

25 July 2013

Department for Regional Development
Roads Services Lands and Legislation Branch
Room 2.13
10-18 Adelaide Street
BELFAST
BT2 8GB

TO WHOM IT MAY CONCERN

Re: Blue Badge Scheme in Northern Ireland – Changes to the Automatic Eligibility Criteria Scheme Administration Blue Badge Fee and Free Parking in the Department’s Car Parks

The Equality Commission welcomes the opportunity to respond to the Department for Regional Development’s consultation on Changes to the Automatic Eligibility Criteria Scheme Administration Blue Badge Fee and Free Parking in the Department’s Car Parks.

The Commission acknowledges the need to review the Blue Badge Scheme and the eligibility criteria in light of the proposed change to the Disability Living Allowance (DLA) and the transition to the new Personal Independence Payment (PIP).

The Department identifies three key options for consultees to consider:-

- **Option 1** – No legislative link between the Blue Badge eligibility and receipt of a PIP award;
- **Option 2** – Establishing a legislative link between the Blue Badge eligibility and the enhanced mobility component of PIP to include those who score 8 points or more within the ‘moving around’ activity descriptor and those who score 12 points or more within the planning or following journeys activity;

- **Option 3** – Establishing a legislative link between Blue Badge eligibility and receipt of a PIP award to include only those who score 8 points or more within the moving around activity descriptor within PIP.

Summary Overarching Comment

The Commission supports the Department's plans to extend the eligibility criteria for the Blue Badge to include children between the ages of 2 and 3 with specific medical conditions and the Department's consideration of removing or reducing car parking charges for Blue Badge holders who may wish to avail of Roads Service car parks.

The Commission prefers Option 2 as it is likely to have the effect of including a wider range of applicants eligible for automatic entitlement to the Blue Badge. This would enable greater numbers of disabled people to benefit from the Scheme without having unnecessary additional medical assessments and give better recognition to the diverse issues facing disabled people in relation to daily activities and mobility issues.

The Commission believes that the legislative link between the Blue Badge automatic entitlement criteria associated with the current DLA should be retained following the introduction of the new Personal Independence Payment.

We are of the view that the Option 1, removing the legislative link between the Blue Badge and the automatic entitlement criteria associated with DLA, would be likely to have the effect of forcing applicants to undergo medical assessments and delay entitlement to the benefits of the Blue Badge Scheme. Adoption of this option would likely have an adverse impact on existing members and new applicants who qualify for automatic entitlement to the Blue Badge under the existing arrangements. Finally, beyond the adverse effect on equality this option we agree that it would also create an additional and unnecessary cost to the public purse and be unlikely to yield any savings or create further investment opportunities to enhance the Blue Badge Scheme.

The third option is also limited and likely to have adverse consequences for those who have a cognitive or learning impairment and need assistance in moving around. This option, which is described as similar but not identical to the current eligibility criteria, would restrict automatic eligibility to the Blue Badge Scheme to those applicants who are unable to walk or have very considerable walking difficulties. It would be likely to

exclude many disabled applicants who have difficulty moving around due to their impairment but have no physical mobility issues e.g. those with severe learning disabilities, cognitive impairments that may arise from multiple sclerosis, dementia and other neurological conditions.

Specific Comments

The Commission's Preferred Option

The Commission's preferred approach to amending the Blue Badge Scheme is Option 2. This option not only retains the existing link between the current Disability Living Allowance (DLA) high rate mobility component and automatic eligibility to the Blue Badge Scheme, but extends it to include other applicants who would have received the high rate care component of the Disability Living Allowance as, although they have no visible mobility issues, they are unable to plan or make a journey without assistance.

Applicants with cognitive impairments, such as those referenced above, will be able to access a wider range of goods, facilities and services without the stress and anxiety associated with walking medium and long distances.

We accept that under the existing Blue Badge Scheme, applicants with sensory, learning and cognitive impairments would probably have been eligible for a Blue Badge Scheme, subject to the requirement for further medical evidence to support their case for entitlement. We have also been advised by a range of stakeholders that some General Practitioners charge a fee to provide medical reports and the cost of this is often borne by the applicant. Furthermore, by offering those applicants described above automatic entitlement to the Blue Badge would reduce the need for unnecessary additional medical assessments.

Option 2, if introduced, would remove such additional hurdles, and make it much easier for a greater number of applicants with a wide range of disabilities beyond physical mobility issues to access the Blue Badge Scheme.

UN Convention on the Rights of Persons with Disabilities (CPRD)

Option 2 also improves correspondence with state obligations under the UN Convention on the Rights of Persons with Disabilities (CPRD) to recognise the diversity of people with disabilities¹, to assure the right of disabled people to live independently (Article 19) and to have an adequate standard of living and social protection (Article 28).

It also better takes into account the importance of accessibility to the physical, social, cultural and economic environment². Furthermore, the inclusion of applicants with cognitive impairments and/or severe learning disabilities within the automatic entitlement criteria for the Blue Badge is likely to further promote and protect the human rights of those applicants who require more intensive support³.

We recognise that if the Department were to adopt this option, a consequence could be to potentially increase demand for accessible on street parking bays and off street accessible parking provision within both private and public sector car parking. However, greater numbers of disabled people, on a pan disability basis, would benefit from the Scheme.

Option 1

The Commission considers that Option 1, to remove the legislative link to the automatic eligibility criteria for those in receipt of PIP, would place additional administrative costs upon the state and place unnecessary stress on applicants to the Scheme. We agree with the observations in the consultation paper, highlighted in paragraph 3.6, that this option would mean that many disabled people would have to undergo additional medical assessments to qualify for entitlement to the Blue Badge, resulting in increased staffing costs to process applications as well as an increase in the total sum of Doctors' fees.

Option 3

The Commission does not favour Option 3, on the grounds that the automatic eligibility criteria would only apply to those applicants with visible physical mobility issues. The Department acknowledges that this

¹ UN Convention on the Rights of Persons with Disabilities, Preamble, clause (i). Available at: <http://www.equalityni.org/archive/pdf/UNCRPDOptionalProtocol.pdf>

² Ibid, clause (v).

³ Ibid, clause (j).

option is likely to exclude those disabled people who have no mobility issues but nonetheless have difficulty ‘moving around’ without assistance or support as a result of their impairment e.g. those with learning disabilities, those with dementia etc.

We consider that people with learning disabilities and behavioural difficulties and those with neurological conditions which affect the cognitive abilities to both plan and undertake a journey should be considered for automatic entitlement to the Blue Badge.

Cost Benefit Analysis – Incremental increase in Blue Badge Fees

The Commission notes that the Department is proposing an increase in the fees associated with the administration and maintenance of the Blue Badge Scheme.

We would ask the Department to take into account its obligations under the CPRD, and, in particular, Article 28, the right of disabled people to adequate standard of living and social protection.

Any increase in fees should be considered alongside the potential impact of welfare reform measures which are likely to result in reduced financial support for disabled people. For example, with respect to the measures associated with the transition from DLA and the introduction of PIP, it is estimated that 25% of those Disability Living Allowance recipients who will be reassessed before October 2015 will not be eligible for Personal Independence Payment and will receive no award whilst 32% will have their award decreased⁴. No analysis to assess the potential outcomes for DLA recipients who will be reassessed after October 2015 has yet been made available.

We also note the Department of Social Development’s recent acknowledgement that older people and disabled people are most at risk of experiencing poverty and economic hardship⁵.

Whilst bearing in mind the concerns highlighted above, we consider that any increase in fees for the Blue Badge would be an opportunity for the Department to utilise the additional income to invest in the development

⁴ Department for Social Development (April 2013): *Section 75 Update Welfare Reform Briefing*, paragraph 3, page 55. Available at:

http://www.dsdni.gov.uk/index/publications/other_reports/equality.htm

⁵ Equality Commission for Northern Ireland, (February 2013): *Maximising Incomes and Outcomes – A Plan for Improving the Uptake of Benefits consultation response letter*. Available at:

<http://www.equalityni.org/archive/word/ECNIresponsetoDSDconsultationonMaximisingIncomesandOutcomesFinal250212.docx>

of the Scheme e.g. increased enforcement and increased provision of accessible parking bays, both on-street and in Road Service car parks.

However, the Commission considers that Blue Badge holders should not be effectively double charged by being asked to pay increased membership fees as well as being required to pay for use of Road Service Car Parks. Although we acknowledge that the introduction of free but time limited off-street parking for Blue Badge holders would go some way to meeting the demands for free parking and at the same time ensure a turnover of bays throughout an average day, we also recognise that many disabled people feel safer using off-street car parking.

Any increase in Blue Badge fees should take into account ability to pay and provide a range of measures to ease the potential adverse effects on individual members of the Scheme e.g. permitting payment by installment.

Application Process

The Commission would encourage the Department to ensure that there are a range of means of application available for those who wish to apply for a Blue Badge.

We are concerned that the application process for the Blue Badge should not be confined to telephone or online routes. A 2011 survey on Internet usage by the Office for National Statistics revealed that, in Northern Ireland, people with a disability (46.3%) were much less likely than non-disabled people (77.4%) to have ever used the internet. The figures also reveal that Internet usage amongst disabled people here is less than the UK average for people with disability (63.8%)⁶.

Furthermore, feedback from organisations such as Disability Action, through the 'Age No Barrier' project, suggests that many older people do not like to discuss their personal business over the phone and further that many older people do not have access to online services⁷. We recommend that hard copy applications are provided as an additional option.

In addition, we suggest that consideration is given to further investment to ensure that community groups and advice agencies are able to

⁶ Office for National Statistics (2011): *Internet Access Quarterly Update 2011*, Q1. The disaggregated figures for disabled people in Northern Ireland contained in the raw data for this survey were unpublished and were obtained by Disability Action from the ONS in May 2011.

⁷ Disability Action (forthcoming): *Age No Barrier*. Available at: www.disabilityaction.org/agenobarrier

provide effective support to potential applicants who may wish to apply for a Blue Badge.

Section 75 Obligations

Comments on screening process

The Commission notes that the Department sets out a number of policy options in the consultation document and it is unclear what is being screened. The Department should note that the comments in this section are based upon Section 75 and the Department's equality scheme commitments only and are not a comment on the policy proposals themselves.

In addition, the Commission is unclear of the status of the screening form. On page 2 of the screening cover sheet it states that the policy has been screened out with mitigation or an alternative policy adopted. However, Part 3 of the screening form – Screening Decision (page 29) states that: '*this screening form will be revisited and reviewed before a final decision is made*'.

It would appear from the above that it is Department's intention to continue to screen at various stages during implementation as per the commitment in paragraph 4.5 of its Equality Scheme:
'....For more detailed strategies or policies that are to be put in place through a series of stages, we will screen at various stages during implementation'.

The Commission would advise that the form should be clear on its screening decision.

Screening Decision

The Commission advises that undertaking an EQIA may be the most appropriate screening decision, in line with scheme commitments. This is for a number of reasons as set out below.

Firstly, the impact of the policy (positive or negative depending on which options are chosen) will significantly affect one of the Section 75 groups, (i.e. disabled people). The policy clearly has the potential to either adversely impact on disabled people or to promote greater equality of opportunity for disabled people.

Secondly, there are several policy issues under consideration which increases the complexity of the policy e.g. link between PIP payments and blue badge eligibility, DRD car park charges, changes to application process, increase in the fee for a blue badge etc.

On page 64 of the Commission's Section.75 guide⁸, the Commission recommends that public authorities should conclude there is a 'major' impact, where:

- a) *The policy is **significant** in terms of its strategic importance;*
- b) *Potential equality impacts are unknown, because, for example, there is insufficient data upon which to make an assessment or because they are **complex**, and it would be appropriate to conduct an equality impact assessment in order to better assess them;*
- c) *Potential equality and/or good relations impacts are likely to be adverse **or** are **likely to be experienced disproportionately by groups of people including those who are marginalised or disadvantaged**;*
- d) *Further assessment offers a valuable way to examine the evidence and develop recommendations in respect of a policy about which there are concerns amongst affected individuals and representative groups, for example in respect of multiple identities;*

Screening questions – assessment

On the screening form, in answer to the 4 screening questions the level of impact has been assessed as 'none', 'positive' or 'negative' as opposed to 'major', 'minor' or 'none' as per the commitments in Chapter 4 of DRD's equality scheme. It is unclear therefore how the Department has assessed whether an EQIA is necessary as the extent /level of the impact appears not to have been assessed.

The Commission recommends that the Department complies with its own scheme by assessing potential impacts as 'major', 'minor' or none. Where the n assessment identifies a 'major potential' impact (positive or adverse), this should normally leads to a screening decision to

⁸ Equality Commission (2010): *Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities*. Available at:

<http://www.equalityni.org/archive/pdf/S75GuideforPublicAuthoritiesApril2010.pdf>

undertake an EQIA; as per the commitment in paragraph 4.11 of Department's Equality Scheme.

It is unclear how the Department can determine a screening decision, where the extent of the impact is not assessed.

Consideration / availability of other information / data

The Commission feels that the Department should give greater consideration to the availability of other information or data which may be available in order to more accurately assess equality impacts of the various proposals. For example, in relation to changes in the application process:

- Any general data available on older or disabled people in relation to access to the internet, computer literacy, etc. to better assess the impact of moving to an online / telephone application process.
- Applications can currently be made online through NI Direct – data on the age profile or type of disability of applicants who have used this method to date

Mitigation

The Commission would advise that mitigation does not appear to have been fully considered for each of the policy options set out in the policy consultation. In light of our advice, to consider an EQIA, we recommend that mitigation is considered further in this context. For example:

- In relation to the potential increase in the application fee – consideration of allowing applicants to spread the cost over a period of time via monthly direct debits.
- In relation to the move to an online/telephone application process continuing to accept hard copy applications from disabled people for whom this method is more accessible.
- In relation to the potential increase in the number of blue badges being issued - increasing the number of accessible parking bays available to disabled people, both on street and in relation to increasing the percentage which private service providers are required to have in car parks.

On behalf of the Commission, I hope that you will our comments into account and should you require any further information please do not hesitate to contact me.

Yours sincerely

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Annex 1

1. The Equality Commission for Northern Ireland (the Commission) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment and treatment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
2. The Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 (Section 75) and to promote positive attitudes towards disabled

people and encourage participation by disabled people in public life under the Disability Discrimination Act 1995.

3. The Commission's general duties include:

- working towards the elimination of discrimination;
- promoting equality of opportunity and encouraging good practice;
- promoting positive / affirmative action
- promoting good relations between people of different racial groups;
- overseeing the implementation and effectiveness of the statutory duty on relevant public authorities;
- keeping the legislation under review;
- promoting good relations between people of different religious belief and / or political opinion.

4. The Commission, with the Northern Ireland Human Rights Commission, has been designated under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of UNCRPD in Northern Ireland.