



Neutral citation number:  
[2024] UKFTT 00454 (GRC).

Case Reference: D/2024/24

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

**Determined at a panel paper hearing.  
on 30<sup>th</sup> May 2024**

**Before**

**HHJ DAVID DIXON  
DAVID RAWSTHORN  
STUART JAMES**

**Between**

**ANDREW FIRMAN**

Appellant

**and**

**THE REGISTRAR OF APPROVED  
DRIVING INSTRUCTORS**

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 on 24<sup>th</sup> November 2023 to remove his name from the Register.
2. The Registrar’s reasons for removal, in summary, were that the Appellant had accrued penalty points for two motoring offences, namely speeding on 6<sup>th</sup> March 2022 and 12<sup>th</sup> August 2023. The Registrar took the view the offending was serious and allowing him to remain on the Register would undermine confidence in it, so determined the Appellant must be removed.
3. The Appellant now appeals the Registrar’s decision.

### *Appeal to the Tribunal*

4. The Appellant’s Notice of Appeal, dated 22<sup>nd</sup> December 2023, argues that he is fit and proper. The Appellant provides a deal of information of the good work he does in the community, about his work within in the NHS around his instructing. He accepts both speeding offences indicating they were lapses in concentration. He argues that removal for such matters would be “harsh.” He seeks to argue that a more serious offence of driving without due care and attention etc might warrant removal but not these matters.
5. The Respondent failed to submit a Response. The Tribunal was somewhat surprised by this and more than a little concerned that basic steps in an important matter like this were “overlooked” by the Registrar. In this case the Tribunal felt able to consider the issues, in others a very different position could apply.

### *Mode of Determination*

6. The case was listed for paper hearing and the Tribunal met via the video enabled hearing system to discuss the case. The Appellant wished for a paper determination and the Tribunal in the circumstances of this particular case, applying the Tribunal Rules, decided such a procedure was fair and appropriate.
7. The Tribunal considered a bundle of evidence consisting of the decision letter and the notice of Appeal.

## *The Law*

8. 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 of Approved Driving Instructors – see s. 125 (3) and s. 127 (3) (e) Road Traffic Act 1988<sup>1</sup>.
9. The Registrar may take the view that a person no longer meets this requirement where there has been a change in circumstances. The burden of showing that a person does not meet the statutory criteria rests with the Registrar.
10. In *Harris v Registrar of Approved Driving Instructors* [2010] EWCA Civ 808<sup>2</sup>, the Court of Appeal described the “*fit and proper person*” condition thus:

*“..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 ADI. This is why there are stringent disclosure requirements”.*

11. An appeal to this Tribunal against the Registrar’s decision proceeds as an appeal by way of re-hearing i.e. the Tribunal stands in the shoes of the Registrar and take a fresh decision on the evidence before it. The Tribunal must give such weight as is considered appropriate to the Registrar’s reasons<sup>3</sup> as the Registrar is the person tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Registrar’s decision-making process.

## *Conclusion*

12. The Tribunal considered carefully all the papers before it.
13. Here the Appellant exceeded the speed limit in 2022 and should have been on notice about his conduct. In 2023, he failed to heed that and was caught speeding again. No justification or excuse is set out for the offending that could be said to excuse the situation. The Tribunal noted that the Appellant sought to argue that driving without due care and attention might be a reason to be removed, yet advanced that the reason for his speeding was a loss of concentration. Some may say the two were the same thing.

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

<sup>2</sup> <http://www.bailii.org/ew/cases/EWCA/Civ/2010/808.html>

<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>.

14. Having been warned to abide by the rules of the road, the Appellant failed to control his speed again. Nothing is said that could mitigate the position.
15. The Registrar is charged with the duty of ensuring that only those of appropriate standing are on the Register, that those who are on it understand their responsibilities, and can show they not only know the rules but follow them. Here, if the Appellant was allowed to remain on the Register it would undermine all of that. It seems to the Tribunal, even taking account of his general character, that it would undermine confidence if the Appellant was allowed to remain. The Tribunal comes to the view the Registrar had no option but to direct removal and therefore the decision was correct.
16. This appeal is therefore dismissed with immediate effect.

**(Signed)**

**HHJ David Dixon  
David Rawsthorn  
Stuart James**

**DATE: 30<sup>th</sup> May 2024**