

Title of meeting: Traffic and Transportation Decision Meeting

Date of meeting: 26 September 2019

Subject: Blue Badge Scheme - Extension of Eligibility

Report by: Tristan Samuels - Director of Regeneration

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 To update the Cabinet Member for Traffic & Transportation on the extension of eligibility for the blue badge scheme and to confirm the assessment process for individuals not automatically entitled under the extended eligibility criteria.

2. Recommendations

It is recommended that:

- 2.1 It is to be noted, that following the national government decision, the extension of the Blue Badge scheme will include consideration of applicants with hidden and non-physical disabilities;**
- 2.2 The decision making process as detailed in Sections 3.9 to 3.12 in this report is confirmed;**
- 2.3. Appeals against decisions to not issue a Blue Badge continue to be determined by the Parking Office Manager and the Professional Lead for Occupational Therapy as described in paragraph 3.13.**

3. Background

- 3.1 The Blue Badge scheme was introduced on 1st December 1971 by means of Regulations made under Section 21 of the Chronically Sick and Disabled Persons Act 1970, which has now been amended by the Disabled Persons Parking Badges Act 2013.

3.2 An applicant for a Blue Badge applies to their local authority and is assessed against detailed guidance set by the Secretary of State for Transport. In no circumstances can a badge be issued to an applicant who does not meet one of the eligibility criteria set out in legislation which governs the scheme. Under the scheme there are two ways of qualifying for a badge (a) if the applicant is automatically eligible because they receive specific benefits under either the Personal Independence Payment (PIP) or Disability Living Allowance (DLA); are registered blind (severely sight impaired); in receipt of a War Pensioner's Mobility Supplement or a benefit under the Armed Forces and Reserve Forces (Compensation) scheme or (b) subject to further assessment.

3.3 In January 2018 the Department for Transport undertook a consultation process to change the blue badge criterion as follows:-

Eligibility under the current scheme is primarily aimed at those who have “a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking”. This consultation is seeking views on a proposition to change this criterion to the following:

“a person who has an enduring and substantial disability the effect of which is that that person is unable to-

i. walk;

*ii. undertake any journey without it causing very considerable difficulty **when** walking;*

iii. undertake any journey without there being a risk of very considerable harm to the health or safety of that person or any other person;

iv. follow the route of any journey without another person, assistance animal or orientation aid.”

3.4 This review was initiated because the scheme was focused on physical problems applicants had walking and did not directly consider wider issues those with non-physical disabilities had making a journey.

3.5 In July 2018 the Department for Transport notified local authorities of the following announcement:-

The government intends to lay a statutory instrument (SI) in November 2018 which will extend eligibility to people who have an enduring and substantial disability the effect of which is that they are unable to:

undertake a journey without it causing very considerable difficulty when walking;
or

undertake a journey without it causing very considerable psychological distress to that person; or

undertake a journey without there being a risk of serious harm to the health and safety of that person or any other person.

- 3.6 This Statutory Instrument was subsequently made on 24th April 2019 and came into effect on 30th August 2019, with guidance documents being issued to local authorities in June 2019, with an update issued in August 2019.
- 3.7 The revised legislation allows applicants who receive 10 points under Personal Independence Payment (PIP) in relation to the planning and following a journey activity, on the grounds that they cannot undertake any journey because it would cause them overwhelming psychological distress, to be automatically eligible. Any applicant who receives any other award under the Planning and Following a Journey activity ie 12 points, will not be automatically eligible, but can be considered under the 'subject to further assessment' route. It is understood that only a small number of applicants in Portsmouth will be eligible under the 10 points award.
- 3.8 The other main changes to the scheme are as follows:-
- 'Permanent and substantial disability' is amended to 'enduring and substantial disability' with enduring being taken to mean for at least 3 years
 - Independent mobility assessments are changed to impartial mobility assessments (when required to be undertaken)
 - A broader term of 'expert assessors' to be used for confirming eligibility for those applying under the 'subject to further assessment' route instead of 'independent mobility assessors', this still includes the use of Occupational Therapists but can also include teachers, psychologists etc.
- 3.9 Since 2012, Portsmouth City Council has very successfully used Occupational Therapists employed in the Council's Adult Social Care Department to assess applicants under the 'subject to further assessment' route and we are continuing with this assessment route for all applicants who are 'subject to further assessment'.
- 3.10 A separate application form has been produced for applicants applying under the 'hidden disabilities' criteria as the information required to make a decision is different to that of applicants who have a physical disability, which means they are 'unable to walk or experience very considerable difficulty whilst walking'. The Professional Lead for Occupational Therapy has been instrumental in developing the new application form.
- 3.11 Within the application, the applicants are asked to detail how their hidden disability affects them on the journey between the vehicle they have travelled in and their final destination. They are also asked to provide details of professionals who can be contacted to corroborate the information that has been provided, either by sending in supporting documents with their application or the professionals will be contacted separately by the blue badge team.
- 3.12 The application form and information provided by professionals is being forwarded to the Occupational Therapists to make a recommendation on eligibility based on the qualifying criteria laid down in legislation, and in the Guidance Document issued by the Department for Transport. It is unlikely that

an applicant applying solely under the 'hidden disabilities' criteria will be asked to attend an assessment but the information provided will be used to make the decision.

- 3.13 The decision on eligibility where there is not automatic qualification is made by the Blue Badge Team, taking into account the recommendation made by an Occupational Therapist on whether the applicant is eligible. It is not a legal requirement for the authority to have an appeals process, but it is recommended that one should be in place. Since 2012 when GPs were no longer permitted to be involved in the decision making process for a blue badge, and the Council decided to use Occupational Therapists to undertake mobility assessments, any appeals against decisions have been reviewed by the Parking Office Manager and the Professional Lead for Occupational Therapy.
- 3.14 In preparation for the changes additional resources both administrative and Occupational Therapists have been taken on for a temporary period to ensure that applications are promptly processed, but the actual number of applications and those who will be eligible are currently unknown. The Department for Transport accept there are many unknown factors in determining how many applicants will be eligible under the extended criteria or how many will apply. Experience from Scotland and Wales suggest that an increase in applications of around 6% is likely in the first year. For Portsmouth this would equate to approximately 140 extra applications.
- 3.15 The Government has allocated £1.7m to the Ministry of Housing, Communities and Local Government (MHCLG) for assistance to local authorities in the first year after the new eligibility changes come into effect to help them cope with additional applications, it is likely that this will be apportioned based on the number of applications process by each authority.
- 3.16 The impact on the provision of disabled bays resulting from an increase in the number of blue badges issued will be reviewed and if necessary more bays will be provided. Currently there are 153 on-street disabled bays provided for in areas such as the city centre/district shopping centres and areas which receive a high number of visitors i.e. seafront and Old Portsmouth. This is in addition to 65 disabled bays in pay and display car parks around the city. There are also approximately 1,700 disabled bays installed in residential areas around the city. Blue badge holders can also park for free and for an unlimited period of time in any on-street pay and display bay, pay and display car park operated by the City Council or limited waiting parking place.

4. Reasons for recommendations

- 4.1 To draw members attention to the extension of eligibility criteria for blue badges and to confirm the process for assessing applicants under the new criteria.

5. Equality impact assessment

- 5.1 A full EIA is not required because the changes to eligibility have been made nationally and in amending the legislation, the needs of Equality Groups were taken into consideration by the Department for Transport.

6. Legal implications

- 6.1 The City Council is responsible for the administration of the disabled persons parking badges (commonly known as the Blue Badge Scheme) within the City of Portsmouth. The main provisions are set out in the Chronically Sick and Disabled Persons Act 1970 (as amended by the Disabled Parking Badges Act 2013) and the Local Authorities ' Traffic Order (Exemptions for Disabled Persons) (England) Regulations 2000.
- 6.2 The government has recently published guidance to local authorities for the administration of the Blue Badge scheme and the City Council should remain strictly within the guidelines. These guidelines set out the provisions extending the scope of the Blue Badge Scheme to those with non-physical disabilities and the criterion which should be applied. The Guidelines state that it is the responsibility of each local authority to ensure that badges are only issued to residents who satisfy one or more of the eligibility criteria set out in the legislation that governs the scheme. Under no circumstances should anyone who does not satisfy at least one of the criteria receive a badge.
- 6.3 The right to appeal to the Secretary of State in cases of refusal to issue a disabled badge was removed under the 2013 Act."

7. Director of Finance's comments

- 7.1 The exact number of people who are eligible for Blue Badges following this change is not known to the Council. There may be in the short term a requirement to employ additional staff to help deal with applications. The Council will need to fund this additional cost and this will be met initially from the Off Street Parking Reserve.
- 7.2 As a consequence of the expansion of the scheme it could be that the number of blue badge spaces available in the City is insufficient to meet demand, the Council will monitor this situation over the coming months.
- 7.3 As the main body of the report suggests the Council may be eligible for a share of a Central Government fund to help with the roll out and implementation of this new eligibility but as yet the Council is unsure what this amount is.

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 Signed by: Tristan Samuels
 Director of Regeneration

Appendices:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Chronically Sick & Disabled Persons Act 1970	https://www.legislation.gov.uk/ukpga/1970/44/section/21
Disabled Persons Parking Badge Act 2013	http://www.legislation.gov.uk/ukpga/2013/4/pdfs/ukpga_20130004_en.pdf
Department for Transport Consultation and responses 2018	https://www.gov.uk/government/publications/blue-badge-disabled-parking-scheme-eligibility-consultation-summary-of-responses-and-outcome/blue-badge-consultation-summary-of-responses-and-government-response
The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2019	http://www.legislation.gov.uk/uksi/2019/891/pdfs/uksi_20190891_en.pdf
Blue Badge Guidance issued by Department for Transport to issuing local authorities August 2019	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828310/blue-badge-scheme-local-authority-guidance.pdf

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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 Signed by: Councillor Stagg
 Cabinet Member for Traffic & Transportation