



Neutral citation number: **[2024] UKFTT 548 (GRC)**

Case Reference: D/2024/141

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

Determined at an oral hearing.

Heard on: 20th June 2024

Before

HHJ DAVID DIXON

Between

MOHAMMED SAMI UDDIN

Appellant

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Respondent

Decision: The appeal is dismissed with immediate effect.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made on 11th January 2025 refusing the application for the Appellant to appear upon the Register.
2. The Registrar’s reasons for refusal, in summary, were that the Appellant had accrued 6 penalty points for driving without insurance on 24th August 2022 and as such was not fit and proper. The Registrar took the view the offending was serious, and a refusal was therefore appropriate. Further to that the Appellant didn’t notify the Registrar,
3. The Appellant now appeals the Registrar’s decision.

Appeal to the Tribunal

4. The Appellant’s Notice of Appeal, dated 5th February 2024, indicates that the Appellant went with his uncle to pick up a car in Manchester. On the way back his uncle became unwell and as a result he took over driving the car whilst uninsured. It was at this stage that he was pulled over by the police and the situation unravelled.
5. He indicated he had qualified as an ADI near the time of COVID, had had a variety of difficult and traumatic issues to deal with, and life had generally not been easy. He explained the financial risks to him losing his licence and also of the lesson he had learnt. He begged for the chance to keep his licence to instruct.
6. The Respondent indicated that the offence was so serious that only a refusal was appropriate.

Mode of Determination

7. The case was listed for oral hearing and was carried out via the CVP video enabled hearing system.
8. The Appellant attended by telephone due to technical issues, and was unrepresented. He was supported by Roshonara Uddin, his aunt. The Respondent was represented by Ms Claire Jackson of the ADI Appeals Team.
9. The Tribunal considered a bundle of evidence containing the decision letter, the appeal document, medical details re the sad death of the Appellant’s mum, details of his father’s ill health, plus character references atoning to the Appellant’s skills and outlook.

The Hearing

10. The Respondent confirmed its case was as per the Response.
11. The Appellant repeated his account in relation to the offence, supplying further details of the journey involved. He indicated his uncle became dizzy and that was why he took over. He maintained he didn’t think about the insurance, as he thought he had comprehensive insurance which allowed him to drive other cars.

12. He said that he was not the sort of person to drive without insurance. He accepted he should have checked things properly, but honestly thought he was covered and the situation with his uncle took precedence.
13. He accepted it was a mistake, and one he had learnt from.
14. He described that he and his family had been through a horrible time. All of that affected him, it was a very stressful time. He described it as a roller coaster of a time.
15. He apologised for the error and said that this sort of thing will never happen again.
16. He indicated that he would stress to his pupils that they must abide by the rules of the road.
17. The Appellant said being an instructor was a life long dream and he anxiously asked to be able to teach. He loved teaching and asked the Tribunal to give him the chance.
18. Ms Uddin said she was extremely annoyed by her nephew's mistake and made that clear to him. She knows he is a good instructor and knows that he has learnt his lesson. The whole family were disappointed by the conviction, but know that it isn't really him. She assured the Tribunal that this will never happen again.
19. Mr Uddin's father joined the hearing at the end and confirmed the Appellant's character in terms of supporting the family. He also supported the account given by the Appellant's aunt.

The Law

20. Conditions for entry and retention on the Register require the Applicant to be and continue to be a "*fit and proper person*" to have his name on the Register of Approved Driving Instructors – see s. 125 (3) and s. 127 (3) (e) Road Traffic Act 1988¹.
21. The Registrar may take the view that a person no longer meets this requirement where there has been a change in circumstances. The burden of showing that a person does not meet the statutory criteria rests with the Registrar.
22. In *Harris v Registrar of Approved Driving Instructors* [2010] EWCA Civ 808², the Court of Appeal described the "*fit and proper person*" condition thus:

"..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 ADI. This is why there are stringent disclosure requirements".

¹ <http://www.legislation.gov.uk/ukpga/1988/52/part/V/crossheading/registration>

² <http://www.bailii.org/ew/cases/EWCA/Civ/2010/808.html>

23. An appeal to this Tribunal against the Registrar’s decision proceeds as an appeal by way of re-hearing i.e. the Tribunal stands in the shoes of the Registrar and take a fresh decision on the evidence before it. The Tribunal must give such weight as is considered appropriate to the Registrar’s reasons³ as the Registrar is the person tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Registrar’s decision-making process.

Conclusion

24. The Tribunal considered carefully all the papers and evidence before it.
25. Here the Appellant is said to have breached a central aspect of motoring law. The Appellant accepted the conviction, but tried to suggest it was a simple lapse of judgement. The tribunal does not accept that. ADIs are expected to have the highest regard for all aspects of motoring law and here the Appellant simply failed to have any regard to something as important as insuring a vehicle.
26. Whilst the Tribunal can understand an “oversight” it isn’t a matter that can be ignored. The responsibility to have insurance as an ordinary driver is paramount, for an instructor more so.
27. The Registrar is entitled to expect the very highest standards from ADI’s and here the Appellant has not lived up to anywhere close to that. ADIs are expected to instruct their pupils about the rules of the road and to do so with a clean record themselves. For the Registrar to allow the Appellant to remain on the Register would be hypocritical, allowing the Appellant to say do what I say not what I do! This is simply not appropriate.
28. The Tribunal comes to the clear conclusion it would be wrong to allow the Appellant to remain on the Register. He is no longer fit and proper to do so, and as such the Registrar’s decision was correct.
29. The Tribunal has given due weight to the outcome of the proceedings on the Appellant but has come to the view that the issues raised cannot be overlooked.
30. The Appeal is dismissed with immediate effect.

(Signed)

HHJ David Dixon

DATE: 20th June 2023

³ See *R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court* [2011] EWCA Civ 31. <http://www.bailii.org/ew/cases/EWCA/Civ/2011/31.html>. Approved by the Supreme Court in *Hesham Ali (Iraq) v Secretary of State for the Home Department* [2016] UKSC 60 at paragraph 45 – see <https://www.supremecourt.uk/cases/docs/uksc-2015-0126-judgment.pdf>.