

BLUE BADGE REFORM

A CONSULTATION DOCUMENT



July 2010

The Transport Strategy division of the Transport Directorate has prepared this document for web publishing, in doing so we have used Arial 14 font throughout. Alternative versions are available on request. If you have other needs in this regard please contact the PVS, MACS & Mobility Team.

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Foreword



The Blue Badge Scheme is a critical service for enabling improved mobility for disabled people. Without it many Blue Badge holders say they would go out less often.

The Scheme has been running since 1971 and needs to be updated to ensure that it stays fit for purpose in the 21st century. The proposals set out in this document will assist us in achieving our goals for improving the Blue Badge Scheme. We wish to make the Scheme easier to access and use by those who are eligible, easier to enforce in order to clamp down on those who flout the rules and more efficient to administer.

I would like to take this opportunity to thank all those who have contributed to the development of these proposals. Members of our Blue Badge Reform Working Group, including representatives from local authorities, NHS Scotland, the Mobility and Access Committee for Scotland and colleagues from other Government departments have all played an important role.

I am pleased to be involved with improving this vital service for disabled people, and look forward to hearing your views.

A handwritten signature in black ink that reads "Stewart Stevenson".

Stewart Stevenson MSP
Minister for Transport, Infrastructure and Climate Change

July 2010

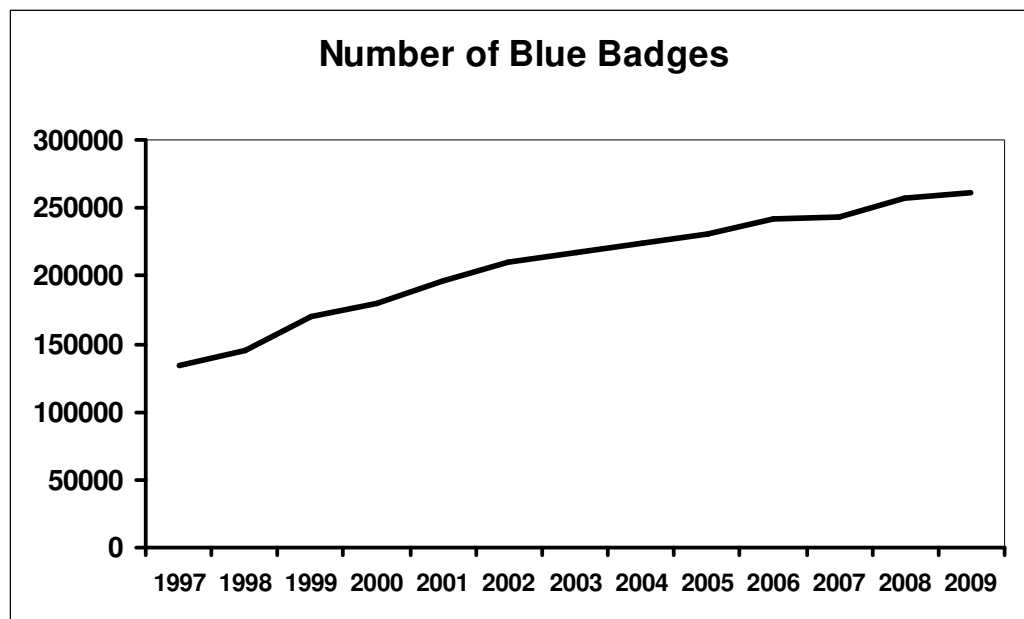
Executive Summary

1. The Blue Badge Scheme in Scotland (“the Scheme”) gives a concession to severely disabled people to park where particular restrictions may otherwise apply. The Scheme plays an important role in helping severely disabled people access jobs, shops and other services.
2. There are currently over 270,000 Blue Badge holders in Scotland, many of whom say that they would be unable to travel without the certainty that they will be able to park close to where they need to be. The Scottish Government is committed to ensuring that this vital Scheme continues to provide accessible parking for those in most need.
3. In order to ensure this, the Government proposes to make the following improvements to the Scheme by 2013:
 - extend the Scheme to:
 - children under the age of three, with specific medical conditions;
 - severely disabled service personnel and war veterans in receipt of an award under the Armed Forces Compensation Scheme; and
 - [in the longer term] to people with severe forms of autistic spectrum disorder and people with very advanced forms of dementia.
 - redesign the individual and Organisational Badges to make them harder to copy, forge or tamper with;
 - improve the management of the Scheme and make the eligibility assessment process fairer and more consistent;
 - introduce a national set of application forms;
 - develop a national database to allow local authorities to share data to reduce fraudulent misuse of the badge;
 - use independent medical assessments to assess eligibility;
 - introduce a mandatory appeals process for unsuccessful applicants;
 - remove the permission to park on double yellow lines and introduce a maximum limit for the length of time a vehicle can park on single yellow lines;
 - draw up a “Code of Practice” for those who administer the Scheme; and

- give local authorities new or amended powers to tackle misuse of the Scheme.
4. This consultation is seeking views on the Scottish Government's plans to reform the Blue Badge Scheme. We are proposing these changes to reflect the significant social changes that have taken place over the past 40 years, and to ensure the Scheme is administered efficiently, consistently and fairly.

1. Introduction

1. The UK Blue Badge Scheme was set up in the 1970s, originally as the Orange Badge Scheme. The Blue Badge Scheme was established to provide a national arrangement of parking concessions for on-street parking for people with severe walking difficulties who travel either as drivers or passengers.
2. The Scheme was later expanded to registered blind people and people in receipt of war pensioner's mobility supplement as well as those with severe upper limb disabilities who regularly drive a vehicle but who cannot operate all or some types of parking meter. Children under 2 years old who have medical conditions that require that they be accompanied by bulky medical equipment are also eligible.
3. Badges are valid for up to three years and entitle badge holders to park without charge or time limit in the on-street parking environment, including single and double yellow lines, unless a loading ban is in place.
4. Since the introduction of the Scheme we have witnessed a huge increase in the number of badge holders. As the graph below shows the number of badges has increased from 133,949 in 1997 to 261,288 in 2009. Annex B has a breakdown of badges on issue by Scottish local authorities in 2009, and indicates there is significant variation between local authorities in the number and reasons for issue.



(Extracted from the Scottish Government's Scottish Transport Statistics publications 1997 to 2009 Editions)

5. The Blue Badge Scheme does not apply to off-street car-parks, for example, supermarkets and airports. But many private car-park owners permit badge holders to access disabled parking bays or to have free access to other facilities such as work-place parking bays.
6. Once issued, a badge holder is able to use the badge across the UK and in many places across the European Union in line with local rules of operation. However, it should be noted that different criteria apply in other countries e.g. in England and Wales a badge holder can only park on yellow lines for a period of up to 3 hours, whereas in Scotland there is no time restriction.
7. The provisions relating to the Blue Badge Scheme are set out in primary legislation - The Chronically Sick and Disabled Persons Act 1970 (1970 Act). Under that Act, Scottish Ministers made secondary legislation - the Disabled Persons (Badges for Motor Vehicles)(Scotland) Regulations 2000, (the 2000 Regulations), which sets out:
 - who is eligible to apply for a badge;
 - how the badge should be displayed when parking on-street;
 - the design of the badge; and
 - when the badge can be used.
8. The Blue Badge Scheme is administered by local authorities. In the majority of authorities parking enforcement is the responsibility of the police and is enforced by traffic wardens.
9. In 1997 provisions were introduced that enabled the decriminalisation of most streets in Scotland. This enabled local authorities to apply to the Scottish Ministers for an Order to designate either permitted or special parking areas within which most parking offences would be decriminalised.
10. Edinburgh, Glasgow, Aberdeen, Dundee, South Lanarkshire, Perth and Kinross and Renfrewshire operate decriminalised parking enforcement. When a decriminalisation Order is made parking rules are enforceable by parking attendants employed either directly by or contracted to the local authority. The local authority sets the level of the fine which on average is around £60, dropping to £30 if paid within 14 days. The attendants issue penalty charge notices for parking offences, enforceable directly by the local authority without recourse to court. Appeals against the issue of these fixed penalty notices are heard by an independent Parking Adjudicator.

11. City of Edinburgh is the only council to have a dedicated team who focus on those who misuse the Blue Badge Scheme.
12. In June 2009 the Scottish Government set up a Blue Badge Reform Working Group to consider how the Scheme can be improved. The Working Group consists of social welfare and traffic management representatives from local authorities, the British Parking Association, the NHS, the Mobility and Access Committee for Scotland and colleagues from the Primary Care and Local Roads Divisions. The Working Group suggested that changes need to be made to the Scheme.
13. In light of the Working Group's recommendations, we propose to make the following changes to the Scheme:
 - those who are eligible;
 - the assessment of the eligibility criteria;
 - the enforcement of the Scheme;
 - the design of the badge;
 - the administration of the Scheme; and
 - the provision of information on the Scheme.
14. We propose making the following changes to the Scheme over the next 3 years:
 - Making the administration of the Scheme more consistent by using independent medical assessors, national application forms and the development of a "Code of Practice". As well as improving consistency, these measures should ensure that badges are issued only to those in genuine need of them.
 - Extending the eligibility criteria to children under the age of 3 with particular mobility problems, severely disabled service personnel and war veterans and to people with severe forms of autistic spectrum disorder and very advanced forms of dementia.
 - Making the badge harder to copy, forge or tamper with. We would like to consider distributing badges centrally. We also want to establish a common numbering system for badges to enable more effective version control of replacement badges and enforcement through visual inspection of badges.
 - Tightening enforcement procedures by giving powers to parking attendants and local authority fraud officers to confiscate badges.

- We are considering amending the “3 relevant convictions” rule as grounds for refusing to issue a badge, to allow local authorities to make informed judgements on whether a badge should be removed.
 - Tightening the security of the Scheme by establishing a national data-sharing system. At present, enforcement officers have no way of easily checking the details of badges issued by other local authorities. A national system would store a common set of information about badges and their holders that can be shared and interrogated quickly and easily by authorised enforcement officers. The system will also prevent other forms of misuse, for example, multiple applications and applications from people using names of others who have died. These changes may help local authorities to improve identity management and consistency.
 - Reviewing the permission to park on double yellow lines and restrict parking on single yellow lines to 3 hours.
 - We are consulting on whether we should carry out some research on the implications of removing some of the additional concessions such as reduced fares on ferries, as the removal of some of these financial benefits might reduce the incidence of fraud and misuse of the badge.
15. These proposals aim to ensure that all those in need of a Blue Badge are eligible while at the same time reducing misuse of the Scheme by those who are not.
 16. The following chapters detail our proposals on eligibility, eligibility criteria, enforcement, badge design and security, Organisational Badges and the administration of the Scheme. Where we are seeking views we have asked a question; questions are highlighted throughout the document and are summarised in Annex A.
 17. Some of the changes can be made by the Scottish Government through amendments to the 2000 Regulations whilst other changes are likely to require changes to the 1970 Act. The document states if a change to legislation is required and whether it is primary or secondary legislation.
 18. The draft Disabled Persons (Badges for Motor Vehicles)(Scotland) Amendment Regulations 2011 – see Appendix F - amends the 2000 Regulations with the changes that we intend to come in to effect in April 2011.

2. Eligibility

1. We propose making several changes to the existing legislation to tighten up the definitions and to extend the criteria to ensure that all those in need of a Blue Badge are eligible.

The following groups are currently eligible

Upper limb impairment

2. Currently a person who drives a vehicle regularly, has a severe congenital impairment in both arms and is unable to operate, or has considerable difficulty in operating, all or some types of parking meter is eligible to apply for a badge. We propose amending the 2000 Regulations to remove the word “congenital” thereby also allowing those who have acquired upper limb impairment in both arms, to apply for a badge.

Unable or virtually unable to walk

3. The original intention behind the 2000 Regulations was to include those with limited mobility regardless of whether they receive the Higher Rate of the Mobility Component of the Disability Living Allowance (HRMCDLA). Applications for HRMCDLA are assessed by the Department for Work and Pensions (DWP). However, over time, applications for a Blue Badge from those not in receipt of HRMCDLA, such as those over 65, have been assessed differently. We propose that all applications should be assessed in the same way in order that the process is consistent.
4. When considering someone under regulations 4(2)(a) and 4(2)(f) of the Disabled Persons (Badges for Motor Vehicles)(Scotland) Regulations 2000 we propose ensuring that the degree of impairment is consistent with those in receipt of HRMCDLA. In assessing applications for HRMCDLA, DWP require that the applicant is “unable to walk” or is “virtually unable to walk”.
5. DWP uses the following definition for “unable to walk”:
Being “unable to walk” means you cannot take a step by putting one foot in front of the other. If you have one artificial leg, your walking ability is considered when using it, you are unlikely to count as being unable to walk but you may qualify on the basis that you are virtually unable to walk.

6. DWP uses the following definition for “virtually unable to walk”:

The test is whether your *“ability to walk out of doors is so limited as regards:*

- *The distance over which, or*
- *The speed at which, or*
- *The length of time for which, or*
- *The manner in which you can make progress on foot without severe discomfort, that you are virtually unable to walk.*

7. In order to ensure consistency we therefore need to remove the phrase “has considerable difficulty walking” and replace it with the phrase “unable to walk or virtually unable to walk” in the 2000 Regulations
8. This change would clarify who is eligible and ensure that those aged over 65 (for new applicants HRMCDLA only applies to those aged between 3 and 65) are assessed using the same criteria as those aged under 65 applying for HRMCDLA.
9. The same change to the 2000 Regulations will be required for those with a temporary disability.

Q 2.1: Do you agree that we should amend the definition of “unable to walk or has considerable difficulty walking” so that it is consistent with that used for the Higher Rate of the Mobility Component of the Disability Living Allowance Assessments?

Children under the age of 3

10. Children under the age of 2 were excluded from the Scheme under Regulations which came into effect in 1983. This was on the grounds that children below this age could reasonably be carried or placed in a pram or pushchair. However, some young children have particular mobility problems which mean that their parents or carers face real difficulties transporting them safely.
11. Additional provisions were introduced by the Disabled Persons (Badges for Motor Vehicles) (Scotland) (Amendment) Regulations 2007, which extends eligibility to children under the age of 2 who:
- 11.1. due to a medical condition, need to be accompanied by bulky medical equipment at all times; or
 - 11.2. due to a medical condition must always be kept near a vehicle so that treatment can be given in the vehicle, or the child can quickly be transported to a place for treatment.

12. Blue Badges issued to children under the age of 2 are valid until the day after their second birthday, or sooner if the condition in respect of which it was issued no longer applies.
13. The conditions affecting a child who currently qualifies for a Blue Badge under the Bulky Medical Equipment / access to vehicle criteria are often temporary in nature or do not necessarily relate to a child's ability to walk. Such children, on reaching their second birthday would therefore not necessarily qualify under the main "assessed" eligibility criterion of having a permanent and substantial disability which causes inability to walk.
14. Additionally, whilst people with serious temporary mobility problems can apply for the HRMCDLA, which facilitates the automatic award of a Blue Badge, it is only available to applicants aged 3 or over. This means that children who were eligible for a Blue Badge under the Bulky Medical Equipment / access to vehicle criteria, currently have no means of being awarded a Blue Badge until their third birthday.
15. We therefore propose amending the 2000 Regulations by amending regulation 4 to extend the category of children meeting the Bulky Medical Equipment / access to vehicle eligibility criteria to children aged 3 and under.
16. We also propose amending the 2000 Regulations by amending regulation 6(2)(a) which currently provides for the period of issue of a badge relating to a child under the age of 2 to end on the day immediately following the child's third birthday. Once these children reach the age of three it is envisaged that they will be able to apply for a badge under the other categories of eligibility listed in regulation 4.
17. This change will mean that any child under the age of 3 who is assessed by their local authority as meeting the current Bulky Medical Equipment/access to vehicle eligibility criteria can be issued with a badge. The badge would be valid until the day immediately following the child's third birthday (subject to regulation 9 concerning the return of a badge to an issuing authority for various reasons, including where the holder of the badge ceases to be a disabled person).
18. We also propose amending the 2000 Regulations to extend the descriptions of bulky medical equipment in regulation 4(4)(a) to include children with casts and associated medical equipment for the correction of hip dysplasia.

19. Once the Regulations come into force, it will be necessary to make transitional arrangements for those children under the age of 2 who have previously been issued with a Blue Badge which will expire on the day following their second birthday.
20. Local authorities will be asked, on application, to reissue a Blue Badge to an eligible child to cover the period between the new Regulations coming into force and their third birthday. In some cases, this may lead to badges being issued for very short periods of time.

Severely disabled Service Personnel and War Veterans

21. Under current secondary legislation, disabled veterans are eligible for a Blue Badge without further assessment (also known as “automatic” eligibility) if they are in receipt of a mobility supplement payable under article 20 of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006 (SI 2006 No. 606). This supplement is only paid to veterans injured before April 2005.
22. Eligibility for War Pensioner’s Mobility Supplement (WPMS), is determined by the Service Personnel and Veterans Agency (SPVA) medical assessors. The mobility supplement is payable to a person in receipt of retired pay or pension in respect of disablement assessed at more than 40% and where the disablement that causes the serious walking difficulty is as a result of service. Local authorities issue Blue Badges on the basis of this assessment.
23. In 2008, the Ministry of Defence published a cross-government strategy for supporting Armed Forces personnel (Command Paper CM 7424). The UK Government’s commitment in respect of Blue Badge entitlement is as follows:

Blue Badge - Continuous Automatic Entitlement.

We will now introduce a Scheme so that severely disabled veterans in Scotland will receive automatic entitlement to a Blue Badge without further assessment. Although the Command Paper makes reference only to veterans, it is intended that the Scheme will also apply to service personnel. This is required because claims can be made under the Armed Forces Compensation Scheme (AFCS) by personnel who are still serving, in contrast to the War Pensions Scheme where claims can only be made at or beyond termination of service.

24. Injuries to Service Personnel and War Veterans arising after 2005 may be compensated through the new Armed Forces Compensation Scheme (AFCS).

25. There is currently no provision for automatic entitlement to a Blue Badge under the AFCS, and the AFCS does not include a specific mobility allowance to which entitlement could be linked.
26. Injured veterans may of course apply for a Badge in the usual way: i.e. automatic entitlement if they are in receipt of the HRMCDLA. They can also apply if they are assessed by the local authority as having a permanent and substantial disability which causes an inability to walk.
27. We are considering changing the law to extend the Blue Badge Scheme to allow severely disabled service personnel and war veterans in receipt of specific tariffs of award under the new Armed Forces Compensation Scheme and having a permanent or substantial disability which causes the person to be unable or virtually unable to walk to receive automatic entitlement to a Blue Badge without further assessment.
28. We are considering whether any such changes may be reserved as relating to the Defence reservation in Schedule 5 to the Scotland Act 1998 and therefore require to be brought forward for Scotland by the UK Government.

Q 2.2: Do you agree that we should extend eligibility to severely disabled service personnel and war veterans?

Severe forms of autistic spectrum disorder and very advanced forms of dementia

29. While the Scheme was introduced to provide essential support to disabled people who are unable to walk or virtually unable to walk, it has been extended over the years.
30. We propose that a future provision under the “subject to further assessment” criteria will extend eligibility to those with severe forms of autistic spectrum disorder and very advanced forms of dementia.
31. Conditions such as severe forms of autistic spectrum disorder and very advanced forms of dementia can make it very difficult for an individual to be able to go out into public. Being able to park as close to the destination as possible could minimise stress for both the individual and their carer, minimising the potential for accidents.
32. Diagnosis of such cases could be difficult and careful assessment, through the provision of robust evidence and careful scrutiny, will be needed to ensure that only the most severe cases are granted a Badge.

33. We intend to use the definitions used when assessing someone for the higher rate mobility component of the Disability Living Allowance.

Q 2.3: Do you agree that we should extend eligibility to those with severe forms of autistic spectrum disorder and very advanced forms of dementia?

Local ad hoc discretionary criteria

34. We note that some local authorities have developed ad hoc criteria not set out in legislation. This has been partly to counter some of the issues set out above, where the eligibility criteria in the legislation has become out of date and/or different from the Scheme south of the Border.
35. With the above changes we would propose that variations from the eligibility set out in the legislation such as awarding a badge dependent on age should no longer continue.

3. Eligibility Assessments

1. Eligibility for the Blue Badge Scheme is considered in terms of being “eligible without further assessment” (sometimes referred to as “automatic” making up around 40% of badges on issue) or “eligible subject to further assessment” (sometimes referred to as “discretionary” making up around 60% of badges on issue).
2. In practice, the vast majority of badge holders are issued with a badge either because they are in receipt of an award of the HRMCDLA, or because they have been assessed by the local authority as having a permanent and substantial disability which means they are unable to walk or virtually unable to walk.
3. As can be seen from Annex B, there are significant variations in the badge issue rate between local authorities. Variations in issue rates cannot be fully explained by differences in population characteristics. It is likely that some of the differences may be down to inconsistencies in the way that local authorities interpret and apply the eligibility criteria and different ways in which applicants are assessed.
4. We are concerned that the widespread practice of using an applicant’s General Practitioner to verify that they meet the criteria for a Blue Badge, places GP in an advocacy role for their patients, and may result in inconsistent assessments when awarding badges.
5. Where a medical opinion is needed we propose that local authorities use appropriate qualified individuals to conduct independent medical assessments to inform decisions on an applicant’s eligibility. The term “independent medical assessment” is intended to refer to an eligibility assessment undertaken by a professional with expertise in mobility who is independent of the applicant.
6. We envisage that health professionals such as nurses, health care assistants, physiotherapists and occupational therapists would undertake the assessments. It is not necessary for the assessment to be carried out by a professional who is employed by the local authority.
7. A change in who undertakes the assessment may involve a transfer of funds e.g. between the National Health Service and local authorities but we would not expect the overall cost to change.

8. At least one local authority currently carries out an independent medical assessment on all applicants. However, to introduce mandatory independent medical assessments for the discretionary criteria would involve amending the 1970 Act.

Q 3.1: Do you agree that we should encourage independent medical assessments?

Q 3.2: Should independent medical assessments be mandatory on all local authorities?

9. A badge holder currently has the right to appeal to Scottish Ministers within 28 days if a local authority wants to withdraw his or her badge as a result of misuse.
10. However, there is currently no statutory requirement for local authorities to provide an appeals process for those who have been unsuccessful when applying for a badge at the first instance. At present 57% of Scottish local authorities allow unsuccessful applicants to lodge a complaint, or re-apply again after some time has passed. Many disabled people would like a more formalised route to redress. We propose to amend the 1970 Act to create a statutory appeals process for unsuccessful applicants.

Q 3.3: Do you agree that an appeals procedure relating to the application process would be introduced?

4. Enforcement

1. The Scottish Government published research in 2007 entitled "Safeguarding access to off-street parking facilities for people with disabilities in Scotland" which found that misuse of the Blue Badge Scheme can lead to those that are entitled to badges having difficulty in finding a parking space.
2. Common forms of misuse of the badge have included:
 - Family members or carers using a badge, with or without the knowledge of the badge holder.
 - Family members using badges after the badge holder has died.
 - Applications being made using a deceased person's name and details.
 - Applications made by people using false identities or who misrepresent themselves or who make false statements about their disability.
 - Badges being copied and forged.
 - Badges being tampered with to alter the expiry date.
 - Badges being falsely reported as "lost", so that holders can be issued with replacements that are then used in more than one car or by family members.
 - Badges being stolen from cars for illegal re-sale.
3. An exercise carried out by Lothian and Borders Police and City of Edinburgh Council enforcement officers in December 2008 found that of 127 cars displaying a badge, 77 were being misused.
4. Seven local authorities currently enforce the Blue Badge Scheme using parking attendants, these are: Edinburgh, Glasgow, Aberdeen, Dundee, South Lanarkshire, Perth and Kinross and Renfrewshire.
5. City of Edinburgh Council also uses a dedicated fraud team to deal with misuse. The fraud team follow up complaints by members of the public by investigating incidences of misuse. This may involve an officer obtaining photographic evidence of someone misusing a badge, such as using a family member's badge – who is not in the car – to obtain free all day parking.

6. Under current legislation where a local authority fraud officer, whose remit relates solely to the misuse of Blue Badges/ disabled persons' parking places, suspects misuse of the badge they do not have the power to inspect and have to call upon the police to seize the badge.
7. One of the main aims of the improvements we are proposing is to enable local authorities to enforce the regime more effectively.
8. As well as improving the enforcement regime, we are taking steps to prevent misuse from happening in the first place. A move to a national database and the re-design of the badge itself should help to achieve this, along with better and more consistent administration of the Scheme.
9. However, no matter how effective we are at preventing misuse, it is clear that an effective enforcement regime will still be needed.
10. If we are to make changes to the enforcement of the Scheme, this would be done by way of amending the 1970 Act.

New powers for enforcement officers

11. The police currently have a power to confiscate badges if, for example, they believe a badge to be fake or forged, or a non-badge holder is using it.
12. However, parking enforcement is also carried out by either police traffic wardens or civil enforcement officers. As mentioned above City of Edinburgh Council also uses a dedicated fraud team.
13. At present, existing legislation means that parking attendants and traffic wardens, carrying out parking enforcement duties in uniform, may inspect badges but they do not have an explicit power to confiscate them.
14. We therefore propose to give local authorities and their authorised officers a power to inspect and confiscate badges that have been cancelled or are being misused. Badges would be cancelled because they have been reported lost or stolen, a duplicate having been issued, if they have expired, if they have been withdrawn for misuse or the badge holder is deceased.
15. Once a badge has been confiscated, the authorised officer would be able to either return it to the issuing local authority or to the genuine badge holder, or to keep it for the purposes of evidence in a prosecution. The cancelled badge would be returned to the issuing local authority once a prosecution had been completed. Officers would also be empowered to confiscate fake or forged badges.

16. When an enforcement officer believes that a badge is being used by someone other than the badge holder it is unhelpful for the enforcement officer to have to give the badge back to that person. In these circumstances, it might be appropriate for the enforcement officer to be able to confiscate the badge and to return it to the issuing local authority without delay.
17. The authority may then want to return it to the badge holder with a letter stressing the importance of them looking after the badge and making sure as far as possible that it is only used when they are present in the vehicle.
18. On-the-spot confiscation would only occur where the badge was already in an authorised officer's hands following an inspection, or in cases where a third party has voluntarily handed it over. We are not proposing that officers forcibly enter vehicles and/or confiscate badges forcibly.
19. To enable parking attendants to seize a badge and enable a fraud officer to inspect and seize a badge that they suspect is a fake, a copy or has been tampered with, to allow them to do so without wearing a uniform, amendments are needed to the 1970 Act.
20. There would need to be strong safeguards built into any new power to ensure that badges were not confiscated in situations where there might be any doubt about whether or not the right person was using the badge. We would want to avoid situations where badges were confiscated from disabled people in ways or circumstances that might cause distress.

Q 4.1: Do you agree that local authorities should have the power to confiscate badges that have been cancelled and/or that are being misused by a third party for their own benefit?

Grounds for refusing to issue and to withdraw a badge

21. Regulation 8 of the 2000 Regulations states that a local authority may refuse to issue a badge if:
 - the applicant holds or has held a badge and misuse has led to at least three relevant convictions;
 - the applicant fails to provide adequate evidence that they meet the disability criteria (or the organisation fails to provide evidence that it is eligible);

- the applicant fails to pay the fee;
 - the local authority has reasonable grounds for believing that the applicant is not the person that he claims to be or would permit another person to use the badge: and
 - the local authority has reasonable grounds for believing that the badge will be misused once issued.
22. These situations do not adequately cover circumstances when holders themselves are misusing the badge.
23. Where the badge holder is clearly abusing the Scheme, or allowing others to use their badge, we believe that local authorities ought to be able both to confiscate a badge, and to refuse to issue any more badges to that person for a certain period of time.
24. We could either specify a time in the legislation, for example, 12 months, or we could allow local authorities to refuse to issue a badge for as long as may be considered “reasonable”, given the circumstances of each case and the grounds for refusal.
25. One of the most common reasons to refuse issue of a badge is because the badge holder has had at least three relevant convictions related to misusing their badge. Local authorities that operate decriminalised parking regimes, argue this rule does not take account of any civil contraventions. While one conviction could have resulted from a genuine error “at least three relevant convictions” is felt by some local authorities to be overly restrictive and inflexible.
26. We are considering moving to a position whereby a local authority could make an informed judgement on whether or not to issue a badge, or to renew one, or to withdraw one, from persistent and/or serious offenders rather than based on “three relevant convictions”. Such a change could be made by amending secondary legislation. While we are considering changing the legislation, defining such a change could be difficult local authorities would need accompanying guidance on how to apply this power. The “Code of Practice” would assert that evidence of repeat offending would need to be demonstrated.

Q 4.2: Do you agree that we should remove the current “three relevant convictions” requirement in the legislation and allow local authorities to make an informed judgement?

27. The current fines under sections 115 and 117 of the Road Traffic Regulation Act 1984 for misuse of a badge do not appear to be a deterrent. We therefore propose increasing the maximum fine – currently £1,000 – to around £2,500 (level 4 on the standard scale) by amending primary legislation.

Q 4.3: Do you agree that we should introduce a maximum fine of £2,500 for the misuse of a Blue Badge?

5. Badge Security & Design

1. Misuse, or perceived misuse, of the Blue Badge Scheme is a significant issue which has attracted high profile media coverage. Misuse is a particular problem within city centres, where high parking charges and limited parking spaces make the concessions offered to badge holders very appealing. Misuse undermines the credibility of the Scheme and has a direct impact on traffic management and policing.
2. In the future we would like to move to a secure and machine readable badge. We want to see a badge design that is harder to copy, forge or tamper with, is portable and keeps personal details secure.
3. In Chapter 6, we propose introducing a national database and the central issue of badges. Such a move supports a common numbering system for badges to enable more effective version control of replacements and enforcement through visual inspection. It will also provide a cross-reference between a badge's serial number and the database record.
4. Currently 50% of local authorities include relevant information on the badge holder within their badge serial number to allow enforcement officers to immediately confirm if the person using the badge is the badge holder. We envisage the serial code to include discreet references to whether the badge belongs to a driver or passenger, male or female and age of badge holder.

Q 5.1: Do you agree that we should move towards the central distribution of badges to improve the security of the badge?

5. We would like to see other improvements to the badge. A simple change requiring the serial number to be printed on both sides of the badge would allow authorised personnel to check the validity of the badge irrespective of how it is displayed in a vehicle. This change could be made by amending secondary legislation.
6. Along with our colleagues in the UK Department for Transport and the Welsh Assembly Government we are looking at the introduction of a centrally printed card that will encompass a digital photo and be machine printed. We are considering whether there is a practical requirement for a signature to be included on the badge – a signature will still be required on the application form.

7. Presently the badge holder's photograph is placed on the reverse of the badge – the side which is usually placed face down on the dashboard. We have received mixed comments about this practice. Some agree with the photo being on the reverse for security reasons while some would like the photograph on the front to validate that it is their badge.

Q 5.2: Would you like to see the badge holder's photograph on the front of the badge?

8. By clarifying the validity of the badge (see Chapter 6) local authorities can amend their guidance to state that where a badge is deemed to be invalid the local authority can tow away vehicles that are displaying such Blue Badges. Currently many local authorities do not tow away vehicles displaying a current disabled person's badge unless they are abandoned, obstructing a road or causing a danger.

6. Administration

1. There are significant differences in the way that local authorities administer the Scheme and in the ways in which they assess Blue Badge applicants. We would like to explore whether there would be benefits from running a shared service across local authorities to administer the Blue Badge Scheme.

National Application Forms

2. We believe that the best way to introduce consistency for applicants across Scotland is to introduce a national application form for use by all local authorities. We understand that one local authority currently uses three different, locally created, application forms across its local offices. A national application form could be made available online.
3. A national application form would steer authorities through the legal criteria for issuing a badge and ensure discretionary badges are issued according to the criteria laid down in the legislation. Currently 27% of local authorities automatically issue badges to applicants dependent on their age alone for instance, which is not part of the eligibility criteria in the legislation.
4. To reduce the incidence of multiple applications, some of which may be unintentional, we are proposing to include a declaration in the application form, which the applicant would sign, confirming that they are not making multiple applications. If the applicant then seeks to obtain more than one badge, it would be deemed intentional and the local authority could seek to prosecute them under the common law of fraud.
5. We also believe that when a person is issued with a Blue Badge that they should be advised of their rights and responsibilities when using a badge. The authorities would point out the distinction of use between the badge holder being a driver and the badge holder being a passenger. Applicants, or in some instances their carers, will be asked to sign a declaration that they understand their rights and responsibilities. These small administrative changes could go a long way to reducing misuse.

Data-sharing

6. Section 21(5) of the 1970 Act states that local authorities shall maintain a register regarding badge holders. When asked recently in a Scottish Government Blue Badge questionnaire, issued by the Blue Badge Reform Working Group, all local authorities stated that they have electronic Blue Badge databases.
7. When we asked them recently for their thoughts on keeping this information on a national database we received a positive response.
8. A national database should reduce costs and more importantly would allow local authorities to access certain information about badges issued by other authorities. A national database would mean that a badge holder, who has changed address within the lifetime of the badge, would no longer be required to return their badge for renewal to the issuing authority. If a badge holder dies it would allow the next of kin to return the badge to any authority.
9. The database could also tie in with a switch to centrally issued badges (see Chapter 5). In this scenario each badge would be given a specific national serial number which would enhance enforcement.
10. Currently 38% of local authorities issue reminder letters to badge holders when the badge is about to expire. A national database would allow reminders to be issued automatically. It would also allow an authority to cancel a badge on the database when a duplicate has been issued and record the date of issue of the duplicate.
11. It is envisaged that if local authorities adopt a national database and a system of centrally issued badges, that they would continue to process the applications in-house. However, any signed declarations would still be carried out locally.
12. It is also envisaged that the database would hold digital photographs of the applicant. The photograph could be supplied by the applicant in a digital form or taken locally. This would allow the photograph to be securely printed on the badge as is the case with Driving Licences.
13. When a local authority has completed the application process and updated the database a notification would be issued to ask for a badge to be issued either directly to the badge holder or to the local authority. It is hoped that the badge would be received within two days. The same process would apply for the issue of duplicate badges.

14. Any move to a national Blue Badge database would be subject to robust privacy and security safeguards being in place to ensure the badge holder details were kept secure. The database would only contain the minimum of information; it would contain information on a badge holder's eligibility but it would not contain individual health records.
15. Training and support would be made available for all levels of user, some of which may be on-line.

Q 6.1: Do you agree that local authorities should share data to assist with the administration of the Scheme?

Failing to return a badge

16. Regulation 9 of the 2000 Regulations states that a badge should be returned to the issuing local authority immediately on occurrence of the following events:
 - the expiry of the period for which the badge was issued;
 - the death of the holder (or the organisation ceasing to exist);
 - the holder ceases to be disabled (or the organisation ceases to be eligible);
 - after a replacement has been issued the original is subsequently found;
 - the badge is no longer readable;
 - the badge ceases to be required;
 - misuse of the badge has led to three relevant convictions; and
 - the authority is satisfied that the badge was obtained by false representation.
17. Local authorities report that few people return badges when they have expired, as there is no real incentive for them to do so. Some local authorities try to address the issue by asking people to hand over expired badges when they are collecting replacements or renewals. Others send strongly-worded letters. Enforcement officers have informed us that there is evidence that suggests that expired badges have remained in circulation.
18. If someone deliberately uses an invalid badge, then that individual may be prosecuted for misuse.

19. However, this approach is reactive and does not help with removing invalid badges from circulation. Regulation 9(4) of the 2000 Regulations provides that the issuing authority may take such action as may be appropriate to recover a badge which the holder is liable to return under regulation 9 – usually through the civil courts.
20. Bearing in mind it is incumbent on badge holders to ensure that their local authorities have up-to-date contact details, we could also consider amending primary legislation to make it an offence for someone to fail to return a badge if requested to do so within 28 days of receipt of a letter from the local authority. Receiving a letter could overcome claims the people had simply forgotten to return a badge.

6.2: Do you think we should impose a fixed penalty on badge holders who fail to return an expired badge?

Fees

21. The current regulations allow a local authority to charge up to £20 for the issue of a badge. Speaking to local authorities it is clear that while most of them charge, some do not and where they do, not all charge £20.
22. This leads to a situation where how much you pay depends on where you live. There may be an argument for all local authorities to charge the same fee.
23. The 1970 Act states that the fee is for the issue of the badge. However, we are aware that many authorities charge for submitting an application and not just the successful issue of the badge as the majority of the costs are incurred irrespective of whether the application is successful or not.

24. Changes could be made to primary legislation to make it mandatory to charge a fixed fee of £20, and to charge a fee per application rather than per issue.

Q 6.3: Do you think we should make it mandatory for all local authorities to charge a fee of £20 for every application?

25. Primary legislation states that a fee may be charged for the re-issue of a badge. We therefore propose to make a change to secondary legislation to allow local authorities to charge up to £20 for a replacement badge when a badge holder has lost or damaged their badge. We would like to see badge holders treat the Blue Badge with the same importance they would treat a Passport or a Driver's Licence.
26. The fee is used to recover some part of the administration costs and to assist in meeting enforcement costs.

Q 6.4: Do you think we should also charge a fee of £20 for a replacement badge?

27. It is estimated that when a medical report is requested from an applicant's General Practitioner that the fee alone is approximately £30. This is added to the cost of processing the application, obtaining badges and leaflets and enforcing the Scheme. It is clear from this that the maximum fee may not always cover all the administration costs. We therefore would like to know whether you think we should make an amendment to primary legislation to increase the maximum fee of £20.

Q 6.5: Do you think we should raise the maximum fee above £20?

28. To strengthen the security of the badge we will be asking local authorities to ask badge holders who report a badge as being lost or stolen to provide the authority with a crime reference number and to sign a declaration that the badge is lost, and if found will be returned to the authority immediately.
29. When a local authority issues a duplicate badge we would like it to have the date of issue on it. We are currently liaising with our colleagues in the Department of Transport regarding this proposal.

Information

30. To tackle some of the misunderstandings that lead to misuse of the badge (see Chapter 4) we intend to improve the Blue Badge Scheme information provided for users, administrators and to the general public. We currently issue an information leaflet outlining the Blue Badge Scheme. Once the legislation has come into effect we intend to expand and upgrade the information contained in the leaflet. Following consultation within the Working Group we have agreed that in order to make it easier for users we will move away from the current “one size fits all” leaflet to a set of three independent leaflets covering different aspects of the Scheme: “how to apply for a badge”, “the rights and responsibilities of the badge holder” and a leaflet for Organisational Badges.
31. We intend to make revisions to the Blue Badge webpage on the Scottish Government website so that it includes detailed information for badge holders, local authorities, applicants the general public and visitors from outwith the UK. The website will include details of the Scheme, an on-line application form, on-line leaflets, relevant legislation and a section on Frequently Asked Questions.
32. To improve consistency throughout Scotland and to assist with the enforcement of the Scheme we intend to draw up a “Code of Practice”. This guidance should ensure local authorities are not diverting from national criteria by developing their own specific criteria such as awarding badges dependent on the age of the applicant.

33. The “Code of Practice” will include sections on the application process, assessing eligibility, administration and enforcement. To assist the authorities it will include checklists, case studies and relevant templates.

7. Organisational Badges

1. Local authorities are empowered to issue badges to organisations concerned with the care of disabled people for any or each motor vehicle kept in the area of the issuing authority. Employees of those organisations are then able to use the badges when transporting disabled people. Around 1% of badges on issue in Scotland are currently issued to organisations; there are approximately 3,700 of these in circulation throughout Scotland.
2. We understand from enforcement officers that there is evidence to suggest that Organisational Badges are being misused, with employees frequently using the badges for their own benefit. We therefore wish to tighten up the criteria for applying for an Organisational Badge.
3. Under current secondary legislation an Organisational Badge can be issued to a specific vehicle. To ensure that the badge is not transferred to another vehicle we propose changing the badge to allow a vehicle registration number to be shown on the front.

Q 7.1: Do you agree that each Organisational Badge should contain the vehicle registration number?

4. We also propose amending primary legislation to ask applicants to provide proof that they have a Road License awarded under the Disabled Passenger Vehicle Taxation Class for the appropriate vehicle. This will ensure that the vehicle has been appropriately adapted, is insured and will provide the vehicle registration number required for the badge.

Q 7.2: Do you agree that organisations applying for an Organisational Badge should provide proof that the vehicle has a Road License awarded under the Disabled Passenger Vehicle Taxation Class?

5. We also propose amending secondary legislation to alter the design of an Organisational Badge to readily distinguish it from individual badges. We propose adding a yellow border to the Badge.

Q 7.3: Do you agree that we should alter the design of an Organisational Badge to make it easily identifiable?

8. Concessions

1. Badge holders can park in disabled parking bays and can also park at on-street parking bays free of charge which we recognise is an important concession for badge holders. Under the provisions of the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (Scotland) Regulations 2000 badge holders are entitled to park on single yellow and double yellow lines (throughout Scotland) for an unlimited time, unless there are loading instructions in place.
2. However, many local authorities state that double yellow lines serve an important road safety purpose. They exist to highlight dangerous areas to park and that parking on them will cause a hazard for people with disabilities as well as other road users. Parking in these areas can also cause congestion and poor line of vision for pedestrians which may lead to traffic accidents.
3. The Royal Society for the Prevention of Accidents state that the "no parking on double yellow lines" rule should apply consistently to all road users and maintains that exceptions should only be made to allow badge holders to park on double yellow lines in an emergency. To improve road safety we are considering amending secondary legislation to remove the right for badge holders to park on double yellow lines.

Q 8.1: Do you agree that we should remove the right to park on double yellow lines?

4. In line with the Scottish Government's National Performance Framework which was published by the Scottish Government in 2007 within their "Scottish Budget Spending Review 2007" local authorities are tasked with reducing congestion and promoting use of public transport.
5. Many local authorities complain that parking on single yellow lines leads to congestion and limits access to commercial premises for deliveries. We have been asked to consider amending secondary legislation to limit the amount of time badge holders can park on single yellow lines.

6. Although we have no plans to remove the concession to park on single yellow lines, we feel that the Disabled Persons' Parking Places (Scotland) Act 2009 will lead to the introduction of many more disabled on-street parking bays.
7. In England and Wales badge holders are limited to three hours continuous parking, after which they must move away from that area for a period of at least an hour. The badge holders are issued with a clock card which is placed beside the Blue Badge and is set by the holder when they leave the car.
8. If this proposal were to be accepted local authorities would have to issue clock cards to all holders. Badge holders would also be able to use these clocks in England and Wales. Currently badge holders intending to travel south of the Border have to request a clock card from their local authority.

Q 8.2: Do you agree that we should introduce a limit on the amount of time badge holders can park on single yellow lines?

9. Since the introduction of the badge, further concessions have been provided to badge holders such as reduced fares on certain ferries and free off-street parking.
10. There is a suggestion from enforcement officers that people who misuse the badge generally do so to gain the financial benefits, rather than wanting to use a disabled bay. The removal of some of non-parking concessions might reduce the incidence of fraud and misuse of the badge. We are therefore considering carrying out some research on the implications of removing some of the additional concessions.

Q 8.3: Would you like to see research carried out on the implications of removing some of the additional concessions for badge holders?

9. How to Respond

1. The consultation covers Scotland only as the Blue Badge Scheme is a devolved matter. The Department for Transport published its own reform strategy in October 2008, *Comprehensive Blue Badge (Disabled Parking) Reform Strategy (England)*. The Welsh Assembly Government published its own reform strategy in December 2009, *A Modern Blue Badge Scheme for Wales: Action Plan for key stakeholders*. The Department for Regional Development in Northern Ireland has made recent changes to its Blue Badge Scheme.
2. The consultation period will run from 05 July 2010 to 01 October 2010. Please ensure that your responses reach us by that date. Information on the Scottish Government's consultation process is attached at Appendix D.
3. We welcome responses from anyone interested in the issues covered by this consultation document. In particular those who are likely to be most impacted by the proposals:
 - disabled people, their carers and their representative groups;
 - elderly people and their carers;
 - families with children under 3 with mobility difficulties;
 - parking enforcement officers and their representative groups or parent companies;
 - local authorities; and
 - service personnel and war veterans.
4. A list of primary consultees is attached at Appendix E.
5. The consultation questions are provided at Appendix A.
6. Responses should be sent by email to:
bluebadge@scotland.gsi.gov.uk.
7. You can also submit responses by post to:
Sarah Guy
PVS, MACS & Mobility Team
Scottish Government
2D - North
Victoria Quay
Edinburgh
EH6 6QQ

8. Following this consultation, the Scottish Government will analyse responses and publish a summary by November 2010 on the web at www.scotland.gov.uk. Paper copies will be available on request. Any agreed legislative changes will be taken forward at the earliest opportunity.
9. The majority of amendments will be made to the Disabled Persons (Badges for Motor Vehicles)(Scotland) Regulations 2000. A draft of the amendment regulations is also subject to consultation and is attached at Appendix F.

APPENDIX A

Summary of questions included in the consultation document

No.	Question
Chapter 2	
Q2.1	Do you agree that we should amend the definition of “unable to walk or has considerable difficulty walking” so that it is consistent with that used for the Higher Rate of the Mobility Component of the Disability Living Allowance assessments?
Q2.2	Do you agree that we should extend eligibility to severely disabled service personnel and war veterans?
Q2.3	Do you agree that we should extend eligibility to those with severe forms of autistic spectrum disorder and very advanced forms of dementia?
Chapter 3	
Q3.1	Do you agree that we should encourage independent medical assessments?
Q3.2	Should independent medical assessments be mandatory on all local authorities?
Q3.3	Do you agree that an appeals procedure relating to the application process should be introduced?
Chapter 4	
Q4.1	Do you agree that local authorities should have the power to confiscate badges that have been cancelled and/or that are being misused by a third party for their own benefit?
Q4.2	Do you agree that we should remove the current “three relevant convictions” requirement in the legislation and allow local authorities to make an informed judgement?

Q4.3	Do you agree that we should introduce a maximum fine of £2,500 for the misuse of a Blue Badge?
Chapter 5	
Q5.1	Do you agree that we should move towards the central distribution of badges to improve the security of the badge?
Q5.2	Would you like to see the badge holder's photograph on the front of the badge?
Chapter 6	
Q6.1	Do you agree that local authorities should share data to assist with the administration of the Scheme?
Q6.2	Do you think we should impose a fixed penalty on badge holders who fail to return an expired badge?
Q6.3	Do you think we should make it mandatory for all local authorities to charge a fee of £20 for every application?
Q6.4	Do you think we should also charge a fee of £20 for a replacement badge?
Q6.5	Do you think we should raise the maximum fee to above £20?
Chapter 7	
Q7.1	Do you agree that each Organisational Badge should contain the vehicle registration number?
Q7.2	Do you agree that organisations applying for an Organisational Badge should provide proof that the vehicle has a Road License awarded under the Disabled Passenger Vehicle Taxation Class?
Q7.3	Do you agree that we should alter the design of an Organisational Badge to make it easily identifiable?

Chapter 8

Q8.1 Do you agree that we should remove the right to park on double yellow lines?

Q8.2 Do you agree that we should introduce a limit on the amount of time badge holders can park on single yellow lines?

Q8.3 Would you like to see research carried out on the implications of removing some of the additional concessions for badge holders?

APPENDIX B

Number of Blue Badges⁴ on issue at 31 March 2009

Council	Institutions	Automatic¹	Discretionary²	Other reasons³	TOTAL
Aberdeen City	116	3,277	5,171		8,564
Aberdeenshire	127	3,008	6,101	4	9,240
Angus	139	2,292	3,307		5,738
Argyll & Bute	53	2,006	2,954		5,013
Clackmannanshire	27	305	481	2	815
Dumfries & Galloway	19	794	949	959	2,721
Dundee City	116	3,209	3,102	1	6,428
East Ayrshire	41	3,664	3,436		7,141
East Dunbartonshire	65	1,895	3,132	76	5,168
East Lothian	12	1,988	2,314	455	4,769
East Renfrewshire	18	1,465	2,699		4,182
Edinburgh, City of	247	8,350	12,298		20,895
Eilean Siar	11	296	518		825
Falkirk	66	3,485	4,835	197	8,583
Fife	564	11,253	12,698		24,515
Glasgow, City of	260	16,770	11,638		28,668
Highland	144	3,810	7,554		11,508
Inverclyde	141	2,060	2,541	109	4,851
Midlothian	117	1,882	2,371	272	4,642
Moray	46	1,904	2,697		4,647
North Ayrshire	124	4,183	3,525		7,832
North Lanarkshire	77	8,520	10,261	20	18,878
Orkney Islands	9	105	290	7	411
Perth & Kinross	95	1,814	3,738	184	5,831
Renfrewshire	88	7,247	701		8,036
Scottish Borders	684	2,836	5,249		8,769
Shetland Islands	27	305	481	2	815
South Ayrshire	57	1,732	3,921	42	5,752
South Lanarkshire	119	9,244	7,892	417	17,672
Stirling ⁵	?	?	?	?	4,411
West Dunbartonshire	47	2,490	1,983	24	4,544
West Lothian	69	5,730	3,625		9,424
Total					261,288

(Extracted from the Scottish Government's Scottish Transport Statistics publication 2009 Edition)

Notes

1. Badges issued in the automatic categories (without further assessment) to recipients of mobility allowances, the higher rate of mobility component of Disability Living Allowance, Government issued cars or grants towards their own cars, War Pensioners' Mobility Supplement or to registered blind people.
2. Badges granted in the discretionary category (following additional assessment) to people with a permanent and substantial disability who are unable or nearly unable to walk.
3. Badges granted to drivers with a severe upper limb disability in both upper limbs who cannot turn a steering wheel by hand, missing or unavailable.
4. Blue Badges were introduced on 1 April 2000 and eventually replaced all Orange Badges at 31 March 2003.
5. Stirling was unable to break down their statistics to the relevant categories.

APPENDIX C

GLOSSARY OF TERMS

Armed Forces Compensation Scheme - Provides compensation to all Regular and Reserve personnel, irrespective of fault, across the full range of circumstances in which illness, injury or death is caused by service on or after 6 April 2005.

Autistic Spectrum Disorder - A spectrum of psychological conditions characterized by widespread abnormalities of social interactions and communication, as well as severely restricted interests and highly repetitive behaviour.

Blue Badge Scheme - A national arrangement of parking concessions for people with severe walking difficulties who travel either as drivers or passengers, or to organisations concerned with the care of disabled people for any or each motor vehicle kept in the area of the issuing authority.

Bulky Medical Equipment - Medical equipment required by children under 2, in particular ventilators, suction machines, feed pumps parenteral equipment, syringe drivers, oxygen administration equipment and continual oxygen saturation equipment.

Clock Card - A plastic disc displayed in conjunction with a Blue Badge to allow an individual or organisational badge holder to park close to their destination.

“Code of Practice” - A model of best practice which will give local authorities as framework to assist local authorities and may be used to base their Blue Badge processes on.

Congenital Disability - A disability that is present from birth.

Decriminalised Parking – In local authority areas where parking has been decriminalised, it is administered by the local authority and parking attendants, instead of the police and police traffic wardens.

Devolution (devolved matter) - The transfer of powers from the UK Parliament at Westminster to the Scottish Parliament.

Dementia: - A group of related symptoms associated with an ongoing decline of the brain and its abilities. Skills and abilities affected may include thinking, language, memory, understanding and judgment.

Disability Living Allowance (DLA): - A non-means tested benefit paid to disabled people regardless of whether they are in employment or not. It has two components; care and mobility. The care component can be paid at the higher, middle, or lower rate, and the mobility component can be paid at a higher or lower rate. The abbreviation HRMCDLA is used throughout this paper, and stands for Higher Rate of the Mobility Component of Disability Living Allowance.

Independent Medical Assessment: - An independent medical assessment is carried out by a health care professional (e.g. a GP, occupational therapist, physiotherapist). They are independent in that the Blue Badge applicant will not normally have had any contact with them prior to being assessed.

Non-decriminalised parking: - In local authority areas where parking has not been decriminalised, the parking function is administered by the police and police traffic wardens.

On-street parking: - single parking bays which are situated on the street, and are not part of a car park.

Primary Legislation: - The general term used to describe the main laws passed by the legislative bodies of the UK, usually in the form of Acts of the applicable Parliament.

Scottish Government's National Performance Framework: - The framework document which contains measures and suggests outcomes to allow Scotland to flourish and become a more successful country.

Secondary Legislation: - Secondary legislation is made by a person or body under an authority contained in primary legislation.

Severe Cognitive Impairment: - This term refers to severe mental or behavioural disorders or loss of intellectual capacity that requires substantial supervision by another person.

War Pensioner's Mobility Supplement: - A benefit payable to injured or disabled individuals as a result of service in Her Majesty's (HM) Armed Forces.

APPENDIX D

THE SCOTTISH GOVERNMENT'S CONSULTATION PROCESS

1. Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.
2. The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.
3. Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the relevant website enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises.
4. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).
5. The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:
 - indicate the need for policy development or review;
 - inform the development of a particular policy;
 - help decisions to be made between alternative policy proposals; and
 - be used to finalise legislation before it is implemented.
6. Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

7. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

APPENDIX E

LIST OF PRIMARY CONSULTEES

All Scottish MEPs
All Scottish local authorities
All Scottish health boards
All Scottish police forces
Convention of Scottish Local Authorities (COSLA)
Ability Net
Able Magazine
Ableize
Age Scotland
Alzheimer Scotland
Arthritis Care Scotland
Association of Directors of Social Work
Asthma UK Scotland
Autism Treatment Trust
Befriending Network (Scotland) Ltd
Bipolar Fellowship Scotland
Blue Badge Network
British Academy of Childhood Disability
British Deaf Association Scotland
British Dyslexia Association
British Heart Foundation Scotland
British Lung Foundation Scotland
British Parking Association
British Polio Fellowship
Brittle Bone Society
Capability Scotland
Carers Scotland
Child Brain Injury Trust (Scotland)
Children 1st
Community Care Providers Scotland
Community Transport Association
Confederation of Passenger Transport
Consumer Focus
Cystic Fibrosis Trust Scotland
Deaf Action
Deafblind Scotland
Diabetes UK Scotland
Disability Awareness in Action
Disability Rights Commission (Scotland)
Disabled Trust for Scotland
Downs Syndrome Scotland

ECAS
Equality & Human Rights Commission
Enable Scotland
Epilepsy Scotland
Equality Network
Focus on Disability
Guide Dogs for the Blind Association (Scotland)
Headway - The Brain Injury Association
Hearing Concern
Improvement Service
Inclusion Scotland
Independent Living in Scotland
Learning Disability Alliance Scotland
Leonard Cheshire Scotland
Limbless Association
M E Association
Mental Health Foundation (Scotland)
Mental Welfare Commission for Scotland
Mobility and Access Committee for Scotland
Mobilise
Momentum
Motability
Multiple Sclerosis Society Scotland
Muscular Dystrophy Campaign
National Autistic Society Scotland
National Deaf Children's Society
National Federation of the Blind of the UK (Scotland)
National League of the Blind and Disabled
National Schizophrenia Fellowship (Scotland)
Neighbourhood Networks in Scotland Limited
Pain Concern
Partners for Inclusion
Penumbra
People First Scotland
Phab Scotland
Poverty Alliance
Princess Royal Trust for Carers Scotland
Profound and Multiple Impairment Service (PAMIS)
Project Ability
Quality Action Group
Quarriers
Reach Scotland
Rehab Scotland
Remploy
Richmond Fellowship Scotland
RNIB Scotland

RNID Scotland
Royal Blind Asylum & School
Scottish Accessible Information Forum
Scottish Accessible Transport Alliance
Scottish Association for Mental Health
Scottish Community Foundation
Scottish Consortium for Learning Disability
Scottish Council for Voluntary Organisations (SCVO)
Scottish Council on Deafness
Scottish Deaf Association
Scottish Disability Equality Forum
Scottish Disability Sport
Scottish Down's Syndrome
Scottish Epilepsy Centre
Scottish Federation of Housing Associations
Scottish Motor Neurone Disease Association
Scottish National Federation for the Welfare of the Blind
Scottish Personal Assistants Employers Network
Scottish Posture and Mobility Network
Scottish Recovery Network
Scottish Sensory Centre
Scottish Society for Autism
Scottish Spina Bifida Association
Scottish Trades Union Congress (STUC)
Sense Scotland
Service Personnel and Veterans Agency
SHARE Scotland
Shopmobility Scotland
Skill Scotland
Society of Chief Officers of Transportation in Scotland (SCOTS)
Spinal Injuries Scotland (SIS)
Stonewall Scotland
The Thistle Foundation
Traffic Commissioner for Scotland
Transform Scotland
UPDATE
Veterans UK
Visibility
Visualise
Volunteer Centre Network Scotland
Volunteer Development Scotland
VOX
Wise Group

APPENDIX F

DRAFT LEGISLATION

SCOTTISH STATUTORY INSTRUMENTS

2010 No.

ROAD TRAFFIC

The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2011

<i>Made</i> - - - -	2011
<i>Laid before the Scottish Parliament</i>	2011
<i>Coming into force</i> - -	2011

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 21 of the Chronically Sick and Disabled Persons Act 1970(1) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2011 and come into force on [] 2011.

Amendment of the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000

2.—(1) The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000(2) (in these Regulations called “the principal Regulations”) are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “disabled person” omit “more than 2 years old and”.

(3) In regulation 4 (descriptions of disabled persons)—

(a) in paragraph (1)(b) for “2” substitute “3”;

(b) in paragraph (2)—

(i) in subparagraph (e) omit “congenital”;

(ii) in subparagraph (f) for “has considerable difficulty in walking” substitute “virtually unable to walk”; and

(iii) in subparagraph (g) for “has considerable difficulty in walking” substitute “virtually unable to walk”; and

(1) Section 21 was amended by the Local Government Act 1972 (c.70), Schedule 14, the Transport Act 1982 (c.49), section 68, the Road Traffic Regulation Act 1984 (c.27), Schedule 13, paragraph 11, the Local Government Act 1985 (c.51), Schedule 5, the Road Traffic Act 1991 (c.40), section 35, Schedule 8, the Local Government (Wales) Act 1994 (c.19), Schedule 10, paragraph 8 and the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 86. The functions of the Secretary of State, in or as regards to Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) S.S.I. 2000/59, amended by S.S.I. 2000/170, 2002/451 and 2007/162.

- (c) in paragraph (4)—
 - (i) in subparagraph (a)(vi) omit “and”; and
 - (ii) after subparagraph (a)(vii) insert—
 - “(viii) casts and associated medical equipment for the correction of hip dysplasia, and”.
- (4) In regulation 6(2)(a) (fee for issue and period of issue of a badge) for “second” substitute “third”.
- (5) In regulation 7 (replacement badges)—
 - (a) in paragraph (1) after “on the front” insert “along with the date of issue and the date on which the original badge is no longer valid”; and
 - (b) after paragraph (2) insert—
 - “(3) The fee (if any) which a local authority may charge for any replacement badge is a fee not exceeding £20.”.
- (6) In regulation 10(4) (appeals) for “Executive Development Department, Transport Division 2” substitute “Government, Transport Directorate, Transport Strategy Division, Area 2D-North”.

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh

2011

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Disabled Persons (Badge for Motor Vehicles) (Scotland) Regulations 2000 (“the Principal Regulations”).

These Regulations amend the definition of “disabled person” to being a person more than 3 years old instead of the current definition of more than 2 years old.

These Regulations also delete the word “congenital”, substitute a new term regarding ability to walk and add a new description of “bulky medical equipment” in regulation 4 of the Principal Regulations.

These Regulations provide that a local authority may charge a fee of £20 for a replacement badge and also amend the details that will be included on replacement badges.

These Regulations also amend the address in relation to sending a notice of appeal to the Scottish Ministers.