



Neutral citation number: [2025] UKFTT 00011 (GRC)

Case Reference: FT-D-2024-0525

First-tier Tribunal  
(General Regulatory Chamber)  
Transport

Heard at: Decided without a hearing  
Decision given on: 13 January 2025

Before

JUDGE BRIDGET SANGER

Between

WAQAR MOHAMMED AYUB

Appellant

and

REGISTRAR FOR APPROVED DRIVING INSTRUCTORS

Respondent

**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 14 June 2024, to refuse to grant the Appellant a second trainee licence.

### Legal Framework

2. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.

3. 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.
4. 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.'
5. 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').
6. 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.
7. 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.
8. 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.
9. 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.
10. 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 had previously been on the Register between January 2019 and January 2022.
12. The Appellant passed Part 1 of the Qualifying Examination on 9 February 2023. He passed Part 2 on 10 July 2023.
13. The Appellant booked Part 3 test on 16 April 2024 but cancelled the appointment. He booked a further test on 11 June 2024, which was cancelled by DSA. He booked a third appointment, which he took on 17 June 2023. He failed the test on this, his first attempt.

14. The Appellant was in receipt of a trainee licence which was valid from 4 December 2023 to 3 June 2024.
15. The register records his 21AT/S being completed on 20 May 2024.
16. On 24 May 2024 the Appellant applied for a second trainee licence. This was before the expiry of his first trainee licence.
17. On 29 May 2024 he was informed, by the Registrar, that he was considering refusing the application and invited to make representations.
18. In response, the Appellant stated that it had been difficult to obtain a part 3 test in the time frame.
19. The application was refused on 14 June 2024.
20. The reasons for the Registrar's decision, in summary, was that
  - a. The Appellant had failed to comply with the conditions of his first license, in that the training objectives on the ADI 21AT training record form were not completed in the first three months of the license period. Nor had he provided any evidence of lost training time;
  - b. the Appellant had failed the instructional ability test and cancelled a further test booked for 16 April 2024;
  - c. the Appellant had already had a sufficient amount of time to gain experience to assist in passing Part 3 of the Qualifying Examination and that it was not the intention of Parliament that candidates should be issued with trainee licences for as long as it takes them to pass the examination, and that the trainee licence system must not be used as an alternative to registration as a fully qualified Approved Driving Instructor.

### **Appeal to the Tribunal**

21. The grounds of appeal are, in summary:
  - a. The Appellant was unable to book a test once three months had elapsed; he felt it was unfair for DVSA to reject his application on that basis;
  - b. He had moved abroad and missed an email reminding him of the standards check but had restarted the process; to refuse a second trainee license was prejudicial to his progress;

- c. He failed a test on 17 June 2024 and the reason he gives is that the first test (11<sup>th</sup> June) was cancelled at short notice and the pupil he was meant to take was no longer available owing to it being a religious holiday. In order to avoid being out of work, he had to “source” an unfamiliar pupil, a family friend.

22. The Registrar, in his response, states:

- a. 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;
- b. 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;
- c. since passing his driving ability test the Appellant has failed the instructional ability test once and cancelled one more such test booked for 16 April 2024. Regrettably, DVSA cancelled one such test booked for 11 June 2024. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor;
- d. the refusal of a second 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;
- e. it should be noted [*as at 25 June 2024*] that the Appellant has not yet booked his second attempt at the instructional ability test.

23. The Appellant submitted a response as follows:

- a. all but 2 of the 40 hours of his training were completed within the timeframe. The 2 hours that were not completed within the timeframe were due to illness on the day of a scheduled webinar;

- b. the Respondent has failed to take into account the waiting time for part 3 tests in considering that 6 months is an appropriate timeframe in which to reach the qualifying standard and the Appellant is not able to provide training without a license because his training provider requires him to be licensed and he does not own his own vehicle or have the resources to purchase one;
- c. the original test on 16<sup>th</sup> April was cancelled after the death of a relative. The re-booked test was on 11<sup>th</sup> June with a familiar pupil but was rearranged to a date the pupil could not attend, owing to it being Eid (a religious festival). So as not to lose the date the Appellant arranged for a family friend to attend, with whose driving he was not familiar;
- d. the Appellant is looking for the earliest available date.

## **Evidence**

24. I read and took account of a bundle of documents.

## **Discussion and Conclusions**

- 25. I may overturn the decision of the Registrar if I am of the opinion that it was wrong. The burden is on the Appellant to show this.
- 26. I accept the Appellant's evidence in respect of his non-compliance with the training timetable.
- 27. I accept the evidence of the Appellant with regard to the reasons for his test cancellations and I have sympathy with his position.
- 28. However, it seems to me that there were other options open to the Appellant, in that he could have further rearranged the date or sought another pupil with whom he was more familiar. I note that a driving instructor will not be familiar with the driving style of every pupil, particularly new ones, and note that it is the performance of the trainee instructor that is being assessed, not the performance of the pupil, in a part 3 test.
- 29. I note that the Appellant has already had the benefit of trainee licences covering a period of 6 months from 4<sup>th</sup> December 2023 initially and, by virtue of this application, up to today's date. This is over a year, which should have been adequate time to prepare.
- 30. I also note that the Appellant, at the time the bundle was prepared, had not booked his second test. He may by now have done so.

31. The Appellant can continue to study and practice and is able to continue to gain experience and take the test without a trainee licence.
32. 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.
33. 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: Judge Bridget Sanger

Date: 6 January 2025