



Neutral citation number: [2024] UKFTT 00821 (GRC)

Case Reference: D/2023/218

**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**

**JOFFRE NAVAS**

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 21<sup>st</sup> April 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 4<sup>th</sup> September 2022, 12<sup>th</sup> December 2022 and 27<sup>th</sup> December 2022. 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 9<sup>th</sup> May 2023, indicates that he believes that he is fit and proper, he has pupils that think highly of him, and they often recommend him. He asserts that the speeding offences came about due to a faulty speedometer. He says that he has changed the car as a result.
5. He avers that the stress of the proceedings has been considerable. He also indicates that if he were to lose his registered status it would have very damaging financial implications for him. He asks for forgiveness.
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. *The Tribunal notes the warning postdates the 2<sup>nd</sup> and 3<sup>rd</sup> offences.* He failed to notify the Registrar of the final two offences.

### *Mode of Determination*

7. The case was listed for oral hearing, and heard via the CVP system.
8. The Appellant was unrepresented. He initially joined via CVP, but when his sound became difficult to understand he rejoined via the telephone link.
9. The Respondent was represented by Claire Jackson of the DVSA Appeals team.

10. The Tribunal considered a bundle consisting of 34 pages.

#### Evidence

11. Ms Jackson said the Respondent's position was as per the Response.
12. The Appellant said he "apparently" had a problem with his speedometer. He said the car wasn't working properly. He said he didn't know that he had been exceeding the limit, and it wasn't until after the third notice came through that he noticed his speedometer behaving very oddly. He described it stopped working or started to rise very quickly. He had been teaching pupils during the period he obtained the 3 offence notices, but during the period when the speedometer started to behave very strangely he was not.
13. He said he took the car to be fixed and indicated he had provided a copy of the mechanics invoice. The car was a Mazda, registered 12-15 years or so before the offences.
14. The Appellant was unable to assist the Tribunal with the speed of any of the offences; at best he speculated they were in a 40 mph zone and he was a little over the limits.
15. He said he didn't report matters to the Registrar as he didn't know the process to do so.
16. He said that he had been an instructor for 14 years and he worked hard to qualify. He said he had never had any issues until these matters. He maintained that he was a good instructor.
17. He described having anxiety and depression and had been hospitalised as a result of the pressures of these proceedings. He said the implications of him losing his registration would be catastrophic. Details were provided by the Appellant.

#### The Law

18. 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>.
19. 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.
20. 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:

*"..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*

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<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>

*any convictions of an applicant or a registered ADI. This is why there are stringent disclosure requirements”.*

21. 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*

22. The Tribunal considered carefully all the evidence and papers before it.
23. Here the Appellant has committed three speeding offences in the space of a year. He suggests that this was down to a faulty speedometer. The Tribunal was more than a little worried that the Appellant hadn’t been more concerned about matters when he obtained his first conviction. He either knew he was over the limit and accepted the fixed penalty accordingly, or was unconcerned that he had picked up 3 points when he was driving. Neither basis was to his credit.
24. Following the first matter he then accrued 6 more points. The Tribunal struggled to accept the account advanced. The Appellant’s account generally was deficient. His inability to remember any of the speeds he was travelling, that he claimed to have no idea how to report matters to the Registrar, or the ambiguity of a number of his replies lead the Tribunal to be concerned about the credibility of the Appellant’s account.
25. The Appellant currently has 9 points on his licence. It is difficult to see how any member of the public aware of the same could view the situation as anything other than extremely serious.
26. The Tribunal comes to the view that the Registrar had no option but to remove the Appellant. 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. Other ADI’s could come to the view that this type of driving was acceptable if the Appellant remained on the Register, and that simply can’t happen.
27. Further the failure to declare the offences was a real concern. It seemed to the Tribunal that the account given was not truthful and this further affected the Appellant’s status. The Tribunal without hesitation comes to the view the Appellant is not fit and proper to be on the Register.
28. The Appeal is dismissed with immediate effect. The Registrar’s decision was entirely correct.

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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>.

**(Signed)**

**HHJ David Dixon  
Richard Fry  
Martin Smith**

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