



Neutral citation number: [2024] UKFTT 799 (GRC)

Case Reference: D/2024/0147

**General Regulatory Chamber  
Transport**

**First-tier Tribunal**

**Determined on the  
on 29<sup>th</sup> August 2024  
Decision given on 10 September 2024**

**Before**

**HHJ DAVID DIXON**

**Between**

**MUMTAZ HUSSAIN**

**and**

**THE REGISTRAR OF APPROVED  
DRIVING INSTRUCTORS**

Appellant

Respondent

**Decision:** The appeal is dismissed and the Registrar's decision remains.

## REASONS

### *Background to Appeal*

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made 24<sup>th</sup> January 2024 to refuse to grant the Appellant a second 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, but was refused a further licence at the end of the relevant period. As a result of this Appeal, and the provisions of the relevant Act, he has remained able to instruct on his initial licence.
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 requirement to complete the ADI 21AT were not completed within the first 3 months. The application to issue a second 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, 11<sup>th</sup> February 2024, indicates that his driving school have been unable to provide him with sufficient students to learn how to be a good instructor. Further to this he had a series of personal issues, where he had to leave the country to visit sick relatives or the like, which impacted upon his ability to teach. After those issues he then had difficulties with his vehicle such that he was without a car for a number of weeks. He also indicates that there were delays booking tests, albeit he had to cancel one due to family health issues. All of this impacted upon the 6 month period his first licence ran.
6. He provided details of travelling he has undertaken, and of the car related difficulties.
7. The Respondent submitted a Response indicating that the decision letter sets out their position. The Registrar points out that the Applicant has had sufficient time to progress.
8. The Registrar indicates that the Appellant has failed his Part 3 on 17<sup>th</sup> November 2023, and had a further test booked for 22<sup>nd</sup> April 2024. I have not been given any indication whether this test went ahead or not.

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

### *Mode of Determination*

9. The Tribunal considered the appeal on the papers, the Appellant and Respondent agreeing to such a determination. In accordance with the Tribunal Rules the Tribunal assessed whether it was right and proper to continue on the papers and came to the clear view to do so would be fair to all.
10. The Tribunal considered a bundle of evidence containing 49 pages.

### *The Law*

11. 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 20052.
12. 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’.*
13. 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.
14. 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.
15. 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.
16. 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*

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

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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>.

18. 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 allowed to complete a task. Here the Appellant provided evidence of a number of periods where his ability to train was affected by family or vehicle related issues. It seems to me that they might have impacted upon his ability to train to a degree, such a further licence should have been granted. I disagree with the Registrar that this was a case for a refusal.
19. However, the Appellant's first licence would have expired on 18<sup>th</sup> December 2023, save for this Appeal. He has now been allowed to instruct for some 14 months on that 6 month licence. He has taken one Part 3 test, possibly two, and therefore must have felt that he had had sufficient time to be able to attempt the test. It seems to me on the basis of a review of the position now that the Appellant has had his second licence and in fact more. He has had more than long enough time, even allowing for the periods he indicated, to gain practical experience to be able to provide instruction to others. As a result a further licence cannot be justified.
20. The Appeal is dismissed.
21. The Appellant is still able to attempt his Part 3 if he wishes to, and the Tribunal wishes him well if he so chooses.

**(Signed)**

**HHJ David Dixon**

**DATE: 29<sup>th</sup> August 2024**