

**Blue Badge (Disabled Parking) Enforcement Policy**

DRAFT

## CONTENTS

1. Overview
  - 1.1 Legislation
2. Prevention
3. Types of misuse
4. Detection
  - 4.1 Special Operations (including Event Days)
5. Investigation
6. Prosecution
  - 6.1 Evidential test
    - 6.1.1 Public interest test
  - 6.2 Circumstances where it may be in the public interest to prosecute
  - 6.3 Circumstances where it may be deemed not to be in the public interest to prosecute
  - 6.4 Alternative disposals

## 1. Overview

The Blue Badge (disabled parking) scheme provides a national arrangement of parking concessions for those people who have a permanent or substantial disability. The Department of Transport has issued Blue Badge scheme local authority guidance<sup>1</sup> on administering and enforcing the scheme. The Council, and its partners, are responsible for the administration and enforcement of the scheme. Not everyone who applies automatically qualifies for a Blue Badge and those who do not automatically qualify may need to be professionally assessed. This may seem a little onerous on applicants, but the application process must be fair and robust to ensure its overall integrity.

The misuse of the Blue Badge scheme undermines the benefits of the scheme, impacts upon local traffic management and creates hostility amongst other Blue Badge holders and members of the public. It can result in a genuinely disabled person being unable to access designated parking spaces.

In consultation<sup>2</sup> with the Council's stakeholders<sup>2</sup>, this Blue Badge Enforcement and Prosecution Policy (the 'Policy') has been developed and shows the Council is committed to making life easier for its disabled residents (e.g. by ensuring disabled bays are always accessible for those who need them). Additionally, to set out the measures available to the Council to prevent, detect and deal with Blue Badge misuse.

### 1.1 Legislation

The following legislation is relevant to enforcement against Blue Badge misuse:

- Traffic Management Act 2004
- Chronically Sick and Disabled Persons Act 1970 s21(4b)
- Road Traffic Regulation Act 1984 s115 – s117 (for misused badges)
- Fraud Act 2006 (ss1, 2, 6 and 11, and s3 of the Forgery and Counterfeiting Act 1981, for counterfeit badges)
- Theft Act 2006 (ss1 and 22, for stolen badges)
- The Disabled Persons (Badges for Motor Vehicles) Regulations 2000
- The Disabled Persons Parking Badges Act 2013 (as amended)
- Police and Criminal Evidence Act 1984
- Criminal Procedures and Investigation Act 1996

It is an offence under section 117 of the Road Traffic Regulation Act 1984 for a Blue Badge to be misused by a non-disabled person, with a maximum fine on conviction of £1,000. Local authorities have the power to withdraw the badge if the holder constantly misuses it or allows it to be misused by others. Section 94 of the Traffic Management Act 2004 further tightened the legislation by giving uniformed enforcement officers the power to inspect Blue Badges.

---

<sup>1</sup> <https://www.gov.uk/government/publications/the-blue-badge-scheme-local-authority-guidance-england>

(Updated 30 August 2019)

<sup>2</sup> Physical Disabilities Reference Group, Wheelchair Users Group, Carers Reference Group

## 2. Prevention

A robust application process is operated to minimise the number of false applications being successful. This includes multiple automated system checks throughout the application process.

As well as utilising available legislation, the Council actively participates in the National Fraud Initiative (NFI). Most database matches involve badge holders who have moved out of the borough and where the badges have already expired, or the badge holder is deceased. At present, the badges in question are not recovered by the parking service, but the return or destruction of badges is encouraged where appropriate, in order to remove them from circulation and reduce the risk of them being used fraudulently.

Every successful applicant for a Blue Badge will be issued with the Department for Transport's *The Blue Badge scheme: rights and responsibilities*<sup>3</sup> in England. This provides the badge holder with the information they need to ensure the badge is used appropriately

Each successful applicant will also be required to sign a declaration confirming that they will not allow someone else to use a badge that has been issued to them.

It is recognised that having a Blue Badge stolen causes a significant amount of upset, distress and inconvenience. Furthermore, the cost of repairs (i.e. to cars that are broken into to access Blue Badges) can run into hundreds of pounds. The following comments are typical of the experience people have, having had their Blue Badge stolen and one of the reasons why this policy has been developed:

*“My blue badge was stolen from my car (on the disabled bay in front of my house); the car window was smashed in the process. The realisation that my blue badge had been stolen was a shock to the system and made me feel angry, vulnerable and scared. The stress continued weeks after the event due to the hassle of getting a replacement badge as well as a new windscreen for the car with a hefty cost. Simply put it was a nightmare which I do not wish on others to experience.”*

The following measures will continue to be taken by the Council to prevent this happening to others:

- actively promote the purchase and use of “anti-theft” devices (Blue Badge protectors) via the Council’s social media channels and newsletters.
- continue to offer and improve upon the free resident Blue Badge permit scheme to reduce the number of times a Haringey Blue Badge holder has to display their actual Blue Badge thus reducing the opportunity for theft.
- publicise enforcement operations and outcomes via regular reports and social media.

---

<sup>3</sup> <https://www.gov.uk/government/publications/the-blue-badge-scheme-rights-and-responsibilities-in-england>  
(Updated 9 July 2020)

### 3. Types of misuse

It is known that the vast majority of Blue Badge holders use their badges responsibly. However, there are individuals who misuse the scheme. This misuse can take a number of forms:

Misuse by the badge holder:

- parking in the wrong place or parking for too long where there is a time limit.<sup>4</sup>
- 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.
- making a fraudulent application (for example, providing false information on the application form) or using a badge obtained fraudulently.

Misuse 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 faking badges.
- using a stolen badge.
- using a fake badge.

These lists are not exhaustive.

It's a criminal offence to misuse a Blue Badge. If someone is found to be in contravention of the Blue Badge scheme, this Policy seeks to ensure that:

- the message is clear that misuse of the scheme will not be tolerated.
- support is provided to Blue Badge holders to help them to understand their responsibilities as badge holders and reduce misuse.
- the Blue Badge scheme is enforced in a fair and consistent manner.
- appropriate and proportionate action is taken to stop any misuse.
- criminal proceedings are undertaken in line with the approach to prosecution set out in this Policy<sup>5</sup> when necessary.

In cases where the misuse is by someone other than the badge holder, the Council will contact the badge holder to remind them of their responsibility to ensure the badge is not misused and that allowing another person to misuse the badge is a criminal offence. If the misuse continues, the badge holder will be notified that further misuse may lead to a refusal to renew the Blue Badge and that the Council may consider criminal proceedings if the misuse continues.

---

<sup>4</sup> Blue Badge holders are permitted to park for up to 3 hours on single and double yellow lines

<sup>5</sup> Section 6 details the approach to prosecution

The Council may receive information on potential Blue Badge misuse from the public, its employees and other third parties. It will consider all allegations made and determine the appropriate action to be taken. Actions may range from reminding the badge holder of their responsibilities to criminal investigation, dependent on the individual circumstances of the allegation.

#### **4. Detection**

As part of the Council's new parking IT solution<sup>6</sup>, its Civil Enforcement Officers (CEOs) inspect vehicles that are using a Blue Badge parked on the public highway and in car parks. As part of their routine daily duties, the CEOs input the Blue Badge number into their handheld computers which initiates an automatic check against the UK-wide DfT national database. Where there is a "hit" against the database, an automated alert (including GPS location of the offending vehicle) is sent to designated Council officers, in order to assess the situation and determine what action needs to be taken. This may result in the issue of a penalty charge notice (PCN) and removal of the vehicle. Any PCN issued will be treated separately to the offences related to the misuse of a disabled persons badge; the charge can be paid or challenged using the appropriate methods outlined on the notice itself.

Since 2007, Blue Badges have included an anti-fraud hologram, additional wording identifying the front of the badge, and (on the individual badge) a gender-specific serial number on both sides of the badge. Since 2011, they have also included sophisticated anti-fraud technologies and specialist security printing techniques to prevent the badge being copied, faked or altered.

##### **4.1 Special Operations (including Event Days)**

As well as its CEOs carrying out daily checks, the Council will endeavour<sup>7</sup> to use its CEOs and authorised officers<sup>8</sup> to carry out weekly operations, particularly around the Tottenham Hotspur Stadium when events are taking place and other known "hotspots".

Where intelligence suggests particular areas of Blue Badge misuse, undertaking operations to target these areas will be considered. On approaching a member of the public, officers will produce a photographic identification card. Body-worn video cameras will be worn to record the event from first identifying the driver through to concluding the inspection. Officers will clearly advise when recording is taking place and adhere to its policy<sup>9</sup> regarding the use of body-worn video cameras.

---

<sup>6</sup> Taranto by TSL which was implemented on 6 April 2021

<sup>7</sup> For health and safety reasons, these are generally subject to police officers being available to support special operations

<sup>8</sup> Authorised by the relevant Council Director and under section 21 of the Chronically Sick and Disabled Persons Act 1970

<sup>9</sup> 1<sup>st</sup> published May 2017 and available from Haringey Enforcement Team

An enforcement officer may require any person that is in a vehicle or appears to have been in or about to get into a vehicle displaying a Blue Badge to produce the badge for inspection. Failure to do so is a criminal offence.

The enforcement officer will establish, at the roadside, whether the badge is valid and that the badge holder is using the badge for the journey to or from the location where the vehicle is parked. They will do this by questioning the person(s) with the vehicle, making background enquires with Parking Services' operational control office and making notes of conversations and details. Officers may make further enquiries using the information provided by the enforcement officer by accessing the DfT Blue Badge database. Using this system, they may access personal details of the badge holder including name, address, and date of birth. They may also be able to establish a telephone number, where the badge holder may be telephoned to establish their whereabouts if not present with the vehicle.

Where a CEO or authorised officer has established reasonable grounds that a Blue Badge is invalid or being misused, it may be retained by that officer.

In circumstances where the badge has been retained by a CEO or authorised officer because reasonable grounds were established to consider that it was being misused, it will be returned to the issuing authority.

Where valid Haringey Blue Badges have been seized in circumstances outlined in this procedure (due to misuse), badge holders will need to contact the Haringey Concessionary Travel Team in order to arrange collection of the badge. It is not the intention of this procedure to hinder or impede the rights of genuine Blue Badge holders to have access to their badge.

In circumstances where the badge has been retained by an authorised officer because the badge is invalid (as described in section 3), Haringey Council will destroy the badge.

## **5. Investigation**

A timely investigation of all instances of misuse will be carried out. If the misuse could also constitute other criminal offences (other than road traffic offences), the appropriate action will be taken to stop the misuse and investigate the offence. The issue of a Penalty Charge Notice for contraventions of road traffic regulations does not prevent the Council from also pursuing criminal offences. Such investigations are not limited to the badge holder, but also include third parties misusing the badge.

Criminal investigations will be conducted by professionally trained officers from either the Parking Services Compliance Team and/or the Audit and Risk Management Team, in accordance with the Criminal Procedures and Investigations Act 1996, Police and Criminal Evidence Act 1984 and any other legislation that may be appropriate to a particular investigation.

Any personal data that is held by the Council will be used for the prevention and detection of crime where it is appropriate and lawful to do so.

## **6. Prosecution**

When considering the suitability of a case for prosecution, two tests will be applied: the evidential test; and the public interest test.

### **6.1 Evidential Test**

This test considers whether:

- The evidence is reliable, credible and can be used in court; and
- There is no other material that might affect the sufficiency of the evidence.
- There is sufficient evidence to provide a realistic prospect of conviction Where this test is satisfied, the public interest test will be considered.

#### **6.1.1 Public Interest Test**

Public interest factors will be considered to determine whether to prosecute an offender or consider whether an alternative course of action may be more suitable.

### **6.2 Circumstances where it may be deemed to be in the public interest to prosecute**

The following is not an exhaustive list, and each case will be judged on its own circumstances:

- The fraud or misuse was calculated and proven to be deliberate, e.g. it demonstrates a level of effort, planning and premeditation from the outset (such as a forged Blue Badge).
- The fraud or misuse has continued over a long period of time.
- The person has previously committed other similar fraud offences.
- There has been a breach of trust.
- The case involved collusion or conspiracy.
- The person was the ringleader or has organised or initiated the Blue Badge fraud.
- Where the offence is considered widespread within the local community/area.
- There is a genuine reason to believe the person will continue to offend in the future.
- The person has declined the offer of a formal caution.
- A formal caution has previously been imposed on the person for an earlier offence.
- Where the person fails to attend an interview under caution we may prosecute.

### **6.3 Circumstances where it may be deemed *not* to be in the public interest to prosecute**



The following is not an exhaustive list, and each case will be judged on its own circumstances:

- The offence ended voluntarily,
- The age or physical or mental health of a person is such that the additional stress incurred by a prosecution would incur an unacceptable risk,
- Where the person suffers chronic ill health; this will normally be supported by independent medical evidence, where appropriate.
- For the purposes of this Policy, a person's age will be considered along with the other relevant information when deciding whether to apply a sanction,
- There has been an inexcusable time delay, which may prejudice the case.

#### **6.4 Alternative disposals**

In circumstances where there is sufficient evidence to prosecute, but the offence is considered minor either in itself or by reason of the circumstances, officers may consider alternative disposals to prosecution, such as the issue of a formal caution or warning letter. If, however, the offender does not accept the alternative disposal, prosecution will usually follow. This is consistent with legal protocols in relation to prosecutions generally.