



Neutral citation number: [2025] UKFTT 156 (GRC)

Case Reference: FT-D-2024-0599

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

**Heard at: Decided without a hearing
Decision given on: 12 February 2025**

Before

JUDGE BRIDGET SANGER

Between

MICHAEL SEARLE

Appellant

and

REGISTRAR FOR APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is dismissed.

REASONS

Introduction

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors ('the Registrar'), made on 12 July 2024, to refuse to grant the Appellant a third trainee licence.

Legal Framework

2. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.

3. A trainee licence may be granted in the circumstances set out in s. 129 of the Road Traffic Act 1988 ('the Act') and the Motor Cars (Driving Instruction) Regulations 2005.
4. 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.'
5. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This comprises: the written examination ('Part 1'); the driving ability and fitness test ('Part 2'); and the instructional ability and fitness test ('Part 3').
6. Three attempts are permitted at each part. The whole examination must be completed within 2 years of passing Part 1, failing which the whole examination has to be retaken.
7. If a candidate has passed Part 2, they may be granted a trainee licence. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. It is possible to qualify as an Approved Driving Instructor without having held a trainee licence.
8. The powers of the Tribunal in determining this appeal are set out in s.131 of the Act. The Tribunal may make such order as it thinks fit.
9. When making its Decision, 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.
10. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

Factual Background to the Appeal

11. The Appellant passed Part 1 of the Qualifying Examination on 7 February 2023. He passed Part 2 on 31 May 2023.
12. Two trainee licenses were granted to the Appellant, which were valid from 26 June 2023 to 25 June 2024.
13. On 22 May 2024 the Appellant applied for a third trainee licence.
14. On 24 June 2024 the Appellant was informed that the Registrar was considering refusing the application and invited to make representations.

15. In response, on 27 June 2024, the Appellant stated that he wished for the license to be renewed because, having paid for his test on 9 June 2023, he was still waiting to receive a test date.
16. The application was refused on 12 July 2024.
17. The reasons for the Registrar's decision, in summary, were that:
 - a. the Appellant had failed to provide any evidence of loss of training time;
 - b. the Appellant had already been granted two trainee licenses and had already had a sufficient amount of time to gain experience to assist in passing Part 3 of the Qualifying Examination, it was not the intention of Parliament that candidates should be issued with trainee licences for as long as it takes them to pass the examination, and that the trainee licence system must not be used as an alternative to registration as a fully qualified Approved Driving Instructor.
18. On 11 November 2024 the Appellant failed his first attempt at his Part 3 test.

Appeal to the Tribunal

19. The appeal was filed on 17 January 2024.
20. The grounds of appeal are, in summary:
 - a. the Appellant paid for his Part 3 test on 9 June 2023;
 - b. At the time of filing the appeal he had not received a date for the test;
 - c. The Appellant was told that there was a backlog and that DVSA was prioritising standard driving tests over instructional ability tests, therefore he did not chase;
 - d. It was baffling to the Appellant that his license was not renewed on the basis that he had not taken the test.
21. The Registrar, in his response, states:
 - a. 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;
 - b. 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;

- c. since passing his driving ability test the Appellant has failed the instructional ability test once. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor; and;
- d. the refusal of a second 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;
- e. it should be noted [*as at 13 November 2024*] that the Appellant has not yet booked his second attempt at the instructional ability test.

Evidence

22. I read and took account of a bundle of documents.

Discussion and Conclusions

23. I may overturn the decision of the Registrar if I am of the opinion that it was wrong. The burden is on the Appellant to show this.

24. I note that the Appellant has already had the benefit of a trainee licence from 26 June 2023 which was extended once and then, by virtue of this application, up to today's date. This has given him a total period of almost 18 months, which should have been adequate time to prepare for his Part 3 test.

25. The Appellant has, since making his application to the Registrar, already been able to attempt his Part 3 test.

26. I note that a further Part 3 test is awaited. The Appellant can continue to study and practice and is able to continue to gain experience and take the test without a trainee licence.
27. The trainee license is not a substitute for taking and passing the test. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.
28. Having weighed all matters in the balance, the Appellant has not persuaded me that the Registrar's decision was wrong. In all the circumstances, I agree with the Registrar's decision and the appeal is dismissed.

Signed: Judge Bridget Sanger

Date: 20 January 2025