



**Neutral citation number: [2024] UKFTT 001016 (GRC)**

**Case Reference: FT/D/2024/0485**

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

**Heard: by CVP  
Heard on: 31 October 2024  
Decision given on: 11 November 2024**

**Before**

**TRIBUNAL JUDGE SOPHIE BUCKLEY**

**Between**

**NASAR KHAN**

Appellant

**and**

**REGISTRAR FOR APPROVED DRIVING INSTRUCTORS**

Respondent

**Representation**

For the Appellant: Did not attend

For the Respondent: Did not attend

**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 13 May 2024 to refuse to grant the Appellant a third trainee licence.
2. Neither party attended. I was satisfied that both parties had been given notice of the hearing and that it was in the interest of justice to proceed in their absence.

### **Legal framework**

3. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.
4. 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.
5. 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.'*

6. 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').
7. 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.
8. 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.

9. 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.
10. 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**

11. The Appellant passed Part 1 of the Qualifying Examination on 16 August 2022 and passed Part 2 on 16 February 2023. The Appellant applied for two trainee licences which were granted and were valid from 2 April 2023 to 2 April 2024.
12. On 21 March 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 almost 7 months.
13. The Appellant cancelled a Part 3 exam booked for 27 June 2023. He took, and failed, the Part 3 exam on 18 September 2023. He cancelled a Part 3 exam booked for 23 October 2023. He failed his second attempt at the Part 3 exam on 10 January 2024. The Appellant had his third attempt booked for 21 August 2024. As neither party attended, I am unaware of the outcome of the third attempt.
14. The reasons for the Registrar's decision, in summary, were that 12 months is considered to be a more than adequate period of time to gain sufficient experience to pass Part 3.

### **Appeal to the Tribunal**

15. The grounds of appeal are, in summary:
  - 15.1. The Appellant has lost training time because he has been diagnosed with a deep vein thrombosis (in December 2022), which means that he cannot sit for long periods of time. Before he was diagnosed there were several months where he could not work, sometimes 2-3 days a week.

When he was diagnosed he had to take 3 months off work due to pain, stress and anxiety.

16. The Registrar, in his response, states:

- 16.1. 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.
- 16.2. 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.
- 16.3. Since passing his driving ability test the Appellant has failed the instructional ability test twice and cancelled two more tests. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor.
- 16.4. The refusal of a third 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**

17. I read and took account of a bundle of documents and I heard from the Appellant and the Respondent's representative.

## Discussion and conclusions

18. I have considered carefully all the papers before me. It is unfortunate that neither party attended. This meant that I was not aware of the outcome of the Part 3 exam booked for 21 August.
19. I note that the Appellant passed Part 1 of the Qualifying Examination on 16 August 2022. Given that his third and final attempt at his Part 3 exam was booked for 21 August 2024, it seems likely that this appeal is now academic. If the Appellant failed or passed the exam, the appeal will be academic. If the test was cancelled and the Appellant had not booked a further attempt before the expiry of two years from his Part 1 exam on 16 August 2022 the appeal will be academic.
20. It is at least possible that the test was cancelled and the Appellant made a booking for his third test before the expiry of two years from his Part 1 exam. For that reason, I have determined the appeal on its merits.
21. I note that the Appellant has already had the benefit of two trainee licences covering a period of 12 months. This should have been adequate time to prepare. Further I note that the Appellant has had the benefit of a further period of almost 7 months up to today.
22. It is unfortunate that the Appellant chose not to attend because he appears to have misstated the date on which he was diagnosed with a DVT in his representations made to the Respondent. The medical evidence provided by the Appellant shows that he was diagnosed with a DVT in December 2022 whereas the Appellant states that he was diagnosed in December 2022.
23. This is significant because the first trainee licence was granted and was valid from 2 April 2023. The Appellant stated that he was unable to work prior to his diagnosis, but this was not during his trainee licence. Further he states that he had to take three months off when he was diagnosed due to pain, stress and anxiety. If this was the three months following his diagnosis, this would not have been during the currency of his trainee licence.
24. Taking into account the medical evidence provided by the Appellant, which shows that his diagnosis with DVT was in December 2022, I consider that 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. If the Appellant still has a pending Part 3 exam that he booked before the expiry of the two-year period following his Part 1 exam, he 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: 1 November

Judge of the First-tier Tribunal