



Neutral citation number: [2024] UKFTT 001126 (GRC)

Case Reference: FT/D/2024/36

**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
(TRANSPORT)**

**Heard by Cloud Video Platform  
On: 20 November 2024**

**Decision given on: 17 December 2024**

**Before**

**JUDGE DAMIEN MCMAHON  
SPECIALIST MEMBER DR. PHEBE MANN  
SPECIALIST MEMBER SARAH BOOTH**

**Between**

**RASIH AHMED BULBULIA**

Appellant

**-and-**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**Representation:**

For the Appellant: The Appellant appeared in person on his own behalf.

For the Respondent: Mr. Darren Russell of the Respondent.

**Decision:** The appeal is Dismissed. The Decision of the Respondent made by the Respondent on 24 November 2023 is confirmed.

## REASONS

1. This appeal was listed for oral hearing by CVP on 20 November 2024 at 15.00. The Appellant attended and gave oral evidence. Oral submissions were made on behalf of the Respondent by their representative.
2. The Appellant appealed against a decision of the Respondent dated 24 November 2023, having taken account of representations made by the Appellant on 23 November 2023, to refuse to enter his name onto the Register ('the Register') of Approved Driving Instructors ('ADIs'), pursuant to section 125(3)(a) of the Road Traffic Act 1988 ('the Act') on the basis that he was not a fit and proper person to have his name entered onto the Register due to him having been convicted on 8 February 2023 of a motoring offence on 8 July 2022, namely, a breach of legislative requirements **concerning control of a motor vehicle, mobile telephones and so on** (CU80) for which he received a penalty of an endorsement of 6 penalty points on his licence and a £40.00 fine. The Appellant admitted the said offence.
3. The Appellant submitted an appeal dated 20/12/2023 against the said decision on the following grounds, in terms:
  - that it was unfair to hold that he was not a fit and proper person to have his name entered, again, onto the Register due to 'one stupid mistake', that he regretted, and that he had not been given a chance to explain [an assertion, if true, that was now cured by the Tribunal, an independent judicial authority, hearing this appeal and deciding the matter entirely afresh];
  - that he had been trying to connect to his Bluetooth facility on his ear while 'stuck in traffic' with his vehicle in neutral and the handbrake engaged; and was alone in the vehicle;
  - that he accepted he had done wrong and should have waited until he could safely park and connect his Bluetooth device;
  - that his name had been entered onto the Register previously for some 20 years but, due to medical problems, he had been 'on the sick' and in receipt of benefits for the last 6 years but had now re-applied to become an ADI and have his name entered again onto the Register;
  - that he had no other employment;
  - that he had a wife and 5 children all of whom had been affected by his illness and his inability to support them;
  - that he had held a 'clean' driving licence for 15-20 years;

- that this was his first offence of this nature [he having been convicted of a dishonesty-related offence in the past as a result of which his name had previously been removed from the Register];
  - that he relied on his submitted six-character references to show he was a fit and proper person to be entered onto the Register [that did, supportively, address the issue of the said motoring offence];
  - that he be given a probationary period of being an ADI with his name being entered onto the Register for that period [a suggestion, however, that is outside the permitted legislative framework];
  - that he was willing to undertake additional training.
4. The Appellant submitted a written statement dated 20 January 2024 reiterating the contents of his grounds of appeal.
  5. In his oral evidence, the Appellant essentially repeated and reiterated the contents of his grounds of appeal. He accepted that what he had done was careless and 'stupid' and was an unjustified serious matter that was due to a lack of concentration on his part but, he maintained, there was no safety issue and that he was not 'clued-in' to technology. He confirmed that he had some limitation of mobility and sometimes used crutches. He stated that his vehicle, being a 2016 model, did not have an in-built Bluetooth facility. He further confirmed that he was in the habit of connecting to his Bluetooth facility before driving off in his vehicle.
  6. In their Response, the Respondent confirmed that the Appellant had passed all of the necessary qualifying examinations to have his name entered, again, onto the Register but that they considered he was not as fit and proper person for that purpose due to his having committed the said motoring offence on 8 February 2023 (involving a mobile phone facility) while being the holder of a trainee licence: the decision under appeal was to refuse the application of the Appellant that his name be entered onto the Register.
  7. The Respondent further submitted that conditions for entry onto the Register require that an ADI (the Appellant in this case) to be a 'fit and proper person'. This requires account to be taken of an Appellant's character, behaviour and standards of conduct. This involves consideration of all material matters, including convictions, and other relevant behaviour, placing all matters in context, and balancing positive and negative features as appropriate and the Respondent may take the view that a person no longer meets this requirement where there has been a change in circumstances. It was further submitted that an ADI was expected to have higher standards in these regards than those of an ordinary motorist and that providing driving instruction was a responsible and demanding task only to be entrusted to those with high standards and a keen regard to road safety. The Respondent submitted that the Appellant, in committing the said offence, did not display the level of responsibility and commitment to improving road safety expected of a professional ADI, especially since the Appellant, having previously been an ADI, he would have been fully aware of the motoring laws. The Respondent submitted that there was no reasonable excuse for the Appellant

having committed the said offence and submitted that this sort of offence contributed significantly to road casualties and such offences could not be condoned. The Respondent submitted that to do otherwise would be to sanction such behaviour and would be offensive to other ADIs or aspiring ADIs, who were scrupulous in observing the law, to ignore the Appellant having recently committed the said offence.

8. In oral submissions, the Respondent's representative reiterated the contents of the Respondent's said decision letter and that the Appellant's representations before the decision did not alter the Respondent's position. He emphasised that, by committing the said motoring offence, the Appellant had fallen below the standards expected of an ADI, standards that were expected to be higher than those expected of an ordinary motorist. The Respondent's representative confirmed that the Appellant had previously been an ADI for 20 years before being removed from the Register in 2017 as not being a fit and proper person due to his being convicted in September 2016 of fraudulent evasion of duty, and that his appeal to a Tribunal had been dismissed. He emphasised that there was no provision in legislation to permit the Appellant's name to be entered onto the Register again for a probationary period as suggested by the Appellant and that the suggestion of him undertaking additional training was not relevant since the issue in this appeal was the Appellant having committed the said motoring offence that he admitted committing. He confirmed that the Respondent had become aware of the Appellant having committed the said motoring offence by checking the DVLA database when the Appellant had applied to have his name entered again onto the Register, albeit the Appellant had declared an offence on his application but had provided no detail.
9. An appeal to this Tribunal against the Respondent's decision proceeds as an appeal by way of re-hearing, that is, the Tribunal makes a fresh decision on the evidence before it. The Tribunal must give such weight as it considers appropriate to the Respondent's reasons for its decision as the Respondent is the regulatory authority tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Respondent's decision-making process. However, the Tribunal was obliged to examine all of the circumstances: the conviction and penalty imposed for the said motoring offence did not result in the Appellant's application to have his name re-entered onto the Register to be automatically refused.
10. The Tribunal accepted that the Appellant understood his decision that resulted in him committing the said offence was careless, unjustified, stupid and unprofessional, as stated by him, and may well have been due to a lack of concentration on his part, but was a serious matter. It was accepted that the Appellant wanted to return to work as an ADI and had a wife and five children to support. The Tribunal accepted that the Appellant understood the standards expected of an ADI.
11. The Tribunal noted the glowing character references submitted by the Appellant from ADIs; driving schools and pupils. However, the Tribunal decided, on the balance of probabilities that this evidence was not determinative to permit the Tribunal to reach a different decision in determining this appeal.

12. The Tribunal found that there was a public duty, on the balance of probabilities, to refuse the Appellant's application to have his name re-entered onto the Register in all the circumstances as the commission of the said motoring offence could not be condoned. To find otherwise would, in effect, amount to the Tribunal sanctioning or approving the Appellant's behaviour. The reality, that could not be ignored by the Tribunal, is that the consequences of the commission of an offence of this nature contributes to a significant number of road traffic casualties and that it would be offensive to other ADIs and persons trying to qualify as ADIs, who had been scrupulous in observing the law, to ignore the said motoring offence committed by the Appellant.
13. As a matter of law, the standing of the Respondent could be substantially diminished, and the public's confidence undermined, if it were known that a person whose name was re-entered onto the Register when they had demonstrated behaviours or been convicted in relation to an offence substantially material to the question of fitness. This can be in respect of behaviour pertaining to motoring matters and other matters of responsibility, trustworthiness and prudence; indeed, it would, indeed, be unfair to others who have been scrupulous in their behaviour, and in observing the law, if such matters were ignored or overlooked.
14. The judgment of the Court of Appeal in *Harris v. Registrar of Approved Driving Instructors* [2010] EWCA Civ 808 confirmed that -

***“..... the condition is not simply that the applicant is a fit and proper person to be a driving instructor; it is that he is a fit and proper person to have his name entered in the Register. Registration carries with it an official seal of approval ..... the maintenance of public confidence in the Register is important. For that purpose, the Registrar must be in a position to carry out his function of scrutiny effectively, including consideration of the implications of any convictions of an applicant or a Registered Approved Driving Instructor. That is why there are stringent disclosure requirements.”***
15. In reaching its Decision, the Tribunal took into account all of the evidence and submissions received, both written and oral, and considered all of the circumstances relevant to this appeal.
16. The Tribunal was obliged to bear in mind the significant importance attached to the integrity of the Register. For the public to trust it, the Respondent must act in a way that encourages the belief that those whose names are entered onto the Register have high standards. Allowing those who do not meet those standards would undermine the trust placed in it with serious consequences for those who do maintain the necessary high standards. These are matters of wider, and public interest, which attract significant weight even where, as in this case, having his name removed from the Register potentially may have significant consequences for the Appellant.

17. In this case the Tribunal took into account that the Appellant had accepted having committed a serious motoring offence. The Tribunal was concerned about the Appellant's lack of care in meeting his responsibilities as an applicant to have his name entered onto the Register as a qualified ADI.

18. The Tribunal particularly considered the question of whether it was proportionate to dismiss this appeal. On the balance of probabilities, the Tribunal concluded that in view of the gravity of the particular offence, readily admitted by the Appellant, there being no overriding reason that he should have used his mobile phone (that is, to attempt to connect it to his Bluetooth facility) when he did, dictated that removal of the Appellant's name from the Register was entirely proportionate in all the circumstances.

19. Taking all of these factors into account and, noting that the Tribunal needs to maintain public trust in the Register and to prioritise consumer protection and road safety over the interests of the Appellant as an individual driving instructor, the Tribunal concluded that the Appellant, at the time of the decision, was not a fit and proper person to have his name remain on the Register.

20. Accordingly, the appeal is dismissed.

Signed: ***Damien McMahon,***

**Tribunal Judge**

**Date: 21 November 2024**

