher rate of the mobility component of Disability Living Allowance (DLA) or Personal Independence Payment (PIP) at the appropriate rate, eg
 - 8 points or more for the 'Moving around' descriptor of PIP, or
 - 12 points or more for the 'Planning and following journeys' descriptor of PIP; or
- was in receipt of the higher rate of the mobility component of DLA before PIP assessment, but did not receive appropriate PIP rates (described above), but has requested a [mandatory reconsideration](#) (ie have made a formal request to have the decision looked at again) from DWP within the last year; or
- was in receipt of a lifetime or indefinite award of the higher rate of the mobility component of DLA immediately before being assessed for PIP; or
- receives the War Pensioners' Mobility Supplement; or
- has received a lump sum benefit under article 15(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 at tariff levels 1-8 (inclusive); or,
- is blind or registered blind.

The criteria for badges, **following assessment** by the local authority is as follows. A badge may be issued if the applicant:

- regularly drives a vehicle and 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 the person to be unable to walk, or virtually unable to walk; or
- is unable to walk or virtually unable to walk by reason of a temporary but substantial disability which is likely to last for a period of at least 12 months beginning with the date on which the blue badge is issued; or
- is a child under three who is required to be accompanied by bulky medical equipment or kept near a motor vehicle so that they can be treated for their condition.

In 2013-14, 116,412 people in Scotland received a Blue Badge through a passported benefit (Scottish Government, 2015a). Applicants who are not in receipt of a passported benefit, such as PIP, can apply via the assessment route to their local authority. This is a standardised process across Scotland and usually takes the form of a desk-based assessment.

In cases where a desk based assessment cannot determine eligibility, the local authority is required to refer the applicant for an independent mobility assessment. This is undertaken primarily to determine whether a person meets the specific definition in the scheme of being “unable to walk or virtually unable to walk”.

Assessments are carried out [by independent mobility assessors](#) who are, for example, occupational therapists or physiotherapists who have not previously treated the applicant. If it is considered that an independent mobility assessment is required, it is the responsibility of the local authority to make the necessary arrangements for an assessment and applicants should not be charged for the assessment.

Decisions about whether an applicant meets the eligibility criteria are the responsibility of the issuing local authority. The decision by a local authority not to award a Blue Badge on the basis of eligibility can be challenged, under section 6 of the [Disabled Persons' Parking Badges \(Scotland\) Act 2014](#).

The [Disabled Persons \(Badges for Motor Vehicles\) \(Scotland\) Amendment Regulations 2015](#) requires local authorities to have a review process for decisions made relating to a person's eligibility for a Blue Badge. Under the regulations an applicant (or someone acting on their behalf) must submit their request for a review - in writing - within 28 days of the date of the local authority's decision letter and set out the reasons for their application.

The local authority must ensure that the review is carried out by someone who was not involved in the original decision and to provide notification of their decision to the applicant within 28 days of the date of the request for review. If the timescale is not met, the local authority is required to provide their reasons for any delay beyond 28 days.

HOW ELIGIBILITY HAS CHANGED

In 2010, the Scottish Government [undertook a consultation](#) on the reform of the Blue Badge Scheme in Scotland looking at: eligibility assessments; enforcement; blue badge design and security; administration; organisational badges and concessions.

In relation to eligibility, one of the main proposals was to change the definition of 'unable to walk' to 'virtually unable to walk' so that it was consistent with the definition used for the higher rate of mobility component of the Disability Living Allowance. The majority of respondents ([367 out of 505](#)) to the consultation were in favour of this change. See the [Disabled Persons \(Badges for Motor Vehicles\) \(Scotland\) Amendment Regulations 2011](#).

The most recent changes to eligibility have been in relation to welfare reform and the introduction of PIP. In April 2013, the Scottish Government introduced the [Welfare Reform \(Consequential Amendments\) \(Scotland\) Regulations 2013](#), in response to the replacement of DLA, with PIP for people of working age.

These new regulations allowed for anyone who was awarded PIP at twelve points for the “planning and following journeys” activity, or eight points or more for the “moving around” activity, to be eligible for a Blue Badge without assessment.

This change aimed to ensure that those individuals who had previously received the higher-rate mobility component of DLA, but no longer did so under PIP, would still be eligible for a Blue Badge. Potential loss of passported eligibility for a badge due to the change from DLA to PIP was a concern for badge holders. In 2013, [Bill Scott from Inclusion highlighted](#) this in oral evidence to the Welfare Reform Committee:

“For people who are currently on the higher-rate mobility component of DLA, the worry is not just the substantial loss of income [with the introduction of PIP] but the fact that their

means of accessing wider society will be in question. If they lose the higher rate, they will lose automatic entitlement to the blue badge, which assists people in parking in city centres and so on” (Scottish Parliament, 2013).

In [June 2014](#), two new eligibility criteria for a Blue Badge were introduced via the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2014.

First, the criteria were amended so that a Blue Badge could be given to an individual who did not receive PIP at a rate to passport automatically, but who has challenged that decision with the DWP (once issued, such badges are usually valid for one year).

Second, a change was made to ensure that those who had previously been in receipt of a lifetime or indefinite award of the higher rate mobility component of DLA remained eligible, without assessment, for a Blue Badge. There is no 'lifetime' or 'indefinite' equivalent under PIP; however, these recipients would have reasonably expected to have entitlement to a Blue Badge under DLA, were it not being replaced by PIP.

For a list of all the relevant legislation affecting eligibility, since 1971, see Appendix B.

POSSIBLE CHANGES TO ELIGIBILITY

The Scottish Government has previously looked at extending the eligibility criteria to people with severe forms of autistic spectrum disorder and those with very advanced forms of dementia (Scottish Government, 2010a). While a majority of respondents ([378 out of 500](#)) to the government's 2010 consultation were in favour of these changes, concerns were raised that:

- autism and dementia are not illnesses that affect ability to walk
- people with autism and dementia would be accompanied by carers who would be able to walk and not require a badge
- the scheme is already overprescribed and there are not enough designated parking spaces
- there is potential for abuse of the scheme carried out by relatives of those with autism or dementia
- there could be difficulties with defining the 'severity' of autism (Scottish Government, 2010b).

In 2013, Transport Scotland issued a call for evidence: “[Blue Badge Scheme: Potential Extension to Eligibility Criteria](#)” about the potential extension of the eligibility criteria for Blue Badges to include people who, as a result of a diagnosed 'mental disorder', have little or no awareness of danger from traffic (Transport Scotland, 2013b). In this instance, the definition of 'mental disorder' used was that contained in the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#), which states that 'mental disorder' means any mental illness; personality disorder; or learning disability.

Analysis of the consultation responses [was published in December 2014](#) and showed there was widespread agreement that the eligibility criteria should be extended. However, there was also broad agreement that the definition of 'mental disorder' (as defined by the 2003 Mental Health Act) is too wide and unspecific (Transport Scotland, 2014a). Therefore, it could potentially cover people who should not be eligible for a Blue Badge.

A working group (including members from local authority Blue Badge administration staff, health and social care professionals and representatives from disability organisations) was established to look at extending the eligibility criteria. Group discussions have focused on:

- whether the definition based on mental disorder, and a threshold based on safety, are appropriate;

- whether the group of individuals who may be eligible as a result of a change to the qualifying criteria are already known to health authorities and/or social care departments;
- options around how an extension would work in practice. It was accepted that agreeing the definition and gathering further data would be required before making this decision.

In addition to this, [Petition PE01576: Blue Badges for children with Autism and Down's Syndrome](#) (lodged 13 September 2015) called on the Scottish Government to extend eligibility of the Blue Badge scheme to those aged under 16 with autism or Down's Syndrome.

The Scottish Parliament also debated the Motion S4M-13357 "[Extension of the Blue Badge Eligibility Criteria](#)", in the name of Duncan McNeil MSP, in [Member's Business](#) on 16 September 2015. During this debate there was general agreement from members that the criteria ought to be extended to include children with autism or Down's Syndrome (Scottish Parliament, 2015).

The working group submitted its recommendations to the Minister for Transport and Islands on 30 November 2015. From 1 April 2016, eligibility will be extended to people with mental disorders as part of a 12 month pilot that will operate across all 32 local authority areas. (Transport Scotland, Personal Communication, January 2016).

According to the [2016 regulations](#), in order to be considered eligible under the pilot criteria an individual must show that they have a diagnosis of a 'mental disorder' as per the 2003 Mental Health Act and:

- Receive the highest or middle rate of the care component of DLA
- Receive the higher or lower rate of Attendance Allowance
- Have been assessed for PIP as having severely limited ability or limited ability to carry out daily living activities in respect of communicating verbally, reading and understanding signs, symbols and words and engaging with other people face to face.

Badges will be issued for 12 months (which is the current minimum amount of time a badge can be valid for) regardless of when during the pilot the badge was awarded.

In 2014, the Welsh Assembly passed the [Disabled Persons \(Badges for Motor Vehicles\) \(Wales\) \(Amendment\) Regulations 2014](#) which allows those with a cognitive impairment, ie people who cannot plan and follow the route of a familiar journey, to be eligible for a Blue Badge (as of January 2015).

This does not appear to give such individuals automatic entitlement to a Blue Badge. According to the "[Blue Badge Scheme in Wales: Blue Badge eligibility criteria](#)" (Welsh Government, 2015a) an individual needs to provide a letter of support from a relevant healthcare professional explaining the diagnosis and provide evidence that they receive the higher rate care component of DLA. For people aged over 64, confirmation of a diagnosed cognitive impairment and evidence of attendance at a memory clinic is required.

FUTURE SOCIAL SECURITY POWERS

At present, Blue Badges can be issued without assessment for some recipients of DLA or PIP as outlined previously. Under the Scotland Bill 2015-16, responsibility for non-means tested disability benefits including DLA and PIP will be devolved to the Scottish Parliament. How any new disability benefits will relate to the operation of/entitlement to the Blue Badge scheme will have to be determined by a future Scottish Government.

In undertaking its inquiry into the Future Delivery of Social Security in Scotland, the Welfare Reform Committee received a number of written submissions which looked at the possibility of

introducing a mobility element to Attendance Allowance (AA), suggesting that this could potentially allow for passported eligibility for a Blue Badge. AA helps pay for personal care for a person aged 65 and over who has a physical disability (eg blindness) or a mental disability (eg including learning difficulties) or both.

For example, [Age Scotland](#) wrote in its submission:

“Receipt of DLA/PIP acts as a “passport” to a Blue Badge, but AA does not; DLA/PIP recipients can access the Motability scheme but AA recipients cannot.

AA recipients can apply for a Blue Badge but the process is more convoluted, making it particularly unsuited to people with severely impaired mobility or cognitive impairments such as dementia.

This is manifestly discriminatory; it means that the age of a person when they became disabled determines the support available, not the severity of the disability itself” (Scottish Parliament Welfare Reform Committee 2015a)

In addition, [Parkinson’s UK](#) wrote:

“The lack of a mobility component [to AA] also means that there is no passport to the Blue Badge parking scheme, which people affected by Parkinson’s often describe as a lifeline. The long application form is a barrier for many older people. Parkinson’s UK believes that AA recipients with mobility issues should be able to passport to both Motability and Blue Badges” (Scottish Parliament Welfare Reform Committee 2015a)

[CPAG Scotland](#) also explored the possibility of Blue Badges being issued automatically under any new system:

“Where possible, the system by which passported benefits and premiums are accessed should be automated. This might mean, for example, that blue badges are issued automatically when an award for enhanced rate mobility PIP is made without the individual having to make a separate application” (Scottish Parliament Welfare Reform Committee 2015a).

CHARGES FOR THE BLUE BADGE

Individuals (or organisations) apply to the local authority in which they are resident for a Blue Badge and badges are usually valid for up to three years. Applications for renewal of badges must be made to the relevant local authority before the expiry of the existing badge.

Local authorities in Scotland are able to charge a statutory fee of up to £20 for issuing a Blue Badge. The £20 maximum was introduced in the [Disabled Persons \(Badges for Motor Vehicles\) \(Scotland\) Amendment Regulations 2007](#) (the previous maximum had been £2). In comparison, the maximum fee [a local authority in England](#) can charge for a badge is £10 (Department for Transport, 2014). [In Wales](#) the badge is free for individuals (but not for organisations), as the Welsh Government provides funding to local authorities to cover the cost of the Blue Badge through the Revenue Settlement Grant (Welsh Government, 2015b).

Not all local authorities in Scotland currently levy a fee for a Blue Badge, although the vast majority do. For example, Dumfries and Galloway does not charge a fee, but says that this may be reviewed in the future. Most local authorities charge the maximum £20 fee although some do charge less, with West Dunbartonshire charging the lowest amount of £2.92 (See Appendix A for a list of authorities and their respective fees).

In the Scottish Government’s 2010 consultation, respondents were asked for their views on whether the maximum fee should be raised above £20. According to the [Blue Badge Reform](#)

[Consultation Analysis Report](#) (Scottish Government 2010b) the majority of respondents opposed an increase (410 out of 497) with the most common response being that many Blue Badge holders cannot afford the £20 charge. On the other hand, according to Transport Scotland (2012) research when compared to the cost of parking charges, people considered the £20 charge demonstrated value for money. However, concerns were raised at the discrepancies in costs for Blue Badges between different local authorities.

MISUSE OF BLUE BADGES

Blue Badge holders have certain responsibilities placed upon them to ensure proper use of their badge. A badge holder must never give their badge to friends or family in order to allow them to benefit from parking concessions – even if they are helping the holder, for example, by doing their shopping or collecting a prescription for them. In addition, the badge should not be used to allow non-disabled people to take advantage of the parking benefits while the holder sits in the car. A badge holder must never use a copied badge to park or alter the details on a badge (Transport Scotland, 2013a).

Misuse of a Blue Badge is a criminal offence which can result in a £1,000 fine and confiscation of the badge. Blue Badges are owned by the local authority, not the individual. Therefore, the authority can ask for the return of any badge it considers is being misused. Badges can also be confiscated by an enforcement officer.

If a badge is confiscated by an enforcement officer due to misuse, under the [Disabled Persons \(Badges for Motor Vehicles\) \(Scotland\) Amendment Regulations 2015](#) it must be returned to the badge holder by the issuing local authority as soon as reasonably practicable, and within 14 days. If the 14 day deadline is not met, the local authority must explain the reason for the delay to the badge holder in writing. This does not apply to badges which have expired, have been cancelled or that should have been returned to the local authority.

DISABLED PERSONS' PARKING BADGES (SCOTLAND) ACT 2014

The primary aim of the [Disabled Persons' Parking Badges \(Scotland\) Act 2014](#) ("the 2014 Act") is to improve the ability of local authorities to tackle misuse of the Blue Badge scheme. This includes, for example, the use of Blue Badges by family or friends when the individual to whom the badge has been issued is not travelling with them or the use of an out-of-date badge. The 2014 Act gives local authorities stronger enforcement powers (as outlined above) than previously held, including the ability to cancel or confiscate a badge they consider is being misused.

The 2014 Act has six main provisions. The Act:

- states that the form of a Blue Badge must fulfil any requirements specified in regulations or set administratively by the Scottish Ministers;
- gives local authorities the power to cancel badges which are no longer held by the person to whom they were issued;
- extends those provisions which allow a constable (or other enforcement officer) to examine a blue badge and allow for confiscation of the badge where it is apparent it should have been returned to the local authority or has been cancelled, misused or forged;
- makes it an offence to use a badge that should have been returned to the local authority or to use a badge that has been cancelled;
- gives local authorities the power to designate certain persons (other than parking attendants in uniform) to examine and retain badges in reviewing matters relating to fraud or misuse of a blue badge;

- allows for the making of regulations to require local authorities to have review processes in place for applicants who have been refused a blue badge on grounds of eligibility.

The 2014 Act came into effect on 30 March 2015. Glasgow City Council has been enforcing the new rules since May 2015, following a leaflet campaign to ensure drivers were aware of the new regulations and penalties. It was reported that, as a result of the new powers, 200 Blue Badges have been confiscated by Glasgow parking attendants for misuse and 85 vehicles have been impounded (Harrison, 2015).

THE BLUE BADGE IMPROVEMENT SERVICE

In 2012, the Blue Badge Improvement Service (BBIS) was introduced to tackle Blue Badge fraud by introducing a nationwide registration system for use by local authorities and a new - harder to counterfeit or alter - badge design. The BBIS also introduced an online application system for Blue Badges, via local authorities, with some of these details then fed into the national database of Blue Badge users. This national database has a number of benefits, including allowing parking enforcement officers to check the validity of Blue Badges issued outwith their local authority area (Department of Transport, 2013).

In January 2016, Scotland's 32 local authorities agreed to allow police officers to access information held in the BBIS database. The Police consider that this will allow for better enforcement of the Blue Badge scheme and will support councils in identifying misuse of Blue Badges (BBC, 2016).

ON-STREET DISABLED PARKING

CURRENT ENFORCEMENT REGIME

At present, anyone other than a Blue Badge holder who parks in an enforceable disabled persons' parking place, is liable to receive a parking ticket.

Enforcement of bays is carried out either by the local authority or the police. [Fourteen local authorities](#) (as of October 2014) across Scotland operate decriminalised on-street parking enforcement. This means that, under section 40 of the Road Traffic Act 1991, the local authority has assumed control of the enforcement of parking offences within their areas from the police.

In these areas, enforcement is carried out by parking attendants employed by the local authority, or a contractor appointed to undertake this task by the authority. Parking attendants can issue Parking Charge Notices (PCNs) for parking offences, which are enforceable by the local authority without recourse to the courts. Appeals against PCNs are heard by an Independent Parking Adjudicator. The level of the fixed penalty is set by the local authority.

In other local authorities, parking offences are still enforced by the police. In areas where police are responsible for parking enforcement, offences can be enforced through the courts, normally only after an offender chooses not to pay a parking ticket. An offender can - on conviction - be the subject of fines up to level three on the summary fine standard scale (ie up to £1000).

DISABLED PERSONS' PARKING PLACES (SCOTLAND) ACT 2009

The main aim of the [Disabled Persons' Parking Places \(Scotland\) Act 2009](#) ("the 2009 Act") was to prevent disabled persons parking places from being used by those who are not entitled to them (ie non-Blue Badge holders) by ensuring enforcement action can be taken. The 2009 Act

places a duty on local authorities to promote proper use of parking places for disabled persons' vehicles.

The 2009 Act required:

- every local authority to undertake a one-off audit of all disabled persons' parking places within their area. Local authorities had 12 months from the Act coming into force to identify all advisory disabled parking spaces, whether on-street (residential), or off-street in private car parks (including supermarkets)
- every local authority to convert all appropriate (i.e., still in use) advisory on-street disabled persons' parking places into enforceable parking places. Any parking places deemed unnecessary would be removed (for example, where the person has moved away).

The 2009 Act also has provisions relating to off-street disabled parking which are covered later in this briefing.

Under section 12 of the 2009 Act, local authorities are required to publish annual reports of their progress within three months of the reporting period. The reporting period is 31 March, so the first reports were due by the end of June 2011. Scottish Ministers also have to publish reports within six months of the reporting period, so the first report from them was due at the end of September 2011.

The latest report from Scottish Ministers, the [Disabled Persons' Parking Places \(Scotland\) Act 2009 Annual Report on Local Authorities' Functions 1 April 2014 to 31 March 2015](#), provides information on progress of the 2009 Act. The report shows a range of activity from Scotland's 32 local authorities. For example, Aberdeen City Council has appointed an Enforcement Officer with specific duties to deal with the misuse/abuse of Blue Badges and Stirling Council has amended a Traffic Regulation Order making all on-street disabled spaces enforceable at all times (previously they were only enforceable during daytime hours).

The report also highlights the pressures some local authorities are facing in implementing their obligations under the 2009 Act. For example, in the "other information" provided by Argyll and Bute Council to Ministers, the local authority reported that:

"The DPPP places significant duties and obligations on Argyll and Bute Council to progress and regulate disabled parking places. This has placed considerable pressure on the existing available resources to implement the requirements of the Act. Additional staff resources or funding has not been provided to support the progression of the new duties specified by the Act and therefore the process is taking longer than hoped as we prioritise and balance the time allocation of the available staff resources" (Transport Scotland 2015).

Clackmannanshire also noted budgetary concerns as well as staffing pressures:

"Clackmannanshire Council are a small local authority where we do not have parking enforcement. We are still processing TRO's due to staffing levels and workloads these are taking time ... Budget wise we only put plates up were the blue badge space is getting misused" (Transport Scotland 2015).

Similar comments about additional pressures and lack of resources were made by Midlothian and Renfrewshire Councils.

REQUESTS FOR ON-STREET DISABLED PARKING BAYS

Qualifying individuals can apply to their local authority for an on-street (and therefore enforceable) disabled parking place to be created near to their residence. In order to be considered a qualifying individual the applicant must hold a Blue Badge and have a suitable vehicle registered at their address. Under section 5 of the 2009 Act, requests for spaces can be made by a person acting on behalf of the qualifying person in order to cover circumstances when the badge holder is unable to make the request themselves. From 1 April 2014 to 31 March 2015, 2,720 requests were made for a disabled street parking order under the 2009 Act (Transport Scotland, 2015).

Applications for an on street disabled parking place can also be made by an organisation which has been issued a Blue Badge. The organisation must have a vehicle registered at the organisation's address which is suitable for use by disabled people.

Once an application has been received (and the authority is satisfied that the applicant is a qualifying person) the local authority must ascertain if it is possible to identify a suitable street parking place, from which there is convenient access to the person's address. If the authority decides that it is possible, it then should identify such a parking place.

The authority must next determine if there are any factors which would prohibit them creating a parking place, for example, places cannot be created on private roads. In addition, the authority must take cognisance of its duties under the Road Traffic Act 1984 (section 45(3) and section 122) including, for instance, the need to maintain the free movement of traffic, the possible impact on local amenities and the importance of allowing the safe and convenient use of public service vehicles by passengers. Authorities can also refuse the request for a parking place from a qualifying person if, for example, the applicant already has a driveway or other off-street parking facility.

If there are no prohibiting factors, then the authority should commence the statutory procedure for making a disabled street parking order as (per section 5(3) (b) of the 2009 Act). These are a type of Traffic Regulation Order (TRO). TROs are legal orders made by local authorities in order to apply Traffic Management controls to, for example, roads or car parks. TROs are always advertised in the local press with a public notice detailing the reasons for the proposed changes and the likely effects they will have, giving residents the opportunity to voice their concerns/objections.

Once the local authority has started the statutory procedure it must, as soon as is reasonably practical, provide a temporary, advisory on-street disabled parking place until the whole procedure is complete. However, as advisory bays are not enforceable, Blue Badge holders will have to rely on the courtesy of other drivers not to park in them.

As previously mentioned, local authorities are required to publish an annual report on their functions under the 2009 Act. The 2009 Act states that this report must contain information about the period of time, in each case, between the identification of a parking place and the starting of the related statutory procedure. There is considerable variance across Scotland's local authorities in the time between identifying a parking place and commencing the statutory procedure for making a disabled street parking order. In 2014-15 this ranged from within one week in Shetland to between 12 and 36 months in Argyll and Bute (Transport Scotland, 2015).

Authorities are also required to report on the period of time between the start of the statutory procedure and the making of the order. Again, there is variance across Scotland with some authorities taking 10 weeks and others up to 24 months (Transport Scotland, 2015).

Any accompanying signs for the statutory space must be in place before the space can become enforceable. At present these are made under the [Local Authorities' Traffic Orders \(Procedure\) \(Scotland\) Regulations 1999](#). Under the Scotland Bill 2015-16, powers over road signs (this includes road markings) will be transferred to the Scottish Parliament. What impact this may have, if any, is uncertain.

Although requests for on-street residential bays are made by specific individuals/organisations, the disabled parking place is not solely for their use. Any Blue Badge holder is eligible to park in the space created. (Transport Scotland, 2013a) Consequently, an applicant should not be charged for the creation of the bay.

OFF-STREET DISABLED PARKING

The Blue Badge scheme does not apply to all off-street car parking, for example in privately operated car parks at supermarkets or airports. Off-street car park operators should provide parking spaces for disabled people. The Equality Act 2010 requires service providers to make 'reasonable adjustments' for disabled people in order for them to access their service, be it a supermarket or hospital. However, it is up to the car park owner to decide whether badge holders can park free of charge and whether or not they enforce use of the disabled parking spaces.

Transport Scotland (2012) research "[The Use and Value of the Blue Badge Scheme](#)" found that most participants considered there should be more enforcement officers in private off-street car parks such as supermarkets and shopping centres where it was perceived there was little monitoring of spaces designated as being for disabled persons.

Under sections 6-8 of the 2009 Act, local authorities have responsibilities regarding off-street car parking enforcement. As part of their initial duties under the Act local authorities were required to identify every advisory disabled off-street parking place in its area at the time the Act came into force.

Once identified, local authorities were to enter into negotiations with the owners of existing off-street car parks containing disabled persons' spaces to see if these could be made enforceable. In those instances where they could not come to an agreement with the owner to make the spaces enforceable, local authorities are obliged to continue to seek such agreement at least once every two years.

In the last reporting period (2014/15) local authorities undertook a range of activities under this part of the 2009 Act (Transport Scotland, 2015). Edinburgh Council distributed its biennial letter drop to Non-Domestic Rate (NDR) paying premises about the prospect of enforcing their disabled spaces and Renfrewshire Council carried out a consultation with local businesses which ended in June 2015. However, Shetland Islands Council reported a lack of appetite from new developments for making any agreement with them to start the statutory process of making disabled parking enforceable and Moray Council stated that; "no local businesses wished to have Moray Council create a legally enforceable Traffic Regulation Order for their premises" (Transport Scotland, 2015).

In addition, local authorities monitor any new developments granted planning permission, which contain disabled persons' parking, with a view to entering into negotiations to make these spaces enforceable.

HOSPITAL PARKING

Although the Scottish Government abolished parking charges for patients, visitors and staff at hospitals as of 31 December 2008, charges for parking - including in disabled bays - remain at PFI hospitals. These are the [Glasgow Royal Infirmary](#), the [Royal Infirmary of Edinburgh](#) and [Ninewells Hospital](#) in Dundee.

In a recent [Scottish Government news release](#) (2015b) Shona Robison, the Cabinet Secretary for Health, Wellbeing & Sport said:

"I would like to be able to abolish charging at the three PFI car parks but, unfortunately, these facilities are locked into long-term contracts with operators which precede this Government. We continue to keep these under review."

It should be noted that, although there are no parking charges at the other hospitals, this does not mean that disabled parking spaces are enforced. This is still the responsibility of the car park owner. However, Fife Council has, after discussions with NHS Fife, made an order that includes enforcement of the disabled persons' parking places at the Queen Margaret Hospital complex (Transport Scotland, 2015).

APPENDICES

APPENDIX A

| Authority | Charge (Y/N) | Amount |
|---|--------------|--------|
| Aberdeen City | Y | £20 |
| Aberdeenshire | Y | £20 |
| Angus | Y | £20 |
| Argyll & Bute | Y | £20 |
| Clackmannanshire | Y | £20 |
| Comhairle nan Eilean Siar | Y | £20 |
| Dumfries and Galloway | N | N/A |
| Dundee | Y | £20 |
| East Ayrshire | Y | £20 |
| East Dunbartonshire | Y | £20 |
| East Lothian | Y | £20 |
| East Renfrewshire | Y | £20 |
| Edinburgh | Y | £20 |
| Falkirk | Y | £20 |
| Fife | N* | N/A |
| Glasgow | Y | £20 |
| Highland | Y | £20 |
| Inverclyde | Y | £20 |
| Midlothian | Y | £20 |
| Moray | Y | £20 |
| North Ayrshire | Y | £20 |
| North Lanarkshire | Y | £20 |
| Orkney | Y | £10 |
| Perth & Kinross | Y | £20 |
| Renfrewshire | Y | £20 |
| Scottish Borders | Y | £20 |
| Shetland Islands | Y | £13.50 |
| South Ayrshire | Y | £20 |
| South Lanarkshire | Y | £20 |
| Stirling | Y | £20 |
| West Dunbartonshire | Y | £2.92 |
| West Lothian | N | N/A |

*Fife Council [will introduce a £20](#) fee in 2016.

APPENDIX B

| <u>Legislation</u> | <u>Effect</u> |
|---|---|
| Chronically Sick and Disabled Persons Act 1970 | <p>Section 21 introduces a badge “of a prescribed form” to be issued by local authorities for motor vehicles driven by, or used for the carriage of, disabled persons. The Act states that local authorities should maintain a register showing the holders of badges issued and the vehicle or vehicles for which each of the badges is held. It also prescribes that a badge issued under section 21 is the property of the issuing authority, shall be issued for such period as may be prescribed, and shall be returned to the issuing authority in such circumstances as may be prescribed.</p> |
| The Disabled Persons (Badges for Motor Vehicles) Regulations 1975 | <p>These regulations outline the form of the disabled person’s badge and its issue period (three years); allows for the duplication of a lost or stolen badge; introduces a fee of no more than £1 for a badge and outlines grounds under which a local authority can refuse a badge. It allows for badges to be issued to “institutions for the disabled”. In terms of eligibility it sets out a number of criteria for a badge including: if the person is an amputee or has the absence of a limb which causes difficulty in walking; if a person suffers from defects of the spine or the central nervous system which makes control of the lower limbs difficult; is registered blind; is dependent on use of a wheelchair outside of the home or has a permanent or substantial difficulty which causes considerable difficulty in walking.</p> |
| The Disabled Persons (Badges for Motor Vehicles) Regulations 1982 | <p>Introduces "receives a mobility allowance pursuant to section 37A of the Social Security Act 1975" as eligibility criteria. It also raises the maximum fee to £2.</p> |
| The Disabled Persons (Badges for Motor Vehicles) (Amendment) Regulations 1991 | <p>Introduces two new criteria to descriptions of disabled persons: (i) receives a mobility supplement under article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(2) including such a supplement by virtue of any other scheme or order or under article 25A of the Personal Injuries (Civilians) Scheme 1983(3); and (ii) drives motor vehicles regularly, has a severe disability in both upper limbs and is unable to turn by hand the steering wheel of a motor vehicle even if that wheel is fitted with a turning knob.</p> |

| | |
|---|--|
| <u>The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000</u> | <p>Amends the 1970 Act to make reference to 73 of the Social Security Contributions and Benefits Act 1992.</p> |
| <u>The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2007</u> | <p>Introduces eligibility criteria for those over the age of two who (i) has a medical condition that requires that they be always accompanied by bulky medical equipment (such a ventilators, feed pumps or oxygen administration equipment) which can be kept in a motor vehicle but which cannot be carried around with the child without great difficulty; (ii) a child who has a medical condition that requires that they must always be kept near a motor vehicle so that he can if necessary be treated for that condition in the vehicle or taken quickly in the vehicle to a place where they can be so treated. It also introduces eligibility criteria for someone who drives a vehicle regularly and has a severe congenital disability in both arms so is therefore unable to operate, or has considerable difficulty in operating, all or some types of parking meter; and for an individual who is unable to walk or has considerable difficulty in walking by reason of a temporary but substantial disability which is likely to last for a period of at least 12 months. It also raises the maximum fee for a badge from £2 to £20.</p> |
| <u>Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2011</u> | <p>Amends the criterion from “has considerable difficulty in walking” to “virtually unable to walk”.</p> |
| <u>Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment (No. 2) Regulations 2011</u> | <p>Imposes a requirement to obtain an independent mobility assessment as a condition of eligibility where there is any doubt as to whether the applicant was unable or virtually unable to walk. (Prior to this date the eligibility assessment was normally carried out by the applicant’s General Practitioner).</p> |
| <u>Welfare Reform (Consequential Amendments) (Scotland) Regulations 2013</u> | <p>These regulations make provision for the following people in receipt of the Mobility Component of PIP to be automatically entitled to a blue badge: 1) those awarded 12 points (enhanced rate) for “planning and following journeys” which includes those who cannot follow the route of a familiar journey without another person, assistance dog, or orientation aid or, 2) those awarded 8 points (standard rate) for “moving around”.</p> |

[Disabled Persons \(Badge for Motor Vehicles\) \(Scotland\) Amendment Regulations 2014](#)

This introduces two further passporting arrangements covering people who were in receipt of HRMC of DLA but who no longer get that award due to being assessed for PIP. The first new eligibility criteria applies to those who do not receive PIP at the rate to qualify automatically for a blue badge and who have challenged that decision with DWP. A badge issued under this criteria is only valid for a year. The second new eligibility criteria ensures that those that were in receipt of a 'lifetime' or 'indefinite' HRMC of DLA award will retain passporting entitlement to a blue badge. Such persons would have reasonably expected to have retained passporting entitlement under DLA, and there is no equivalent 'lifetime' or 'indefinite' period of issue under PIP.

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The following information specialist contributed to this briefing:

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[SB 08-31 Disabled Persons' Parking Places \(Scotland\) Bill \(208KB pdf\)](#)

[SB 14-24 Disabled Persons' Parking Badges \(Scotland\) Bill \(493KB pdf\)](#)

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