



## Briefing for the Public Petitions Committee

**Petition Number:** [PE1576](#)

**Main Petitioner:** Owain Martin

**Subject:** Blue Badges for children with Autism and Down's Syndrome

Calls on the Parliament to urge the Scottish Government to change the law so that children with autism and Down's syndrome who are under 16 are entitled to a blue badge as those who are over 16 are as is the case in Wales.

### Background

The petitioner is seeking to ensure that children with Autism and Down's Syndrome are entitled to a Blue Badge.

Reference is made to previous changes to the Higher Rate Mobility criteria for Disability Living Allowance (DLA), which acts as a 'passport' to a Blue Badge, ie automatic entitlement. The petitioner also refers to the fact that a child in receipt of DLA, must now apply for the Personal Independence Payment (PIP) when they turn 16 and how different eligibility criteria for PIP can affect the passport to a Blue Badge.

Under section 21 of the Chronically Sick and Disabled Persons Act 1970, Scottish Ministers can define the eligibility criteria for a Blue Badge. The Scottish Government has amended eligibility a number of times in recent years. Extending the criteria to include people with severe forms of autistic spectrum disorder and very advanced forms of dementia was considered in 2010. However, the criteria were not changed as a result.

Last year, Transport Scotland consulted on extending the criteria for a Blue Badge to those with a 'mental disorder', and now the Scottish Government has set up a working group to consider taking this forward. The intention is to make recommendations to the Minister for Transport and Islands in November 2015.

### Current eligibility

Blue Badges may be issued **without assessment** (known as a 'passporting benefit') by the local authority if the applicant is over two and:

- receives the higher rate of the mobility component of DLA or PIP at the appropriate rate, eg

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

Blue Badges may also be issued **following an assessment** by the local authority if the applicant:

- regularly drives a vehicle and has a severe disability in both arms and is unable to operate, or has considerable difficulty in operating, all or some types of parking meter; or
- has a permanent and substantial disability which causes the person to be unable to walk, or virtually unable to walk; or
- is unable to walk or virtually unable to walk by reason of a temporary but substantial disability which is likely to last for a period of at least 12 months beginning with the date on which the blue badge is issued; or
- is a child under three who is required to be accompanied by bulky medical equipment or kept near a motor vehicle so that they can be treated for their condition.

Applicants who are not in receipt of a passporting benefit can apply through the assessment route in their local authority. This is a standardised process across Scotland. Many of these applications will be determined through a desk based assessment using the information supplied by the applicant from verifiable sources, or information held by the local authority for example, through other services received as a result of their disability. In cases where a desk based assessment cannot determine eligibility, the local authority is required to refer the applicant for an Independent Mobility Assessment which is undertaken primarily to determine whether a person meets the specific definition in the scheme of being "unable to walk or virtually unable to walk". Decisions about whether an applicant meets the eligibility criteria are the responsibility of the issuing local authority.

## Blue Badge scheme in Wales

The Welsh Government extended the criteria for Blue Badges in January 2015 following a [consultation](#). The eligibility criteria are similar to that in Scotland, but now include people who have a cognitive impairment. This means that someone receiving the Higher Rate Care Component of DLA, who cannot plan and follow the route of a familiar journey, would be eligible for a Blue Badge. However, this does not appear to be an automatic entitlement, as additional evidence is required from a health professional. See: [Blue Badge Scheme in Wales: Blue Badge eligibility criteria](#) (January 2015).

## Welfare Reform

The UK Government's welfare reforms included the replacement of DLA with the PIP for people of working age. One of the aims was to reduce expenditure on DLA by 20%. As a result of the move to PIP, eligibility for a Blue Badge may change for some DLA recipients. To mitigate this change, the Scottish Government has sought to change the eligibility criteria for a Blue Badge.

## Scottish Government

In 2010 the Scottish Government [consulted](#) on proposals to:

- Tighten up the definition of 'unable to walk' for those assessed by local authorities to bring it in to line the Department for Work and Pensions definition of eligibility for the Higher Rate of the Mobility Component of the Disability Living Allowance.
- Extend the eligibility criteria to severely disabled service personnel and war veterans.
- Extend the eligibility criteria to people with severe forms of autistic spectrum disorder and very advanced forms of dementia. This proposal was supported by the majority of respondents (378 out of 500). However, a number of concerns were raised:
  - Autism and dementia are not illnesses that affect ability to walk
  - People with autism and dementia would be accompanied by carers who would be able to walk and not require a badge
  - The scheme is already overprescribed and there are not enough designated parking spaces
  - Potential for abuse of the scheme carried out by relatives of those with autism or dementia
  - Difficulties with defining the 'severity' of autism.

Changes to the Blue Badge scheme, following the Scottish Government's consultation in 2010:

**From 1 April 2011**, the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2011 amended the criterion from "has considerable difficulty in walking" to "virtually unable to walk".

**From 1 September 2012**, the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment (No. 2) Regulations 2011 included the imposition of a requirement to obtain an independent mobility assessment as a condition of eligibility where there is any doubt as to whether the applicant was unable or virtually unable to walk. (Prior to this date the eligibility assessment was normally carried out by the applicant's General Practitioner).

In response to the welfare reform of replacing DLA with PIP for people of working age, the Scottish Government brought in further changes to Blue Badge eligibility.

**From 8 April 2013**, The Welfare Reform (Consequential Amendments) (Scotland) Regulations 2013 introduced changes to make certain recipients of PIP eligible for a disabled person's badge.

The Scottish Government's intention was to maintain existing entitlement to passported benefits as far as possible. The 2013 regulations made provision for the following people in receipt of the Mobility Component of PIP to be automatically entitled to a blue badge:

- those awarded 12 points (enhanced rate) for "planning and following journeys" which includes those who cannot follow the route of a familiar journey without another person, assistance dog, or orientation aid or,
- those awarded 8 points (standard rate) for "moving around".

The 2013 regulations also provided for all new recipients of PIP, at either the standard or enhanced rate to become eligible for a concessionary travel card, and for those in receipt of the daily living component (at either standard or enhanced rate) to be eligible for a companion card.

The Scottish Government said:

"The enhanced rate of planning and following a journey takes into account those with greatest need who may not have a mobility impairment but who require guidance and/or supervision to follow a journey. This is similar to the higher rate HRMCDLA.

By including those who receive PIP at the standard rate of 8 points on the moving around descriptor we have taken into account those persons who may have previously received Higher Rate Mobility Component of DLA and will potentially have their award reduced to standard rate PIP on reassessment by DWP. This means that many

will still be able to use the PIP award as a passport to obtaining a blue badge”<sup>1</sup>.

**From 28 June 2014**, The Disabled Persons (Badge for Motor Vehicles) (Scotland) Amendment Regulations 2014 introduced mitigating changes to reduce the impact on persons who lose passporting entitlement to the blue badge scheme as they transfer from DLA to PIP. This introduced two further passporting arrangements covering people who were in receipt of HRMC of DLA but who no longer get that award due to being assessed for PIP.

- The first new eligibility criteria applies to those who do not receive PIP at the rate to qualify automatically for a blue badge and who have challenged that decision with DWP. A badge under this eligibility criteria has a period of issue of one year.
- The second new eligibility criteria ensures that those that were in receipt of a ‘lifetime’ or ‘indefinite’ HRMC of DLA award will retain passporting entitlement to a blue badge. Such persons would have reasonably expected to have retained passporting entitlement under DLA, and there is no equivalent ‘lifetime’ or ‘indefinite’ period of issue under PIP.

## **Transport Scotland consultation**

In 2014, Transport Scotland issued a [‘call for evidence’](#) on the benefits and consequences of potentially extending the eligibility criteria for the Blue Badge scheme, to include people, who as a result of a diagnosed mental disorder, have little or no awareness of danger from traffic and are likely to compromise their safety, or the safety of others as a result. A mental disorder is defined under the Mental Health (Care and Treatment) (Scotland) Act 2003 as:

- Mental illness
- Personality disorder, or
- Learning disability

The [analysis](#) of responses was published in December 2014. There was wide agreement that eligibility for a Blue Badge should be extended to people with a mental disorder. However, there was also broad agreement that the definition of ‘mental disorder’ is too wide and unspecific, and potentially covers people who should not be eligible for a Blue Badge.

A working group was established, and has so far had two meetings in July and September of 2015<sup>2</sup>. Discussions have focused on:

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<sup>1</sup> Welfare Reform Committee [papers 5 March 2013](#)

<sup>2</sup> Transport Scotland 25 September 2015, Personal Communication.

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

Transport Scotland is also liaising with colleagues in the Scottish Government and key external stakeholders. They are aware of the new Welsh Regulations that allow those with a cognitive impairment, who cannot plan and follow the route of a familiar journey, to be eligible for a Blue Badge. It has also been noted that the scheme is administered differently in England, Wales and Scotland, and that therefore the Working Group will look for a solution suitable for Scotland.

Recommendations will be submitted to the Minister for Transport and Islands in November 2015.

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**25 September 2015**

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