



Neutral citation number: [2025] UKFTT 64 (GRC)

Case Reference: D/2023/263

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

**Determined at an oral hearing
on 19th December 2024**

Before

**HHJ DAVID DIXON
RICHARD FRY
MARTIN SMITH**

Between

MARK COTTRELL

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Appellant

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 22nd 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 31st December 2021 and 6th March 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 14th June 2023, indicates that the first speeding matter was a “silly thing to do.” He seemed to suggest that it was a pupil who was speeding not him, but the pupil wouldn’t accept the same and then disappeared. He accepted not telling the Registrar about this matter saying he was unaware of the responsibility to do so. He expressed remorse for this failing. The second matter the Appellant said was “very much unfinished business” as he had accepted a conviction for something that the paperwork suggested was not an offence.
5. He asserted he was a man in his 60s, who loved being an ADI and someone who if he lost his licence would be in real difficulties. He asked to be allowed to continue teaching. He asked to be allowed to teach at least until 29th July 2023.
6. The Respondent submitted a Response indicating that the Appellant’s licence expired in October 2024, so it would have expired but for this Appeal. The Registrar indicates that he DVLA notified him of the Appellant’s 2023 conviction, the earlier matter was noted. Neither was reported to the Registrar. The Appellant was warned following the 2021 offence of the need to conform with the rules of the road or else fitness would be a real issue. As a result of the second matter the Registrar came to the view the Appellant was no longer fit and proper and therefore indicated removal would follow.

Mode of Determination

7. The case was listed for oral hearing, and heard via the CVP system.
8. The Appellant was unrepresented.
9. The Respondent was represented by Darren Russell of the DVSA Appeals team by telephone.
10. The Tribunal considered a bundle consisting of 45 pages.

Evidence

11. Mr Russell said the Respondent's position was as per the Response.
12. The Appellant said that the first offence was not him, but a pupil who refuses to accept responsibility for the crime. He said that for the 40 mph zone, an average speed check area, he tried to keep the pupil to the relevant limit but it seems unsuccessfully. He said that he had been offered £40 in a supermarket car park to teach the new pupil. The Appellant had allowed that and during the short journey found the pupil to be difficult. He had repeatedly warned the pupil of his driving and indeed of exceeding the speed during the relevant area. He said that at worst the pupil got to 47 in a 40 zone, but the Appellant using dual controls had brought the speed down to 30. The section of road was said to be very short.
13. The second offence he maintained was not an offence. He said he had never exceeded 50 that was the limit. He was adamant that he doing 46mph and therefore under the 50 limit and that no offence was committed. He denied receiving any Court correspondence about the case. He said he had tried to get the fine monies back.
14. He said that he had been to the police to try and get the second points removed but the police said that it was a civil issue not a criminal one. He said he hadn't obtained legal advice for costs reasons and he hadn't tried to have the matter resolved in a Court. He was adamant that he had been told that no further action was required in a letter. (*It was pointed out that the letter referred to the fine being paid and therefore nothing further was required from him. The Appellant indicated that was not the way he had read the letter.*)
15. He said he had continued driving and instructing after the offences, had always passed his check tests, and he said he was a good instructor.
16. The Appellant said that if he lost his licence he would be "sunk." He said he felt like the Post Masters trapped with no help being offered. He said he had never had a point on his licence, he had never had even a police officer "Waving a finger at me", and that he had been instructing for 18 years.
17. He indicated he disliked the term "fit and proper" which he said had no legal basis, but asked to be able to continue to teach.

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 1988¹.
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.

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

20. 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”.

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 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

22. The Tribunal considered carefully all the evidence and papers before it.
23. Here the Appellant has accrued two speeding offences in a relatively short space of time. The first offence was said by the Appellant to be unusual. The Tribunal struggled to determine if the account given by the Appellant was true or not. However, even if the Appellant’s version was accepted his behaviour showed a dramatic lack of judgement. In effect “picking up” a random, new pupil in a supermarket car park is just odd. By continuing to let the pupil drive when you have real concerns was strange. To make the “judgement call” that it was acceptable to take a learner behaving oddly onto a motorway was not an option the Tribunal felt reasonable. To fail to control the speed of a learner over a short stretch of road such that in an average speed limit area a speed well in excess of 40mph was recorded, firstly casts doubt on the honesty and integrity of the Appellant’s account but also his instructional skills. The Tribunal had real concerns.
24. The suggestion that the police turned the Appellant away saying that someone perverting the course of justice, by avoiding a speeding conviction, was a civil not a criminal issue, was something the Tribunal simply could not accept as truthful. This casts real doubts over the Appellant’s credibility.
25. The alleged circumstances of the second offence again did not assist the Appellant. A recording of an offence with little knowledge by the Appellant, was not something the Tribunal could accept. The paying of the fine thinking that was the way forward, again lacks credibility. The Tribunal simply couldn’t accept the Appellant’s account.

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

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>.

26. The Appellant currently has 6 points on his licence. This is obviously cause for concern. This and the credibility issues outlined lead the Tribunal to the view that the Appellant is not fit and proper to instruct. The Tribunal felt unable to believe crucial aspects of the Appellant's evidence, and had real concerns over other areas such that it would be wrong to allow him to remain on the Register, where honesty is a key issue.
27. Further, the Tribunal comes to the view that the Registrar had no option but to remove the Appellant at the time. 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.
28. The Tribunal gave due weight to the financial consequences of the loss of licence to the Appellant but came to the view that the offending, and credibility issues, were too serious and even applying a proportionality test, the Registrar's decision was correct.
29. The Appeal is dismissed with immediate effect.

(Signed)

**HHJ David Dixon
Richard Fry
Martin Smith**

DATE: 19th December 2024