



Neutral citation number: [2024] UKFTT 001148 (GRC)

Case Reference: D/2024/447

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

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

Decision given on: 02 January 2025

Before

**HHJ DAVID DIXON
RICHARD FRY
MARTIN SMITH**

Between

PAUL CHAMBERS

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Appellant

Respondent

Decision: The appeal is allowed.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made on 15th April 2024 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 1st March 2022, 28th October 2023 and that a warning had been given in 2015. 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 13th May 2024, indicates that he believes that he is fit and proper, he provided a detailed account of the two offences committed averring that they were momentary errors of judgement and/or understandable mistakes. He accepts that having 6 points on his licence makes his position difficult but asks the Tribunal to bear in mind that the actions were not deliberate. He has a family and losing his licence will have a serious effect. Further, he argues that he is a specialist ADI, providing services to those in need of extra assistance due to disabilities, removing him deprives the community of a useful service.
5. Letters of recommendation and about the Appellant’s positive character were also provided.
6. The Respondent submitted a Response indicating that the Appellant was warned following the 2015 matter and again after the 2022 offence 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.

Mode of Determination

7. The case was listed for oral hearing, and heard via the CVP system.
8. The Appellant was represented by Mr Hardcastle of Counsel. Mr Nigel Palmer attended as a witness.
9. The Respondent was represented by Darren Russell by telephone.
10. The Tribunal considered a bundle consisting of 48 pages.

Evidence

11. Mr Palmer attended and confirmed his witness statement from the bundle. He indicated that his son, who had special needs, was still receiving lessons from the Appellant. He indicated that the Appellant had special skills and it had taken considerable time to find a suitable instructor with the right car in the right area. He said that he would have to look “at the man” if he heard that an instructor had 6 points on his licence, before deciding whether to let such a person teach one of his children. Here though he had no concerns about the Appellant. His son always came home from lessons eager to discuss all that had happened, and Mr Palmer was hopeful his son would now be able to get the freedom and mobility that the Appellant’s teaching was going to allow for.
12. The Appellant confirmed his witness statement. He indicated that his wife’s job at the bank where she worked would conclude at the end of the month.
13. He indicated that that when driving he now uses the car's speed limiter and other features to ensure that he doesn't exceed the speed limit. He explained the steps and assistance he sought to enable and understand these newer innovations.
14. The Appellant indicated that for the final offence he was driving around trying to find out the lay of the land for a potential pupil. He accepted getting distracted on the day by an emergency vehicle, which he bitterly regrets. He accepts that being distracted is not an adequate explanation. He has now set in place steps within his car to ensure his speed is limited. He is acutely aware of things now and he pleaded that he be allowed to continue or else he would be considered personally a failure. A failure to his clients that he cared dearly for.
15. He said he was a retired army officer. He valued providing a specialist service to a section of the community that had been disenfranchised by a number of other instructors. He stressed that a vulnerable section of the community would miss out if he lost his licence.
16. Mr Hardcastle in closing submissions indicated that the character references supplied are of particular note, they indicate a man of impeccable character who assists a specialist vulnerable section of the community. He relied upon Mr Chambers’ former military service and his involvement with a specialist services charity. He accepts that the speeding offences are serious, but here when set against the Appellant personally and the circumstances of the particular offences, he asserted that the Appellant was a fit and proper person and should be allowed to remain on the Register.

The Law

17. 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.
18. 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>

19. 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”.

20. 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

21. The Tribunal considered carefully all the evidence and papers before it.
22. The tribunal noted that these offences were at the lower end of the scale, his general mode of operation carrying out reconnaissance trips pre instruction sessions, and his general attitude put this case in a different position to others.
23. The Tribunal was very impressed by the evidence from the Appellant. His evidence was honest and heartfelt. The emotion shown by the Appellant firstly of remorse and secondly of the way others may look at him if he was not allowed to instruct were obviously genuine. He did not seek to downplay the offences, or to justify them, he simply explained what had happened.
24. Whilst the combination of the offences/penalties were serious and the Tribunal fully understood the concerns of the Registrar had that led to the decision to remove, the Tribunal had the benefit of hearing directly from the Appellant, from Mr Palmer and of the closing submissions from Mr Hardcastle.
25. It was abundantly clear to the Tribunal that the Appellant understood how close to losing his registration his actions had brought him, and was impressed firstly by the way he prepared for and conducted the hearing, but also by the steps he had taken to ensure that he would not fall foul of speed limits in the future, using the newer technology in his car. All of the aforesaid showed a complete understanding of the severity of the position. The Tribunal was impressed by the frankness shown by the Appellant in this regard.

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 gave a deal of evidence about the specialist market he serves. The evidence from Mr Palmer of the limited options available for those with extra needs was also noted. Whilst the Appellant's clients were of little assistance to a determination of the Appellant himself, the skills required, patience and more, were carefully balanced by the panel.
27. There were a number of character references supplied which the Tribunal gave due weight to. They spoke of a good instructor who went out of his way to assist. The Tribunal was greatly assisted by the testimonials that gave weight to the idea that the Appellant was fit and proper.
28. As already indicated the Tribunal understands why the Registrar acted as he did, but having considered this case in the round, having read the character references and crucially having heard from the Appellant, the Tribunal comes to the view this is a special case where despite the 6 points being on his licence the Appellant is still fit and proper to remain on the Register. The Tribunal stresses there are exceptional issues at play in this case and it is only for those that the "norm" is being departed for.
29. Having said that whilst the Appellant can remain an instructor, helping the section of the community with extra needs as he has for many years now, he must understand that any further infringements that are brought to the Registrar's attention, whether offences or otherwise, will lead to his removal. The Appellant asked in effect for a suspended sentence, i.e. a penalty that would take immediate effect if any further issues arose. The Tribunal would direct the Registrar to treat this decision as just that, and to formally warn the Appellant accordingly.
30. The Appeal is therefore allowed and the Registrar is directed to maintain the Appellant's registration.

(Signed)

**HHJ David Dixon
Richard Fry
Martin Smith**

DATE: 18th December 2024