



ENVIRONMENT

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

VOLUNTARY REGISTER OF DRIVING INSTRUCTORS GOVERNING POLICY

1 Introduction

- 1.1 In December 2014, the States approved the introduction of a mandatory Register of Driving Instructors, and the introduction of a voluntary registration scheme pending the introduction of the mandatory Register of Driving Instructors.
- 1.2 Legislation is required to implement the mandatory register but, in the meantime, the Environment Department is operating a Voluntary Register. This document sets out how the Voluntary Register will operate in practice. Further information may be found on the States of Guernsey website (www.gov.gg/learningtodrive).
- 1.3 The Environment Department is committed to supporting high standards of driving tuition and endeavours to ensure that those who are admitted onto the Voluntary Register of Driving Instructors (the "**Register**") are fit and proper persons.
- 1.4 Anyone admitted onto the Register is to be known as a Recognised Driving Instructor ("**RDI**").
- 1.5 This Guidance sets out the policy of the Environment Department ("**the Department**") in relation to the following matters:
 - applications for the admittance, and renewal, onto the Register;
 - taking disciplinary measures including the removal, suspension or imposition or variation of conditions on a registration.
- 1.6 It also addresses reviews of decisions of the Department relating to these matters, and complaints that can be made in relation to an RDI.
- 1.7 References in this Guidance to "**the Board**" are to the Board of the Department. For clarity, it should be understood that the Environment Department is mandated and responsible *for vehicle and driver licensing, and for transport policy to enable the safe and efficient movement of people and goods around the island*, and that the Board is the decision making body of the Department

- 1.8 It should be noted that a driving instructor could be interpreted as a person who “works with children” under the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006. This means that section 7 of the Rehabilitation of Offenders Law, 2002 is unlikely to apply to driving instructors and they therefore may have an obligation to reveal spent convictions if asked any questions concerning their previous convictions, offences, conduct or circumstances. Therefore, in the event that an applicant should fail to disclose a spent conviction, that person could be refused admittance onto the Register or, subsequently, have their name removed from the Register. Applicants and existing RDIs should contact the Guernsey Vetting Bureau (GVB@guernsey.pnn.police.uk) for further advice, as to whether, in their particular circumstances, they have an obligation to reveal spent convictions. The Department will be guided by the provisions of the Law in assessing any reasonable and proportionate measures it might take to protect public safety.
- 1.9 All RDIs, (including those who are subject to a suspension), by signing the Register of Driving Instructors Code of Conduct and Good Practice, agree to notify the Department if convicted of any criminal offence in any recognised court of law, whether in Guernsey or any other jurisdiction. Such notification must be given within fourteen days of a conviction. Applicants for admittance onto the Register must undertake a criminal records check, which is repeated when registration is renewed.
- 1.10 The Department shall endeavour at all times to act reasonably, proportionately and consistently. This Guidance is intended to contribute to that aim, but is only to be used as a starting point. Each case will be dealt with on its individual merits and this Guidance is not intended to be read prescriptively or narrowly; the Department retains its discretion to make judgements as it sees right and fit and therefore to depart from this Guidance if its judgement deems it appropriate in the circumstances. This Guidance does not constitute legal advice.**
- 1.11 A RDI whose status as fit and proper is questioned by the Department will be given reasonable notice to make representations prior to any final decision on the matter. Similarly, should the Department raise a concern about the conduct of a RDI, then the RDI will be given sufficient notice to make representations prior to any final decision on the matter.
- 1.12 Should a RDI’s membership on the Register be suspended then it will be reinstated at the expiration of the period of suspension unless other factors make this inappropriate. Should a RDI’s name be removed from

the Register, then it can only be restored after consideration of a new application.

2 Applications for admittance onto the Register or renewal of registration on the Register

2.1 A person may apply to the Department to be admitted onto the Register and provided that an application to be admitted onto the Register is in such form and accompanied by such information as the Department requires, the Department shall ordinarily determine the application.

2.2 In order for an individual to be placed on the Register applicants must satisfy the required qualifications set out below. The applicant must:-

2.2.1 Be over the age of 21.

2.2.2 Hold a current full driving licence for the category for which tuition will be provided and have held the same for at least four of the previous six years.

2.2.3 Have undertaken a satisfactory criminal records check.

2.2.4 Have signed and agreed to comply with the Register of Driving Instructors Code of Conduct and Good Practice.

2.2.5 Be, in the opinion of the Environment Department, a fit and proper person to be listed in the Register of Driving Instructors.

2.3 Following consideration of an application the Department may admit the applicant onto the Register, refuse to admit the applicant onto the Register, or admit the applicant onto the Register subject to any conditions that it sees fit to impose.

2.4 There is not a stated limit on the number of applicants that may be admitted onto the Register.

2.5 In addition to any other factors that the Department considers relevant in any particular case, the Department will consider, when determining an application, whether the applicant is a fit and proper person to be admitted onto the Register ("**the fit and proper person test**"). Guidance on how the Department will apply that test is set out below in the Annex to this document.

2.6 An individual's listing on the Register needs to be renewed every three years. Applications for renewal must be made by way of an application on or before the date of expiry of the existing registration and the individual will need to satisfy the Department that all the required qualifications, as set out in paragraph 2.2, continue to be met.

2.7 An applicant's medical fitness is considered by the Department when assessing whether an individual is a fit and proper person (see Annex for guidance). *[In the event that a RDI develops a condition that may render the RDI medically unfit to drive a vehicle and/or which may*

interfere with the RDI's duties as a driver, the Department must be notified (see Annex detailed guidance)].

- 2.8 Once the necessary legislation has been put into place to establish the mandatory register, registration will be contingent upon the satisfaction of all of the requirements set out in the current voluntary scheme together with additional qualifications including, but not limited to, examined elements (theory test, practical test, test for the ability in instruction). Full details of these additional requirements will be published in due course.

3 Procedure on consideration of an application for admittance onto the Register

- 3.1 On receipt of a properly completed application form, officers within the Department will scrutinise the submission and will assess if the application can proceed. This process will involve checking the applicant's criminal record.
- 3.2 If there is a question as to whether or not the applicant should be admitted onto the Register, then a report with recommendation(s) is prepared and presented to the Board for consideration. Following the procedure as outlined in paragraph 5 below, the Board may agree to admit the applicant onto the Register, refuse to admit the applicant onto the Register, authorise the admittance of the applicant onto the Register with attaching conditions, or ask for further information before making a decision.
- 3.3 Should the Board have doubts about admitting an applicant onto the Register without having met with the applicant, then the decision of the Board shall ordinarily be deferred until such time as the applicant is able to make representations in the manner set out in paragraph 5. The applicant may be accompanied by a friend or advisor in any personal appearance before the Board.

4 The removal, suspension, or imposition or variation of conditions

- 4.1 At its discretion the Department may suspend a RDI from the Register, remove a RDI from the Register or impose or vary the conditions under which a RDI may remain on the Register. There are two circumstances under which such a decision will be taken; first, if in its opinion, any stipulated conditions or provisions under the Code of Conduct and Good Practice are not being complied with, and second if, in its opinion, the RDI does not pass the fit and proper person test.

5 Procedure where the Department considers that (a) an applicant or RDI may not pass the fit and proper person test or (b) the conditions attached to registration or provisions under the Code of Conduct and Good Practice are not being complied with

- 5.1 As soon as possible after a matter has been brought to the attention of the Department (which constitutes, in the Department's opinion, reasonable grounds for establishing that an individual may not be a "fit and proper person" or that the conditions attached to registration on the Register or provisions under the Code of Conduct and Good Practice are not being complied with) an officer will prepare a report which may contain a recommendation for consideration by the Board. The Department will refer to the matters set out in the Annex when considering whether an individual is a "fit and proper person".
- 5.2 The report referred to in paragraph 5.1 may recommend a sanction from any (or a combination) of the following measures as deemed to be appropriate in the individual circumstances:
1. Verbal warning;
 2. Written warning;
 3. Imposition or Variation of conditions attached to a RDI's registration in the Register;
 4. Suspension (normally of a period of between one month up to a year); and
 5. Removal from the Register.
- 5.3 When considering which sanctions are appropriate, the Department will, if appropriate, refer to the matters set out in the Annex, and will take all factors and circumstances into account before recommending any sanction.
- 5.4 In the event that the Department concludes that the individual is not a "fit and proper person" it is highly likely that the Department will recommend that that the individual is removed or suspended from the Register, or that a condition is imposed or varied on the individual's registration on the Register. In the event that the Department concludes the individual is "fit and proper" or that conditions attaching to membership on the Register, or provisions of the Code of Practice, have not been infringed, the Department may still find it appropriate, in light of the individual's conduct, to recommend that a verbal or written warning is issued.
- 5.5 Where the recommendation in respect of any matter is suspension from the Register, or removal of the individual's name from the Register, or the imposition or variation of conditions attaching to registration on the Register, the Department will proceed as follows:
- (a) Without prejudice to paragraph (b), the RDI will be invited to make representations (both verbal and written) to the Board prior to it making any decision in relation to the recommendation(s) set out in the report. The RDI will be given notice of not less than ten working days for making representations, unless a shorter period of notice is mutually agreeable or deemed by the Department to be necessary and in the public interest. The RDI

may choose to be accompanied by a friend or advisor when making representations to the Board. The RDI will also be invited to make a written statement for presentation to the Board.

- (b) If it is the opinion of the Minister of the Department (or in the Minister's absence, the Deputy Minister, or in the Deputy Minister's absence, a Member of the Board) that the particular circumstances justify an immediate suspension of the RDI from the Register, then such a suspension shall be duly authorised. 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 Board, 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 RDI may have committed some act or offence that, should it be proven, would reasonably lead the Department to conclude that the RDI is not a fit and proper person, then the Department may suspend the RDI from the Register 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.

5.6 In cases where the Department refuses to admit an applicant onto the Register or suspends or removes a RDI from the Register, or imposes, or varies conditions on the RDI's registration on the Register, notice in writing of such refusal, suspension, removal or variation, with reasons for the decision shall be served as soon as possible on the applicant or RDI.

6 Reviews

Reviewing a decision of the Board in respect of an application for admittance onto the Register

6.1 If the Board is recommended to refuse an application the applicant will be afforded the opportunity to appear before the Board prior to any decision being made – in accordance with the process outlined in paragraph 5.5 above. Should the Board subsequently refuse the application, the applicant may, within thirty days following service on the applicant of notice of the decision, apply to the Register of Driving Instructors Sub-Committee¹ to review the Board's original decision.

¹ The Sub-Committee shall consist of two elected Members of the States of Guernsey (who do not sit on the Environment Department Board) plus a suitable lay person. The Sub-Committee is appointed by the Environment Department Board in accordance with Rule 16a of the Rules Relating to the Constitution and Operation of State Departments and Committees.

Reviewing a decision of the Board in respect of any action taken against a RDI

- 6.2 Should a RDI be aggrieved at a decision of the Board to suspend the RDI's membership from the Register or to remove the RDI's name from the Register, or to impose or vary the conditions under which the RDI's name is retained in the Register, then the RDI may, within thirty days following service on the RDI of notice of the decision, apply to the Register of Driving Instructors Sub-Committee to review the Board's original decision.
- 6.3 In the case of an application being passed for review to the Register of Driving Instructors Sub-Committee under paragraphs 6.1 or 6.2 above, the Sub-Committee must consider any information submitted by the applicant and/or the Board, hear any oral submissions that the applicant or that a representative from the Board may wish to make to the Sub-Committee and determine the application by –
- (i) Confirming the original decision under review, or
 - (ii) Recommending that the Board Members reconsider their decision

The Sub-Committee must give the applicant written notice of its decision and the reasons for it.

- 6.4 Should the Sub-Committee confirm the original decision, then that is the end of the matter. Should the Sub-Committee recommend that the Board reconsider their decision, then the matter will be referred back to the Environment Department Board for reconsideration in the light of the Sub-Committee's findings. The Environment Board may then take any of the following courses of action:
- Endorse its previous decision;
 - Modify its previous decision;
 - Overturn its previous decision and substitute it with another decision.
- 6.5 Should the Register of Driving Instructors Sub-Committee refer a case back to the Board for reconsideration then the Board's subsequent decision on the matter shall be final. It should be noted that the Board is the sole body authorised to make decisions regarding admittance onto the Register, suspension of membership of the Register, removal from the Register and imposition or variation of conditions attached to a RDI's registration in the Register. All decisions of the Board in such matters shall remain in force until overturned or altered by the Board after due process.

7 Complaints

7.1 Should the Environment Department receive a complaint about a RDI it will, in the first instance determine whether or not the complaint has substance. Any decision as to whether or not a complaint has substance will be taken by a senior officer within the Environment Department. A complaint will have substance if it conforms to any of the following:

1. It demonstrates a failure on the part of the RDI properly to investigate a customer's concern.
2. There is evidence indicating –
 - inappropriate financial dealings on the part of the RDI;
 - that the RDI has failed to comply with some element of the Code of Conduct and Good Practice;
 - illegal or inappropriate behaviour by the RDI. The RDI no longer complies with the required qualifications (set out in paragraph 2.2) including, failure to pass the fit and proper test

7.2 Following the procedure outlined in paragraph 7.1 above, should it be decided that a complaint does not have substance, then the complainant will be informed of the fact and advised as to the reasons why the complaint will not be investigated. If the complainant is not satisfied by the given reasons, then the complainant may request that the substance of the complaint is reviewed by the Board to reconsider its decision before closing the case.

7.3 Following the procedure outlined in paragraph 7.1 above, should it be decided that a complaint has substance, then an officer will be appointed by the Chief Officer of the Environment Department, to investigate the matter and produce a report with its findings for the Board. This report will also consider whether in light of its findings the RDI continues to pass the "fit and proper person" test and is complying with any conditions on the RDI's registration and the provisions of the Code of Conduct and Good Practice. In determining this, the Department will refer to the matters set out in the Annex when considering whether an individual is a "fit and proper person". Once a finding is made, the Department will follow the same procedures and processes set out in paragraph 5, including in relation to any sanctions that may be applied if appropriate in the circumstances. Prior to making any decision regarding recommendations contained in a report, the Environment Department Board will invite the RDI in question to make representations to the Board, both verbally and/or in writing.

7.4 Should an RDI or complainant be dissatisfied with the outcome of a decision referred to in paragraph 7.3, then the RDI or complainant may apply to the Register of Driving Instructors Sub-Committee for a review

of the decision. In such cases, the Register of Driving Instructors Sub-Committee shall follow the same process and procedures set out in paragraph 6.3 when determining the application, and paragraphs 6.4 and 6.5 shall apply in relation to the consequences of any such determination.

8 Correspondence

- 8.1 Written correspondence to an applicant for admittance onto the Register, or for an existing RDI, will ordinarily be sent by standard class mail to the last known or given address for that person that the Department has retained in its records.
- 8.2 In the following cases correspondence will ordinarily be sent by recorded delivery to the last known or given address that the Department has retained in its records:
 - When giving notice to an individual of the individual's right to attend a Board meeting.
 - When informing an individual of a decision of the Board or the Register of Driving Instructors Sub-Committee.

ANNEX

The Department's application of the fit and proper person test

In addition to such other factors as the Department considers relevant in any particular case, the Department will take the following factors into account when considering whether or not a Recognised Driving Instructor (RDI) is a fit and proper person. Each of these grounds is set out in further detail in this Annex-

- A criminal record in respect of motoring offences (see paragraph 2);
- A criminal record in respect of other offences (see paragraph 3);
- Conduct or behaviour in relation to the operation of the RDI's business and any conditions attaching to registration (see paragraph 4);
- A history of acts and behaviour that demonstrate a disregard for accepted standards of motoring; and
- Medical fitness (see paragraph 5).

It is recognised that in each case the Department will be dealing with a unique set of circumstances and, consequently, these guidelines are not intended to cover all eventualities.

1 Criminal Record

In addition to such other factors as the Department considers relevant in any particular case, in each case the Department will take account of the RDI's criminal record when considering the fit and proper person test. In particular, the Department will take into account whether the RDI has a criminal record in respect of (a) motoring offences and (b) other offences and may take police interviews and cautions into account when making its decisions.

2 A Criminal Record in Respect of Motoring Offences

Criminal record in respect of a serious motoring offence.

What is a serious motoring offence?

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

Application for admittance onto the Register

- 2.2 An application from a person convicted of a serious motoring offence is unlikely to be successful unless, following completion of any driving licence 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.

- 2.3 Exceptionally (depending on the seriousness and circumstances of the offence) an isolated conviction may not necessarily result in an application for admittance onto the Register being refused as it may be deemed, for example, that a written warning is more appropriate in the individual circumstances.
- 2.4 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 any driving licence 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.

Renewal of Registration / Existing RDI

- 2.5 In the event that an existing RDI commits a serious motoring offence, it is likely that the individual will be suspended or removed from the Register, 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 the individual being suspended or removed from the Register or an application for renewal being refused, although, as a minimum, a written warning will be given.
- 2.6 If the driving disqualification imposed is a year or less, usually the individual will be suspended from the Register 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 will be removed from the Register. 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).
- 2.7 Should a RDI be convicted of a second or subsequent serious motoring offence, the Department will ordinarily remove the individual from the Register. 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.

Criminal record in respect of driving whilst not insured.

Application for admittance onto the Register

- 2.8 An isolated incident will not necessarily mean an unsuccessful application provided at least one year free of conviction (after the expiration of any driving disqualification) has elapsed. 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.

Renewal of Registration / Existing RDI

- 2.9 In the event that a RDI is convicted of driving whilst not insured then, depending on the circumstances of the case, this will normally result in the individual being suspended from the Register for a period of two years commencing from the date of the conviction. In the event that the RDI incurs a driving disqualification, then the individual will normally be suspended from the Register for a period of twice the length of the driving disqualification, commencing from the date the driving disqualification is imposed by the courts.
- 2.10 In the event that a RDI is convicted of driving without valid insurance in the course of providing instruction, then, it is likely that the Department will remove the individual from the Register. 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.

Criminal record in respect of a less serious motoring offence.

What is a less serious motoring offence?

- 2.11 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 an RDI following failure to pay a fixed penalty, then the proceedings will normally be deemed to have made the issue of the fixed penalty notice a less serious offence.

Application for admittance onto the Register

- 2.12 Should an applicant for admittance onto the Register declare a less serious motoring offence then it is unlikely that registration would be

refused, but the applicant may be issued with a verbal or written warning as to future conduct.

Renewal of Registration / Existing RDI

- 2.13 In the event that an existing RDI commits a less serious motoring offence, it is likely that the RDI will be issued with a verbal or written warning as to future conduct or conditions attached to registration.

Criminal record in respect of a series of less serious motoring convictions.

What is a series of less serious motoring offences?

- 2.14 A series of less serious motoring offences is considered to be three or more motoring convictions as described in paragraph 2.10 above committed within any three year period.

Application for admittance onto the Register

- 2.15 If an application is received from an individual who has committed a series of less serious motoring offences then it is possible that registration will be refused. A new application is unlikely to be successful unless at least twelve months have 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 twelve months commencing from the date of the grant of a new driving licence.

Renewal of Registration / Existing RDI

- 2.16 If a RDI commits a series of less serious motoring offences and the RDI's driving licence is subject to one or more periods of disqualification, this will normally result in the individual being suspended from the Register 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 RDI does not incur a driving disqualification, the Department shall take a measured view of the circumstances and the extent to which the health and safety of the public may be impaired, and may impose a suspension for a period of up to one year commencing from the date of most recent offence.

3 A Criminal Record in Respect of Other Offences

In considering what might constitute "not fit and proper" in the context of a criminal record other than for driving offences, the Department will take a view on the nature and seriousness of any offence that is

committed and may consider verbal or written warnings and police cautions in this context.

An offence for driving while under the influence of drink or drugs.

Application for admittance onto the Register

- 3.1 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.
- 3.2 An application for registration 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 Department.

Renewal of Registration / Existing RDI

- 3.3 In the event that a RDI is disqualified from driving for driving whilst under the influence of drink or drugs, this will normally result in the individual being suspended or removed from the Register.
- 3.4 If the driving disqualification imposed is a year or less, usually a suspension from the Register 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 will be removed from the Register. 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).
- 3.5 A second similar offence or an offence of driving under the influence of drink or drugs whilst carrying an individual under tuition will usually result in the individual being removed from the Register. 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 registration yet subsequently repeat a similar

offence, then that person will ordinarily be considered not to be a fit and proper person to be a RDI.

An offence in relation to violence/drunk and disorderly behaviour.

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

Application for admittance onto the Register

- 3.7 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 Department's consideration. In any event, the Department is likely to issue a verbal or a written warning. If there is a risk that the public safety may be impaired, the Department is likely to vary the conditions attached to the registration, or suspend or remove the individual from the Register.

Renewal of Registration / Existing RDI

- 3.8 The Department will take specific account of the impact that any offence might have for impairing public safety should the RDI continue to operate as a driving instructor. Repeat offences may be indicative of a problem requiring a medical report for the Department's consideration. In any event, the Department is likely to issue a verbal or a written warning. If there is a risk that the public safety may be impaired, the Department is likely to vary the conditions attached to the registration, or suspend or remove the individual from the Register.

An offence in relation to fraud or dishonesty.

- 3.9 RDIs are expected to be trustworthy. A firm line will be taken with applicants and existing RDIs who are convicted for fraud or dishonesty.

Application for admittance onto the Register

- 3.10 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 become a RDI 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.

Renewal of Registration / Existing RDI

- 3.11 As a general guideline, in the event that a RDI is convicted of fraud or dishonesty then depending on the circumstances of the case, the Department will normally remove the individual from the Register. 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.

An offence relating to sexual behaviour.

- 3.12 The Department 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 RDI continue to operate as a driving instructor.

Application to become a RDI or Renewal of Registration / Existing Registration

- 3.13 As a general guideline, an individual who has incurred convictions or police cautions for sexual offences is unlikely to be successful in an application for registration, and in the event that such convictions or cautions occur whilst an individual is a RDI, it is likely that the individual will be removed from the Register. As a general guideline, a person whose name is retained on the sexual offenders' register will not be permitted to have their name on the Register. This stance is taken due to the particular risk that sexual offenders may pose to individuals undertaking driving instruction. Nevertheless, each case will be decided on the facts, taking into account such factors as whether the offence was isolated or symptomatic of repeated conduct, the degree of risk of future offences, and the seriousness of the offence.

An offence in relation to possession of controlled substances.

Application for admittance onto the Register

- 3.14 Applications from individuals who have been convicted purely of possession of controlled substances (without intent to supply) will 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.
- 3.15 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.

Renewal of Registration / Existing RDI

- 3.16 In the event that a RDI is convicted purely of possession of controlled substances (without an intent to supply), the Department 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 RDI continue to operate as a driving instructor. Repeat offences may be indicative of a problem requiring a medical report for the Department'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 Department is likely to vary the conditions attached to the RDI's registration, or suspend or remove the individual from the Register.
- 3.17 In the event that a RDI is convicted of possession of controlled substances with intent to supply then, depending upon the circumstances of the case, the Department will normally remove the individual from the Register. 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.

4 Conduct or behaviour in relation to giving driving instruction

- 4.1 The following are examples only and do not constitute an exhaustive list.

Infringing the conditions attached to registration, the Code of Conduct and Good Practice and / or is the subject of a complaint or complaints regarding giving driving instruction.

- 4.2 The Department will exercise discretion in determining any appropriate and proportionate action that it may deem necessary to take in the circumstances.
- 4.3 If the Department receives a complaint from a member of the public in respect of a RDI's behaviour whilst giving driving instruction then the Department will determine whether or not the complaint has substance, and will investigate the complaint if the complaint is determined to have substance (see paragraph 7 of the main part of the Governing Policy for further details).
- 4.4 The action taken by the Department will be dependent upon the seriousness of the infringement or complaint.

- 4.5 A minor infringement of the conditions attaching to registration 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 is likely to be suspended from the Register for a period of one month, commencing from the date of the Board's decision, provided that such complaints have been substantiated.
- 4.6 A major infringement of the conditions attaching to registration, or a serious complaint (for example, a complaint regarding a RDI's conduct in regard to a pupil under tuition or inability efficiently to discharge required duties) is likely to result in more serious action such as the variation of the conditions of registration, or the suspension or removal of the individual from the Register, provided that such complaints have been substantiated.

If a RDI 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.

- 4.7 The Department will take into account any reported infractions by the RDI in respect of any relevant statutes, practices and legislation as outlined (but not limited to) above.
- 4.8 In this context, the Department 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 Department will carry out a balancing exercise between the individual interests of the RDI 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 of conditions attached to the registration, or the suspension or removal of the individual from the Register.

5. Medical fitness

The assessment of a RDI's medical health is necessary at the application stage, upon the renewal of registration and upon the existence of a relevant disability² and is desirable upon the existence of any other disease or physical disability which is likely to interfere with an RDI's ability appropriately and efficiently to provide driving tuition. This assessment is required in order to determine whether the applicant or existing RDI is a "fit and proper" person to be on the Register.

² "Relevant disability" as defined under the Driving Licences (Guernsey) Ordinance, 1995, as amended. Please see paragraph 5.3 and see the box at the end of paragraph 5.5 for further detailed information regarding the definition of "relevant disability".

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

Application for admittance onto the Register

- 5.1 An applicant's medical fitness is considered by the Department when assessing whether an individual is a fit and proper person. Each applicant will have to make certain declarations regarding their medical health when applying for admittance onto the Register. Should the Department have reasonable grounds for supposing that an applicant suffers from a relevant disability or any other disease, medical condition or physical disability that could impair a RDI's ability to provide driving tuition in a safe, appropriate and efficient manner, then the Department may make admittance onto the Register contingent upon the production of a satisfactory medical report.

The policy adopted by the Department is that, in such cases, an applicant for registration must first undergo a medical examination by a general practitioner; the results of this examination are sent to the Department's Medical Advisor. The Medical Advisor then makes an appropriate recommendation to the Department which may be to accept registration (notwithstanding other factors) on the grounds that the applicant is medically fit and proper, or to refuse registration, on the grounds that the applicant is not medically fit and proper. Alternatively, the Medical Advisor may seek further information or recommend that admittance onto the registration 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 Department will assess whether that individual is a "fit and proper" person to be admitted onto the Register.

Renewal of registration

- 5.2 Renewal of registration is conducted in the same manner as described in paragraph 5.1

Existing RDI : Relevant Disability

- 5.3 In the event that a RDI develops a condition that may render the RDI medically not fit and proper to provide driving tuition, then it is a condition of registration that the RDI notifies the Department of the condition immediately.

The RDI is also under an existing obligation under the Driving Licences (Guernsey) Ordinance, 1995 ("Ordinance") to notify the Department *forthwith* if the RDI is suffering from a *relevant or prospective disability* which has not previously been disclosed to the Department or if a relevant or prospective disability has become more severe since the driving licence was granted.

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 box below) and any other disability likely to cause the driving of a vehicle in pursuance of a licence to be a source of danger to the public.

A *prospective disability* is defined in the Ordinance as a disability other than a relevant disability which –

"(a) at the time of the application for the grant of a licence or, as the case may be, the material time for the purposes of the provision in which the expression is used, is not of such a kind that it is a relevant disability, but

(b) by virtue of the intermittent or progressive nature of the disability or otherwise, may become a relevant disability in the course of time,".

Should the Department receive notice from a RDI of a relevant disability, it will take advice from the Department's Medical Advisor when making any decision regarding the suspension or removal of the individual from the Register, or the variation of conditions in regard to the registration.

In the event that the Department has reasonable grounds for believing that a RDI may be suffering from a relevant disability (including if the RDI has failed to notify the Department 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 RDI requiring the RDI to submit to a medical examination and provide a medical certificate from a medical practitioner specifying whether the RDI is suffering from a relevant disability;
- (b) consider a suspension of the individual from the Register until such time as it is firmly established that the RDI is fit and proper to provide driving tuition.

Existing RDI: Appropriate and Efficient Provision of Driving Tuition

- 5.4 This paragraph is in relation to existing RDIs who develop a medical condition, disease or physical disability which is not classed as a relevant or prospective disability (see paragraph 5.3) but which is likely to interfere with the RDI's ability to provide driving tuition appropriately and efficiently, and therefore to interfere with the ability to comply with the Code of Conduct and Good Practice.

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

In the event that the Department becomes aware (by way of complaints or otherwise) that an existing RDI may no longer be able to appropriately or efficiently provide driving tuition, it will commence an investigation of the matter. If the Department has received complaints they will be treated in accordance with the procedures set out in paragraph 7 of this Governing Policy.

If during the investigation, the Department is made aware that the RDI suffers from a medical condition which is likely to affect the RDI's ability to continue to provide driving tuition in an appropriate or efficient manner, the Department will request that the RDI voluntarily furnishes it with a medical report from its medical practitioner. If provided, the Department's Medical Advisor will review this documentation and submit a report to the Department with a recommendation as to whether or not the individual is medically "fit and proper" to continue to be on the Register.

If following the investigation, the Department is satisfied that an existing RDI is no longer able to provide driving tuition appropriately or efficiently then this in itself (regardless of whether the individual suffers from a medical condition or not) is sufficiently serious to result in the variation of the conditions attached to the registration, or the suspension or removal of the individual from the Register.

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).