



Neutral citation number: [2024] UKFTT 1080 (GRC)

Case Reference: FT/D/2024/0566.

**First-tier Tribunal  
(General Regulatory Chamber)**  
Choose jurisdiction.

**Heard on: 12 November 2024.  
Decision given on: 02 December 2024.**

**Before**

**Judge Brian Kennedy KC**

**Between**

**FRASER ADAM**

Appellant

**and**

**THE DRIVER AND VEHICLE STANDARDS AGENCY.**

Respondent

**Decision:** The appeal is Dismissed.

## **REASONS**

1. Section 123(1) of the Road Traffic Act 1988 ('the Act') prohibits the giving of instruction paid for by or in respect of a pupil in the driving of a motor car unless the instructor's name is on the Register of Approved Driving Instructors, or he is the holder of a current licence issued under Section 129(1) of the Act.
2. The Appellant is not now and has never been on the said Register.
3. Two licences under Section 129 of the Act were granted to the Appellant for the purpose of enabling him to gain practical experience to undergo the examination of his ability to give instruction in the driving of motor cars and were valid from 10 July 2023 to 09 July 2024 (D1).

4. On 06 June 2024 the Appellant applied for a third licence (**D2**). By way of an email dated 10 June 2024 (**D3**) the Appellant was notified that I was considering the refusal of his application for a third licence. By way of an email received on 27 June 2024 (**D4**) the Appellant made representations. He stated he lost training time due to illness and cancelled a test as he was climbing Kilimanjaro to raise money for charity. He also cited wait times for part three tests,
5. After considering these representations the Respondent decided to refuse the Appellant's application. He provides no evidence of lost training time or a lack of pupils and has had the benefit of two trainee licences for twelve months. The Respondent gave him notice of their decision in accordance with Section 129(4) of the Act by an email dated 27 June 2024 (**D5**). The reasons for my decision were as follows:
  - (i) 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;
  - (ii) 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. The Appellant has already had two trainee licences which cover a period of 12 months. Moreover, by virtue of the Appellant having applied for a third licence before the expiry date of the second, 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;
  - (iv) since passing his driving ability test the Appellant has failed the instructional ability test once and cancelled one more such test booked for 18 June 2024 (**Annex A**). Despite ample time and opportunity, the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor; an
  - (v) the refusal of a third 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.
6. It is noted that the Appellant has his second attempt at the instructional ability test booked on hold, awaiting a test date.
7. The Appellant has failed to give any substantive or justifiable reasons for refuting the Respondents division in all the circumstances and accordingly I must refuse the appeal.

8. Signed Brian Kennedy KC

Date: 13 November 2024.