



Neutral citation number: [2025] UKFTT 00119 (GRC)

Case Reference: FT/D/2024/0512

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

**Heard by: Cloud Video Platform / Heard at:
Heard on: 31 January 2025
Decision given on: 10 February 2025**

Before

**JUDGE HAZEL OLIVER
MEMBER DAVID RAWSTHORN
MEMBER MARTIN SMITH**

Between

TASAWER YASIN

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

For the Appellant: Mr McLaughlin, solicitor

For the Respondent: Mr Russell

Decision: The appeal is Dismissed. The Registrar's decision of 15 April 2024 is upheld.

REASONS

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors ("the Registrar") made on 15 April 2024 to remove the Appellant's name from the Register of Approved Driving Instructors (the "Register") on the grounds that the Appellant had ceased to be a fit and proper person to be an Approved Driving Instructor ("ADI").
2. The proceedings were held by video (CVP). All parties joined remotely. The Tribunal was satisfied that it was fair and just to conduct the hearing in this way.

The Appeal

3. The Appellant's Notice of Appeal dated 10 May 2024 relies on the grounds that:
 - a. No reasons have been provided about why his original representations were rejected, and so the decision is unreasonable.
 - b. The decision is a disproportionate response.
 - c. The Appellant was stationary and not engaged in actual use of the phone.
 - d. The law changed on 25 March 2022, and previously the Appellant would not have been sanctioned.
4. The Registrar's Statement of Case dated 5 December 2024 resists the appeal. The Registrar maintains that the 6 penalty points cannot be ignored, and the Appellant's name should be removed from the Register.

The law

5. 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 – see sections 125(3) and 127(3)(e) of the Road Traffic Act 1988 (the "Act").

6. The Registrar can remove a person's name from the Register if they have ceased to be a fit and proper person to have their name on the Register (section 125(2)(e) of the Act). The Registrar may take the view that a person no longer meets this requirement where there has been a change in circumstances. The Registrar has the burden of showing that a person does not meet the statutory requirement to be a fit and proper person, and the standard of proof is the balance of probabilities.

7. 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 (in accordance with ***R. (Hope and Glory Public House Ltd) v City of Westminster Magistrates Court & Ors*** [2011] EWCA Civ 31).

8. In ***Harris v Registrar of Approved Driving Instructors*** [2010] EWCA Civ 808, the Court of Appeal described the "fit and proper person" condition as follows: "*..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...It seems to me that 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.*" (paragraph 30).

The evidence

9. We have considered a bundle of evidence containing 28 pages. This includes evidence of the original submissions provided to the Registrar by the Appellant. We heard submissions from both representatives and some additional comments from the Appellant.

The relevant facts

10. The Appellant's name was first entered in the Register in July 2011. On 14 November 2023 the Registrar received notification from the Driver and Vehicle Licensing Agency ("DVLA") that the Appellant had accepted a fixed penalty for breach of requirements as to control of the vehicle, mobile telephones and so on. This resulted in six points on his licence. On 15 March 2024 the Registrar gave the Appellant 28 days to make representations before

a decision was made about removal of his name from the Register. The letter referred to the offence and the six penalty points, and to the Appellant's failure to notify the Registrar of the offence.

11. The Appellant's solicitor provided written representations on 4 April 2024. They say that the Appellant had the device on his lap while he was idling at traffic lights on red, as it had been briefly removed from its cradle to connect the power cable for charge. The Appellant pleaded guilty. He did not report the outcome of the court hearing because he assumed that the outcome would be relayed to the DVSA by the police, the court or the DVLA, and this was an honest mistake.

12. On 15 April 2024 the Registrar confirmed that the Appellant's name should be removed from the Register as he had ceased to be a fit and proper person. The letter says that the Registrar came to this conclusion because of the fixed penalty notice which resulted in six penalty points. Mr Russell confirmed at the hearing that the substance of the decision was based on the offence itself, not the failure to report the offence to the Registrar.

Conclusions

13. If an ADI's name is allowed to remain on the Register when they have demonstrated behaviours which are relevant to fitness, this will diminish the standing of the Register and undermine the public's confidence in the Register. This includes behaviour relating to driving and motoring offences.

14. ADIs are held to a higher standard than ordinary motorists. The public has the right to expect that those who are registered as ADIs adhere to the highest standards of motoring, which they themselves should be teaching to their pupils. Teaching people of all ages to drive safely, carefully, and competently is a professional vocation requiring a significant degree of responsibility. Such a demanding task should only be entrusted to those with high personal and professional standards and who themselves have demonstrated a keen regard for road safety and compliance with the law.

15. Mr McLaughlin put forward a number of points on behalf of the Appellant, based on the written representations from 4 April 2024.

- a. The Appellant says that the Registrar's written representations only focus on the conviction and do not refer to the representations made by the Appellant. The Appellant argues that this suggests his representations were not properly considered and the decision is unreasonable. We agree that the Registrar's decision letter and statement for this Tribunal do not engage directly with the Appellant's arguments and explain why they were rejected. However, as explained above, we are taking a fresh decision and have considered all of the representations made on behalf of the Appellant.
- b. The specifics of the offence itself were handling a mobile phone while stationary at traffic lights. The Appellant says this was only outlawed in March 2022 and the offence was in October 2023, and it is not an offence which leads to a criminal record. The Appellant was also not engaged in a lesson. We accept that the Appellant was not actively using a mobile phone while driving along. Nevertheless, the law now treats all incidents of handling a mobile phone while driving (whether moving or not) as a serious offence which results in an endorsement of six points on the driver's licence. As an ADI, the Appellant is expected to be fully aware of any new legal requirements so he can adhere to the law himself and teach it correctly to his pupils.

- c. The Appellant says that he has been an instructor for 14 years and had an impeccable record. He says that removal from the Register will bring his career to an end. He says that it will be difficult for him to obtain another job, he is the main earner for his family, and he has five children to provide for. We acknowledge that removal from the Register has serious consequences for the Appellant. However, every removal of an ADI from the Register has a similar effect on their career, which is an inevitable consequence of working in a regulated profession. Although we have sympathy for the Appellant's personal situation, these are not exceptional circumstances which might justify allowing him to remain on the Register after committing this offence. We also note that the removal from the Register is not permanent, and the Appellant could re-apply at a later date once the points are removed from his licence.
- d. The Appellant also argues that he performs a valuable role imparting skills to new drivers, particularly young ones. He works within a minority community and says that his inability to work as an ADI will have an impact on this community. We accept that the Appellant has provided a valuable service to his local community, and it is very regrettable if this has to stop because he is no longer on the Register. However, this is not a reason to allow him to remain on the Register after committing this offence.

16. The Appellant also made the point that others with six points on their licence have been allowed to remain on the Register. In the Tribunal's experience, this may be the case where an ADI has committed two offences which result in three points each. However, it is very unusual for an ADI to remain on the Register after committing one offence that is so serious it results in a six point endorsement on their licence. Although this would be possible, it would depend on there being exceptional circumstances and would be a rare occurrence.

17. Mr Russell submitted that the Registrar has a duty to ensure that ADIs adhere to the standards of the Road Traffic Act, and committing an offence which leads to a six point endorsement on a licence is a serious matter and simply not acceptable for a driving instructor. ADIs are responsible for teaching learner drivers, including those as young as 17 years old. They are expected to follow the rules that they are supposed to be teaching to their pupils. The Registrar is aware of the personal impact on the Appellant of removal from the Register, but says this does not mitigate an offence of this nature.

18. The Registrar has the duty of ensuring that only those of appropriate standing are on the Register, and that those who are on it understand their responsibilities and can show they not only know the rules but follow them. We find that this would be undermined if the Appellant was allowed to remain on the Register. What the Appellant did may not seem to be a serious offence, but the law treats it very seriously. It is essential that ADIs follow the law that they are supposed to be teaching to often young and impressionable pupils. We do have sympathy for the Appellant's position, and we agree with Mr McLaughlin's submission that each case must be looked at individually. We have considered all of the arguments made on behalf of the Appellant. However, we do not find that there are any exceptional circumstances which would justify allowing the Appellant to remain on the Register after committing an offence of this nature.

19. We therefore find that the Appellant does not currently meet the statutory requirement to be a fit and proper person. In all the circumstances, we conclude that the Registrar's decision to remove the Appellant's name from the Register as he was not a fit and proper person was correct. We dismiss this appeal.

Signed: Judge Hazel Oliver

Date: 6 February 2025