



Neutral citation number: [2025] UKFTT 00235 (GRC)

Case Reference: FT/D/2024/0068

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

**Heard by Cloud Video Platform
Heard on: 13 January 2025
Decision given on: 24 February 2025**

Before

**JUDGE MATON
TRIBUNAL MEMBER MARTIN SMITH
TRIBUNAL MEMBER GARY ROANTREE**

Between

MOHAMMED ZAKIR MIAH

Appellant

and

THE REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

For the Appellant: in person

For the Respondent: not represented, having been barred from the proceedings

Decision: The appeal is Dismissed.

REASONS

1. This is an Appeal against the decision of the Registrar dated 27 December 2023 that the Appellant should not be granted a trainee licence.

2. The Tribunal received and considered a bundle of documents. The Appellant attended an oral hearing by Cloud Video Platform (“CVP”).
3. The Registrar was barred from proceedings in this Appeal by directions given by Tribunal Registrar Arnell dated 14 August 2024, following a failure to comply with earlier directions. Judge O’Connor gave directions dated 10 September 2024 effectively lifting this bar, and progressing the Appeal to a hearing.
4. By directions given by Tribunal Registrar Bamawo dated 31 October 2024 the Registrar was barred from proceedings following a failure to comply with Judge O’Connor’s directions of 10 September 2024. The Tribunal has no record of an application to lift this second bar. Accordingly, the Registrar did not appear at the hearing and was not represented.
5. By rule 36 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (“the Rules”), a hearing can proceed in the absence of a party if the Tribunal is satisfied that the party had notice of the hearing and that it is in the interests of justice to proceed. The Tribunal is satisfied that these requirements were met in this case.
6. In the evidence available prior to and at the hearing, there was some lack of clarity as to the chronology of events, including the Appellant’s driving history and his application to the Registrar. This was exacerbated by the lack of a bundle, which the Registrar had been directed to prepare, and the absence of some supporting documents, including correspondence between the Appellant and the Registrar prior to the Registrar’s decision. This is disappointing and made the task of determining the Appeal more complicated than it ought to have been.
7. On a number of points, the Panel found the Appellant’s evidence in the hearing unclear, and by directions dated 17 January 2025 I directed that the Appellant provide further written evidence to confirm these matters. This was provided by email on 5 February 2025, and was considered by the Panel.
8. The Tribunal is disappointed by the confusion and lack of clarity in the evidence presented by both parties in this Appeal. Despite the limitations of the evidence, the Tribunal is satisfied that it could decide this Appeal fairly and justly.

Relevant law

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

10. A trainee licence may be granted in the circumstances set out in s129 of the Road Traffic Act 1988 ("the Act") and the Motor Cars (Driving Instruction) Regulations 2005.
11. A licence under s129(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."
12. 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. Under s129(2) of the Act, the Registrar must grant a licence to an applicant who fulfils specified conditions, including that the applicant is a fit and proper person to have his name entered in the register of approved driving instructors.
13. The powers of the Tribunal in relation to appeals against decisions not to grant trainee licences are set out in s131 of the Act. When making a decision on any such appeal, 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.

Background

14. The Appellant applied to be an approved driving instructor. The date on which he did so is disputed, as discussed below. The Appeal does not relate to any decision by the Registrar in relation to any application for registration.
15. The Appellant applied for a trainee licence on 10 December 2023, and in a letter dated 12 December 2023 the Registrar advised that he was considering refusing the application, and invited the Appellant to make representations regarding this. The Appellant made representations in an email also dated 12 December 2023. The Registrar wrote to the Appellant by letter dated 27 December 2023, refusing the application.
16. The Registrar's decision was made on the basis that the Appellant is not a fit and proper person to be an approved driving instructor, having:
 - a. incurred six penalty points on his licence as a result of two speeding offences, committed on 28 November 2022 and 1 December 2022; and
 - b. failed to declare these offences in his application.
17. The Appellant appealed to the Tribunal.

The Appeal

18. In his Appeal, the Appellant submits that:

- a. he did not intend to mislead the Registrar in his licence application;
- b. his instructor helped him with his licence application, and he either misheard or did not fully understand relevant questions in the application;
- c. his experience in relation to receiving these penalty points motivated him to apply to become an approved driving instructor.

19. The Registrar submits that:

- a. the Appellant was warned about his future conduct when he started the application process;
- b. anyone who is an approved driving instructor is expected to have higher standards of driving and behaviour than the average motorist;
- c. teaching people to drive is a responsible and demanding task and should be entrusted to those with high standards and a keen regard for road safety;
- d. in committing the offences, the Appellant had not displayed the level of responsibility or commitment to improving road safety that the Registrar would expect of a potential approved driving instructor;
- e. the Government has increased the penalties for certain motoring offences, and that these offences contribute to a significant number of road casualties
- f. the Registrar cannot condone motoring offences of this nature; and
- g. to allow the Appellant a licence would be unfair to other applicants who had been scrupulous in observing the law, and could undermine the public's confidence in the system.

Discussion

20. The Appellant was unclear or confused in relation to a number of his items of evidence, which to some extent undermined the credibility of the matters he put forward. This is not to say that the Tribunal considered the Appellant to be dishonest, and the Tribunal makes no finding as to the Appellant's honesty.

21. The Appellant does not dispute the fact of his speeding offences, or that he failed to disclose them to the Registrar.
22. In relation to the November 2022 and December 2022 speeding offences, the evidence is that these occurred on the westbound A40, on which the Appellant says that he drove regularly for a period of several years. He says at the time of each offence he was travelling at 48mph.
23. He was unclear about what the relevant speed limit was at the time and said that it had changed "recently", either from 50mph to 40mph or from 40mph to 30mph. The Registrar's evidence is clear that the change was from 40mph to 30mph, and that the change occurred in 2020, around two years before the offences. The Appellant said in the hearing that the signs next to the highway would have shown a 40mph limit on the relevant days.
24. During the hearing and in his further evidence submitted afterwards the Appellant confirmed that he committed a previous speeding offence in January 2022, following which he attended a speed awareness course in February 2022. He said that this had occurred having breached a 20mph limit in Islington. This was not referred to in the Registrar's decision and it is not clear whether the Registrar was aware of this in relation to the Appellant's application.
25. Regarding the Appellant's application to be entered on the register, the Registrar's evidence was that this application was made on 20 November 2022, while the Appellant states that it was made in November 2023. Neither party provided any documentary evidence to support these dates.
26. The Appellant states that the experience of receiving the penalty points for his November 2022 and December 2022 speeding offences inspired him to apply to be an approved driving instructor.
27. If it was made on 20 November 2022 then, as the Registrar submits, this would have included an undertaking to disclose the speeding offences within seven days, which the Appellant did not do. This would further support the Registrar's case that the Appellant is not a fit and proper person. However, it would also mean that the Appellant's assertion regarding his motivation for applying could not be true, as the relevant offences occurred later.
28. The Tribunal considers that it is not necessary to make a finding on this point in order to decide this Appeal.

Conclusion and decision

29. Having considered the matters set out above, the Tribunal finds that, while the Appellant is sincerely remorseful for the speeding offences which led to the Registrar's decision, his history of speeding offences and the circumstances in which the 2022 offences occurred indicate that Registrar's view that the Appellant is not a fit and proper person to have his name entered on the register is a legitimate one.

30. Accordingly, the Tribunal is not persuaded that the Registrar's decision was wrong, and dismisses the Appeal.

Signed

Date:

Tribunal Judge Maton

21 February 2025