



Neutral citation number: **[2024] UKFTT 531 (GRC)**

Case Reference: D/2024/043

**General Regulatory Chamber  
Transport**

**First-tier Tribunal**

**Determined on the  
on 20<sup>th</sup> June 2024**

**Before**

**HHJ DAVID DIXON**

**Between**

**GAVIN PEGG**

**and**

**THE REGISTRAR OF APPROVED  
DRIVING INSTRUCTORS**

Appellant

Respondent

**Decision:** The appeal is dismissed, with effect from 28<sup>th</sup> June 2024.

## REASONS

### *Background to Appeal*

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made 11<sup>th</sup> September 2023 to refuse to grant the Appellant a third trainee licence.
2. The Appellant is a trainee driving instructor who was granted a trainee licence under s.129 of the Road Traffic Act 1988<sup>1</sup> (‘the Act’) for a six-month period, and then another, but was refused a further licence at the end of the relevant period.
3. The Registrar’s reasons for refusal, in summary, were that the Appellant had not passed the final part of the ADI qualifying examination within the relevant period and as insufficient evidence of loss of training time was supplied that the Appellant had had long enough to progress, and the application to issue a third trainee licence was therefore refused.
4. The Appellant now appeals the Registrar’s decision.

### *Appeal to the Tribunal*

5. The Appellant’s Notice of Appeal, 20<sup>th</sup> September 2023, indicates he was given a test, but it was cancelled on the morning of the appointment. He says he needs to be licensed or else he isn’t insured to teach students so needs a further extension.
6. The Registrar provided a response indicating that in his view the Appellant had had long enough to train and that no basis was shown to grant a third licence. The Appellant had been licensed since September 2022.

### *Mode of Determination*

7. The Appeal was listed for oral determination and the case was heard via the CVP system.
8. The Appellant was unrepresented and attended by telephone. The Respondent was represented by Ms Claire Jackson of the appeals team.
9. The Tribunal considered a bundle of evidence containing 18 pages.

### *The Evidence*

10. The Respondent maintained its position as per the decision letter via Ms Jackson. She indicated that whilst the Appellant is more than 2 years from his Part 1 examination, he has a final attempt

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

at his Part 3 booked for the 27<sup>th</sup> June 2024. If he is unsuccessful he will have to try and restart the whole process again.

11. The Appellant said

#### *The Law*

12. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. The circumstances in which trainee licences may be granted are set out in s. 129 of the Act and the Motor Cars (Driving Instruction) Regulations 2005<sup>2</sup>.

13. 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’.*

14. 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’). 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.

15. If a candidate has passed part 2, they may be granted a trainee licence. However, holding a trainee licence is not a prerequisite to qualification as an Approved Driving Instructor and many people qualify as an Approved Driving Instructor without having held a trainee licence.

16. 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.

17. When making its Decision, the Tribunal stands in the shoes of the Registrar of approved Driving Instructors and takes a fresh decision on the evidence available to it, giving appropriate weight to the Registrar’s decision<sup>3</sup> as the person tasked by Parliament with making such decisions. The burden of proof in satisfying the Tribunal that the Registrar’s decision was wrong rests with the Appellant.

#### *Conclusion*

18. The Tribunal considered carefully all the papers and evidence before it.

19. In fixing a period of 6 month to allow for trainee instructors to progress Parliament must have had in mind that we are all subject to differing life events that affect our ability to undertake certain tasks. Sometimes those events are so unusual or have such a bearing on an individual that it will be entirely appropriate to find that a longer than normal period of time should be

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<sup>2</sup> [http://www.legislation.gov.uk/uksi/2005/1902/pdfs/uksi\\_20051902\\_en.pdf](http://www.legislation.gov.uk/uksi/2005/1902/pdfs/uksi_20051902_en.pdf)

<sup>3</sup> 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>.

allowed to complete a task. Here the Appellant provided no evidence of a loss of training time. He refers to a test being cancelled but nothing more.

20. There is simply no basis upon which it would be right to grant a further licence.
21. The Appeal is therefore dismissed, effective from the 28<sup>th</sup> June 2024. (This is to allow the Appellant to complete any residual training before his final attempt at his Part 3 in a weeks time.)

**(Signed)**

**HHJ David Dixon**

**DATE: 20<sup>th</sup> June 2024**