

15 March 2018

Vida Browne-Campbell
Department for Transport
Traffic and Technology Division
3/27 Great Minster House
33 Horseferry Road
London SW1P 4DR

Dear colleague,

Local Government and Social Care Ombudsman's response to the Department for Transport (DT) Blue Badge scheme: consultation on eligibility

About the Ombudsman

The Local Government and Social Care Ombudsman (LGSCO) investigates complaints about councils and some other authorities and organisations, including education admission appeal panels and independent adult social care providers. It is a free service. Our role is to investigate complaints in a fair and independent way – we do not take sides.

Our experience, of dealing with situations where things have gone wrong, puts us in a unique position to provide insight into what could be done to improve local public services.

The Ombudsman's role in relation to Blue Badge complaints

We welcome the opportunity to submit evidence to the consultation which seeks views on changing the eligibility criteria for the Blue Badge scheme to include people with non-physical conditions.

The Ombudsman can consider complaints about the Blue Badge scheme. We cannot question or replace the council's decision of whether a Blue Badge should be given. Instead, our role is to decide whether the council took all relevant factors into account when making its decision and followed the appropriate procedure.

Some common faults we identify in the complaints we investigate include where an application for a Blue Badge has been unreasonably delayed, where the process of assessment of an application is significantly flawed (for example, if a council did not follow the legislation or guidance in relation to eligibility) or where a council does not have a review or reassessment procedure for applicants who have been refused a Blue Badge after a mobility assessment or if it has failed to properly apply its procedure.

If we uphold a complaint, we would then make recommendations to the council about what they should do to remedy any injustice. This may include a request to carry out a reassessment of an application.

Proposed modifications to the criteria

We support the Government's stated rationale for the changes outlined in the consultation to ensure that the Blue Badge scheme does not discriminate between physical and non-physical disabilities and also make the scheme's implementation 'fair and consistent'.

We agree in principle with the proposed new criteria which focus on the difficulties experienced when making a journey rather than the physical act of walking. We also note the change from 'permanent' to 'enduring' when describing the nature of the disability and the additional criteria to acknowledge potential difficulties in undertaking a journey or following a route safely or being unable to do so without assistance.

In reviewing the Blue Badge scheme local authority guidance to reflect these changes, we believe there is scope to clearly illustrate what the Government means by these changes to ensure they will be applied consistently by local authorities.

Our experience of investigating complaints about the Blue Badge scheme illustrates the problems identified in the consultation about the confusion and variance in understanding and interpreting the current regulations and guidance by local authorities, particularly in considering the impact of non-physical factors. The case study below highlights these issues:

Case reference: [16008740](#)

Mrs P complained to us after the council did not approve her application for a Blue Badge for her daughter L who has autism and severe learning and communication difficulties. She complained that the council's Blue Badge assessment for L did not fully consider the impact of her learning difficulties on her mobility and why, as her carer, she needs to park close to services.

It was not possible to conduct a full mobility assessment for L because she could not understand or take part. The mother gave information on her behalf. She explained that her daughter's posture and feet were the main reasons for her difficulty walking. She also mentioned that L sits down when she does not want to walk and uses a wheelchair when they go out.

The assessor sought information from other professionals who work with L. L's school teachers noted that she can walk but is reluctant to do so, even over short distances. The school uses a wheelchair to take L on trips and she also uses one for the short distance between the school bus and her house. This was also corroborated by the school's physiotherapist. The assessor's analysis of this extra information was that while L often uses a wheelchair, this appears to be due to choices she makes rather than considerable physical difficulty in walking. L was not deemed eligible for a Blue Badge.

In appealing the outcome of the assessment, the mother provided further explanation that she needed to park near services for L to access them because she can get upset in crowded areas, puts herself in dangerous situations by refusing to walk and is vulnerable when left alone.

We found that the council's assessment and appeal decision did not directly address how L's Down's syndrome and autism affect her walking. While they contained information about her symptoms, the focus was on her physical ability to walk. However, the evidence suggests that L's difficulty in walking may be partly caused by her cognitive and communication problems, and associated behaviours. We therefore concluded that it was not appropriate for the council to base its decision only on her physical capacity to walk.

Following our investigation, the council has agreed to reconsider L's Blue Badge application. We said that the council should demonstrate that it has carefully considered all the evidence about the impact of L's physical and mental conditions in deciding

whether her disability causes her “very considerable difficulty in walking” as prescribed in the Regulations.

Range of healthcare professionals carrying out assessments

We agree that it is reasonable in light of the proposed changes to the criteria to allow a wider range of healthcare professionals with specific expertise (other than the applicant’s GP) to undertake the assessments. This would enable professionals with the best knowledge of an applicant’s conditions and who are better placed to make a judgment of the impact on their mobility to have a role in the assessment. We suggest the guidance may wish to provide a list of such professionals, albeit not an exhaustive one.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. King', with a stylized flourish at the end.

Mr Michael King

Local Government and Social Care Ombudsman