



Neutral citation number: [2024] UKFTT 001151 (GRC)

Case Reference: D/2023/475
First-tier Tribunal

**General Regulatory Chamber
Transport**

**Determined at an oral hearing
on 19th December 2024**

Decision given on: 02 January 2025

Before

**HHJ DAVID DIXON
RICHARD FRY
MARTIN SMITH**

Between

AMIN TAQADUSI

Appellant

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Respondent

Decision: The appeal is dismissed.

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made 16th August 2023 to remove the Appellant from the Register.
2. The Appellant is a driving instructor who in the Registrar’s determination is no longer fit and proper and the removal was pursuant to section 128 of the Road Traffic Act 1988.
3. The Registrar’s reasons for removal, in summary, were that the Appellant was no longer a fit and proper person as a result of being charged with the criminal offence of sexual assault. The complainant was a pupil of the Appellant.
4. The Appellant now appeals the Registrar’s decision.

Appeal to the Tribunal

5. The Appellant’s Notice of Appeal, dated 27th September 2023, indicates that he did not commit the alleged act(s). He maintains the accusation is completely fictitious and he will prove the same in Court. He indicates that he pleaded not guilty in July of 2023, that there was a hearing date of 26th October 2023 but no further information has been provided. The Appellant maintains having worked in many different fields that he is fit and proper.
6. The Registrar indicated that in order to maintain confidence in the Register the Appellant having been charged with such an offences was no longer fit and proper and he had to be removed accordingly.

Mode of Determination

7. The Appeal was initially determined on the papers in May of this year, but determined that further details were required so adjourned the hearing for an oral hearing. Directions were given at the paper determination, that do not seem to have been heeded by either party. The Tribunal is no further forward than it was in May.
8. Today the Appeal was heard using the CVP video platform.
9. The Appellant did not attend, but indicated to the Tribunal that he was not pursuing the appeal as his challenge to the criminal case was unsuccessful.
10. The Respondent was represented by Darren Russell of the DVSA Appeal’s Team.
11. The Tribunal considered a bundle of evidence containing 44 pages.

12. The Tribunal considered whether it was right to continue in the absence of the Appellant, but in light of the information that he was convicted, and this therefore rendering any appeal almost impossible, it was appropriate to continue. The Tribunal carefully considered the Tribunal Rules and balanced the need for further information against the need for an efficient resolution of this case, and came to the view that it could continue effectively on the papers.

Law

13. *The 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 of Approved Driving Instructors – see s. 125 (3) and s. 127 (3) (e) Road Traffic Act 1988*¹.

14. The Registrar may take the view that a person no longer meets this requirement where there has been a change in circumstances. The burden of showing that a person does not meet the statutory criteria rests with the Registrar.

15. In *Harris v Registrar of Approved Driving Instructors* [2010] EWCA Civ 808², the Court of Appeal described the “*fit and proper person*” condition thus:

“..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...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”.

16. An appeal to this Tribunal against the Registrar’s decision proceeds as an appeal by way of re-hearing i.e. the Tribunal stands in the shoes of the Registrar and take a fresh decision on the evidence before it. The Tribunal must give such weight as is considered appropriate to the Registrar’s reasons³ as the Registrar is the person tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Registrar’s decision-making process.

Decision

17. The Tribunal has considered carefully all the papers before it.

18. The Tribunal noted the Appellant was warned that the Registrar was considering removal from the Register, yet no response was received.

¹ <http://www.legislation.gov.uk/ukpga/1988/52/part/V/crossheading/registration>

² <http://www.bailii.org/ew/cases/EWCA/Civ/2010/808.html>

³ See *R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court* [2011] EWCA Civ 31. <http://www.bailii.org/ew/cases/EWCA/Civ/2011/31.html>. Approved by the Supreme Court in *Hesham Ali (Iraq) v Secretary of State for the Home Department* [2016] UKSC 60 at paragraph 45 – see <https://www.supremecourt.uk/cases/docs/uksc-2015-0126-judgment.pdf>.

19. The Tribunal was aware that it had little information from either side of the exact nature of the offence. Sexual assaults can cover a multitude of activities, and here no details were provided. Against that sexual assaults on a pupil of whatever degree would always be considered serious and the Tribunal felt it could proceed on the basis of the charge alone.
20. The Tribunal considered that in order for the case to have been charged and indeed to be progressing to trial at Court the Crown Prosecution service must have determined that there was a case to put. Further, if the Defendant had pleaded not guilty, as opposed to seeking to dismiss the charges, that it was accepted at least on the papers that there was a case to answer. It seems that the Appellant was convicted and this was a serious matter.
21. The Tribunal reflected on the difficulties for it in this case. Whilst it had little detail this was a sexual assault upon a pupil being instructed by the Appellant. Such proven conduct rendered the Appellant fundamentally unsuitable to instruct and resulted in him being clearly unfit.
22. In the circumstances on the materials available to the Tribunal, the appeal is dismissed. The Appellant is not fit and proper and must not be allowed to instruct.
23. The appeal is dismissed with immediate effect.

(Signed)

**HHJ David Dixon
Richard Fry
Martin Smith**

DATE: 19th December 2024