



Neutral citation number: [2025] UKFTT 00249 (GRC)

Case Reference: FT/D/2024/0440

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

**Heard by: Cloud Video Platform
Heard on: 24 February 2025
Decision given on: 25 February 2025**

Before

**JUDGE HAZEL OLIVER
MEMBER SARAH BOOTH
MEMBER KERRY PEPPERELL**

Between

JOSEPH WOODGATE

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

For the Appellant: In person

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"). This was due to complaints made against him by pupils relating to failures to provide lessons and not refunding prepaid fees.

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 11 May 2024 relies on the following grounds:
 - a. That he did not have an opportunity to respond to at least two of the complaints.
 - b. No complaints relate to the quality of tuition, and it would be disproportionate to remove registration without allowing the opportunity for remedial action or rehabilitation.
 - c. There are mitigating circumstances relating to his own and a close family member's mental health.
 - d. He is not currently able to operate his own small business, but proposes working for a driving school, a role as a test examiner, or a temporary suspension.
4. The Registrar's Statement of Case dated 29 January 2025 resists the appeal. The Registrar says that the Appellant was the subject of previous complaints, and he has pursued a course of conduct that is not appropriate to the professional relationship between instructor and pupil.

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.*" (paragraph 30).

The evidence

9. We have considered a bundle of evidence containing 95 pages. This includes evidence of complaints made by a number of pupils of the Appellant.
10. We heard submissions from both parties.

The relevant facts

11. The Appellant's name was first entered on the Register in January 2022.

12. The Registrar received six complaints about the Appellant from pupils in 2023. On 7 November 2023 the Registrar confirmed that the Appellant would be allowed to remain on the Register, but said *"he is concerned that we have received six complaints in two years about your conduct and questions concerning your professionalism"*. The letter reminded the Appellant that ADIs have a reputation with the public, and provided a copy of the ADI code of practice. It also stated that he must ensure he communicated with his customers more effectively. The letter ended with, *"If you were to incur another complaint of this nature in the future the Registrar will have to consider whether you still meet the "fit and proper" criteria to remain on the Register of Approved Driving Instructors. Your record as a whole, including these complaints, would be taken into account at the time."*

13. The Registrar received further complaints from pupils on 15 and 29 November 2023, and 11, 17 and 27 January 2024. The Registrar wrote to the Appellant on 1 March 2024 giving written notice that he was considering removing his name from the Register, and giving 28 days to make representations. The Appellant did not provide any representations.

14. The Registrar made a decision on 15 April 2024 to remove the Appellant's name from the Register on the grounds that he had ceased to be a fit and proper person. This was based on the six complaints that led to the warning of 7 November 2023, and the five further complaints received since then.

15. We have seen evidence of the recent complaints, mainly in the form of text messages between the Appellant and various pupils. These messages show a pattern of initially good communication with potential pupils and advance payment for a block of lessons. Once payment was received, there was then a pattern of cancelled lessons for various reasons, confusion about booking times, and the Appellant being very late for lessons (usually with an excuse about heavy traffic). When pupils then asked for a refund the Appellant did not respond to messages. For example, one pupil asked for a refund in June and sent a series of chasing messages by text and voicemail throughout July and August with no response. All of the complaints relate to payment up front followed by a failure to communicate, a failure to provide all of the booked lessons, and a failure to refund the pupils' money. The advance payments were of hundreds of pounds, and this is a significant amount of money for those affected.

16. The Appellant explained at the hearing that he had been facing challenges including with his mental health over this period, and he has now taken time away from work and addressed these issues. He says that he struggled as a new ADI and fell out with the franchise owner DTC he was working with. He already owed money to some pupils, so he tried to work more to make up for this – he described this as doing too much too quickly. In hindsight he says he was in no state to take on so much, and was undercutting travel time to try and do more lessons. He has not refunded the pupils who had complained as he has not been working until very recently (although DTC has refunded one of them directly). He has just started doing some teaching for friends and family.

Conclusions

17. 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 other matters of responsibility, trustworthiness, inappropriate personal conduct or commission of criminal offences.

18. We have assessed the facts on the basis that it is imperative that the honesty, integrity and probity of ADIs is maintained, given the substantial level of trust that is placed on ADIs by pupils, parents and other ADIs as well as road users, the public and the DVSA. It is expected an ADI will have standards of driving and behaviour above that of an ordinary motorist.

19. We have considered the Appellant's points of appeal.

20. ***He did not have an opportunity to respond to at least two of the complaints.*** We do not consider that this is material to our decision. He did have an opportunity to respond to three of the five complaints before they were raised with the Registrar. Details of all five complaints were also provided to the Appellant in the letter of 1 March 2024 which warned the Appellant that the Registrar was considering removing his name from the Register and gave 28 days to provide representations. The Appellant could have provided a response at this point, but he did not respond to this letter.

21. ***No complaints relate to the quality of tuition, and it would be disproportionate to remove registration without allowing the opportunity for remedial action or rehabilitation.*** We have not seen any complaints about the quality of tuition, and the Appellant told us that more of his pupils have passed than failed. However, being a fit and proper person is not solely about quality of tuition – other standards of behaviour are equally as important. Even if an ADI is an excellent technical instructor, it may still be appropriate to remove their name from the Register for other reasons. We also do not agree that the Appellant had no opportunity for remedial action or rehabilitation. The Appellant received a clear warning from the Registrar in November 2023 but continued to behave in the same manner. He has also failed to refund his pupils.

22. ***There are mitigating circumstances relating to his own and a close family member's mental health.*** The Appellant says that he was experiencing challenges but he has now taken time off work and addressed the issues he was facing. We accept that the Appellant may have been unwell and facing other difficulties with his family. He did not, however, take steps to address this after receiving the warning from the Registrar in November 2023. This gave him an opportunity to take time off work to address his issues, or to modify his behaviour. Instead, he continued to take money from pupils, failed to provide lessons and failed to provide refunds.

23. ***He is not currently able to operate his own small business, but proposes working for a driving school, a role as a test examiner, or a temporary suspension.*** The Appellant says that he is not able to operate as a sole trader at the moment due to his challenges. He has researched working for a national driving school, where they organise payment from pupils and he is paid for lessons that he provides. He has not applied as yet. We asked the Registrar to comment on these proposals from the Appellant. Mr Russell said that working for a national driving school would not prevent the Appellant from also taking on pupils himself and accepting direct payment from them. Becoming a driving examiner requires going through a full recruitment process. Suspension is only used as a temporary measure for high risk situations, so would not be suitable here. Mr Russell said that none of these suggested options would change the Registrar's decision.

24. The Approved Driving Instructor Code of Practice provides a helpful reference point for the standard of behaviour expected of an ADI. We note that section 1 on personal conduct refers to complying with legislative requirements including consumer regulations. Section 2 on business dealing says that the instructor agrees to "*safeguard and account for any monies paid in advance by the client in respect of driving lessons, test fees or for any other purpose and make the details available to the client on request*". The Appellant's actions in taking advance payment for lessons, failing to provide booked lessons or communicate effectively, and then failing to provide a refund, do not comply with this Code.

25. We are particularly concerned that the Appellant failed to change his behaviour after receiving a clear warning from the Registrar. Although the Appellant has told us that he has addressed his issues and would not intend to run his own business, we do not currently have confidence that the same problems will not happen again. The Registrar has no control over where the Appellant works, and he could take on private pupils even if he began work for a national driving school. Mr Russell said that the Appellant's acknowledgement that he is not currently able to operate as a small business shows that the decision to remove him from the Register was correct. We agree. We also note that the Appellant still owes money to the pupils who have complained to the Registrar. He has retained hundreds of pounds for over a year without providing driving instruction to those pupils. This is not professional or trustworthy behaviour.

26. The Registrar has the duty of ensuring that only those of appropriate standing are on the Register, that those who are on it understand their responsibilities, and can show they not only know the rules but follow them. This would be undermined if the Appellant was allowed to remain on the Register. It seems to the Tribunal that it would undermine confidence if the Appellant was allowed to remain. He has repeatedly failed to meet the necessary professional and business standards in his dealings with pupils.

27. We find on the balance of probabilities 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: 24 February 2025