

Calderdale Council Customer Services

Blue Badge Scheme

Fraud and Misuse Sanctions Policy

Adopted by Calderdale Council 17th February 2016

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1. Background

- 1.1** Calderdale 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 their mobility.
- 1.2** The scheme provides a significant financial benefit when compared with paid for parking. Due to this financial benefit the Council does experience an element of fraud within the scheme. To combat this, Calderdale Council will undertake a programme of investigations. This policy applies to all cases of Blue Badge misuse and fraud investigated by the Council.

2. General Introduction

- 2.1** Calderdale Council believes that 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 financial benefit.
- 2.2** This Sanctions Policy should not be used in isolation, but in conjunction with other counter fraud related policies/strategies, within the Council.
- 2.3** By adopting and enforcing this Sanctions Policy, Calderdale 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.
- 2.4** In making decisions as to whether criminal proceedings should be brought against individuals, Calderdale 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.
- 2.5** The Disabled Persons' Parking Badge Scheme ("the Scheme") was introduced in 1972, under Section 21 of the Chronically Sick and Disabled Persons Act 1970.
- 2.6** The Scheme provides a national arrangement of on-street parking concessions for severely disabled people. Calderdale Council also gives concessions for Blue Badge holders in Council regulated car parks.
- 2.7** The disabled persons Blue Badge is recognised throughout the European Union.
- 2.8** The booklet, 'The Blue Badge Scheme: rights and responsibilities', contains detailed information on the parking concessions available under the Scheme.
- 2.9** It is the responsibility of Calderdale Council to ensure that only people satisfying the required criteria are issued with a Calderdale Blue Badge.

3. Fraud and Misuse of a Blue Badge

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

- 3.1** Using a Blue Badge that has expired or is no longer valid,
- 3.2** Misuse of a valid Blue Badge by a non-badge holder,
- 3.3** Using a Blue Badge that has been reported as lost or stolen,
- 3.4** using a forged, copied / scanned or amended Blue Badge,
- 3.5** Using a Blue Badge that is obtained through submission of false or misleading information on application,

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.

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

- 4.1** The badge expires,
- 4.2** The badge holder is no longer eligible or, in the case of an organisational badge, the organisation no longer exists,
- 4.3** 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),
- 4.4** The badge is so damaged/ faded that the details are not clear,
- 4.5** The badge is no longer required by the holder,
- 4.6** Where the badge holder dies, it is the responsibility of the next of kin to return the badge.

5. Legislation

The Council may pursue criminal proceedings under the following legislation;

5.1 Road Traffic Regulation Act 1984 section 117

Wrongful use of a disabled person's Blue Badge.

5.2 Forgery and Counterfeiting Act 1981 section 3

The offence of using a false instrument

5.3 Fraud Act 2006 – Section 1

Fraudulent misuse of a Blue Badge

6. Prosecution

- 6.1** When considering the suitability of a case for prosecution, Calderdale Council will apply two tests, the evidential test and the public interest test.

6.1.1 Evidential Test

This test considers whether:

- There is enough evidence to provide a realistic prospect of conviction,
- The evidence is reliable and can be used in court.

Where this test is satisfied, Calderdale Council will consider the public interest test.

6.1.2 Public Interest Test

Calderdale Council will consider public interest factors to determine whether to prosecute an offender or consider whether an alternative course of action may be more suitable.

6.2 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, e.g. it demonstrates a level of effort, planning and premeditation from the outset, e.g. forged Blue Badge,
- The fraud or misuse has continued over a long period of time,
- 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,
- Where the offence is considered widespread within the local community/ area,
- There is a genuine reason to believe the person will continue to offend in the future,
- The person has declined the offer of a formal caution,
- A formal caution has previously been imposed on the person for an earlier offence.
- Where the person fails to attend an interview under caution we may prosecute.

6.3 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 offence ended voluntarily,
- 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,

- There has been an inexcusable time delay, which may prejudice the case.

Where it is considered that it is not in the public interest to prosecute, it is likely that Calderdale Council will consider the offer of a formal caution as an alternative to prosecution proceedings. In this instance the evidential test must be satisfied.

6.4 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 Calderdale Council with information relevant to both the evidential and public interest tests referred to above. If a person chooses not to attend an interview or declines to answer questions regarding the alleged offence, then Calderdale Council will decide on the evidence available the most appropriate course of action which includes referral for prosecution.

7. Formal Caution

A formal caution is an administrative sanction that a Local Authority is able to offer as an alternative to a prosecution, as long as specific circumstances are met and the case is one the Council could take to court if the formal caution was refused, e.g. the 'evidential test' is satisfied.

Cautions will be recorded on the Councils Blue Badge system and will be taken into consideration when deciding if prosecution is appropriate should future breaches occur and as part of an application for bad character at any future prosecutions if deemed appropriate.

Calderdale Council considers it to be in the public interest to administer a formal caution as an alternative to prosecution if the following circumstances apply and the evidential test has been satisfied:

- The offence has been admitted at an interview under caution,
- The person has not offended before or has not committed a Blue Badge related offence within the last 2 years,
- The person has not deliberately set out to plan the fraud from the outset

- The person has not committed the fraud over a long period of time,
- The person's attitude towards the offence indicates that a formal caution would be an appropriate punishment, e.g. recognises the seriousness of the conduct,
- There is sufficient evidence to prosecute if the formal caution is declined,
- Where informed consent has been obtained from the person being formally cautioned.

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

When a formal caution is offered but refused, Calderdale Council will instigate prosecution proceedings.

8. Warning Letters

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

- Where the offence was committed by mistake
- 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.

9. No Sanction

- 9.1** Where the circumstances of the case show that, in accordance with this policy, no sanction appears appropriate or it is not considered to be in the public interest to take further action, no sanction will be applied.

10. Penalty Charge Notice (PCN)

- 10.1** Notwithstanding the above provisions, Civil Enforcement Officers working on behalf of Calderdale Council will issue PCN's where they believe there is evidence that the blue badge is being misused or fraudulently used, meaning that the badge is invalidated.
- 10.2** Calderdale Council may decide that in addition to any PCN that has been issued, further sanctions are appropriate. In those cases the provisions of this policy will be considered.

11. Publicity

- 11.1** The Council will publicise full details of prosecution cases and a summary of other sanctions as a deterrent against blue badge fraud, if appropriate.