



**Westmorland
& Furness
Council**

Misuse Of Blue Badge

Introduction

The aim of the Blue Badge Scheme is to help disabled people with severe mobility problems, non-visible condition or those with a terminal illness, to access goods and services, by allowing them to park close to their destination.

A Blue Badge is given to a person, not a vehicle. This means the badge holder can use it whenever they travel as either a driver or passenger – it doesn't matter who owns the vehicle. Only the person that the badge has been issued to can use it

Report Blue Badge Misuse

Misuse of a badge is a serious offence and can result in prosecution and a fine of up to £1,000

Examples of misuse are:

- Using a badge when the badge holder is not travelling in the car
- Displaying your badge and remaining in the vehicle whilst a non-disabled person makes use of your badge for their own benefit
- Letting someone else use your badge to get free or better parking
- Letting a Carer use the badge even when carrying out business on the badge holders behalf
- Using a badge that belongs to a person that has died
- Using an out of date/expired badge

To be able to investigate please provide as much information as possible, particularly the serial number of the badge.

A badge can be withdrawn immediately if:

- It has been reported lost or stolen
- The holder is not the person they claim to be (seized by CEO)
- The holder allows another person to display the badge.
 - Where the offence prosecuted was committed by a third party using the holders badge, the authority needs to demonstrate that the holder knew the third party was using the badge, before it can be permanently withdrawn.
- The badge was obtained by false representation
- Violations have occurred on more than three occasions (for example, parking vehicle causing obstruction or danger to other road users)
- The badge has suffered any damage that prevents it from being identified correctly or distinguished from a forgery – replacement will be issued to badge holder where appropriate
- Another authority issues the same person a badge and both badges are 'current' at the same time

The following are actions that could be taken against a badge holder who uses an expired badge, an illegible badge, a badge that was lost or stolen and for which a replacement has been issued, or a badge which they are not entitled to use:

- They could be prosecuted and receive a fine of up to £1,000 on conviction under section 117 of the Road Traffic Regulation Act 1984;
- They could be issued with a Penalty Charge Notice for the parking contravention in those areas where local authorities have taken civil parking enforcement powers. In other areas, Fixed Penalty Notices can be issued;
- The local authority could seize the badge under section 21 (4D) of the Chronically Sick and Disabled Persons Act 1970; and
- Regulation 9 of the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 allows the badge to be withdrawn after a relevant conviction
- Where there is a concern that the badge holder may no longer meet the requirement for a blue badge then a note is placed on the internal system with a requirement for a further 'subject to further assessment ' application being submitted to be referred for an Independent Mobility Assessment

In cases where a badge holder lets a third party use a badge, the issuing local authority can withdraw the badge under regulation 9(2)(a) of the Disabled Persons (Badges for Motor Vehicles)(England) Regulations 2000, but only after a relevant conviction has been obtained (a Penalty Charge Notice may also be issued for any parking contravention that has occurred during the badge misuse).

If an able bodied person uses the badge and the holder has allowed this use, their badge will be immediately withdrawn. It is a criminal offence for an able bodied person to use a badge. If they do so they are liable to a fine of up to £1,000

What we will do if a badge is misused

We work closely with Council's Civil Enforcement Officers. If they or we discover that a blue badge is being misused we will work together to investigate this.

If this happens, or we suspect misuse or it is reported to us, we will contact the badge holder to discuss what has been discovered / reported and ask for your views

We will then make a decision about what to do next. This could be:

- No further action
- We issue a warning, and any further breach will result in your badge being withdrawn
- Withdrawal of the badge
 - A badge can be withdrawn for one successful prosecution of the badge holder or third party, of:
 - An offence under section 21(4B) of the Chronically Sick and Disabled Persons Act 1970 (this covers misuse of a real badge or use of a fake/altered badge vehicle is being driven); or
 - An offence under sections 115 or 117 of the Road Traffic Regulations Act 1984 (this covers misuse of a real badge or use of a fake/altered badge when the vehicle is parked); or
 - Dishonesty or deception committed under any other UK legislation in relation to the badge (which take account of offences under for example, the Fraud Act 2006, the Theft Act 1968, the Forgery and Counterfeiting Act 1981, etc.).
- If badge was applied for under the criteria 'subject to further assessment' then a note will be placed on the internal system to indicate that any further application will need to be referred for and Independent Mobility Assessment

We will then write to the badge holder with the final decision and remind them of the rights and responsibilities of the badge holder as detailed in the booklet received from the Department for Transport.

If the report does not originate from Westmorland & Furness Civil Enforcement Officers then the information will be passed to the Parking Team Leaders for their attention

If the badge has been seized the badge holder will be invited to a meeting to collect their badge and discuss the rights and responsibilities of the badge holder in accordance with the Department for Transport Regulations. The badge must be collected in person by the badge holder with the relevant ID documentation. The badge will not be posted out or released to a third party

We will also consider criminal proceedings if we believe an offence has been committed

Appendix 1

Blue Badge Misuse Form

What is the serial number of the badge?

Who is misusing this badge?

If known please include their name and their relationship to the badge holder, or a description of the person

Please describe the misuse

I.e. when and where the vehicle is parked, what type of vehicle is being used, the registration of the vehicle, time and date, etc.

Address or location where the vehicle was parked

Vehicle make

Vehicle colour

Registration number (if known)

Your name (optional)

Your email address (optional)

Your telephone number (optional)

Any other information

Data protection statement

Westmorland & Furness Council will use the information you provide on this form to respond and process your request. By submitting this form you are consenting to our processing personal information for the purpose of your request. We may share your information with other services to process your request

Appendix 2

Misuse Flow Chart

Example 1

Parking Services telephone team with suspected misuse

Administrator looks up details on MATS and contacts badge holder at the home telephone number

If badge holder answers the phone administrator will ask them to confirm where their badge is
Provide Civil Enforcement Officer with the relevant information

Civil Enforcement Officer will action as appropriate and pass report to Team Leader of Blue Badge Team to make the decision

- No further action
- We issued a warning, and any further breach will result in your badge being withdrawn
- Withdrawal of the badge

Example 2

Report of misuse is received by a member of the public

Pass to Team Leader to investigate

Check details on the MATS system if applicable contact badge holder for their views

Write to badge holder reminding them of their responsibilities under the blue badge scheme

Or

Pass to Parking Services to investigate

If Parking Services identify the suspected misuse taking place

Report sent to Team Leader of Blue Badge Team to make the decision

- No further action
- We issued a warning, and any further breach will result in your badge being withdrawn
- Withdrawal of the badge

Responsibilities

- It is the responsibility of the administrators to ensure this process is followed and the information on Mats is updated as outlined above.
- Team Leaders must be informed if there are any difficulties identified
- Should further clarification be required in relation to this guidance please speak to a Team Leader