

Blue Badges, Parking Permits and Visitor Parking Permits: Sanction and Prosecution Policy



Blue Badges

Peterborough City Council provides parking concessions to people who have been issued with a Disabled Parking Badge, under the national Blue Badge scheme. Blue Badges are issued in accordance with the Department for Transport Guidance, to people with a permanent and substantial disability that impacts on their mobility.

The scheme provides a significant financial benefit when compared with paid for parking. Due to this financial benefit, Peterborough City Council does experience an element of fraud within the scheme which we will investigate. The investigation of Blue Badge misuse and fraud is a serious matter and as such, may result in the sanctioning of those persons, who have abused the Blue Badge scheme to gain a financial advantage.

By adopting and enforcing this Policy, Peterborough City Council makes the statement that it will not accept any abuse of the Blue Badge scheme. This will act as a deterrent against Blue Badge misuse and fraud. In making decisions as to whether criminal proceedings should be brought against individuals, Peterborough City Council will always consider whether there is sufficient evidence for there to be a reasonable prospect of conviction, if the matter was taken to Court and will also consider if it is in the public interest.

The Disabled Persons' Parking Badge Scheme ("the Scheme") was introduced in 1972, under Section 21 of the Chronically Sick and Disabled Persons Act 1970. The Scheme provides a national arrangement of on-street parking concessions and car parks for severely disabled people. The disabled persons Blue Badge is recognised throughout the European Union.

It is the responsibility of Peterborough City Council to ensure that only people satisfying the required criteria are issued with a Blue Badge. Individuals sign a declaration on the application form stating that the information provided is correct. In addition, individuals can automatically qualify for a Blue Badge if they have higher rate mobility for Disability Living Allowance or Personal Independence Payments and they will be required to provide a copy of the award letter as proof.

Fraud and Misuse of a Blue Badge

There are several ways that a Blue Badge can be used fraudulently or misused:

- Using a Blue Badge that has expired or is no longer valid;
- Misuse of a valid Blue Badge by a non-badge holder;
- Using a Blue Badge that has been reported as lost or stolen;
- Using a forged, copied / scanned or amended Blue Badge;
- Using a Blue Badge that is obtained through submission of false or misleading information on application; or
- Using a Blue Badge when the holder is no longer eligible as the medical condition or mobility has improved.

Where an investigation reveals that the misuse of a Blue Badge appears to have occurred due to a mistake then the badge holder will be provided with details of the correct use and other sanctions will be considered if appropriate.

Blue Badge holders have a duty to return a badge if:

- The badge expires;
- The badge holder is no longer eligible;
- It is a replacement badge for one that is lost or stolen and the original is found / recovered (in this case the original badge should be returned so that it can be officially destroyed);
- The badge is so damaged / faded that the details are not clear;
- Where the badge holder dies, it is the responsibility of the next of kin to return the badge.

Resident and Visitor Parking Permits

A resident parking permit allows residents to park their vehicles in a resident's bay in the street or zone near to where they live. However, a permit does not guarantee that a parking space will always be available. To ensure the scheme is as fair as possible permits are issued at the discretion of the Council. There may be restrictions in certain areas / streets / zones.

Visitor parking permits provide access to residential parking bays, subject to their availability. It is necessary for anybody using a visitor parking permit, to park a vehicle, to be visiting a person who resides within the restricted parking area.

Legislation

The Council may pursue criminal proceedings under the following legislation:

- Road Traffic Regulation Act 1984 section 117
- Fraud Act 2006 – Sections 1, 2, 3, 6 or 7

Prosecution

When considering the suitability of a case for prosecution, PCC will apply two tests, the evidential test and the public interest test (see above)

Circumstances where it may be deemed to be in the public interest to prosecute

The following is not an exhaustive list and each case will be judged on its own merits:

- The fraud or misuse was calculated and proven to be deliberate;
- The person has previously committed other similar fraud offences;
- There has been a breach of trust;
- The case involved collusion or conspiracy;
- The person was the ringleader or has organised or initiated the Blue Badge fraud;
- A warning letter has previously been issued to the person for previous misuse of a Blue Badge; or
- Where the person fails to attend an interview under caution we may proceed to prosecution.

Circumstances where it may be deemed not to be in the public interest to prosecute

The following is not an exhaustive list and each case will be judged on its own merits:

- The age or physical or mental health of a person is such that the additional stress incurred by a prosecution would incur an unacceptable risk;
- Where the person suffers chronic ill health, this will normally be supported by independent medical evidence, where appropriate;
- For the purposes of this policy a person's age will be considered along with the other relevant information when deciding whether to apply a sanction; or
- There has been an inexcusable time delay, which may prejudice the case.

Interviews under Caution

A person will be invited to attend an interview under caution in all cases where the evidence has been collected that suggests an offence has been committed and sanction action should be considered in line with this policy. This will allow the person to provide explanations for their actions and provide Peterborough City Council with information relevant to both the evidential and public interest tests referred to above.

If a person chooses not to attend an interview under caution or declines to answer questions regarding the alleged offence, then Peterborough City Council will decide on the evidence available the most appropriate course of action which includes referral for prosecution.

In all cases which involve employees of the Council, investigations will also follow the Councils Code of Conduct which could lead to appropriate disciplinary action.

Warning Letters

In circumstances where there is sufficient evidence, but it is not in the public interest to prosecute, Peterborough City Council will issue a warning letter. Such circumstances may include:

- Where the offence was committed by mistake; or
- Where the person committing the offence would be eligible for a blue badge in their own right if they applied

This is not an exhaustive list and each case will be judged on its own merits.

Publicity

The Council intends to positively promote this policy as well as the outcome of any prosecutions, which will deter others from fraudulent activity.

Annex 1

Definition of Fraud

Fraud is a wrongful or criminal deception intended to result in financial or person gain:

- Makes a false statement;
- Produces a false document; and / or
- Fails to promptly notify of a relevant change in circumstances which the person knows will affect the discount / exemption / relief / support they are entitled to / or are in receipt of.

Culture

The Council has a Compliance Team which is part of Internal Audit within the Resources Department. The team consists of two investigating officers and is line managed by the Chief Internal Auditor.

Cases of suspected fraud can be referred to the team by e-mail (fraud@peterborough.gov.uk) they can also be made on-line via the Council's website. They can also be made by letter. In a similar vein this can be used for reporting of any other suspected fraud. Employee investigations are also covered by the team and follow the Employees Code of Conduct and the Disciplinary Policy. There is a dedicated fraud hotline **01733 452250** which can be used by either staff members or the general public. Outside office hours there is an answerphone service attached to this number.

Prevention, Detection and Investigation

The Team will investigate allegations of fraud to a criminal standard, i.e. evidence is collated and alleged offenders formally interviewed in accordance with the Police & Criminal Evidence Act 1984 / the Criminal Procedure and Investigations Act 1996. A case will only be deemed suitable for prosecution if it meets the requirements of the Code for Crown Prosecutors. There are two main requirements – The Evidential Test and The Public Interest Test.

Prosecution cases are passed to an in-house Litigation Lawyer. If it case is to be passed to the Police for them to investigate, the case is referred to the Director of Governance.

Evidential Test

The prosecuting authority must be satisfied that there is sufficient evidence to provide a 'realistic prospect of conviction' on each charge. Consideration should be given to what the defendant's defence may be and how it is likely to affect the prospects of conviction.

A realistic prospect of conviction is an objective test based solely upon the prosecuting authority's assessment of the evidence and any information that the authority has about the defence that the subject of the allegation may put forward. The authority must then decide whether, if properly directed in accordance with law, a jury (or magistrate) is more likely to convict than acquit a defendant of the charge(s) against them. When deciding if there is sufficient evidence to prosecute the authority will consider:

- Can the evidence be used in court?

- Is it likely that the evidence will be excluded by the court? (For example, is it likely it may be excluded due to the way that it was obtained?)
- Is the evidence hearsay? If so, is the court likely to allow it to be represented under any of the exceptions which permit such evidence to be given in court?
- Does the evidence relate to the bad character of the suspect? If so, is the court likely to allow it to be presented?
- Is the evidence reliable?
- Does the suspect have a credible explanation for their actions?
- Is there evidence which might support or detract from the reliability of a confession? Is its reliability affected by factors such as the suspect's level of understanding?
- Is the identification of the suspect likely to be questioned?
- Are there concerns over the accuracy, reliability or credibility of any of the evidence of any witness?

Public Interest Test

When the prosecuting authority has deemed that the case has sufficient evidence to provide a realistic prospect of conviction it must then consider if it is in the 'public interest' for the legal action to progress. Every case is different and many will have mitigating aspects which will influence the authority's decision to either take legal action or refrain from instigating legal proceedings.

The public interest test requires prosecutors to consider wider factors tending for or against prosecution, for example the relative seriousness of the offence. Each case will be considered on its own merits by common public interest factors tending against prosecution may be:

- The customer's mental or physical health would deter the authority from taking further action.
- The investigation process contains unexplained long delays.
- The customer's family circumstances or adverse recent events may deter the authority from taking the person to court.

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