



PASSENGER TRANSPORT GOVERNING POLICY

This policy is issued by the Committee for the Environment & Infrastructure in accordance with the Public Transport (Guernsey) Law, 1984 and the Public Transport Ordinance, 1986 (as amended).

Policy relating to the Refusal, Grant, Suspension, Revocation, and Variation of a Permit to Drive a Public Service Vehicle

1 Introduction

- 1.1 In order to drive a public service vehicle on or along any public highway, an individual must hold a permit under the Road Traffic (Permits to Drive Public Service Vehicles) Ordinance, 1986, as amended. ("**1986 Ordinance**").
- 1.2 The Issuing Authority shall grant a permit to drive a public service vehicle ("**permit**") to anyone who is over the age of 20 years old, meets the qualifying requirements and, in the opinion of the Issuing Authority, is a "fit and proper person to hold a permit". Further, the Issuing Authority has the power to revoke, suspend or vary a permit at any time and shall do so if, in the Issuing Authority's opinion, the permit holder is not a "fit and proper person to hold a permit". In less serious cases, the Issuing Authority may issue a verbal or written warning. This policy sets out guidance on the means by which the Issuing Authority will determine whether or not an applicant for a permit and / or permit holder is a "fit and proper person", the means by which a permit will be granted or refused and the various sanctions that may be imposed. The relevant legislation in this respect is contained within the 1986 Ordinance (see Appendix 1).
- 1.3 It is the general duty of the Issuing Authority under the Public Transport Law, 1984, as amended, to be responsible for ensuring that, so far as practicable, there are at all times available in the Island sufficient, efficient and safe systems of public transport. It follows that the Issuing Authority will be seeking to safeguard the public safety in any consideration as to whether an individual is a "fit and proper" person.
- 1.4 It should be noted that section 7 of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002, does not apply in respect of any occupation or work connected with, in the employment of, or undertaken by the holder of, or an applicant for a road service licence under the Public Transport Ordinance, 1986. Therefore, applicants and existing permit holders have an obligation to reveal spent convictions.

- 1.5 It is a condition attached to all permits issued by the Issuing Authority (including those which are subject to a suspension) that the holder notifies the Issuing Authority if he / she is convicted of any criminal offence in any recognised court of law, whether in Guernsey or any other jurisdiction during the period of validity of the permit. Such notification must be given within fourteen days of a conviction.
- 1.6 The Issuing Authority shall endeavour to act reasonably and proportionately and is concerned that its approach when dealing with questions of a person's fitness to hold a permit should be consistent. These guidelines are intended to contribute to that consistency of approach, but are only to be used as a starting point. Each case will be dealt with on its individual merits and these guidelines are not to be read too prescriptively or too narrowly. Notwithstanding these guidelines, the Issuing Authority retains its discretion to make judgements as it sees right and fit and therefore to depart from these guidelines if, in its judgement, it deems it appropriate in the circumstances.
- 1.7 References in this guidance to "Issuing Authority" are to the staff acting under delegated authority from the Committee for the Environment and Infrastructure (the Committee). For clarity, it should be understood that the Issuing Authority is authorised by law to rule on matters relating to permits to drive Public Service Vehicle Permits and that the Issuing Authority is the decision making body. However, it must be noted that Driver and Vehicle Licensing, a service area of the Committee, is delegated to carry out functions outlined within this document where the term "Issuing Authority" is used.
- 1.8 As a general guideline, if the Issuing Authority is of the opinion that it is appropriate to cease the operation of a permit in issue for up to two years then a **suspension** of the permit will normally be imposed. Should the Issuing Authority decide that a longer period is required, then **revocation** of the permit will normally be imposed. Additionally, where a person has not driven for some time (for example due to a driving disqualification) the Issuing Authority are of the opinion that it is extremely important for that person to get accustomed to driving and to demonstrate an ability to behave responsibly before holding a permit.
- 1.9 For clarity, should a permit be suspended then it will be automatically reinstated at the expiration of the period of suspension; should a permit be revoked then an application for a new permit will have to be made.

2 Procedure for Consideration of an Application for a Permit to Drive a Public Service Vehicle

- 2.1 Under sections 2 and 7 of the 1986 Ordinance an application for a permit to drive a public service vehicle must be made on the prescribed form and must be accompanied by such information and documentation as the Issuing Authority may from time to time specify and by such fee as may be stipulated in law.

- 2.2 On receipt of a properly completed application form, officers within the Issuing Authority will scrutinise the submission and will assess if a permit can be granted. Under the law, a permit shall not be granted –
- to a person under the age of 20 years; or
 - unless the Issuing Authority is satisfied that the applicant is a **fit and proper person** to hold a permit.
- 2.3 For the purposes of assessing whether an individual is a fit and proper person the Issuing Authority may require the applicant to be examined on various issues and produce documentation as set out in section 4(3) of the 1986 Ordinance (see Appendix 1). The Issuing Authority will take those matters listed in paragraph 3.1.2 (and as described in full detail in paragraphs 4-7) of this Guidance into account when considering whether or not an individual is a "fit and proper person". Please note that this process will involve checking an applicant's criminal record and applicants are obliged to reveal spent and unspent convictions.
- 2.4 If there is a question as to whether or not the permit should be granted, the issuing Authority will submit a report with recommendation(s) to the Committee for consideration. The Committee may agree to grant the permit, refuse to authorise the grant of the permit, authorise the grant of the permit with conditions, or ask for further information from the applicant before making a decision. The applicant will be afforded the opportunity to make representations to the Committee prior to any decision being made.

3 Procedure for Consideration of whether an Existing Permit Holder is a "fit and proper" person.

3.1 Grounds for establishing that an individual is not a "fit and proper person"

3.1.1 Section 9 of the 1986 Ordinance states:

9. Revocation, suspension etc. of permits

- (1) *The Authority may at any time revoke, suspend or vary a permit and shall do so if in the opinion of the Authority the holder of the permit is not, by reason of his conduct or health, a fit and proper person to hold such a permit.*
- (2) *The power vested in the Authority under the provisions of the last preceding subsection to vary a permit shall include power to vary any conditions attached to any such permit.*

3.1.2 The Issuing Authority will take an individual's criminal record, medical fitness and any conduct or behaviour in the exercise of their existing licence, into account when considering whether or not a permit holder is a fit and proper person. Each of these grounds are set out in further detail in this guidance -

- A criminal record in respect of driving offences (see paragraph 4);
- A criminal record in respect of other offences (see paragraph 5);
- Conduct or behaviour in relation to the exercise of the permit and any conditions attaching to a permit (see paragraph 6);
- A history of acts and behaviour that demonstrate a disregard for accepted standards of motoring; and
- Medical fitness (see paragraph 8).

3.1.3 In each case the Issuing Authority will be dealing with a unique set of circumstances and consequently these guidelines are not intended to cover all eventualities.

4 Procedure

- 4.1 As soon as possible after a matter has been brought to the attention of the Issuing Authority (which constitutes, in the Issuing Authority's opinion, reasonable grounds for establishing that an individual may not be a "fit and proper person" the Issuing Authority will make a decision by referring to the matters set out in paragraph 3.1.2 when considering whether an individual is a "fit and proper person".
- 4.2 The sanction will be from any (or a combination) of the following measures as are deemed to be appropriate in the individual circumstances:
1. Verbal warning;
 2. Written warning;
 3. Variation of conditions attached to a permit;
 4. Suspension (normally of a period of between one month up to two years); and
 5. Revocation
- 4.3 When considering which sanctions are appropriate, the Issuing Authority will refer to the matters set out in paragraph 3.1.2. The Issuing Authority will take all factors and circumstances into account before recommending any sanction.
- 4.4 In the event that the Issuing Authority concludes that the individual is not a "fit and proper person" it is highly likely that the Issuing Authority will determine that that the individual's permit be varied, suspended or revoked. In the event that the Issuing Authority concludes the individual is "fit and proper", the Issuing Authority may still find it appropriate, in light of the permit holder's conduct to sanction that a verbal or written warning is issued.
- 4.5 Where the decision in respect of any matter is the suspension or revocation of a permit, or the imposition or variation of conditions attaching to a permit, the Issuing Authority will proceed as follows:
- (a) Without prejudice to paragraph (b), the permit holder will be invited to make representations to the Issuing Authority prior to it making any decision. The permit holder will be given notice of not less than ten working days for making his / her representations, unless a shorter period of notice is mutually agreeable or deemed to

be necessary and in the public interest by the Issuing Authority. He/she may choose to be accompanied by a friend or advisor when making representations.

- (b) If it is the opinion of the Issuing Authority that the particular circumstances justify an immediate suspension of a permit in issue, then he/she shall authorise such a suspension. In such cases, the period of suspension shall be considered on a case by case basis but shall be for no more than one month and may not be renewed without consideration by the Issuing Authority as set out in paragraph (a) above. In such cases, the suspension is a neutral act which is necessary whilst further investigation is carried out.
- (c) Should there be grounds for believing that a permit holder may have committed some act or offence that, should it be proven, would reasonably lead the Issuing Authority to conclude that the permit holder is not a fit and proper person, then the Issuing Authority may suspend the permit pending the conclusion of any investigations. Suspension in such cases will ordinarily be for no more than thirty days and may be renewed until such time as the matter is concluded.

4.6 In considering whether or not a permit holder is a fit and proper person to hold a permit, and which sanctions are appropriate, the Committee will refer to the matters set out in paragraph 3.1.2.

5 A Criminal Record in Respect of Motoring Offences

5.1 *If an individual has been convicted of a serious motoring offence.*

5.1.1 What is a serious motoring offence?

A serious motoring offence is considered to be any motoring conviction that will ordinarily attract a driving disqualification of six months or more.

5.1.2 Application for a permit

An application from a person convicted of a serious motoring offence is unlikely to be successful unless, following completion of the disqualification period and notwithstanding other matters that may be pertinent, the individual has not been convicted of any motoring offences for a period of one year commencing from the date of the grant of a new driving licence.

Exceptionally (depending on the seriousness and circumstances of the offence) an isolated conviction may not necessarily result in an application for a permit being refused as it may be deemed, for example, that a written warning is more appropriate in the individual circumstances.

Should two or more serious convictions be incurred prior to the date of a first application being made, the application is unlikely to be successful unless, following

completion of the disqualification period and notwithstanding other matters that may be pertinent, the individual has not been convicted of any motoring offences for a period of three years commencing from the date of the grant of a new driving licence.

5.1.3 Renewal/Existing Permit Holder

In the event that an existing permit holder commits a serious motoring offence, it is likely that the permit will be suspended or revoked, or that an application for renewal will be refused. Exceptionally, (depending on the seriousness and circumstances of the offence) an isolated conviction may not necessarily result in a permit being suspended or revoked or an application for renewal being refused, although, as a minimum, a written warning will be given.

If the driving disqualification imposed is a year or less, usually a suspension of the permit for a period of twice the length of the driving disqualification will be imposed (commencing upon the date of the driving disqualification). If the driving disqualification imposed is greater than a year, normally the individual's permit will be revoked. In such a case, a new application is unlikely to be successful unless the individual has been free of convictions for a period equivalent to twice the length of the driving disqualification (commencing from the date of the driving disqualification).

Should a permit holder be convicted of a second or subsequent serious motoring offence, the Issuing Authority will ordinarily revoke the permit. In such a case, a new application is unlikely to be successful unless, notwithstanding other matters that may be pertinent, following completion of the disqualification period, the individual has not been convicted of any motoring offences for a period of three years commencing from the date of the grant of a new driving licence.

5.2 *If an individual is convicted of a less serious motoring offence.*

5.2.1 What is a less serious motoring offence?

A less serious motoring offence is considered to be any motoring conviction that will ordinarily attract a driving disqualification of less than six months. Examples of less serious motoring offences are speeding, bald tyres, registration infractions and other offences that will ordinarily incur a driving disqualification of less than six months. A fixed penalty parking offence in itself is not deemed to be a less serious motoring offence. However, in the event that successful proceedings are brought against the permit holder following their failure to pay the fixed penalty, then the fixed penalty parking offence will be deemed to be a less serious offence.

5.2.2 Application for a permit

An application from a person convicted of a less serious motoring offence will usually result in the individual being issued with a verbal or written warning as to future conduct. A less serious motoring offence would not normally constitute sufficient grounds to reject the application for a permit.

5.2.3 Renewal/Existing Permit Holder

In the event that an existing permit holder commits a less serious motoring offence, it is likely that the permit holder will be issued with a verbal or written warning as to future conduct or conditions inserted on the licence.

5.3 *If an individual commits a series of less serious motoring convictions.*

5.3.1 What is a series of less serious motoring offences?

A series of less serious motoring offences is considered to be three or more motoring convictions as described in paragraph 4.2.1 above committed within any three year period.

5.3.2 Application for a permit

An application from a person who has committed a series of less serious motoring offences is unlikely to be successful unless at least one year has elapsed following the most recent date of conviction. In the event that a driving disqualification is imposed, then the application is unlikely to be successful unless following completion of the disqualification period, the individual has been free of convictions for a period of one year commencing from the date of the grant of a new driving licence.

5.3.3 Renewal/Existing Permit Holder

If a permit holder commits a series of less serious motoring offences and the permit holder's driving licence is subject to one or more periods of disqualification, this will normally result in the individual's permit being suspended for a period equivalent to the aggregate of each of the periods of disqualification, commencing from the date that the most recent period of disqualification begins. In the event that the permit holder does not incur a driving disqualification, the Issuing Authority shall take a measured view of the circumstances and may impose a suspension for a period of up to one year commencing from the date of most recent offence.

5.4 *If an individual is convicted of driving whilst not insured.*

5.4.1 Application for a permit

An application from a person who has been convicted of driving whilst uninsured is unlikely to be successful unless, notwithstanding other matters that may be pertinent, the applicant has not been convicted of any similar offence for a period of three years commencing from the date of the conviction or where applicable, the completion of any driving disqualification period.

5.4.2 Renewal/Existing Permit Holder

In the event that a permit holder is convicted of driving whilst not insured then, depending on the circumstances of the case, this will normally result in the individual's permit being suspended for a period of two years commencing from the date of the conviction. In the event, that the permit holder incurs a driving disqualification, the permit will normally be suspended for a period of twice the length of the driving disqualification, commencing from the date the driving disqualification is imposed by the courts.

In the event that a permit holder is convicted of driving without valid insurance in the course of carrying fare paying passengers, then, it is likely that the Issuing Authority will revoke the permit. A new application is unlikely to be successful unless, notwithstanding other matters that may be pertinent, the individual has not been convicted of any similar offence for a period of three years commencing from the date of the conviction or, where applicable, the date the driving disqualification was imposed by the courts.

5.5 *If an individual is convicted of an offence for driving while under the influence of drink or drugs.*

5.5.1 Application for a permit

An application from a person who has been convicted of an offence of driving whilst under the influence of drink or drugs is unlikely to be successful unless, notwithstanding other matters that may be pertinent,, following completion of the disqualification period, the applicant has not been convicted of any motoring offences for a period of three years commencing from the date of the grant of a new driving licence.

An application for a permit from a person who has undertaken or who is undertaking treatment for alcohol or drug dependency is unlikely to be successful unless, notwithstanding other matters that may be pertinent, the applicant has not been convicted of any similar offences for a period of five years commencing from the successful completion of the treatment programme. Further, a recent medical certificate from a recognised medical practitioner of successful completion of treatment and confirmation that the individual is no longer suffering from alcohol or drug dependency will be required by the Issuing Authority.

5.5.2 Renewal/Existing Permit Holder

In the event that a permit holder is disqualified from driving due to driving whilst under the influence of drink or drugs, this will normally result in an individual's permit being suspended or revoked.

If the driving disqualification imposed is a year or less, usually a suspension of the permit for a period of twice the length of the driving disqualification will be imposed (commencing upon the date of the driving disqualification). If the driving disqualification imposed is greater than a year, normally the individual's permit will be revoked. In such a case, a new application is unlikely to be successful unless, notwithstanding other matters that may be pertinent, the individual has had no similar convictions for a period equivalent to twice the length of the driving disqualification (commencing from the date of the driving disqualification).

A second similar offence or an offence of driving under the influence of drink or drugs whilst carrying a fare paying passenger will usually result in the revocation of the permit. A new application is unlikely to be successful unless, notwithstanding other matters that may be pertinent, following completion of the disqualification period, the applicant has not been convicted of any similar offences for a period of five years commencing from the date of the grant of a new driving licence. Should such a person be successful in a new application for a permit yet subsequently repeat a similar offence, then he / she will ordinarily be considered as not fit and proper to hold a permit.

6.0 **A Criminal Record in Respect of Other Offences**

When considering what might constitute conduct that is not “fit and proper” in the context of a criminal record (other than driving offences), the Issuing Authority will take into account the nature and seriousness of the offence committed.

The Issuing Authority will exercise judgement in ascertaining the relevance and seriousness of the offence and may consider verbal or written warnings and police cautions in this context.

6.1 ***If the individual is convicted of an offence in relation to violence/drunk and disorderly behaviour.***

6.1.1 As permit holders maintain close contact with the public, a firm line will be taken with applicants who have convictions for violence, bodily harm or assault.

6.1.2 Application for a permit

An isolated conviction in respect of being drunk and disorderly will not necessarily lead to an application being unsuccessful, but it will depend on the seriousness and

the circumstances surrounding the offence. Repeat offences may be indicative of a problem requiring a medical report for the Issuing Authority's consideration. In any event, the Issuing Authority is likely to issue a verbal or a written warning. If there is a risk that the public safety may be impaired, the Issuing Authority is likely to vary, suspend or revoke the permit.

6.1.3 Renewal/Existing Permit Holder

The Issuing Authority will take specific account of the impact that any offence might have for impairing public safety should the permit holder continue to operate a public service vehicle. Repeat offences may be indicative of a problem requiring a medical report for the Issuing Authority's consideration. In any event, the Issuing Authority is likely to issue a verbal or a written warning. If there is a risk that the public safety may be impaired, the Issuing Authority is likely to vary, suspend or revoke the permit.

6.2 *If the individual is convicted of an offence in relation to fraud or dishonesty.*

6.2.1 Permit holders are expected to be trustworthy.

6.2.2 Application for a permit

It is unlikely that an applicant who has been convicted of an offence in relation to fraud or dishonesty will be considered as a fit and proper person to hold a permit unless, notwithstanding other matters that may be pertinent, the applicant has not been convicted of any similar offence for a period of three years commencing from the date of the individual's conviction or, where applicable, the date of release from any sentence imposed for the offence.

6.2.3 Renewal/existing permit holder

As a general guideline, in the event that a permit holder is convicted of fraud or dishonesty then depending on the circumstances of the case, the Issuing Authority will normally revoke the permit. A new application is unlikely to be successful unless, notwithstanding other matters that may be relevant, the individual has not committed any similar offences for a period of at least three years commencing from the date of the individual's conviction, or where applicable, the date of release from any sentence imposed for the offence.

6.3 *If the individual is convicted of an offence relating to sexual behaviour*

6.3.1. The Issuing Authority will exercise judgement in ascertaining the relevance and seriousness of any offences. In this respect, it will take specific account of the impact that any offence might have for impairing public safety should the permit holder continue to operate a public service vehicle.

6.3.2 Application for a permit or renewal/existing permit holder

As a general guideline, an individual who has incurred convictions or police cautions for sexual offences is unlikely to be successful in their application for a permit, and in the event that such convictions or cautions occur whilst an individual is a permit holder, it is likely that their permit will be revoked. This stance is taken due to the particular risk that sexual offenders can pose to the travelling public. Nevertheless, each case will be decided on the facts, taking into account such factors as whether the offence was isolated or part of a course of conduct, the degree of risk of future offences, and the seriousness of the offence.

6.4 *If the individual is convicted of an offence in relation to possession of controlled substances.*

6.4.1 Application for a permit

An application from an individual who has been convicted purely of possession of controlled substances (without intent to supply) will have to be considered on a case by case basis. As a general guideline, such an application is unlikely to be successful unless, notwithstanding other matters that may be relevant, the individual has not committed any similar offence for a period of at least one year commencing from the date of the individual's conviction, or where applicable, the date of release from any sentence imposed for the offence.

An application from an individual who has been convicted of possession of controlled substances with intent to supply is unlikely to be successful unless, notwithstanding other matters that may be pertinent, the applicant has not committed any similar offences for a period of at least three years commencing from the date of the individual's conviction, or where applicable, the date of release from any sentence imposed for the offence.

6.4.2 Renewal/existing permit holder

In the event that a permit holder is convicted purely of possession of controlled substances (without an intent to supply), the Issuing Authority will consider all of the relevant circumstances and take specific account of the impact that any offence might have for impairing public safety should the permit holder continue to operate a public service vehicle. Repeat offences may be indicative of a problem requiring a medical report for the Issuing Authority's consideration. If there is a risk that the public safety may be impaired, or that due to the severity of the offence, disciplinary action should be taken, the Issuing Authority is likely to vary, suspend or revoke the permit.

In the event that a permit holder is convicted of possession of controlled substances with intent to supply then, depending upon the circumstances of the case, the Issuing Authority will normally revoke the permit. A new application is unlikely to be successful unless, notwithstanding other matters that may be

relevant, the individual has not committed any similar offences for a period of at least three years commencing from the date of the individual's conviction, or where applicable, the date of release from any sentence imposed for the offence.

7 Conduct or behaviour in relation to the exercise of the permit

7.1 *If a permit holder infringes the conditions attaching to the permit and / or is the subject of a complaint or complaints regarding the exercise of the permit.*

- 7.1.1 The Issuing Authority will exercise discretion in determining any appropriate and proportionate action that it may deem necessary to take in the circumstances.
- 7.1.2 If the Issuing Authority receives a complaint from a member of the travelling public in respect of a permit holder's behaviour during the exercise of their permit then the Issuing Authority will investigate the complaint.
- 7.1.3 The action taken by the Issuing Authority will be dependent upon the seriousness of the infringement or complaint.
- 7.1.4 A minor infringement of the conditions attaching to a permit or a less serious complaint may result in a verbal or a written warning. If such infringements or complaints occur on three or more occasions within any three year period then the individual's permit is likely to be suspended for a period of one month, commencing from the date of the Committee's decision, provided that such complaints have been substantiated.
- 7.1.5 A major infringement of the conditions of the permit or a serious complaint (for example, a complaint regarding a driver's dangerous driving or inability to efficiently discharge his / her duties) is likely to result in more serious action such as a variation of the conditions of the permit, or a suspension or revocation of the permit, provided that such complaints have been substantiated.

7.2 *If a permit holder is served notice under any relevant statute, including but not limited to legislation dealing with Health and Safety, Trading Standards, Consumer Protection and Road Traffic and Transport.*

- 7.2.1 The Issuing Authority will take into account any reported infractions by the permit holder in respect of any relevant statutes, practices and legislation as outlined (but not limited to) above.
- 7.2.2 In this context, the Issuing Authority will seek to take appropriate and proportionate action depending on the circumstances of the individual case and the legislative provision that has been breached. The Issuing Authority will carry out a balancing exercise between the individual interest of the permit holder and the wider public interests (for example, public safety). A minor breach which can be easily rectified is likely to result in a verbal or written warning. A serious breach

(for example, a breach which is likely to put the public safety at risk or is not easily rectified) is likely to result in the variation, suspension or revocation of the permit.

8 Medical fitness

The assessment of a permit holder's medical health is necessary at the application stage, upon the renewal of a licence and upon the existence of a relevant disability and is desirable upon the existence of any other disease or physical disability which is likely to interfere with the efficient discharge of his duties as a driver. This assessment is required in order to determine whether the applicant or existing permit holder is a "fit and proper" person to hold a permit.

The Issuing Authority's Medical Advisor will undertake a review of the individual's medical health upon the evidence available to it and will submit a recommendation to the Issuing Authority as to whether the individual is medically "fit and proper". Unless there are exceptional reasons for not doing so, the Issuing Authority will accept the recommendations of its Medical Advisor. However, it is the Issuing Authority that makes the final decision as to whether the applicant or existing permit holder is a "fit and proper" person.

8.1 Application for a permit

An applicant's medical fitness is considered by the Issuing Authority when assessing whether an individual is a fit and proper person.

Sections 4(3)(a)(v), 4(3)(b)(v) and 4(3)(b)(vi) of the 1986 Ordinance authorise the Issuing Authority to require an applicant to be examined as to his health and/or to produce –

"evidence that he has not at any time since he attained the age of five years had an epileptic fit"; and

"a medical certificate that he is not suffering from any disease or physical disability likely to interfere with the efficient discharge of his duties as a driver or to cause the driving by him of a public service vehicle to be a source of danger to the public."

The policy adopted by the Issuing Authority is that an applicant for a permit must first undergo a medical examination by his/her general practitioner; the results of this examination are sent to the Issuing Authority's Medical Advisor. The Medical Advisor then makes an appropriate recommendation to the Issuing Authority which may be to grant the permit (notwithstanding other factors) on the grounds that the applicant is medically fit and proper, or refuse the permit on the grounds that the applicant is not medically fit and proper. Alternatively, the Medical Advisor may seek further information or recommend that a permit is not granted for a period of time (such as when a course of treatment is completed). Upon receiving the Medical Advisor's recommendation, the Issuing Authority will assess whether that individual is a "fit and proper" person to hold a permit.

8.2 Renewal

Under section 6 of the 1986 Ordinance, the conditions to be complied with before the grant of a permit under sections 3 and 4 of the 1986 Ordinance, also apply to renewal applications. It is the Issuing Authority's policy to require that as part of the renewal process, an applicant must undertake a medical examination by his /her general practitioner. The results of this examination will be reviewed by the Issuing Authority's Medical Advisor, who will make a recommendation to the Issuing Authority in the same manner as described in paragraph 7.1. Upon receiving the Medical Advisor's recommendation, the Issuing Authority will assess whether that individual is a "fit and proper" person to hold a permit.

8.3 Existing Permit Holder: Relevant Disability

In the event that a holder of a permit develops a condition that may render him / her medically not fit and proper to drive a public service vehicle, he/she must notify the Issuing Authority. Section 8 of the 1986 Ordinance states -

"If at any time during the period of validity of his permit, a permit holder becomes aware that he is suffering from a relevant disability he shall forthwith notify [the Authority] in writing of the nature and extent of his disability."

A *relevant disability* is defined in the Ordinance as any disability prescribed by section 19 of the Driving Licences (Guernsey) Ordinance, 1995, as amended (see Appendix 2) and any other disability likely to cause the driving of a vehicle by him in pursuance of a licence to be a source of danger to the public.

Should the Issuing Authority receive notice from a permit holder that he/she is suffering from a relevant disability, it will take advice from the Issuing Authority's Medical Advisor when making any decision regarding suspension, revocation or variation of conditions attaching to a permit.

In the event that the Issuing Authority has reasonable grounds for believing that a permit holder may be suffering from a relevant disability (and if the permit holder has failed to notify the Issuing Authority of the condition within ten working days of developing the condition), it may –

- (a) exercise its powers under section 18 of the Driving Licences Ordinance, 1995, and serve a notice on the permit holder requiring him / her to submit himself/herself to a medical examination and provide a medical certificate from a medical practitioner specifying whether the permit holder is suffering from a relevant disability;
- (b) consider a suspension of his / her permit until such time as it is firmly established that he / she is fit and proper to drive a public service vehicle, together with a further suspension of a minimum of one month in the event that the permit holder failed to notify the Issuing Authority of his/her relevant disability within ten working days of having developed the condition.

8.4 Existing Permit Holder: Efficient Discharge Of Duties

This paragraph is in relation to existing permit holders who develop a disease or physical disability which is not classed as a relevant disability (see paragraph 7.3) but which is likely to interfere with the efficient discharge of his duties as a driver.

If a permit holder develops such a disease or disability, the permit holder should notify the Issuing Authority and furnish the Issuing Authority with information specifying the nature of the disability (including a medical certificate). The Issuing Authority's Medical Advisor will review this documentation and submit a report to the Issuing Authority with a recommendation as to whether or not the individual is medically "fit and proper" to hold a permit. Upon receiving the Medical Advisor's recommendation, the Issuing Authority will assess whether that individual is a "fit and proper" person to hold a permit.

In the event that the Issuing Authority becomes aware (by way of complaints or otherwise) that an existing permit holder may not be able efficiently to discharge his /her duties as a driver, it will commence an investigation of the matter. If the Issuing Authority has received complaints, and if such complaints are substantiated, they are likely to be viewed as serious (see paragraph 6.1.5 for the potential implications of serious complaints).

If during the investigation, the Issuing Authority is made aware that the permit holder suffers from a medical condition which is likely to affect the efficient discharge of its duties, the Issuing Authority will request that the permit holder voluntarily furnish it with a medical report from its medical practitioner. If provided, the Issuing Authority's Medical Advisor will review this documentation and submit a report to the Issuing Authority with a recommendation as to whether or not the individual is medically "fit and proper" to hold a permit.

If following the investigation, the Issuing Authority is satisfied that an existing permit holder is unable efficiently to discharge his /her duties as a driver, then this in itself (regardless of whether the individual suffers from a medical condition or not) is sufficiently serious to result in the variation, suspension or revocation of a permit.

9 Notice

Where the Issuing Authority refuses to grant a permit to any person or grants a permit subject to conditions or revokes, suspends or varies a permit, notice will ordinarily be served by recorded delivery to the individual's usual or last known place of abode.

10 Appeals

In the event that an applicant/existing permit holder is aggrieved of the decision of the Issuing Authority, he/she may appeal to the Committee

If the Issuing Authority decides to refuse an application, the applicant will be afforded the opportunity to appear before the Committee prior to any decision being made – in

accordance with the process outlined in the paragraph above. Should the Committee subsequently refuse the application, the applicant may, within thirty days following service on him of notice of the decision, appeal to the Royal Court by way of a summons served on the President of the Committee (section 53 of the Ordinance). The grounds available for appealing the decision of the Committee are either that the Issuing Authority has acted *ultra vires* (beyond its powers) or that the decision was an unreasonable exercise of its powers.

APPENDIX ONE

The Road Traffic (Permits to Drive Public Service Vehicles) Ordinance, 1986, as amended

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APPENDIX TWO

Relevant Disability (as defined in section 16(2) of the Driving Licences Ordinance, 1995, as amended)

(a) any disability prescribed by section 19* of the Driving Licences Ordinance, 1995, as amended, and

(b) any other disability likely to cause the driving of a vehicle by him in pursuance of a licence to be a source of danger to the public.

** The following disabilities are prescribed for the purposes of section 16(2) of the Driving Licences Ordinance, 1995, as amended –*

(a) epilepsy,

(b) severe mental handicap,

(c) liability to sudden attacks of disabling giddiness or fainting, other than such attacks falling within paragraph (d),

(d) liability to sudden attacks of disabling giddiness or fainting which are caused by any disorder or defect of the heart as a result of which the applicant for the licence or, as the case may be, the holder of the licence has a device implanted in his body, being a device which, by operating on the heart so as to regulate its action, is designed to correct the disorder or defect, and

(e) inability to read in good daylight (with the aid of glasses or contact lenses if worn) a registration plate conforming to the provisions of the "Ordonnance supplémentaire à l'Ordonnance ayant rapport au Trafic Véhiculaire en cette Ile", as amended, fixed to a vehicle at a distance of 22.50 metres (24.61 yards).