

Report to: **Leader and Lead Cabinet Member for Strategic Management and Economic Development**

Date: **23 February 2015**

Report By: **Director of Adult Social Care and Health**

Title of Report: **Delegations in relation to Blue Badge Fraud Enforcement**

Purpose of Report: **To authorise the Director of Adult Social Care and Health to exercise the County Council's powers in relation to the misuse of Blue Badges**

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**RECOMMENDATIONS:** Lead Member is recommended to:

- (1) authorise the Director of Adult Social Care and Health to exercise the County Council's powers in relation to the misuse of Blue Badges including the powers set out in the Chronically Sick and Disabled Persons Act 1970 (as amended);**
  - (2) approve the amendments to the Scheme of Delegations under the Constitution as set out in Appendix 1;**
  - (3) agree the 'form of authority' for Enforcement Officers set out in Appendix 2; and**
  - (4) authorise the Director of Adult Social Care and Health to take any actions that are necessary to implement the joint working arrangements with Brighton and Hove City Council and Sussex Police**
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## **1. Background**

1.1 The Audit Commission estimates that 20% of blue badges are misused, and has estimated that each misused Blue Badge costs the tax payer up to £5,000. There are currently 24,000 Blue Badges issued in East Sussex and a further 13,000 Blue Badges in Brighton and Hove. Blue Badge misuse directly deprives entitled badge holders of their concessions.

1.2 The County Council, together with Brighton and Hove City Council ('BHCC') and Sussex Police have successfully applied for funding from the Counter Fraud Fund to tackle Blue Badge misuse, free up spaces for the genuinely disabled and to manage offenders in a proportionate and cost effective way. The Counter Fraud Funding has enabled the County Council and BHCC to employ two Blue Badge Fraud Investigation Officers.

1.3 It is proposed that high profile joint operations branded 'Operation Bluebird' will be planned and carried out by the County Council, BHCC and Sussex Police. The operations will be dual purpose; firstly to raise awareness that enforcement is being carried out, and secondly to deter future misuse of Blue Badges.

## **2. Supporting Information**

2.1 Under section 21 of the Chronically Sick and Disabled Persons Act 1970 (as amended by the Disabled Persons Parking Badge Act 2013) ('the CSDPA') the County Council has powers to:

(a) authorise an "enforcement officer" to:

- Require any person who (a) is in a vehicle, or (b) appears to have been in, or about to get into the vehicle, to produce their Blue Badge for inspection [s.21(4BA)]; and

- Retain a Blue Badge if it has been produced to him and the enforcement officer believes on reasonable grounds that (a) the Blue Badge was not lawfully issued, (b) the Blue Badge was lawfully issued but:
  - (i) should have been returned to the issuing authority;
  - (ii) it has been cancelled; or
  - (iii) it was being displayed in the vehicle otherwise than in the circumstances permitted under the CSDPA. [s.21(4D)]

(b) cancel Blue Badges [section 21(7AB)].

2.2 There are various offences in relation to misuse of Blue Badges, including under section 117 of the Road Traffic Act 1984, the Fraud Act 2006 and the Theft Act 1968.

2.3 A form of authority to authorise “enforcement officers” to exercise the powers in sub-sections 21(4BA) and 21(4D) has been devised and is set out in Appendix 2.

2.4 The powers set out in the CSDPA are executive functions, and therefore are the responsibility of Cabinet. It is recommended that the Lead Member approve the amendments to the Scheme of Delegations under the Constitution as set out in Appendix 1 (changes shown underlined).

### **3. Conclusion and Reason for Recommendation**

3.1 In order to facilitate the effective enforcement of Blue Badge Fraud, it is recommended that the Lead Member authorise the Director of Adult Social Care and Health to exercise the powers set out in the CSDPA to enforce effectively.

**KEITH HINKLEY**  
**Director of Adult Social Care and Health**

Contact Officer: Lynne Donnelly                      Tel. No. 01323 466535

Local Member: All

Background                      None  
Documents:

## E. Director of Adult Social Care and Health

1. To exercise all the powers and duties of the County Council in accordance with general policies from time to time laid down by the Cabinet for the administration of any arrangements made under relevant legislation with respect to services for adults including people with disabilities. This power includes specifically:
  - (a) arrangements made under Section 29, National Assistance Act 1948, Section 45, Health Services and Public Health Act 1968 and Section 2, Chronically Sick and Disabled Persons Act 1970 and the Health and Social Care Act 2001 (expenditure authorised up to a net contribution by the County Council of £50,000 in any one case on alterations/adaptations to premises);
  - (b) waiving assessed contributions for adaptations to premises/ provision of equipment in exceptional circumstances;
  - (c) authorising the Assistant Director Operations to be appointed as the Council's nominee for obtaining Grants of Probate and dealing with related matters and to seek appointment as Deputy in appropriate cases;
  - (d) under the Mental Health Act 1983 as amended, and the Mental Capacity Act 2005 appointing approved social workers/authorised mental health professionals, Best Interest Assessors and Independent Mental Capacity Advocates, accepting guardianship applications and making orders for the discharge of patients subject to guardianship, acting as the Supervisory Body in relation to the Deprivation of Liberty safeguards and undertaking functions in relation to those safeguards under the Mental Capacity Act 2005;
  - (e) under the NHS and Community Care Act 1990, (i) increasing the limits paid for residential care in line with published DSS rates and, when they are no longer published, in consultation with the Chief Operating Officer to take account of inflation; (ii) approving, in special circumstances, packages of home support costing more than net residential care costs; (iii) making payments to providers of individual care quarterly in advance where the provider will not accept any other terms; and (iv) amending the eligibility criteria in respect of community care services as circumstances dictate;
  - (f) disregarding the value of a former dwelling in assessing the client's contribution towards the cost of residential accommodation where it is considered reasonable to do so in consultation with the Chief Executive and the Chief Operating Officer (and where appropriate the relevant Cabinet member); and
  - (g) under Section 22(7), Health and Social Services and Social Security Adjudications Act 1983, taking charges against interests property in consultation with the Assistant Chief Executive and entering into deferred payments arrangements under Section 55 Health and Social Care Act 2001.
2. To make permanent or temporary variations in the approved number of places at any Adult Social Care establishment.
3. To purchase groceries, meat and other domestic provisions locally for residential and day care establishments under the control of the Cabinet: (a) if satisfactory tenders are unlikely to be obtained; and (b) where client training is involved.
4. To make grants from the allocation for discretionary grants agreed by the Cabinet up to a total, for any one organisation in any period of three years, of £1,000 except where:

- (a) the organisation has been refused a grant by the Cabinet unless the Cabinet has specifically agreed that a grant from the discretionary allocation may be given;
  - (b) the organisation is at the time in receipt of a grant from the Cabinet; or
  - (c) the organisation has received a grant from the allocation for the past three years.
5. To exercise all the powers of the Cabinet, in such matters as the Director considers urgent, following consultation with the relevant Cabinet member relating to the approval of applications under the Chronically Sick and Disabled Persons Act 1970 involving a net cost to the County Council of more than £20,000 (see delegation G1 (a) so far as these do not relate to children).
6. To make ex gratia payments of up to £1,000 where justified under the Adult Social Care Department's complaints procedure.
- 7. To exercise all of the County Council's powers in relation to the misuse of Blue Badges including (but not limited to) the powers under s.21 of the Chronically Sick and Disabled Persons Act 1970 and in relation to offences under s.117 of the Road Traffic Regulation Act 1984, the Fraud Act 2006 and the Theft Act 1968.**

I .....,Director of Adult Social Care and Health

In accordance with the authority delegated to me by East Sussex Council confirm that;

..... is hereby authorised to enforce or otherwise act for the purpose of all legislation within my delegated authority, including but not limited to under the following:

- Chronically Sick and Disabled Persons Act 1970 (as amended by the Disabled Persons Parking Badge Act 2013)
- Road Traffic Regulation Act 1984
- Road Traffic Offenders Act 1988
- Traffic Management Act 2004
- Chronically Sick and Disabled Persons Act 1970
- Fraud Act 2006
- Theft Act 1968
- Disabled Persons Badges Act 2013
- Road Traffic Regulation Act 1991
- Criminal Attempts Act 1981
- Local Government (Miscellaneous Provisions) Act 1982
- Companies Act 2008
- Disabled Persons Badges for Motor Vehicles Regulations 2000

Signed .....

## Appendix 3

### Relevant legislation

- Road Traffic Regulation Act 1984
- Road Traffic Offenders Act 1988
- Traffic Management Act 2004
- Chronically Sick & Disabled Persons Act 1970
- Fraud Act 2006
- Theft Act 1968
- Disabled Persons Badges Act 2013
- Road Traffic Regulation Act 1991
- Proceeds of Crime Act 2000 (POCA)
- Criminal Attempts Act 1981
- Local Government (Miscellaneous Provisions) Act 1982
- Companies Act 2008
- Disabled Persons Badges for Motor Vehicles Regulations 2000