



Neutral citation number: [2025] UKFTT 286 (GRC)

Case Reference: FT/D/2024/0730

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

**Heard by: Cloud Video Platform
Heard on: 27 February 2025**

Decision given on: 7 March 2025

Before

JUDGE SCHERBEL-BALL

Between

IMTIAZ AHMED

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

The Appellant: Attended in person.
The Respondent did not attend.

1. **Decision:** The appeal is allowed. I direct that the Appellant's trainee licence is extended until 7 May 2025.

REASONS

2. This appeal concerns a decision of the Registrar of Approved Driving Instructors ("the Registrar") made on 14 August 2024 to refuse to grant the Appellant a second trainee licence.

3. The Appellant is a trainee driving instructor who has previously been granted a trainee licence under section 129 of the Road Traffic Act 1988 (the "Act"). This licence ran between 29 January 2024 and 28 July 2024. The Appellant applied for a second trainee licence on 13 July 2024. This application was refused by the Registrar on 14 August 2024. The Appellant now appeals the Registrar's decision.

4. The hearing was held by CVP. I was satisfied that it was fair and appropriate to hold the hearing in this manner. The Appellant attended the hearing and made submissions on his own behalf. The Registrar did not attend as is now his usual practice, but I considered that it was appropriate and justified to continue with the hearing in the absence of the Registrar having regard to r.36 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (as amended).

The Appeal

5. The Appellant's Notice of Appeal dated 26 August 2024 relies on the following grounds:

- a. The Appellant had failed one part 3 test. He had booked a second test and this had been put "on hold" because there was no tests available locally.
- b. When the Appellant initially obtained his licence, he had fewer pupils available to him. He therefore had to travel 30 minutes each way to other areas to teach pupils, which led to a loss of available training time.
- c. Prior to obtaining his licence, the Appellant worked as an interpreter. He had some continuing commitments to fulfil during the first six months, but had now stopped his interpreting work and was concentrating more on his instructional training.
- d. The Appellant had also worked for two days a week in a local community centre helping elderly people which further limited his available time for training.
- e. The Appellant suffered from a medical issue which limited the extent of training he could undertake in one day. The Appellant was obtaining medical treatment and hoped this would improve his condition.
- f. In all the circumstances, the Appellant believed he fell within the scope of the DVSA's guidance for when it would issue a second licence.

6. The Registrar has filed a Statement of Case dated 9 September 2024 in which he resists the appeal. The Registrar says that:

- a. The Registrar had refused the application for a second trainee licence because the Appellant had failed to comply with the conditions of his first licence as the training objectives on his ADI 21AT training record were not completed within the first three months of his first licence. Separately, the medical evidence the Appellant had supplied did not evidence how much training time was lost.
- b. The purpose of the provisions governing the issue of trainee 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 an alternative to the system of registration.
- c. The purpose of a trainee licence is not to enable the instructor to teach for however long it takes to pass the exams but to allow a confined period of experience of instruction. Six months is ordinarily a very reasonable period in which to reach the necessary standard and in particular to obtain any necessary practical experience in tuition. The Appellant has already had a trainee licence, and by virtue of his appeal in respect of his latest application, his first licence has remained in force, which allows him to continue to give paid instruction until determination of the appeal.

- d. The refusal of a second licence does not bar the Appellant from attempting the instructional ability test. 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 training.

The law

7. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. The circumstances in which trainee licences may be granted are set out in section 129 of the Act and the Motor Cars (Driving Instruction) Regulations 2005.

8. 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*".

9. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This is made up of: the written examination (Part 1); the driving ability and fitness test (Part 2); and the instructional ability and fitness test (Part 3). Three attempts are permitted at each part. The Part 3 test must be booked within two years of passing Part 1, otherwise the whole examination has to be retaken.

10. A candidate may be granted a trainee licence if they have passed Part 2. However, holding a trainee licence is not necessary in order to qualify as an Approved Driving Instructor, and many people qualify without having held a trainee licence.

11. The powers of the Tribunal in determining this appeal are set out in section 131 of the Act. The Tribunal may make such order as it thinks fit (section 131(3)). 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. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

The evidence

12. I have considered a bundle of evidence containing 25 numbered pages. Prior to the hearing, the Appellant also provided the Tribunal with an email which showed that the DVSA had cancelled his third Part 3 test which was due to have taken place on 20 February 2025. The DVSA had rescheduled the test for 7 May 2025.

13. I have carefully considered all of the evidence in the hearing bundle. That evidence also includes a printout from the Appellant's records from the Registrar. This shows that the Appellant passed his theory Part 1 test on 8 March 2023 and passed his Part 2 test on 23 November 2023. He failed a Part 3 test on 21 June 2024 and was scheduled to have a further Part 3 test on 5 November 2024. This test had already been booked by the time of the filing of this appeal in August 2024.

14. During the hearing, the Appellant provided me with oral evidence to update the position since he had lodged the appeal in August 2024. He insisted that he had completed all the training requirements and had sent that evidence to the DVSA. This included his mandatory training before he took his first test. He said he had completed 2 lots of 20 hours training. The Appellant confirmed that he had failed his second Part 3 test in November 2024 but was frustrated by the DVSA's cancellation of his third Part 3 test which had been due on 20 February 2025. He confirmed that his medical condition was continuing which meant that he was unable to undertake lengthy lessons. He pointed to the evidence he had submitted in support of his

case that he had lost time of training. This included evidence of his medical condition and his community support work.

Discussion and Conclusion

15. I have given careful consideration to all of the evidence in this case. I generally found the Appellant to be a candid and honest individual at the hearing.

16. There is a dispute as to whether the Appellant had completed his mandatory training within the first three months of his first trainee licence. The DVSA asserts he has not done so. The only evidence in the bundle on this issue is a partially completed ADI 21AT form showing six hours of training had been completed by 15 April 2024. This evidence does not assist as it does not show that further forms were not supplied for other mandatory training. At the hearing, the Appellant was insistent that he had completed his mandatory training and filed the relevant forms with the DVSA.

17. Ultimately, I do not need to decide this point, although if I had to do so I would have accepted the Appellant's evidence applying the balance of probabilities. The reason I do not have to decide is that I am not satisfied that the Registrar's decision letter of 14 August 2024 gave the Appellant adequate and sufficient clarity as to the reason his application for a second trainee licence was being refused. The email simply stated "*you failed to comply with the conditions of your first licence*". It did not provide any explanation as to which conditions (plural) the Appellant was said to have failed to comply with.

18. Moreover, when on 25 July 2024, the Registrar notified the Appellant that he was considering whether he might refuse his application for a second licence, the Registrar failed to mention any apparent failure on the part of the Appellant to comply with any licence condition(s). The email simply stated that "*the Registrar is considering refusing your application because one trainee licence for 6 months' duration has already been granted to gain sufficient experience to pass the [Part 3] examination.*" The email invited the Appellant to make representations about missed time; it did not invite the Appellant to provide any evidence about his alleged failure to submit the ADI 21AT form showing completion of the mandatory training time. I consider that the Registrar should be far clearer in these circumstances if there is an alleged deficiency in the paperwork, to allow any such deficiency to be addressed at that time. It is not fair to raise it after the decision has been made to refuse the licence and even then without providing sufficient clarity as to the alleged failure to comply with the requirements of the first licence.

19. In this case, the fact that the Registrar contends there was an alleged failure to complete and return a full ADI 21AT form only emerges from paragraph 5 of the Registrar's response in this appeal.

20. S.129(4) of the Road Traffic Act 1988 requires the Registrar to "*state the grounds of the refusal*" when refusing to extend a trainee licence. The rationale for such a statutory requirement is to allow the applicant to understand the grounds for their unsuccessful application and, if appropriate, consider whether an appeal is justified.

21. I am not satisfied that the Registrar's letter of 14 August 2024 was adequate in this regard. While I accept that the reasons given do not need to be lengthy, they must give the applicant reasonable clarity of the basis on which their application has been refused so that they can address this or appeal the decision. It is unsatisfactory for the real reasons to emerge in the Response to an appeal. That does not detract from a trainee driving instructor's obligations to provide clear information in compliance with their trainee licence to the Registrar, including confirming that they have fulfilled their training objectives. However, the Appellant's evidence

is that he did complete the requisite training and filed the forms with the DVSA. The Registrar has not attended to gainsay that oral evidence.

22. Accordingly, I consider that the Registrar's refusal of a second licence by the Appellant was wrong. In reaching this conclusion, I also consider that the Registrar failed to take into account, or alternatively did not give sufficient weight to, both (i) the medical evidence relied on by the Appellant to explain his difficulty in completing lengthy periods of training and (ii) his delays in getting tests. While I accept the Registrar's case that a trainee driving instructor is not entitled to a trainee licence for however long that it takes to pass the Part 3 test, there must be some correlation between (i) the length of time it takes to obtain and then take the tests, which is increasingly lengthy in many parts of the country, and (ii) the availability of a trainee licence to obtain and maintain the necessary skills. In practice, a trainee driving instructor may need to be able to offer paid tuition to obtain and maintain the necessary experience.

23. Accordingly, I would allow the appeal. The question then falls as to what order, if any, I should make in respect of the Appellant's trainee licence and whether I should grant any further extension. S.131(3) of the Act provides a broad discretion to the Tribunal to make an order as it "sees fit". Such a decision must necessarily be made on a case by case basis, taking into account the evidence available in this case. While it is a broad discretion, it must be subject to the usual limits of rationality and be in accordance with the law. For example, I do not consider that a trainee licence could be issued where it was no longer possible to be permanently registered.

24. I am conscious that by virtue of this "in-time" appeal, the Appellant has in practice already had the benefit of his licence being extended in practice until the determination of the Appeal. That is a period of over 7 months since the first licence was due to expire. The Appellant should by now have been able to book and take three Part 3 tests. The reason he has not been able to do so however is no fault of his own; his most recent test was cancelled and postponed by the DVSA for more than two further months after already having had to wait several months for that test. Had it not been for this, any further extension would not have been necessary as the Appellant would either have successfully passed or failed the Part 3 test for the last time.

25. One issue I have considered is whether I have the power to extend the Appellant's trainee licence beyond two years since he passed his Part 1 test on 8 March 2023. However, I consider that it is open, in principle, for the Tribunal to direct such an extension, as the requirement under r.3(4) of the Motor Cars (Driving Instruction) Regulations 2005 is that the Appellant has made "*an application to take the instructional ability and fitness test*" within 2 years of the Part 1 test. In this case, the Appellant has indeed made such an application prior to 8 March 2025 and the date for the hearing is still to occur.

26. I ordinarily consider that such an extension could be justified in exceptional circumstances. I consider that there are exceptional circumstances which justify extending the Appellant's licence in this case. These are principally (i) this was a request for a second trainee licence, not a third trainee licence, (ii) the Appellant's continuing medical condition which has been a limiting factor for his training, (iii) the lengthy delays in the Appellant being able secure his tests, (iv) the fact that his most recent test was cancelled by the DVSA through no fault of his own and (v) that even with this extension, the Appellant will still have had a trainee licence for less than the combined period of three trainee licences. The combination of these factors justifies an exceptional extension of his trainee licence until 7 May 2025. It would be wrong, in my view, for the Appellant not to be able to maintain his skills level through paid tuition when his test has been cancelled by the DVSA.

27. Accordingly, I allow the appeal and direct that the Appellant's trainee licence is extended until 7 May 2025.

Signed: *Judge Scherbel-Ball*

Date: 4 March 2025