



**NCN: [2024] UKFTT 00553 (GRC)**

Case Reference: D/2023/449

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

**Determined on a paper determination  
on 18<sup>th</sup> June 2024**

**Before**

**HHJ DAVID DIXON  
STUART JAMES  
DAVID RAWSTHORN**

**Between**

**DANIEL ZELALEM TEMESEGEN**

Appellant

**and**

**THE REGISTRAR OF APPROVED  
DRIVING INSTRUCTORS**

Respondent

**Decision:** The appeal is dismissed.

**REASONS**

### *Background to Appeal*

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made on 25<sup>th</sup> August 2023 to remove the Appellant’s name from the Register.
2. The Registrar’s reasons for removal, in summary, were that the Appellant had committed a number of offences and as “a totter” had been disqualified from driving. 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. The Appellant did not tell the Registrar of the conviction(s) and this further aggravated the position.
3. The Appellant now appeals the Registrar’s decision.

### *Appeal to the Tribunal*

4. The Appellant’s Notice of Appeal, dated 21<sup>st</sup> September 2023, indicates that he has a number of students relying upon him to teach them. He has others that rely upon his driving skills. At the time of the speeding offence he had been through a difficult time with a death in his family. He indicated the disqualification was being appealed to the Crown Court.
5. He had provided a letter from his church and his driving school to support his appeal.
6. The Respondent filed a response indicating that the Appellant had twice failed to provide details of a driver pursuant to s172 of the RTA and was caught speeding and eventually dealt with on 27/3/23. The convictions and disqualification rendered him no longer fit to be an ADI and therefore removal followed.

### *Mode of Determination*

7. The case was listed for a paper hearing, and the Tribunal panel convened via the CVP system, to discuss and determine the appeal. The Tribunal as part of that process determined that this was a suitable and appropriate way to proceed in accordance with the Tribunal Rules.
8. The Tribunal considered a bundle of 25 pages.

### *The Law*

9. 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>.
10. 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.
11. 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:

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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>

*“..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”.*

12. 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*

13. The Tribunal considered carefully all the evidence and papers before it.
14. Here the Appellant failed to abide by important aspects of road traffic law. The failure to provide details of a driver and a speeding offence of themselves were serious enough for the Appellant to be removed. His failure to notify the Registrar simply confirmed this position. On these grounds alone the Registrar had no option but to remove the Appellant. It would undermine any faith in the Register if he had acted otherwise.
15. The disqualification on top of the convictions simply reinforced the unarguable position and the Registrar was entirely right to order removal.
16. This appeal is therefore dismissed with immediate effect.

**(Signed)**

**HHJ David Dixon  
Stuart James  
David Rawsthorn**

**DATE: 18<sup>th</sup> June 2024**

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<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>.