



Neutral citation number: [2025] UKFTT 00010 (GRC)

Case Reference: FT-D-2024-0778

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

**Heard at: Decided without a hearing
Decision given on: 13 January 2025**

Before

JUDGE BRIDGET SANGER

Between

ALETHEA KAAL ALLEN

Appellant

and

REGISTRAR FOR APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is dismissed.

REASONS

Introduction

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors ('the Registrar'), made on 5 September 2024, to refuse to grant the Appellant a second trainee licence.

Legal Framework

2. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.
3. A trainee licence may be granted in the circumstances set out in s. 129 of the Road Traffic Act 1988 ('the Act') and the Motor Cars (Driving Instruction) Regulations 2005.
4. 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.'
5. 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').
6. 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.
7. If a candidate has passed Part 2, they may be granted a trainee licence. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. It is possible to qualify as an Approved Driving Instructor without having held a trainee licence.
8. 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.
9. When making its Decision, 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.
10. The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

Factual Background to the Appeal

11. The Appellant passed Part 1 of the Qualifying Examination on 2 October 2023. She passed Part 2 on 3 January 2024. She failed her first attempt at the Part 3

test on 21 May 2023 and failed a further Part 3 test on 30 August 2024. At the date the bundle was prepared, a final attempt was booked and “on hold” awaiting a date.

12. The Appellant was in receipt of a trainee licence which was valid from 22 January 2024 to 21 July 2024.

13. On 31 July 2024 the Appellant applied for a second trainee licence. On 5th August 2024 she was informed, by the Registrar, that he was considering refusing the application and invited to make representations.

14. In response, the Appellant stated that a lack of test availability had slowed her progress and that she wished to practice until her third attempt.

15. The application was refused on 5 September 2024.

16. The reasons for the Registrar’s decision, in summary, were twofold:

- a. that the Appellant had failed to comply with the conditions of her first license as she had not provided evidence of the mandatory additional training, having failed to return form ADI 21 S.
- b. that the Appellant had already had a sufficient amount of time to gain experience to assist in passing Part 3 of the Qualifying Examination and that it was not the intention of Parliament that candidates should be issued with trainee licences for as long as it takes them to pass the examination, and that the trainee licence system must not be used as an alternative to registration as a fully qualified Approved Driving Instructor.

Appeal to the Tribunal

17. The grounds of appeal are, in summary:

- a. The Appellant was told that she had not complied with the rules of her first license, in that she had not provided form ADI 21S in time and that it was missing essential signatures. She had, however provided it in time (on 15th July 2024, a week before the license expired) but was not aware until 5th September that the signatures were missing. Had she been aware, she would have rectified the problem within the required time frame.

- b. The 6 months requirement to learn and pass was compromised by factors outside her control. She does not say what those were.
- c. She had paid for a third test (at the time that her application was made) and was on a wait list.
- d. She had no access to the rules and timelines with regard to training and competence and was therefore not able to fulfil them.

18. The Registrar, in his response, states:

- a. The purpose of the provisions governing the issue of licences is to afford applicants the opportunity of giving instruction to members of the public whilst endeavouring to achieve registration. The system of issuing licences is not and must not be allowed to become an alternative to the system of registration;
- b. The licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition. The Appellant has already had one trainee licence which cover a period of 6 months. Moreover, by virtue of the Appellant having applied for a second licence after the expiry date of the first, it is illegal for her to give instruction which is paid for, by or in respect of the pupil;
- c. Since passing her driving ability test the Appellant has failed the instructional ability test twice. Despite ample time and opportunity, the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor;
- d. The refusal of a second licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. She does not need to hold a licence for that purpose, nor is it essential for her to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on her own (provided that she does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all;

- e. It should be noted that the Appellant has her final attempt at the instructional ability test booked to hold and is currently awaiting an available date. Should the test go ahead, then the regulations determine that any appeal is bound to fail as a trainee licence can only be issued in order that an individual can gain the practical experience required to take the test.

Evidence

19. I read and took account of a bundle of documents.

Discussion and Conclusions

20. I may overturn the decision of the Registrar if I am of the opinion that it was wrong. The burden is on the Appellant to show this.

21. The Appellant has not provided me with sufficient evidence to demonstrate that the decision of the Registrar was wrong. Specifically, she has not provided evidence that she has met the mandatory training requirements (in the form of a completed training record form ADI 21S or in any other form).

22. I do not accept the Appellant's argument that she did not have access to the competence and training guidance and timelines. Those are published on the UK Government website and easily accessible. In any event, the Appellant was, at the time of filing her appeal, a fair way through her training and must, therefore, have had access to the relevant information.

23. I note that the Appellant has already had the benefit of trainee licences covering a period of 6 months. This should have been adequate time to prepare.

24. The Appellant can continue to study and practice and is able to continue to gain experience and take the test without a trainee licence.

25. I note that the Appellant, at the time the bundle was prepared, had a third test booked and was awaiting a date. If that test is passed, she will not require a trainee licence. If that test is failed, she will have to return to stage one in any event.

26. The trainee license is not a substitute for taking and passing the test. It is not the purpose of trainee licences to keep renewing them until all attempts at passing Part 3 have been taken.

27. Having weighed all matters in the balance, the Appellant has not persuaded me that the Registrar's decision was wrong in any way. In all the circumstances, I agree with the Registrar's decision and the appeal is dismissed.

Signed: Judge Bridget Sanger

Date: 6 January 2025