

ABERDEEN CITY COUNCIL

COMMITTEE: **Enterprise, Planning and Infrastructure**
DATE: **6 November 2012**
DIRECTOR: **Gordon McIntosh**
TITLE OF REPORT: **Permit Misuse Policy**
REPORT NUMBER: **EPI/12/224**

1. PURPOSE OF REPORT

To update the Committee on the monitoring of permit misuse which has been undertaken to inform the development of a formal policy for dealing with misuse of all parking permits within the city, such as residents' permits, business permits, contractors' permits and Blue Badges.

2. RECOMMENDATION(S)

1. That the committee notes the levels and type of Blue Badge misuse and instructs officers to deal with such misuse by adopting the policy detailed in Appendix A.
2. That the Committee instructs officers to undertake an additional three month monitoring period for residential parking permits and to report back to the EP&I Committee in January regarding the progress of the monitoring period.

3. FINANCIAL IMPLICATIONS

It is anticipated that the cost of staff time to monitor and deal with Blue Badge misuse can be absorbed within current staffing levels. However, depending on the results of the extended monitoring period for other permits and the levels of misuse found, the creation of a specific enforcement team dealing with permit misuse may be required.

4. OTHER IMPLICATIONS

None

5. BACKGROUND / MAIN ISSUES

5.1 Background

5.1.1 There has been an increasing number of complaints from the public regarding perceived misuse of Residents' Parking Permits and officers are also aware of attempts to sell and purchase such permits.

5.1.2 An initial report on permit misuse was submitted to the EP&I Committee on 11 September. The report outlined proposals to carry out a monitoring period from July to September 2012, to ascertain the levels of permit misuse, including misuse of Blue Badges and residential permits.

5.2 Blue Badge misuse

5.2.1 In order to determine if Blue Badges were being used as intended, it was necessary for the City Wardens to be present when the vehicle was arriving or leaving and for the Badge to be inspected.

5.2.2 When the City Wardens were present where a driver or passenger was still in a car or entering/exiting a car displaying a Blue Badge, they asked to see the Badge. Wardens inspected Blue Badges on 42 occasions and found 18 instances where the Badge was not being properly used. These are detailed in Appendix B.

5.2.3 Each Blue Badge holder is provided with a copy of the Transport Scotland leaflet "The Blue Badge Scheme in Scotland – Rights and responsibilities of a Blue Badge holder".

5.2.4 Section 4 of this leaflet details common instances of Badge misuse, and states that these include the following:

- Allowing family members or carers to use your badge when you are not with them to do something on your behalf, such as shopping or collecting something for you
- Allowing non disabled people to take benefit from your badge while you sit in the car
- Displaying a badge photograph side up so that the details on the front cannot be read
- Copying or tampering with the badge
- Using the badge if it is expired or if you are no longer eligible

5.2.5 In instances of serious misuse, further investigation would be required to a standard that would secure a conviction, and would require the agreement of the Procurator Fiscal to pursue a case against the Badge Holder. Without this the Badge cannot be withdrawn, as per The Disabled Persons (Badges for Motor Vehicles) Scotland Regulations 2000. Under the same legislation however, the Council can refuse to issue another Badge upon expiry, and this can be done without having to secure a conviction.

5.2.6 The instances of misuse are mostly of a minor nature and appear to be the result of Badge Holders not familiarising themselves with their duties and responsibilities as a Badge Holder.

- 5.2.7 It is anticipated that the City Wardens will continue to ask to inspect Blue Badges as part of their daily duties and will then pass any instances of misuse on to the Road Safety and Traffic Management Team for further action
- 5.2.8 The instances of misuse are generally in line with that experienced by the majority of other local authorities in Scotland, with the exception of the City of Edinburgh Council.
- 5.2.9 A proposed policy is outlined in Appendix A. This policy is in line with the approach adopted by other local authorities, again with the exception of the City of Edinburgh Council, which has created a dedicated parking enforcement team.
- 5.2.10 It is therefore recommended that the Council adopt the policy outlined in Appendix A, to deal with misuse of Blue Badges.

5.3 Misuse of other parking permits

- 5.3.1 It has proved more difficult to obtain evidence of misuse of residents' parking permits etc than it has for Blue Badge misuse. This appears to be because the residents' permits are being used by commuters, and therefore the Wardens have to be on site at exactly the time the driver is parking or driving away, which can be over the course of a couple of hours in the morning and again in the evening.
- 5.3.2 In the case of Blue Badges, drivers are parking at various times of day which coincides with the Wardens carrying out their patrols and this misuse is therefore easier to confirm.
- 5.3.3 With misuse of residents' permits, if being used for commuter parking then it is dependent on the working hours of the driver when they are parking. Wardens may either arrive too late to witness the car being parked or driven away, or they may have to wait on site for a long period of time which severely impacts on their other duties and inhibits their ability to deal with other parking issues. There have therefore only been two instances which the Wardens have been able to fully investigate and confirm as misuse.
- 5.3.4 In both these instances, the Wardens waited for a considerable period of time on site, in order to speak to the driver. Both instances were misuse of a flexible parking permit, where a resident had purchased this permit and sold it to a colleague. In both cases, the Warden asked that the permit be surrendered and the driver did so.
- 5.3.5 The permit holder has been written to and reminded that the conditions of issue state that the permit may be withdrawn if it is been misused, including if it has been sold.
- 5.3.6 There is no policy in place with regard to the circumstances under which the Council would seek to withdraw a permit, and whether it would wish to pursue a conviction for fraud before doing so.

5.3.7 With the publication of the report to the September EP&I Committee, officers also received an email of support from a resident, stating they were pleased to see the monitoring period being undertaken and alleging widespread misuse of residents' permits in a specific area.

5.3.8 Given the difficulties in monitoring the misuse as outlined above it is recommended that a further monitoring period be undertaken, to target misuse of residents' permits and to investigate the claims made by the resident in response to the previous report.

5.4 Conclusion

5.4.1 On conclusion of the initial three month monitoring period, officers have a clearer understanding of the nature of Blue Badge misuse within the city, and propose to deal with this by the adoption of a policy outlined in Appendix A.

5.4.2 Officers do not feel that they have been able to adequately gauge the type and extent of residential parking permit misuse, and therefore propose that a further three month monitoring period be carried out to target this misuse, with a report to be provided to the January EP&I Committee.

6. IMPACT

Within the Community Plan, protecting and enhancing the built and natural environment is identified as a strategic priority, and underpinning the Community Plan is an aim to deliver Local & Regional Transport Strategy commitments by, among other means, using enforcement.

7. BACKGROUND PAPERS

Outstanding Business statement of Enterprise Planning and Infrastructure Committee meeting on 31 May 2012, the allocation of Business Permits to Offices Report submitted to the Controlled Parking Area Working Group meeting on 5 April 2012 and the Permit Misuse Policy report no EPI/12/151, submitted to the EP&I Committee on 11 September 2012.

8. REPORT AUTHOR DETAILS

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Appendix A

Enforcement of Blue Badges

Note: Enforcement of Blue Badges is subject to a Code of Practice in accordance with The Chronically Sick and Disabled Persons' Act 1970 and The Disabled Persons (Badges for Motor Vehicles) Scotland Regulations 2000, both as subsequently amended.

- Some flexibility in using powers, in order to address local circumstances
- Where the Badge Holder remains in the car to enable the driver or passenger to take advantage of the Blue Badge, the City Wardens will remind the Badge Holder about conditions of use and the Council will write to the Badge Holder reminding them of their duties and responsibilities in ensuring correct use of the Badge
- Where a family member or friend has been found using a Blue Badge when not entitled to do so, the City Wardens will issue a PCN and the Council will write to the Badge Holder reminding them of their duties and responsibilities in ensuring correct use of the Badge
- For the above instances of misuse, PCN's will be issued on each occasion of misuse, letters will be sent out on two occasions and on the third occasion the Council will class this as habitual misuse and will ask the Procurator Fiscal to prosecute under The Chronically Sick and Disabled Persons' Act 1970 and then withdraw the badge once a conviction has been secured, as per The Disabled Persons (Badges for Motor Vehicles) Scotland Regulations 2000
- Where a Badge is habitually misused, under The Disabled Persons (Badges for Motor Vehicles) Scotland Regulations 2000 the Council will refuse to issue a new or replacement Badge, where it has reasonable grounds to believe that the applicant would permit another person to use it.
- Where a Badge has been found to have been copied, altered, faked or forged, the Council will ask the Procurator Fiscal to prosecute under the Road Traffic Regulation Act 1984
- Where a Badge has been found to have been copied, altered, faked or forged, under The Disabled Persons (Badges for Motor Vehicles) Scotland Regulations 2000 the Council will refuse to issue a new or replacement Badge, due to the seriousness of this offence
- Where a lost/stolen Badge has been found to be used by someone other than the Badge Holder, the Council will also ask the Procurator Fiscal to prosecute the offender under the Road Traffic Regulation Act 1984

Appendix B
Misuse of Blue Badges

Observed number of occasions of Blue Badge misuse	Type of misuse	Action Taken
7	Badge holder remained in car while able bodied driver or passenger entered shops	The Badge Holders were reminded of the conditions of use and it was explained that any driver or passenger who was not mobility impaired should be using a pay and display or other available parking bay.
5	Expired Badge was displayed	These appeared to have been genuine errors by the Badge Holders. No reminders are issued and it is the duty of the Badge Holder or their carer to renew the Badge as required. The Badge Holders were advised to apply for a new Badge and return the expired Badge.
3	Family members were found to be using the Badge without the Badge Holder being present.	Drivers were advised of the requirements for Badge use and the Badge Holders have been written to with a request for an explanation into the circumstances under which their Badge was misused. They have also been reminded of the duties and responsibilities of a Badge Holder and advised that being convicted of misusing the Badge carries a fine of £1000 and can result in withdrawal of the Badge.
1	Badge Holder was parked on "School Keep Clear" markings	Advised that this constituted misuse of the Badge. The Badge Holder has also been written to as above.
1	Driver was parked illegally and claimed to be a Badge Holder but said his Badge was on a friend's car.	Driver has been written to as above, and also reminded that City Wardens should not be subject to abusive language when carrying out their role.
1	Driver of illegally parked vehicle was questioned and produced a Blue Badge, but Wardens were still suspicious and issued a PCN	Badge was reported lost within a month of issue and a duplicate Badge was issued. Grampian Police were contacted, as it was suspected that the lost badge may have been found and was being misused. The Police spoke to the Badge Holder and reminded him of his duties and responsibilities. The Badge Holder has been written to, asked for a written explanation of the circumstances and has been asked to return the duplicate Badge