



Neutral citation number: [2025] UKFTT 81 (GRC)

Case Reference: D/2022/0199

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

**Heard by: Cloud Video Platform  
Heard on: 12 December 2024  
Decision given on: 31 Jan. 25**

**Before**

**JUDGE HAZEL OLIVER  
TRIBUNAL MEMBER SARAH J BOOTH  
TRIBUNAL MEMBER GARY ROANTREE**

**Between**

**MUHAMMAD KHAN**

Appellant

**and**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**Representation:**

For the Appellant: Mr Quegan, counsel

For the Respondent: Did not attend

**Decision:** The appeal is dismissed. The Registrar's decision of 23 September 2022 is upheld.

**REASONS**

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors ("the Registrar") made on 23 September 2022 to remove the Appellant's name from the Register of Approved Driving Instructors (the "Register") on the grounds that the Appellant had ceased to be a fit and proper person to be an Approved Driving Instructor ("ADI").

2. The proceedings were held by video (CVP). All parties joined remotely. The Tribunal was satisfied that it was fair and just to conduct the hearing in this way. The Registrar did not attend the hearing. The Tribunal had not been informed of this in advance, but Mr Quegan said that his instructing solicitors had been told the Registrar would not be attending. We decided to proceed with the hearing on this basis.

## The Appeal

3. The Appellant's Notice of Appeal dated 21 October 2022 relies on the grounds that he wrongly accepted six penalty points for driving while uninsured. He says that he was, in fact, insured to drive the relevant vehicle, and so there are exceptional circumstances which have not been considered by the Registrar.

4. The Registrar's Statement of Case dated 21 November 2022 resists the appeal. The Registrar says that he cannot ignore the fact the Appellant's driving licence is endorsed with nine penalty points after having been convicted of two motoring offences. The Appellant also failed to notify the Registrar of the second offence within seven days. The Registrar says that he would be failing in his public duty if he allowed a person who had been convicted of these offences, and failed to declare when required to do so, to have his name retained in the Register.

5. This appeal was originally listed for a hearing on 4 April 2023. The hearing was adjourned as the Appellant wished to consider making a late application to appeal the fixed penalty. The Appellant's solicitor gave an undertaking to keep the Tribunal informed of the progress with this application. We have seen correspondence with the Procurator Fiscal's Office, and confirmation from the Appellant's solicitor in October 2023 that it was not possible to appeal the fixed penalty and so the hearing could go ahead.

## The law

6. 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 – see sections 125(3) and 127(3)(e) of the Road Traffic Act 1988 (the "Act").

7. The Registrar can remove a person's name from the Register if they have ceased to be a fit and proper person to have their name on the Register (section 125(2)(e) of the Act). The Registrar may take the view that a person no longer meets this requirement where there has been a change in circumstances. The Registrar has the burden of showing that a person does not meet the statutory requirement to be a fit and proper person, and the standard of proof is the balance of probabilities.

8. The powers of the Tribunal in determining this appeal are set out in section 131 of the Act. The Tribunal may make such order as it thinks fit (section 131(3)). 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 (in accordance with **R. (Hope and Glory Public House Ltd) v City of Westminster Magistrates Court & Ors** [2011] EWCA Civ 31).

9. In **Harris v Registrar of Approved Driving Instructors** [2010] EWCA Civ 808, the Court of Appeal described the "fit and proper person" condition as follows: *"...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...It seems to me that 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. [If an applicant or registered ADI fails to disclose convictions or makes a false declaration that he has no convictions, it strikes at the heart of the registration process and the reliability of the register. In my view such conduct is plainly relevant – indeed, highly relevant - to the question whether an applicant is a fit and proper person]."* (paragraph 30).

## **The evidence**

10. We have considered a bundle of evidence containing 323 numbered pages. We heard evidence from the Appellant and heard submissions from Mr Quegan on his behalf.

## **The relevant facts**

11. The Appellant's name was first entered on the Register in February 2012. On 7 June 2020 the Appellant applied for re-registration and informed the Registrar of a motoring conviction dated 16 December 2019 for exceeding a statutory speed limit on a public road for which he received three penalty points. The Appellant had not previously informed the Registrar of this offence. We understand that the application for re-registration includes a declaration which states that the applicant understands they must inform the Registrar within seven days of any convictions, including motoring offences.

12. On 12 August 2022, the Registrar was advised by DVLA Swansea that the Appellant had been convicted of two motoring offences. The second offence was a fixed penalty of six points for using a vehicle uninsured against third party risks, on 12 June 2022. The Appellant had not informed the Registrar about this offence. The Appellant was given the opportunity to make representations, which were considered by the Registrar. In a letter dated 23 September 2022 the Registrar informed the Appellant that he had ceased to be a fit and proper person to remain on the Register because of the two fixed penalties.

13. The Appellant's position is that the second offence on 12 June 2022 was an error. He says that he took over driving his wife's car, a VW Passat, as their infant child had become distressed. He was stopped by the police while driving in Scotland, on the basis that the car did not have road tax. They were able to show that the car was taxed. However, the Police Officer informed the Appellant that he was not insured to drive the vehicle. This was on the basis that he was shown as the registered keeper of the car. The Appellant's wife then explained that they had forgotten to change the logbook. It was not possible for the police to contact the Appellant's insurance company as it was a Sunday. The police escorted them to the next service station, with the Appellant's wife driving the car. The Appellant accepted what the Police Officer said at the time, but now believes this was wrong.

14. The Appellant later received a letter from the Procurator Fiscal which made a conditional offer of a fixed penalty. The Appellant initially said that this letter offered him a choice of accepting the fixed penalty or imprisonment, and so he opted to pay the penalty. He described this as a "no brainer" of accept six points or prison. When directed to the letter in the bundle of documents, he changed this explanation to refer to prosecution rather than imprisonment. The letter says that the Appellant had 28 days to pay £300 and accept six points on his licence as an alternative to prosecution. It also says that if he accepted the fixed penalty that is final and they cannot enter into any discussion or review of the facts of the case. There is no reference to imprisonment in the letter.

15. The Appellant did not contact his insurance company to check whether he was insured, either on 12 June 2022 or after receiving this letter.

16. The Appellant did not inform the Registrar of this conviction within seven days. In fact, he did not inform the Registrar at all, and the Registrar only found out about the conviction after being contacted by the DVLA in August 2022.

17. The Appellant says in his appeal that he had transferred ownership of the car (the VW Passat) to his wife in June 2022 when he acquired a new car, but as an oversight had not made her the registered keeper of the car at the same time. At the hearing he clarified that

this new car had actually been purchased in 2019, meaning the alleged transfer of ownership did not happen at the same time. The VW Passat car was covered by a motor insurance policy in the name of his wife. The Appellant says that he had a fully comprehensive insurance policy at the time which allowed him to drive cars owned by another person with the owner's permission.

18. We have seen a number of documents relating to the relevant vehicle and insurance policies for the Appellant and his wife. The key documents are:

- a. A certificate of motor insurance for the Appellant for a Toyota Yaris, from 27 July 2021 to 27 July 2022 (page 97). This states that "*The Policyholder may only drive other private motor cars not owned by him/her or hired to him/her under a rental, hire purchase or lease agreement*".
- b. A motor policy schedule for the Appellant's wife for a VW Passat, which is the vehicle the Appellant was driving on 12 June 2022 (page 127). This provides insurance cover from 8 June 2022 to 8 August 2022. It does not state who owns this vehicle.
- c. A summary of a motor insurance policy for the Appellant's wife for a Ford Fiesta, from 8 August 2022 (page 152). This names her sister as an additional driver.
- d. The V5C form for the VW Passat, which shows the Appellant's wife as the registered keeper of the car (page 167). This shows on the front page, "*Acquired vehicle on 12 06 2022*".

19. The Appellant argues that these documents show he had transferred the VW Passat car to his wife before 12 June 2022. She took out insurance on the car from 8 June 2022. He says that this is when he transferred ownership to her. Although she was not made the registered keeper until later, he argues that the V5C form is not proof of ownership – as shown clearly on the form itself with the words "*This document is not proof of ownership*".

20. We asked the Appellant about completion of the V5C form. He said that they initially tried to do this online on 12 June 2022. However, his recollection was that this was not successful, and so they completed it later after returning from Scotland. He was unable to explain clearly why this gives 12 June 2022 as the date his wife acquired the vehicle.

21. We have seen correspondence from the Procurator Fiscal to the Appellant's solicitors about the offence from August 2023 (page 288). This refers to the Appellant as "Mr Muhammad". The letter states:

*"I have received information from the Reporting Officer in the case, which states that at the time Mr Muhammad was stopped by the police, he claimed ownership of the vehicle he was driving at that time and that the said vehicle was registered to him.*

*Checks showed that Mr Muhammad's wife was the only insured driver for that vehicle.*

*When asked about insurance, Mr Muhammad advised that he was driving the vehicle under his own policy of insurance. Enquiries were carried out with the insurer, which confirmed that Mr Muhammad's own insurance policy did not cover Mr Muhammad to drive that particular vehicle, due to it being owned by him.*

*There was no information at that time to indicate that the vehicle was owned by anyone else other than Mr Muhammad and the offence was duly reported."*

22. We have considered these facts, and find on the balance of probabilities that the Appellant was not insured to drive the VW Passat on 12 June 2022. We accept that his insurance policy at the time allowed him to drive other cars that were not owned by him. However, we are not persuaded that there was an effective transfer of ownership of the car to the Appellant's wife before that date. She did have a policy of insurance on that car from 8 June 2022, which is consistent with the Appellant's explanation that he had transferred the car to her. The Appellant argues that this shows there was intent to transfer ownership on this date, and the Appellant would also be on the policy if he intended to retain the car. This policy does not show, however, that the Appellant's wife was the owner of the car at that time. During evidence at the hearing, the Appellant suggested that the VW Passat had not been used for some time, and he also said that another relative had previously been insured on it. This indicates that holding insurance to drive the car did not necessarily mean that ownership was intended to be transferred to that person.

23. The V5C that was completed by the Appellant gives the date that his wife acquired the vehicle as 12 June 2022, not any earlier date. We accept that this document is not proof of ownership. However, the date on the document is evidence of when the Appellant said ownership had been transferred, as at the time of the events. The information from the Procurator Fiscal indicates that Mr Khan said he was the owner of the car, and the insurer confirmed that he was not insured (although it is unclear how or when they confirmed this). The Appellant says he told the police that his wife owned the car. However, he did not contact the insurer at the time to confirm the position, or provide any evidence from the insurer at this hearing. We accept that this was a somewhat confusing series of events. However, on balance, we find that there is not sufficient evidence that ownership of the car had been transferred before 12 June 2022. The only direct evidence from the time of the date when ownership was transferred is the date of 12 June 2022 which the Appellant and his wife put on the V5C form.

24. The Appellant accepts that he did not inform the Registrar within seven days about either of the motoring offences. For the speeding offence, he says that he thought he could declare on re-registration (which he did). At the time of the offence he was not working as an ADI. The Appellant accepted at the hearing that he was aware of the declaration included on the re-registration form, that he must inform the Registrar within seven days of any convictions, including motoring offences. Nevertheless, he did not inform the Registrar about the second offence. His explanation is that he was a new parent and everything was in disorder, and he had a lot going on. He denies having had any intention of hiding the offence.

## **Conclusions**

25. The standing of the Register could be substantially diminished, and the public's confidence undermined, if it were known that a person's name had been allowed to remain on the Register when they had demonstrated behaviours substantially material to the question of fitness. This includes behaviour relating to driving and motoring offences.

26. ADIs are held to a higher standard than ordinary motorists. The public has the right to expect that those who are registered as ADIs adhere to the highest standards of motoring, which they themselves should be teaching to their pupils. Teaching people of all ages to drive safely, carefully and competently is a professional vocation requiring a significant degree of responsibility. Such a demanding task should only be entrusted to those with high personal and professional standards and who themselves have demonstrated a keen regard for road safety and compliance with the law.

27. The Appellant argues that there are exceptional circumstances in relation to the six-point penalty for driving while uninsured, as he did not in fact commit this offence. However, we have found on the balance of probabilities that the Appellant was not insured at the time of

the offence. We accept that the Appellant may not have intended to drive while uninsured, but nevertheless, on the evidence we have considered, we find that he did do so. He had a total of nine penalty points. This does not meet the standard of driving that is expected of an ADI.

28. We have also considered the Appellant's failure to declare the two motoring offences to the Registrar. We accept that the first failure may have been a genuine error, as he was not actively working as an ADI at that time, and it involved a more minor speeding offence. However, the second failure is more serious. The Appellant had completed his re-registration in 2020, and confirmed that he was aware of the requirement. We consider that he does not have a good explanation for this failure to declare. We have some sympathy for the stresses involved in becoming a new parent, but do not consider that this is a sufficient excuse. ADIs are trusted professionals who are required to keep the Registrar informed of any convictions so that the Registrar can be satisfied they are a fit and proper person to be on the Register. ADIs must prioritise this important responsibility. This was a serious motoring offence that was very relevant to the issue of fitness, and the Appellant failed to declare it.

29. Taking all of these matters into account, we find on the balance of probabilities that the Appellant does not currently meet the statutory requirement to be a fit and proper person. He has nine penalty points, and our factual findings are that, on the balance of probabilities, he was not insured to drive the relevant car at the time of the second offence. We are also very concerned by the failure to declare the second offence to the Registrar without any satisfactory explanation. In all the circumstances, we conclude that the Registrar's decision to remove the Appellant's name from the Register as he was not a fit and proper person was correct. We dismiss this appeal.

30. The Appellant has remained on the Register pending the outcome of this appeal. We confirm that our dismissal of the appeal means that he is removed from the Register and is no longer able to work as an ADI.

31. We note that the decision to remove the Appellant from the Register is not permanent. He may be able to re-apply once the penalty points have expired and if he can show that he now fully understands his responsibility to declare all convictions to the Registrar.

**Signed:** Judge Hazel Oliver

**Date:** 20 December 2024