



Neutral citation number: [2024] UKFTT 00977 (GRC)

Appeal Number: FT/D/2024/0462.

Decision given on: 04 November 2024

**First-Tier Tribunal  
(General Regulatory Chamber)**

**Heard:** On GRC – CVP on 21 October 2024.

**Tribunal Panel:** Judge Brian Kennedy KC, Gary Roantree & Richard Fry.

**Between:**

**MICHAEL HANSON**

**Appellant:**

**and**

**THE DRIVER & VEHICLE STANDARDS AGENCY**

**Respondent:**

**IN THE MATTER of an Appeal by Michael Hanson against the decision of the Registrar of Approved Driving Instructors to remove his name from the register.**

**RE: PART V OF THE ROAD TRAFFIC ACT 1988**

**Result:** The Appeal is dismissed.

**REASONS**

## **Introduction:**

- [1] Section 123(1) of the Road Traffic Act 1988 ("the Act") prohibits the giving of instruction in the driving of a motor car for payment unless the instructor's name is in the Register of Approved Driving Instructors, ("ADI") or he is the holder of a current licence issued under Section 129(1) of the Act.

## **Factual Background:**

- [2] The Appellant's name was first entered in the register before 1990 and in the normal course, his certificate would expire on the last day of August 2026.
- [3] On the 20 September 2023, Respondent received a complaint from a customer pupil's father who had been taught by the Appellant. (D1). As the Regulator of Approved Driving Instructors, the Respondent's primary role is to ensure that instruction provided by ADIs meets the required standard and that all ADIs have met, and continue to meet, the fit and proper criteria to have their names entered and retained in the register. The Respondents also expect ADI's to adhere to professional standards and business ethics when dealing with their customers. The driver training industry has a code of practice, which the Respondents endorse, however this is a voluntary code, and the Respondents have no legislative power to compel ADIs to sign up to the code, nor can the Respondents always take action if they do so then choose to flout the framework of the code. When the Respondents receive complaints of a serious nature, they attempt to encourage Complainants to involve the Police but will also ask the DVSA Counter Fraud & Investigations team to investigate as a matter of public interest.
- [4] On 21 January 2024 a DVSA investigator took a statement from the Complainant and the Complainant's father. (D2, D3.)
- [5] On 19 March 2024, a DVSA investigator interviewed the Appellant and took a statement (D4).
- [6] In the light of the allegations and subsequent interview statements and the fact the Appellant had been previously warned about his professional conduct in 2022 (D5), the Respondent considered that the Appellant was not a fit and proper person to have his name retained in the register.

- [7] By way of a letter dated 27 March 2024 (D6), the Respondent gave the Appellant written notice that they were considering removing his name from the register on the grounds he had ceased to be a fit and proper person to have his name entered in it. The Appellant was invited to make representations to the Respondent within 28 days, which would be taken into consideration before reaching a decision.
- [8] On the 27 April 2024 by way of email, the Appellant provided his representations (D7) stating: *"Re your request for further information regarding the false allegation made by the female student about my professional conduct, I don't feel I have to go into explaining the situation from my side as you have a recorded statement from myself made to your colleague Rob Stirling. The allegation that I inappropriately touched this client's thigh are totally false and unsubstantiated. I have been a driving instructor for 35 years and have never conducted myself in any other way than professional. I don't man handle clients or disrespect their personal space. This lady obviously has issues which need help and support for before she ruins anybody else's life as she has mine. As for dating app it is on my phone. When the phone pinged through, I asked her if it was okay to check as I have a sick daughter and terminally ill father as previous mentioned therefore, I am on call and need to check messages. I did mention it was a dating app but never showed her my phone and no explicit or inappropriate photos have ever been received on my phone. The incident has led to me now being fearful of going to work in case there are ever any more false allegations as a result I'm losing money, my career, my self-confidence and my life. I am now being supported by my GP. I hope this makes clear my position."*
- [9] Having considered the representations made by the Appellant, the Respondent came to the view that the Appellant's name should be removed from the register. It was considered that he cannot fulfil Section 128 (2) (e) that he ceased, apart from fulfilment of any of the preceding conditions, to be a fit and proper person to have his name retained in the register. The Appellant was given notice of my decision in a letter dated the 29 April 2024, pursuant to Section 127 (7) of the Act. (D8)
- [10] The Reasons for the Respondents Decision are as follows;

a) Whilst the Appellant denies touching the complainant as alleged, he does accept that he accessed his phone during a driving lesson and opened the bumble dating app. He denies showing the complainant a photo of himself topless, but the Respondent is of the opinion that the Complainant must have seen the photo to be able to describe the contents of it which were later substantiated during the Appellants interview. The Appellant also acknowledged that conversations did take place around the subject of his ex-wife and her sexuality and his daughters' anorexia. All of these matters are of a personal and sensitive nature and not the type of conversations the Respondent would expect or could possibly condone a professional driving instructor to have with their pupils.

b) The Appellant was previously warned in March 2022 about his professional conduct following another complaint of a similar nature. He was reminded of the ADI code of practice and encouraged to read and understand it. He was told that all conversations must be of a professional nature, and he must not touch his pupils. The appellant has clearly not acted on the previous warning and has continued to engage with his pupils and discuss personal matters.

c) During his interview, the Appellant confirmed he was signed up to the ADI code of practice, however this is not the case (D9). Despite being previously warned and directed to the code of practice, the Appellant has still not committed to it.

d) Registration represents official approval; the title prescribed for use by instructors is "Driver & Vehicle Standards Agency Approved Driving Instructor". Approval is not limited to instructional ability alone, but also extends to a person's character, behaviour and standard of conduct. In view of this, the Respondent is concerned that the good name of the register would be tarnished and the public's confidence undermined if it was generally known that the Respondent had allowed the Appellant's name to be retained in the register.

b) It would be offensive to other ADIs and persons trying to qualify as ADIs, who had been scrupulous in observing professional behaviour, for me to ignore this conduct.

### **The Appeal Hearing:**

- [11] The Appellant provided his account of the complaint made against him as above. The Appellant expressed his concern that the Respondent have done nothing to support him throughout any of his personal hardships through these difficulties. The Appellant also argues that he knows of other instructors who have their phones turned on when giving instructions. When asked why he would keep his phone on when giving instruction he indicated he could have got a call about his seriously relation ill in hospital. He also denied any harm arising from his conversation with his 17-year-old female pupil about personal matters of no material relevance to a driving lesson, including mention of a dating app on his phone and other related matters which the Complainants had identified in explicit detail in their complaint.
- [12] The Appellant also stated that he had had to admonish the pupil for almost causing a collision with another vehicle when he had had to hold the steering wheel and brake urgently.
- [13] It was established and agreed that his removal from the Register does not mean he cannot apply again in the future.
- [14] There is no material dispute on the above and other material facts as asserted in the reasons provided by the Respondent including a previous complaint of a similar nature.
- [15] The Tribunal have considered carefully the reasons given by the Respondents for their decision and find that they are fair and reasonable in all the circumstances of this case and accordingly the Tribunal are of the view that appeal must be dismissed. We make the following observations;

- a) This is not an easy case as it stems from *"his word against hers"* and it could quite well be due to the *'telling off'* he gave the Complainant customer pupil, that she became *"resentful and wanted a new instructor who may not be so strict"*? However, by his own admission the Appellant has been using his mobile phone while pupils have been in the car and despite the previous warning in a similar complaint made against him in 2022, it is clear the Appellant does not understand the world we now live in and what is and is not acceptable behaviour. He has also engaged in unprofessional conversations. Things that may have been acceptable 10 years ago are not acceptable now, but the Appellant doesn't seem to understand this.
- b) The DVSA have put a lot of emphasis on the fact Appellant hasn't recently signed up to the code of practice, and as the Appellant also mentioned, if the use of a mobile phones during any lesson is strictly forbidden, then instructors must be advised of this. These matters, in our view are not critical.
- c) Other Material and Decisive factors can be summarised thus;
- Previous warning - not acted upon; similar actions repeated.
  - Given his experience - should know how to behave with 17-year-old pupils / any pupil.
  - Fact he chooses to divulge personal details, which he claims is *"general business.... puts pupils at ease..."*
  - Taking of messages / calls – we find completely unacceptable and amounts to an irresponsible distraction to his attention and to provision of tuition for pupil at any stage of a lesson.
  - Admission that Bluetooth is active, and Police called him during another lesson. (*"I believe that some cars even have the ability to read out a text message which arrives"*). For an ADI to have an active device during a lesson with a pupil, is at any time, irresponsible.
  - He admitted in the hearing that the lesson had ended (yet pupil still in car) - so why couldn't it wait moments, or he ask pupil to exit sharpish so he could deal with it.
  - If a family emergency was likely to arise that required his immediate attention (as he indicated) , he should not have been working where his undivided attention was required
  - One complaint was from pupil's father - a doctor, a person of substantial standing and responsibility.

- The Complainant family did take their time to respond to DVSA which denotes concern.
- Likewise, the fact that the father's statement was simply a copy & paste (99% entirely) of his original e-mail - in which there was not just one but eight points of concerning behaviour.
- The provision of the statement should have been taken as a fresh opportunity to elaborate and reflect on the matter.
- Not signing up for code of practice, and his comments made during the hearing about it were evasive and counterintuitive as he should know - and was told in 2022 - how it would be of benefit to him.
- Each case must be decided on its merits. A second complaint of this nature poses a significant concern for both parties and any instructor in such unfortunate circumstances. In this case the Appellant has been the instrument of his own downfall, as confirmed by him in the bundle pages 26 & 27. The Tribunal accept the impugned decision to remove the Appellant from the Register is fair and reasonable in all the circumstances of this case.

**[16]** Accordingly, we dismiss the appeal.

Brian Kennedy KC

22 October 2024.