



Neutral citation number: [2024] UKFTT 00818 (GRC)

Case Reference: D/2023/260

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

**Determined at an oral hearing  
on 21<sup>st</sup> August 2024**

**Before**

**HHJ DAVID DIXON  
RICHARD FRY  
MARTIN SMITH**

**Between**

**DONALD JULIAN EDMUNDS**

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 18<sup>th</sup> May 2023 to remove his name from the Register.
2. The Registrar’s reasons for refusal, in summary, were that the Appellant had accrued penalty points for speeding on 25<sup>th</sup> June 2022 and 23<sup>rd</sup> January 2023. The Registrar took the view the offending was serious and allowing him to remain on the Register would undermine confidence in it, so determined the Appellant must be removed.
3. The Appellant now appeals the Registrar’s decision.

### *Appeal to the Tribunal*

4. The Appellant’s Notice of Appeal, dated 13<sup>th</sup> June 2023, indicates that for the first offence the distance concerned was small; for the second it was either him or a pupil that was speeding, but whomever it was the limits on the road had recently changed and it was a simple error.
5. He indicates that he is 73 years of age and the consequences to him losing his registration will be that he has to reapply, take his exams etc and this will all take time, and will cost him financially. Two years off the Register will result in a £30,000 deficiency per annum without the extra costs that will follow.
6. The Respondent submitted a Response indicating that the Appellant was warned following the first matters of the need to apply the rules of the road and that a failure to abide by road safety laws would lead to a consideration of whether he was fit and proper. He failed to notify the Registrar of the final offence.

### *Mode of Determination*

7. The case was listed for oral hearing, and heard via the CVP system.
8. The Appellant was represented by Mr R Bowen of Counsel. The Respondent was represented by Claire Jackson of the DVSA Appeals team.
9. The Tribunal considered a bundle consisting of 41 pages.

## Evidence and submissions

10. Ms Jackson said the Respondent's position was as per the response.
11. The Appellant said he had been instructing for 50 years and most of his pupils came by word of mouth. He accepted over the years he had had the odd speeding ticket, but many years ago. He wasn't able to assist greatly with the details of the earlier matters.
12. For the first offence before the Tribunal he had pulled in to make a call, he then set off and a few vehicles up a mobile unit spotted him doing in excess of 30mph. The Appellant couldn't recall the exact speed. He accepted that he must have accelerated hard, but said he wasn't in a rush, he was just heading home.
13. For the second matter he or his pupil were noted to be doing 54mph in what was then a 40 mph. He described how the speed limit changed on the road a few months before the offence. He didn't think that there were any signs to notify of the change. He said he couldn't say whether it was him driving or his pupil, but as his pupil had ADHD and more he thought it best to simply accept the points.
14. He was asked if he had been on a speed awareness course and he said no.
15. The Appellant said he didn't report the matters to the Registrar as he believed that the Registrar was told automatically. He appreciated that now he had to report things, but said when you are busy things can get missed.
16. The Appellant said he was a Grade 6 instructor, i.e. the very best of the best instructors, and had been for years.
17. He was asked why after all of these years he had now accrued 6 points so quickly and he said it was perhaps age and a change in the way he perceived things.
18. Mr Bowen argues that the Tribunal should look at the character issue holistically. The Appellant having an exemplary record and has been instructing for many, many, years. He also asserts that a removal would have a serious impact upon the Appellant's financial position. He argued that the Appeal should be allowed.

## *The Law*

19. 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 1988<sup>1</sup>.
20. 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.
21. In *Harris v Registrar of Approved Driving Instructors* [2010] EWCA Civ 808<sup>2</sup>, the Court of Appeal described the "*fit and proper person*" condition thus:

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

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

*“..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”.*

22. 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 reasons<sup>3</sup> 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*

23. The Tribunal considered carefully all the evidence and papers before it.
24. Here the Appellant has committed two separate speeding offences. The Appellant seeks to minimise the first offence by suggesting that it wasn’t for a long distance. His account of pulling off and then reaching a speed before the mobile camera, means that he must have accelerated off aggressively. He failed to see the mobile camera and went through it at speed. The offence itself shows an aggressive start and a failure to note obvious issues on the roadside. The Tribunal felt that was serious. It was also worrying that this just seemed to be a routine manoeuvre.
25. The second offence is equally so. The Appellant seeks to minimise matters again by saying the road limits had changed and it was a simple error. By suggesting that he accepts paying insufficient regard to road signs. He asserts that it might have been him, it might have been a pupil driving at the time. As an ADI neither makes a difference. He should have paid sufficient attention to the road to notice the change in speed allowed. If it was the pupil he should have been watching the pupil’s control of the vehicle and ensuring he did not go over the limit. The fact that either way, but worse still if it was a pupil, that the car was travelling 14 mph over the limit is something the Tribunal finds hard to overlook.
26. Following the first matter he was warned, yet went on to commit the second matter. He failed to tell the Registrar of the second matter within the allocated time. This does him even less favours that the offending indicated.
27. The Tribunal comes to the view that the Registrar had no option but to remove the Applicant. The Registrar must ensure that the public has faith in the Register and the only way to do so is to ensure that only those suitable to instruct are on it. To allow the Appellant to appear on the Register would be to send out the wrong message and almost condone the speeding convictions. The Registrar simply can’t do that.

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<sup>3</sup> 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>.

28. The Tribunal gave due regard to the “holistic approach” suggested by Mr Bowen, but the offences, the proximity of the same and the way the Appellant described the driving resulted in all of the earlier good character going to one side. The Tribunal must ensure that the Register is being upheld to the appropriate standard and allowing the Appellant to remain would undermine the same.
29. The Appeal is dismissed with immediate effect. The Registrar’s decision was correct.

**(Signed)**

**HHJ David Dixon  
Richard Fry  
Martin Smith**

**DATE: 21<sup>st</sup> August 2024**