

**WRITTEN QUESTION TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES
BY DEPUTY J.H. YOUNG OF ST. BRELADE
ANSWER TO BE TABLED ON MONDAY 30th JUNE 2014**

Question

Will the Minister inform the Assembly of his legal powers to issue, suspend, revoke or refuse a Public Service Vehicle (PSV) badge or impose conditions on badge holders, how such powers are administered in practice, to whom they are delegated, the criteria or policy tests applied, the internal checks to ensure transparency, objectivity and fairness of these quasi-judicial decisions, the appeal arrangements and the safeguards he has implemented to ensure the integrity of the PSV licensing system for the public and badge holders generally?

Would he further provide the Assembly with the following information in respect of PSV decisions since he was appointed as Minister -

- (a) The number of badges issued and the total number of current badges
- (b) The number of badges revoked
- (c) The number suspended, the reasons for such decisions and period of suspension
- (d) The number of appeals lodged by PSV holders and their outcomes
- (e) The number of complaints received from PSV holders
- (f) The number of complaints received from the public about badge holders
- (g) whether there were any prosecutions involving PSV badges ?

Answer

Through the Inspector of Motor Traffic, Article 29 of the Motor Traffic Law (Jersey) 1935 provides the Minister for Transport and Technical Services with the power to issue PSV badges, for a person to hold a badge to drive different types of vehicle, where that person is of age, is fit (both as to health and as to character) to drive public service vehicles of the specified type, is capable of safely driving public service vehicles of the specified type and has an adequate knowledge of Jersey.

Article 29 states that the Inspector of Motor Traffic shall not issue a badge to drive a PSV vehicle where he is not satisfied of the above criteria, set out in the law. Where a badge is not issued the applicant has the option to appeal to the Minister and the right to appeal to the Royal Court under Article 33.

Article 30 of the Law provides that the Minister for Transport and Technical Services may suspend the authority the badge gives the person to drive a public service vehicle, either for a specified period or for an indefinite period, on the grounds that the Minister is satisfied that, by reason of the person's conduct the person is either permanently or for the time being, not a fit person to drive a public service vehicle of the type specified on the badge.

The Minister has delegated authority to certain officers under Article 30, namely the Inspector of Motor Traffic, the Deputy Inspector of Motor Traffic and the Senior Traffic Officer, all of whom have taken oath before the Royal Court to well and faithfully discharge the duties of their respective offices, to grant and suspend public service vehicle badges, subject to the Minister approving policies and standard conditions. However, only the Minister may revoke a PSV Badge.

Policy and Tests Applied

All applicants for a PSV badge must:

1. Hold a full Jersey driving licence
2. Complete an enhanced Disclosure and Barring Service (DBS) check to prove they are fit as to character. This is done to find out if the applicant has any criminal convictions including motoring offences.¹
3. Attend a briefing to receive a code of conduct and ensure the applicant understands what is expected of a PSV badge holder (Appendix A).
4. Submit a medical certificate to prove their fitness to drive a public service vehicle.
5. Pass a PSV driving test, to demonstrate that the applicant understands and has attained the driving standards expect of a PSV driver.
6. Pass an Island knowledge test, to demonstrate the applicant has a good knowledge of the location of places and areas in the Island as it is essential for them to be able to perform their job. This part of the process is divided into two sections, written and oral, the time allowed for the full knowledge test is two hours.

¹ The results of all DBS checks are vetted by using the Rehabilitation of Offenders (Jersey) Law 2001

All PSV badge holders must adhere to the Motor traffic (Jersey) Law 1935 and the Code of Conduct published pursuant to Article 37(4) of the law.

Complaints received regarding PSV badge holders are considered against the criteria set out in the Motor Traffic Law (Jersey) 1935. Where necessary law officer advice is sought to provide clarification in its interpretation.

When requested, the identity of complainants is always treated with strict confidence. However, in order to allow the PSV badge holders a full opportunity to respond to the complaint, they are provided with a résumé of the allegations and supporting evidence. For any complaint to be heard evidence is required, either in the form of a written statement or other documentary information.

PSV badges cannot be suspended or revoked without a valid reason. Depending upon the seriousness of the allegation received by DVS, a full enquiry including interviews with badge/licence holders may be undertaken. Interviews are always attended by two TTS Officers, where serious allegations have been made these may be both the Inspector of Motor Traffic and Deputy Inspector. All complaints are considered in the light of the individual circumstances. Drivers attending interviews are allowed to be accompanied by representatives, should they feel it necessary.

Following any complaint and enquiry, badge holders are provided with a letter setting out the decision and basis it was made upon, with the route of appeal available to them should they contest the outcome.

Where upon the balance of probability a compliant is found to be justified:

- A first offence will usually result in a warning and a record of the incident being placed on file for future reference.
- A second offence may result in suspension of the PSV badge/licence with an option of appeal to the Minister.
- A third offence can result in the suspension by the Inspector of Motor Traffic and where appropriate, possible revocation of the licence upon review by the Minister.

In all instances PSV badge holders have a right of appeal to the Royal Court against the decisions of the Minister, Inspector of Motor Traffic or Senior Traffic Officer.

a) Total Number of Current PSV Badges

<u>Category</u>	<u>Count</u>
(A) Taxi-Cab	480
(B) Omnibus	288
(C) Char-à-Banc	319
(D) Mini Bus	163
(E) DUKW	21
(F) Double Decker	5
(G) Limousine	3
(H) Limo Bikes	5
Total	<u>1,284</u>

Total Number Of PSV Badges Issued from 01/10/11 to 23/06/14

<u>Category</u>	<u>Count</u>
(A) Taxi-Cab	560
(B) Omnibus	320
(C) Char-à-Banc	394
(D) Mini Bus	186
(E) DUKW	21
(F) Double Decker	5
(G) Limousine	3
(H) Limo Bikes	5
Total	<u>1,494</u>

Total Number of First Time PSV Badges Issued from 01/10/11 to 23/06/14 Total 88

There are no restrictions on the numbers of PSV badges issued

b) Number of badges revoked Total 9

c) Number of badges suspended Total 12

Reasons for suspension:

- Smoking in a public service vehicle
- Operating with expired PSV badges
- No vehicle provided to operate service

- Drinking and driving (Appendix B)
- Awaiting outcome of serious court proceedings
- Medically unfit to drive a public service vehicle

Periods of suspension vary from 3 days, 1 week, 1 month, or an indefinite period in cases awaiting court proceedings or medical fitness.

d) The number of appeals lodged by PSV badge holders and their outcomes Total 0

e) Number of complaints received from the Public about badge holders from 01/10/11 to 24/06/14

2011 = 12

2012 = 15

2013 = 13

2014 = 5

Total 45

f) Number of PSV badge holder 'drive on driver' complaints received from October 2011 – 23 June 2014

2011 = 11

2012 = 10

2013 = 9

2014 = 6

Total 36

g) Number Prosecutions

None by DVS, prosecutions are undertaken by either Parish Authorities or States Police. These authorities advise DVS where the outcome of any parish hall enquiry or trial is considered relevant to the defendant's PSV status.

Appendix A

CODE OF CONDUCT

1. You should be clean and smartly dressed.
2. You should be courteous.
3. You should not drink alcohol while on duty.
4. When you are waiting for hire you should keep close to your taxi-cab.
5. When your taxi-cab is available for hire you should not normally refuse a hire. This is particularly the case if yours is the first (controlled) taxi-cab on a taxi rank or if you are hailed when driving your taxi-cab. However, you may do so if you reasonably believe that -
 - your fare will not be paid;
 - the hire will last for more than an hour;
 - the hirer's clothing will dirty or unreasonably wet the interior of your taxi-cab;
 - the hirer will act in a disorderly manner during the journey.
6. In particular you should not refuse a hiring by a person with a disability. But if you must because your taxi-cab cannot take their wheelchair you should try your best to find one that can.
7. You should not seek passengers in a manner that may cause a nuisance, for example by stopping and asking people if they need a taxi-cab.
8. You should arrive for a booking at the correct time. However, if this proves to be impossible you must try to inform the hirer that you will be late.
9. You should assist passengers. For example, you should open doors, help load and unload luggage and to move it to or from premises where it is reasonable to do so.
10. You should not normally refuse to carry in your taxi-cab luggage or any other items accompanying a passenger. However you may refuse to carry -
 - an animal, although you should carry a guide dog or a hearing dog unless you have a good medical reason for not doing so;
 - an item that weighs more than 32 kilograms;
 - an item which because of its size or nature cannot be safely carried in the taxi-cab.

11. You should normally take a hirer to the destination requested but may end a hire at any time or place if the hirer -
 - acts in a disorderly manner;
 - smokes in your taxi-cab;
 - continues to eat or drink in your taxi-cab after you have asked them to stop doing so;
 - continues to play a radio, tape or disc after you have asked them to stop doing so
 - continues to distract your attention while driving after you have asked them to stop doing so.
12. You must not start your taxi meter until the hire starts. This usually means when a passenger gets into your taxi-cab but if you have been asked to go to a certain place to pick up passengers it means when you arrive at that place.
13. Unless your passenger agrees, you should not play a radio, tape, disc or similar device while your taxi-cab is on hire. This includes wearing a personal stereo. However, you can use normal taxi communication equipment.
14. You must not charge or attempt to charge more than the correct amount. In particular you must ensure that you set your taxi-meter to the correct tariff. The tariffs must be displayed prominently in your vehicle.
15. You should keep your taxi-cab in a clean and tidy condition, both inside and out, and promptly repair it if it is damaged.
16. You should regularly maintain your taxi-cab and keep a log that you have done so.
17. You should ensure that the sign on your taxi-cab that shows if it is available for hire is not lit when it is not available for hire.
18. If your taxi-cab is a controlled taxi-cab you should not allow it to stand on a taxi rank unless it is available for hire. If your taxi-cab is a restricted taxi-cab you must not pick-up passengers from, on or near a taxi rank or stand on any taxi-rank although you may pick up a passenger at the taxi rank at the Airport, Albert Pier or Elizabeth Harbour if no controlled taxi-cab is available to do so.
19. You should not involve yourself in conflict with other road users, other psv drivers or members of the public but should refer any complaint to the Driver and Vehicle Standards Department.
20. You should make your self aware of the laws governing your profession and observe the rules of the road.

21. You must wear your badge in a conspicuous position so that it can be easily legible when you are driving your taxi-cab
22. You must produce your badge for examination on being requested to do so by a Police or Traffic Officer.
23. You must ensure that inside your taxi-cab is displayed a sign in a position that can be easily read by a passenger showing the PSV taxi-cab number.
24. You should ensure the hours worked are not likely to cause fatigue. You should always consider the number of hours worked already and the activities undertaken - e.g. other employment.
25. It is an offence to smoke in a taxi-cab at any time.
26. You will probably be the first resident that visitors meet in the Island. Ensure that their first impression is a good one.

TRANSPORT & TECHNICAL SERVICES

DVS

DRIVER & VEHICLE STANDARDS

La Route De Veulle, La Collette, St Helier
Jersey JE1 3UE, Channel Islands
Telephone (01534) 448600 Facsimilie (01534) 448641

Appendix B

Public service vehicle licences and badges - review of policy following disqualification of a public service vehicle driver

A decision made 1 October 2010 regarding: Public service vehicle licences and badges - review of policy following disqualification of a public service vehicle driver.

Decision Reference: MD-T-2010-0094			
Decision Summary Title (File Name):	Review of Policy on Issuing Public Service Vehicle Licences and Badges Following a Driving Disqualification of a Public Service Vehicle Driver	Date of Decision Summary:	15 September 2010
Decision Summary Author:	Head of DVS & Inspector of Motor Traffic	Decision Summary: Public or Exempt? (State clauses from Code of Practice booklet)	Public
Type of Report: Oral or Written?	Written	Person Giving Oral Report:	N/A
Written Report Title (File Name):	Review of Policy on Issuing Public Service Vehicle Licences and Badges Following a Driving Disqualification of a Public Service Vehicle Driver	Date of Written Report:	15 September 2010
Written Report Author:	Senior Traffic Officer	Written Report : Public or Exempt? (State clauses from Code of Practice booklet)	Public
Subject: Review of Policy on Issuing Public Service Vehicle Licences and Badges Following a Driving Disqualification of a Public Service Vehicle Driver			
Decision(s): The Assistant Minister under his delegated authority agreed to adopt a formal policy for issuing Public Service Vehicle licences and badges following driving disqualifications for Public Service Vehicle drivers.			
Reason(s) for Decision: To formalise the process on issuing licences and badges to Public Service Vehicle drivers following any driving disqualification.			
Resource Implications: None			
Action required: Head of Driver and Vehicle Standards to implement the policy.			
Signature:		Position:	
Date Signed:		Date of Decision (If different from Date Signed)	

TRANSPORT AND TECHNICAL SERVICES DEPARTMENT
REVIEW OF POLICY ON ISSUING PUBLIC SERVICE VEHICLE LICENCES AND
BADGES FOLLOWING A DRIVING DISQUALIFICATION OF A PUBLIC SERVICE
VEHICLE DRIVER

Purpose of the Report

To obtain the agreement of the Minister for Transport and Technical Services to a policy for issuing a Public Service Vehicle licence and driver's badge to a Public Service Vehicle badge holder following the end of his/her domestic driving ban.

Background

On 15 July 2010 a Public Service Vehicle licence holder (Driver A) was found guilty in the Magistrate's Court of driving without due care and attention and fined £650, disqualified from driving for two months and ordered to retake a driving test. As such it was considered that the person was no longer able to provide an efficient taxicab service nor continue to hold a Public Service Vehicle badge or licence. Subsequently, in accordance with delegated authorities, Driver A's Public Service Vehicle licence and driver's badge were suspended.

Discussion

Article 10(1) of the Motor Traffic (Jersey) Law 1935 (MTL), as amended, allows the Minister to revoke or suspend a PSV licence when a person is considered no longer "fit and proper" to operate the public service. Similarly, Article 30(1) of the MTL allows the Minister to suspend or revoke the authority a badge gives a person to drive a Public Service Vehicle.

In previous instances where a Public Service Vehicle driver has been disqualified by the court from driving the driver has, on completion of the disqualification, successfully applied to have his/her licence and badge returned, depending on the seriousness of the offence and providing the offence did not occur whilst they were carrying out the duties of a Public Service Vehicle driver.

Two such instances are recorded.

Driver 1 was found guilty of driving under the influence of alcohol. At the time of the offence he was not working as a taxi driver. The driver's PSV licence and badge were suspended. Following the return of his domestic driving licence he was granted a badge and licence.

Driver 2 was found guilty of driving under the influence of alcohol. At the time of the offence he was actively working as a taxi driver. The driver's PSV licence was revoked and his PSV badge suspended. Following the return of his domestic driving licence Driver 2 applied for the return of his Public Service Vehicle licence and badge. The then Inspector of Motor Traffic granted the driver a badge but refused to grant a Public Service Vehicle licence. Driver 2 appealed to the Home Affairs Committee against the decision of the Inspector of Motor Traffic not to grant a controlled taxicab licence/plate. The Committee supported the Inspector and refused to grant the driver a PSV taxicab licence. The Committee agreed that a clear policy should be developed for use in the future should similar cases arise. It would seem this was not done at the time.

Driver A is the first Public Service Vehicle licence holder to be disqualified from driving by the courts since that Home Affairs Committee decision of 24 November 2005.

Considerations

To be a holder of both a Public Service Vehicle driver's badge and a Public Service Vehicle licence a person has to be "fit and proper". A person requires a badge to drive a taxi. He/she does not need to be the holder of the licence; he/she can be employed by a licence holder.

It is possible, as in the case of Driver 2, for a badge to be returned following the end of a driving disqualification but not a Public Service Vehicle licence permitting the operation of a taxicab service. It could be considered ambiguous that a person is judged to be fit and proper to be the holder of a badge but not fit and proper to be the holder of a Public Service Vehicle licence.

The relevant legislation appears to provide guidance that clarifies matters.

Article 29(2) of the MTL provides that the Inspector shall not issue a badge to drive a Public Service Vehicle unless satisfied that the applicant –

“(a) has attained the age of 21 years;

(b) is fit (both as to health and as to character) to drive Public Service Vehicle s of the specified type;

(c) is capable of safely driving Public Service Vehicle s of the specified type; and

(d) has an adequate knowledge of Jersey.”

Article 30(1) of the MTL provides that the Minister can revoke or suspend “the authority the badge gives the person to drive a Public Service Vehicle if the Minister is satisfied that, by reason of the person’s conduct, or a physical or mental disability, the person is, either permanently or for the time being, not a fit person to drive a Public Service Vehicle ”.

Article 9(1), (2) and (3) of the MTL provide that the Minister shall grant a PSV licence if satisfied –

“(a) that the applicant is the owner of the vehicle;

(b) that the applicant is a fit and proper person to operate the public service to be provided by the vehicle;

(c) that an appropriate certificate of fitness is in force in respect of the vehicle; and

(d) that the grant of the licence would not be contrary to paragraph (6).

(2) The Minister may grant a Public Service Vehicle licence unconditionally or subject to conditions, which shall be set out in the licence.

(3) The conditions shall be such, as in the Minister’s opinion, are necessary or desirable to ensure the proper operation of the vehicle and the public service to be provided by the vehicle.”

Article 10(1) of the MTL provides that the Minister may revoke or suspend a PSV licence, “if it appears to the Minister –

(a) that its holder is no longer a fit and proper person to operate the public service provided by the vehicle having regard to the holder’s conduct, whether in respect of the provision of that public service or otherwise, the manner in which the vehicle has been used or operated or the manner in which the public service has been provided (or has failed to be provided); or

(b) that the vehicle to which the licence relates has been used or operated in contravention of a condition set out in the licence.”

The conduct of the person is important in both, however, a badge should not be issued unless criteria are met. Prior to a badge being awarded, a satisfactory police check is carried out, the applicant is interviewed, passes a knowledge test and passes a driving test. If a badge holder is the subject of a driving disqualification, he/she can continue to meet the criteria for issuing a badge. If, however, there is

a second disqualification or the offence carries a significant disqualification period, it is unlikely the person would have been issued a badge based on the police check.

The Minister is expected to grant a PSV licence, subject to conditions, as long as the applicant satisfies certain criteria. The process to offer a plate involves the applicant building up a reliable reputation for providing a satisfactory level of service over a number of years such that he/she can be relied upon by the Minister to meet the conditions of licence, provide a satisfactory taxicab service as an owner/driver and assist the Minister in ensuring an adequate cab service. If the licence holder is the subject of a driving disqualification while operating the taxicab service, it is appropriate that an assessment is made on whether the licence holder compromised his/her reputation and can continue to be considered reliable and trusted to provide a satisfactory cab service once the disqualification is finished. The assessment should take into account the seriousness of the offence, whether passengers were being carried whose safety was compromised, whether any conditions of licence were breached and the manner in which the vehicle was being used and the service provided.

The proposed policy is set out in the table below.

	Disqualification period	Initial decision	Decision on application
Badge	Up to 3 years	Suspend	Issue badge
Badge	3 years or more or second disqualification	Revoke	Follow standard procedure for first application.
Licence	Less than one year	Suspend	Subject to assessment
Licence	One year or more or second disqualification	Revoke	Refuse licence

There is provision in the MTL for the applicant to appeal to the Royal Court against the Minister's decision.

Recommendation

Public Service Vehicle licence holders and/or badge holders disqualified from driving should apply for the issue of a PSV badge and the grant of a PSV licence on return of their domestic driving licence. The decision to issue a badge and a licence should be made on the basis of the table above.

Drivers given a long disqualification period or who have been given a second disqualification should not be issued with a badge until they can satisfy the Minister that they are unlikely to re-offend. This should be a period of at least three years, when their domestic driving licence is endorsement free. If a badge is issued, they can apply to have their name added to the taxicab plate waiting list.

Those drivers who are given a disqualification of less than one year and apply for the grant of a licence, will be subject to an assessment that takes into account whether the offence took place while operating the taxicab licence, the seriousness of the offence, whether passengers' safety was compromised, any conditions of licence were breached and the manner in which the vehicle was being used and the service provided.

If the policy is adopted Driver A, on completion of the driving disqualification, the suspension would be lifted on the driver's badge. An assessment, including an interview, will be carried out to determine whether a Public Service Vehicle licence will be granted.

Written by: Senior Traffic Officer

Approved by: Acting Director of Transport.