



Neutral citation number: [2025] UKFTT 16 (GRC)

Case Reference: FT-D-2024-0724

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

**Heard at: Decided without a hearing  
Decision given on: 14 January 2025**

**Before**

**JUDGE BRIDGET SANGER**

**Between**

**MUSAWAR AHMED SALEEM**

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 13 August 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 15 May 2023. He passed Part 2 on 10 August 2023.
12. He took and failed Part 3 on 14 November 2023 and 19 December 2023. A further Part 3 test was booked on 3 October 2024 but it was cancelled by the Appellant.
13. Two trainee licenses have been granted to the Appellant, which were valid from 31 July 2023 to 30 July 2024.
14. On 15 June 2024 the Appellant applied for a third trainee licence.

15. On 24 July 2024 the Appellant was informed that the Registrar was considering refusing the application and invited to make representations.
16. In response, on 4 August 2024, the Appellant stated that he had been without a car, after an accident, between 23 December 2023 and 20 February 2024. In addition he had experienced a lack of test ability. Despite this he had made two attempts at Part 3 within a month.
17. The application was refused on 13 August 2024.
18. The reasons for the Registrar's decision, in summary, were that:
  - a. that the Appellant had been aware of the situation with his car before applying for the second trainee license and could have delayed the second license starting;
  - b. the Appellant had had the benefit of two training licenses for twelve months;
  - c. that the Appellant had already had a sufficient amount of time to gain experience to assist in passing Part 3 of the Qualifying Examination and that 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.

### **Appeal to the Tribunal**

19. The grounds of appeal are, in summary:
  - a. the Appellant was in a motorway accident in Belgium on 23 December 2023 which rendered his car inoperable; the car was returned to the UK in January but was not fully repaired until 20 February 2024;
  - b. the Appellant was unable to practice or gain the necessary experience within " a significant period" of his license period;
  - c. the Appellant did not want to delay applying for a second license at the material time, for fear that it would not be granted in a timely manner.
20. 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 twice and cancelled one more such test booked for 03 October 2024. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor;
- d. 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;
- e. it should be noted [*as at 10 October 2024*] that the Appellant has his final attempt at the instructional ability test booked to hold – awaiting an available date. Should the test go ahead, then the regulations determine that any appeal is bound to fail as a trainee licence can only be issued in order that an individual can gain the practical experience required to take the test.

## **Evidence**

- 21. I read and took account of a bundle of documents.

## **Discussion and Conclusions**

- 22. 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.
- 23. I note that the Appellant has had the benefit of a trainee licence since 31 July 2023, which has been extended once by the Registrar and again, by virtue of this application, up to today's date. This has given him a total period of over a year in

which to prepare for his Part 3 test, even taking into account the period of two months during which he was without a car.

24. I accept that the Appellant was in a road traffic collision in December 2023 and I accept that there were the difficulties he describes in having his vehicle returned to him. I sympathise with his position but I note there were other options available to him. For example he could have delayed the application for the second license until his car was returned.
25. I note that the Appellant is on hold for a final attempt at taking Part 3.
26. 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: 6 January 2025