



Neutral citation number: [2024] UKFTT 1129 (GRC)

Case Reference: FT/D/2024/0584

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(TRANSPORT)**

**Heard by Cloud Video Platform
On: 20 November 2024**

Decision given on: 18 December 2024

Before

**JUDGE DAMIEN MCMAHON
SPECIALIST MEMBER DR. PHEBE MANN
SPECIALIST MEMBER SARAH BOOTH**

Between

MUDHAFAR RIDHA

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

For the Appellant: The Appellant appeared in person on his own behalf.

For the Respondent: Mr. Darren Russell the Respondent.

Decision: The appeal is Dismissed. The Decision of the Respondent made by the Respondent on 24 June 2024 is confirmed.

REASONS

1. This appeal was listed for oral hearing by CVP on 20 November 2024 at 10.00 at the direction of the GRC Registrar in Case Management Directions dated 4 October 2024. The Appellant attended and gave oral evidence. Oral submissions were made on behalf of the Respondent by their representative.
2. The Appellant appealed against a decision of the Respondent dated 24 June 2024 to remove his name from the Register ('the Register') of Approved Driving Instructors ('ADIs'), pursuant to section 128(2)(e) of the Road Traffic Act 1988 ('the Act') on the basis that he was no longer a fit and proper person to have his name remain on the Register due to him having accepted on 8 January 2024 that he had committed a motoring offence, namely, a breach of legislative requirements **concerning control of a motor vehicle, mobile telephones and so on** (CU80) for which he accepted, a fixed penalty of an endorsement of 6 penalty points on his licence and a £200.00 fine.
3. The Appellant submitted a most detailed appeal on 10 July 2024, against the Respondent's said decision on the following grounds, in terms:
 - that his name had been on the Register for more than 15 years;
 - that he enjoyed his career as a driving instructor, benefiting hundreds of pupils, had a professional and approachable manner, was passionate about his career and sought to uphold a reputation gained over many years and had no other skills, passion or experience;
 - that he admitted the offence, namely, using a mobile phone while driving and advised the Respondent, showing his honesty and integrity, an offence that could not be excused;
 - that he was extremely regretful and remorseful, having let down himself and his profession;
 - that he recognised that an ADI must demonstrate a high regard for road safety, had a high degree of responsibility and higher standards of driving, character and behaviour were expected of an ADI over those expected of an ordinary motorist;
 - that he always endeavoured to uphold the very highest standards and encouraged his students to adopt safe driving for life by ensuring compliance with the law and its requirements and he would continue to strive to set the best possible example to his students, other road users and himself;
 - that he had been going through a 'hard time', having mental, physical and financial pressures that had resulted in a lack of judgement on this occasion, in addition to his wife and children having health issues too;

- that removal of his name from the Register would impact mentally and financially on himself and his family;
 - that he was an active and supportive member of the community and for local driving instructors offering advice and recommendations;
 - that he was dedicated to Continuing Professional Development;
 - that he had held a driving licence for 37 years had never had any previous motoring or criminal penalties imposed upon him;
 - that there was precedent where ADIs had not been removed from the Register despite having incurred penalty points;
 - that no one else was in the vehicle at the time of the offence; the vehicle was stationary; he had finished work and was going home at a time when the roads were busy and congested.
4. The Appellant submitted an impressive bundle of character references that did not, however, address the direct issue in this appeal, namely, whether, on the balance of probabilities, it was more likely than not that the Appellant was no longer a fit and proper person to have his name entered on the Register due to his committing the said motoring offence.
 5. In his oral evidence, the Appellant essentially repeated and reiterated the contents of his grounds of appeal. He confirmed that he did not mention the said motoring offence when asking for character references. He stated that due to personal circumstances, all he did at the time of the offence was to lift his mobile phone to press his thumbprint on it to turn on the Bluetooth facility. He again expressed great remorse that removal of his name from the Register would be devastating for himself and his family. He accepted that, due to lack of judgement, he failed to pull over and park his vehicle.
 6. The Respondent's representative accepted the Appellant had certain personal circumstances but that, as an ADI, he broke the law and committed the said motoring offence, for which there could be no excuse, and the Appellant had fallen below the standards expected of an ADI.
 7. It was a matter of regret that the Respondent failed to furnish a formal, written Response.
 8. While every piece of evidence and submissions, both written and oral from, and on behalf of the parties, was considered by the Tribunal, it did not alter the Tribunal's decision to dismiss this appeal as it was not of sufficient persuasive value to do otherwise.
 9. The Appellant submitted that there was precedent where ADIs were not removed from the Register despite incurring penalty points for offences. However, while the Tribunal approached its Decision in this appeal, having regard to the question of proportionality, the precedents relied upon by the Appellant were not binding on the

Tribunal and, in any event, there are very many other precedents that went the other way where the circumstances and facts were similar to those in this appeal.

10. The basis of the Respondent's decision was that the Appellant did not fulfil the criteria to be a 'fit and proper person', as required by the relevant provisions in the Act.
11. Conditions require that an ADI (the Appellant in this case) to be a 'fit and proper person'. This requires account to be taken of an Appellant's character, behaviour and standards of conduct. This involves consideration of all material matters, including convictions, and other relevant behaviour, placing all matters in context, and balancing positive and negative features as appropriate. The Respondent may take the view that a person no longer meets this requirement where there has been a change in circumstances.
12. An appeal to this Tribunal against the Respondent's decision proceeds as an appeal by way of re-hearing, that is, the Tribunal makes a fresh decision on the evidence before it. The Tribunal must give such weight as it considers appropriate to the Respondent's reasons for its decision as the Respondent is the regulatory authority tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Respondent's decision-making process.
13. The Appellant, in essence, correctly submitted in both his written and oral evidence that all of the circumstances had to be examined and that the penalty imposed did not result in automatic removal of his name from the Register.
14. The Tribunal accepted that the Appellant understood his decision that resulted in him committing the said offence was poor; that he panicked, was deeply remorseful and what occurred would not recur. It was accepted that the Appellant loved his career as an ADI; that he was an otherwise diligent ADI and that he had no other qualifications, skills or experience. The Tribunal accepted that the Appellant understood the standards expected of an ADI.
15. The Tribunal found that there was a public duty to remove the Appellant's name from the Register in the circumstances as not being a fit and proper person to have his name remain on the Register as the commission of the said offence could not be condoned. To find otherwise would, in effect, amount to the Tribunal sanctioning or approving the Appellant's behaviour. The reality, that could not be ignored by the Tribunal, is that the consequences of the commission of an offence of this nature contributes to a significant number of road traffic casualties and that it would be offensive to other ADIs and persons trying to qualify as ADIs, who had been scrupulous in observing the law, to ignore the motoring offence committed by the Appellant.
16. As a matter of law, the standing of the Respondent could be substantially diminished, and the public's confidence undermined, if it were known that a person whose name was permitted to remain on the Register when they had demonstrated behaviours or been convicted in relation to an offence substantially material to the question of fitness. This can be with respect to behaviour pertaining to motoring matters and other matters of responsibility, trustworthiness and prudence; indeed, it

would be unfair to others who have been scrupulous in their behaviour and in observing the law if such matters were ignored or overlooked.

17. The judgment of the Court of Appeal in *Harris v. Registrar of Approved Driving Instructors* [2010] EWCA Civ 808 confirmed that -

“..... 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 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 Approved Driving Instructor. That is why there are stringent disclosure requirements.”

18. In reaching its Decision, the Tribunal took into account all of the evidence and submissions received, both written and oral, and considered all of the circumstances relevant to this appeal.
19. The Tribunal was obliged to bear in mind the significant importance attached to the integrity of the Register. For the public to have trust in it, the Respondent must act in a way that encourages belief that those on it have high standards. Allowing those who do not meet those standards would undermine the trust placed in it with serious consequences for those who do maintain the necessary high standards. These are matters of wider, and public interest, which attract significant weight even where, as in this case, having his name removed from the Register potentially may have significant consequences for the Appellant.
20. In this case the Tribunal took into account that the Appellant had accepted having committed a significant motoring offence. The Tribunal was concerned about the Appellant’s lack of care in meeting his responsibilities as a qualified ADI.
21. The Tribunal particularly considered the question of whether it was proportionate to dismiss this appeal. On the balance of probabilities, the Tribunal concluded that in view of the gravity of the particular offence, readily admitted by the Appellant, there being no overriding reason that he should have used his mobile phone (that is, to attempt to connect it to his Bluetooth facility) when he did, dictated that removal of the Appellant’s name from the Register was entirely proportionate in all the circumstances.
22. Taking all of these factors into account and, noting that the Tribunal needs to maintain public trust in the Register and to prioritise consumer protection and road safety over the interests of the Appellant as an individual driving instructor, the Tribunal concluded that the Appellant, at the time of the decision, was not a fit and proper person to have his name remain on the Register.
23. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon,*

Tribunal Judge

Date: 20 November 2024

