



**Neutral citation number: [2024] UKFTT 001014 (GRC)**

**Case Reference: FT/D/2024/0154  
Decision given on: 11 November 2024**

**First-tier Tribunal  
General Regulatory Chamber  
Transport**

**Heard: by CVP  
Heard on: 11 October 2024  
Decision given on: 11 November 2024**

**Before**

**TRIBUNAL JUDGE SOPHIE BUCKLEY**

**Between**

**REECE WILSON BAILEY**

Appellant

**and**

**REGISTRAR FOR APPROVED DRIVING INSTRUCTORS**

Respondent

**Representation**

For the Appellant: In person

For the Respondent: Mr. Russell

**Decision:** The appeal is dismissed

## **REASONS**

### **Introduction**

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors ('the Registrar') made on 14 February 2024 to refuse to grant the Appellant a second trainee licence.

### **Legal framework**

2. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.
3. A trainee licence may be granted in the circumstances set out in s. 129 of the Road Traffic Act 1988 ('the Act') and the Motor Cars (Driving Instruction) Regulations 2005.
4. A licence under section 129(1) of the Act is granted:

*'for the purpose of enabling a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing such part of the examination... as consists of a practical test of ability and fitness to instruct.'*

5. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This comprises: the written examination ('Part 1'); the driving ability and fitness test ('Part 2'); and the instructional ability and fitness test ('Part 3').
6. Three attempts are permitted at each part. The whole examination must be completed within 2 years of passing Part 1, failing which the whole examination has to be retaken.
7. If a candidate has passed Part 2, they may be granted a trainee licence. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. It is possible to qualify as an Approved Driving Instructor without having held a trainee licence.

8. The powers of the Tribunal in determining this appeal are set out in s.131 of the Act. The Tribunal may make such order as it thinks fit.
9. When making its Decision, the Tribunal stands in the shoes of the Registrar and takes a fresh decision on the evidence available to it, giving appropriate weight to the Registrar's decision as the person tasked by Parliament with making such decisions. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

### **Factual background to the appeal**

10. The Appellant passed Part 1 of the Qualifying Examination on 22 February 2023 and passed Part 2 on 4 July 2023. The Appellant applied for a trainee licence which was granted and was valid from 7 August 2023 to 6 February 2024.
11. On 20 January 2024, the Appellant applied for a third trainee licence. As the Appellant applied before the licence expired, this means that, at the date of the hearing, the appellant had been the beneficiary of a trainee licence for 1 year and 2 months.
12. On 18 September 2023 the Appellant booked a Part 3 exam for 20 November 2023 which was cancelled by the DVSA. He took, and failed, the Part 3 exam on 1 March 2024. He attempted to book his second attempt on 1 March 2024 but was placed on hold because no dates were available. On 14 June 2024 the DVSA gave him a date for a test on 26 June 2024 but this was cancelled on 17 June 2024. On 24 June 2024 the DVSA gave the Appellant the date of 5 August 2024. The Appellant took and failed his second attempt at the Part 3 exam on 5 August 2024. He has not attempted to rebook the test since 5 August 2024.
13. The reasons for the Registrar's decision, in summary, were that the Appellant had failed to comply with the conditions of the first licence and that 6 months is considered to be a more than adequate period of time to gain sufficient experience to pass Part 3.

### **Appeal to the Tribunal**

14. The grounds of appeal are, in summary:
  - 14.1. The Appellant has been unable to take one, let alone three part 3 tests during the 6 month period due to the DVSA cancelling his test.
  - 14.2. The Appellant has a high pass rate and has received positive feedback.

14.3. If the Appellant is not granted an additional licence this will have a detrimental effect on both him and his students who have upcoming tests.

15. The Registrar, in his response, states:

15.1. The Appellant has failed to comply with the conditions of his first licence as the training objectives on his ADI 21AT training form were not completed within the first three months of the licence period.

15.2. The purpose of the provisions governing the issue of licences is to afford applicants the opportunity of giving instruction to members of the public whilst endeavouring to achieve registration. The system of issuing licences is not and must not be allowed to become an alternative to the system of registration.

15.3. The licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition. Moreover, by virtue of the Appellant having applied for a second licence before the expiry date of the first, that licence has remained in force to the present time and will allow him to continue to give paid instruction until determination of the appeal.

15.4. Since passing his driving ability test the Appellant has failed the instructional ability test once [now twice]. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor.

15.5. The refusal of a second licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. He does not need to hold a licence for that purpose, nor is it essential for him to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on his own (provided that he does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all.

## **Evidence**

16. I read and took account of a bundle of documents and I heard from the Appellant and the Respondent's representative.
17. It became apparent during the hearing that the tribunal did not have an up-to-date bundle of documents. The respondent provided a copy of the updated bundle to the tribunal and the Appellant following the hearing.
18. The Appellant did not have the bundle of documents in front of him so it was not possible to tell if he had previously been sent the up-to-date bundle. In the circumstances and given that the Appellant disputed the fact that he had failed to comply with the conditions of his first licence, I determined that it was appropriate to allow him 14 days to provide further written submissions. No further written submissions were provided by the Appellant.

### **Discussion and conclusions**

19. I have considered carefully all the papers before me.
20. I accept that the Appellant has had difficulty booking his Part 3 test due to a lack of availability of dates from the DVSA and due to cancellations. I accept that the cancellation of the test in November 2023 caused particular inconvenience because the appellant had spent time and money travelling to Sale to practice in the area where the test was due to take place. Further I note that his first failed attempt at passing the Part 3 test was influenced by heavy traffic. I accept that all of this is very frustrating for the Appellant, and I take it into account.
21. However, the Appellant has ultimately managed to book and attempt two Part 3 tests and has made no attempt since August 2024 to book a third attempt.
22. I note that the Appellant has not complied with the conditions of his first trainee licence. The ADI 21AT Instructor Training Declaration in the bundle shows that the Appellant did not complete the training objectives within the first three months of the licence.
23. I note that the Appellant has already had the benefit of a trainee licences covering a period of 6 months. This should have been adequate time to prepare. Further I note that the Appellant has had the benefit of a further period of 8 months up to today.

24. The overall period in which the Appellant has been able to give driving instruction should have provided a reasonable opportunity to obtain the practical experience envisaged by the Act.
25. The Appellant can continue to study and practice and is able to continue to gain experience and take the test without a trainee licence.
26. The trainee license is not a substitute for taking and passing the test. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.
27. Having weighed all matters in the balance, the Appellant has not persuaded me that the Registrar's decision was wrong in any way. In all the circumstances, I agree with the Registrar's decision and the appeal is dismissed.

Signed Sophie Buckley  
2024

Date: 4 November

Judge of the First-tier Tribunal