

NCN: [2025] UKFTT 00829 (GRC)

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

Appeal Reference: D/2023/339

Heard by CVP on 22 May 2025

Before

**JUDGE ANTHONY SNELSON
TRIBUNAL MEMBER SARAH BOOTH
TRIBUNAL MEMBER MARTIN SMITH**

Between

GHULAM HAIDER KHAN

Appellant

and

THE REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

DECISION

On hearing the Appellant in person and on reading the written representations on behalf of the Respondent, the Tribunal determines that the appeal is dismissed.

REASONS

1. The Appellant, Mr Ghulam Haider Khan, is a highly educated, articulate man described in a judgment of the Crown Court which we will mention in due course as being in his mid to late forties. This is his appeal against the decision of the Respondent ('the Registrar') contained in a letter dated 15 June 2023 to remove his name from the register of Approved Driving Instructors ('the Register') on the ground that he had ceased to be a 'fit and proper person' to have his name entered on the Register.

2. The matter came before us in the form of a 'remote' hearing by CVP, with the agreement of both sides. We were satisfied that it was just and proper to proceed in that way. Mr Khan attended in person. The Registrar did not attend, being content to

rely on his written case. A bundle of 274 pages was before us. We allowed Mr Khan one hour to present his submissions, after which we reserved our decision.¹

The statutory framework

3. The Road Traffic Act 1988 ('the Act'), s123(1) prohibits the giving of paid driving instruction except where the instructor's name is included in the Register or he or she holds a trainee licence under s129 (not applicable here).

4. By s125(3) of the Act, certain conditions for initial entry of an Approved Driving Instructor ('ADI') on the Register are specified. These include the requirement for him/her to be a 'fit and proper person to have [his/her] name entered in the Register'.

5. Under s128 of the Act, the Registrar has power to remove an ADI from the Register in specified circumstances. These include where he/she has ceased to be a fit and proper person to have his/her name included in the Register (s128(2)(e)).

6. By the Act, s131(1) an appeal lies to the First-tier Tribunal against a decision to remove an ADI's name from the Register.² On the appeal, the Tribunal may make such order for the removal from, or retention on, the Register as it sees fit (s131(3)).

7. Where a decision to remove an ADI' name from the Register is challenged on appeal, s128(7) of the Act permits the Registrar to apply what amounts to a stay of his decision pending the appeal. That power is routinely exercised and was in this case exercised.

8. In *In the matter of the Bonas Group Pension Scheme* [2011] UKUT B 33 (TCC), which arose in a different but analogous statutory context, Warren J, sitting in the Upper Tribunal, held that there was nothing to constrain the first-instance tribunal's approach on appeal. Its function is simply to make its own decision on the evidence before it (which may differ from that before the statutory body whose decision is under challenge). Despite this latitude, however, high authority of general application recognises two important points. First, the burden is on an appellant to persuade the tribunal that the relevant decision should be overturned or otherwise interfered with. Second, the tribunal should give careful consideration to the reasons for the decision under challenge, given that Parliament has invested the relevant body with exclusive authority (subject to appeal) to make decisions on such matters.³

9. On the proper approach to the 'fit and proper person' condition, we have been assisted by the judgment of the Court of Appeal in *Harris v Registrar of Approved*

¹ One sitting day had been allocated for the hearing and determination of Mr Khan's appeal and the unrelated appeal of another ADI.

² The Tribunal has no jurisdiction to consider the conduct or outcome of any ability and fitness test. Such a challenge can only be brought in the Magistrates' Court.

³ See *eg R v Westminster Magistrates Court ex p Hope & Glory Public House Ltd* [2011] EWCA Civ 31, paras 39-48 (Toulson LJ).

Driving Instructors [2010] EWCA Civ 808 (15 July 2010). Giving the only substantial judgment, Richards LJ observed (para 30):

... I do not accept that the scope of the 'fit and proper person' condition is as narrow as [counsel for the Appellant] contended. Of course, a central question is an appellant's fitness to be a driving instructor - that he has the requisite instructional ability and driving ability and that he does not pose a risk in any respect to his pupils or other users of the road. The 'fit and proper person' condition has obvious relevance to that issue, though the more technical aspects are covered by other, more specific conditions relating to tests, driving licence and the like. But the condition is not simply that the appellant 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: those registered are known as 'Driving Standards Agency Approved Driving Instructors'. I see no reason to doubt the view expressed by the Secretary of State in *ex parte Nixon* .. as to how a person's entry in the register is viewed by members of the public. It seems to me that the maintenance of public confidence in the register is important. ...

The key facts

10. The main facts can be summarised as follows.
 - 10.1 Mr Khan's name first appeared on the Register in February 2017 and was removed from it on 1 March 2021.
 - 10.2 The reason given by the Registrar for the removal was that Mr Khan had ceased to be a 'fit and proper person' to have his name entered on the Register because he:
 - *[had] formed a relationship with a vulnerable 17 year old female*
 - *[was] currently under police investigation on suspicion of an alleged offence involving indecent images of a 17 year old female*
 - 10.3 On 15 July 2021 an order was made by the Magistrates Court under the Under the Protection from Harassment Act 1997, prohibiting Mr Khan from contacting 'AB', a young woman some 17 years of age. The order was opposed by Mr Khan and he appealed to the Crown Court.
 - 10.4 Mr Khan appealed successfully to the First-tier Tribunal ('FTT') against the decision to remove his name from the Register and, with effect from April 2022, he was duly restored to the Register. The nub of the decision on appeal was that, on the material presented to the FTT, no sufficient basis for the Registrar's decision had been made out.
 - 10.5 On 3 May 2022 Mr Khan notified the Registrar that he had been convicted on 15 January 2022 of assaulting a police officer by slapping his hand. On Mr Khan's account, the contact occurred as he was resisting a violent assault by the police officer.
 - 10.6 Also on 3 May 2022 Mr Khan notified the Registrar that he had pleaded guilty to a public order offence arising out of verbal abuse by him of a police officer in a police car.
 - 10.7 Separately, the Registrar was made aware of an incident on 2 April 2022 at a Driving Test Centre at which, reportedly, Mr Khan had directed a barrage of

abuse at a Driving Examiner and had been warned that if he did not leave the police would be called.

- 10.8 On 2 August 2022 Mr Khan's appeal against the order of 15 July 2021 came before the Crown Court and was dismissed. A transcript of the judgment was before us. It included the following passages.

In June 2021, Mr Khan was arrested for [alleged offences arising out of his association with AB] and he displayed abusive behaviour to [named police officer], which was caught on body worn camera, which has been played in court. He is constantly abusive on that footage for a long period of time offering to fight both officers, calling him (and I quote) "Mother fucker, pussy, yellow bellied faggot, fuck you, mother fucker, faggot, this is fucking harassment, son of a bitch, son of a dog. Is it my fault that you got bullied at school? Who the fuck do you think you are, mother fucker. Listen, mother fucker, are you too thick to understand? How is your mum? She can't have that much longer, can she? This one doesn't even know his mum. You've turned out to be a pig. Why don't you and me go to a martial arts club and fight? You're a yellow bellied pussy. You should be grateful I haven't fucking killed you. I'll kill a man for less than that, you slanderous mother fucker. A faggot is a piece of meat, not a fucking homosexual. If I wanted to call you homosexual, I'd call you a gay fucking something." These are selected highlights of that video.

...

Now having dealt with the background and the law, and the submissions made on both sides, I turn to our findings. The relationship between Mr Khan and AB was not in itself unlawful. She was above the age of consent when that relationship started and we are not going to make any findings about any non-consensual sexual activity, although the same is certainly alleged. But it was, on any view - although Mr Khan makes no sign of acknowledging this - a highly inappropriate and unhealthy relationship. It was also, in our view, highly exploitative because of the age difference and the emotional vulnerability of that 17, 18 year old girl and the great imbalance in physical power, psychological power and financial power between the two parties to it.

We entirely accept that AB may have behaved, on occasions, as a troubled teenager looking for love and security outside her own family might behave, in other words, unwisely. We do not take the view that everything which she has said in her statements is necessarily true or necessarily completely true; and I make it clear that we do not, in coming to the conclusion that I will shortly come to, make any findings that any offences were committed by Mr Khan against this young girl. But we do find that AB is, or at the least has been on more than one occasion, genuinely scared for her physical safety at the hands of Mr Khan. As a result of her experience of physical pain at his hands (which he accepts), and her experience of his threats towards police officers (which are borne out by the video evidence we have seen which shows him, I am afraid, in his true colours), and supported by his knowledge of martial arts, and therefore of physical violence. And so she has certainly been scared of him - let alone on the balance of probabilities, which is the standard we have to apply.

As for the Appellant, we find that he is obsessed by AB in an unhealthy way ... He says he is a victim of her controlling and coercive behaviour. He is obsessed, we find, by a paranoid sense of injustice, whether at the hands of a teenage girl, or at the hands of the police, or at the hands of the courts, or at the hands of his own lawyers. He is capable of vile, persistent personal abuse which we have seen on video, fuelled by an irrational sense of being personally wronged by others. He certainly feels wronged by AB. He has inflicted pain on her before (although the

circumstances of that remain in dispute – that is whether it was her invitation or not). He has been convicted of an assault on the police; and in those circumstances, as I say, we are in no doubt about her fear of him on occasions. It is certainly true she's gone back to him on various occasions but that, I am afraid, is what women who are abused frequently do, so that's entirely consistent with our findings as to fear.

Mr Khan is an intelligent person, we would say a very intelligent person, who has found his way around the law in this area with great facility. But he tends to paranoia. When crossed, he is also a manipulative, dishonest, bullying and threatening individual and, on the balance of probabilities, AB certainly was at the receiving end of those proven qualities. So we find, applying the law which I outlined earlier, that the appellant has conducted himself, putting aside the allegations of specific criminal offences, in a way which amounted, at the very least, to the harassment of AB, and if, in future, such behaviour were repeated, would amount at the very least to harassment of AB, in accordance with the incontrovertible evidence we have watched of the Appellant's propensity to deliver persistent and vile abuse of persons whom he imagines to have done him wrong.

Accordingly, this appeal is rejected. We regard it as absolutely necessary for a ... restraining order to be in place to protect AB from any future risk of harassment. ... And ... we amend the end date of the order from 14 July 2023 to 14 July 2026. That is as if the order had originally been made for five years, rather than for two.

- 10.9 As we have mentioned, the Registrar's decision under challenge in this appeal was given in a letter dated 5 July 2023. His reasons for removing Mr Khan's name from the Register were explained as being based on the information set out in an earlier 'show cause' letter of 17 May 2023, which had cited lengthy passages from the Crown Court judgment of 22 August 2022.
- 10.10 Mr Khan appeared to say that some form of civil proceedings somehow relevant to this case remain on foot. No documentary material relating to such proceedings was put before us and we found his account on this hard to follow. He accepted that the criminal proceedings were at an end.
- 10.11 Mr Khan also mentioned some judicial review proceedings but appeared to accept that they have failed and that there was no prospect or realistic prospect of them being revived. Again, it was unclear to us what those proceedings had been intended to achieve.

The appeal

11. Mr Khan made many points in support of his appeal before us. We did our best to steer him towards addressing the central challenge to the Registrar's decision on the 'fit and proper person' issue but found that no easy task given his evident greater interest in debating somewhat abstruse and technical legal and procedural points. At all events, the nub of his case as finally extracted from him was that he had not conducted himself in a way which warranted a finding that he was not a fit and proper person to have his name entered on the Register. He acknowledged that he had behaved in an offensive and regrettable way towards the police officers (which he urged us to see as an isolated incident which had resulted from a combination of poor mental health and ill-advised consumption of alcohol with medication). He strenuously denied that his association with AB had been in any way improper and

maintained, in that regard, that he was the victim in so far as there was any victim. All in all, he urged us to hold that no basis for depriving him of his livelihood as an ADI was made out.

Discussion and conclusions

12. In our view, the Registrar's decision was right and there is no good reason to interfere with it. We have several reasons. In the first place, it is obviously a matter of public importance that the profession of driving instructor is properly and firmly regulated. This involves ensuring not only that practitioners have the necessary skills and aptitude but also that their behaviour is such that the public can place trust in them generally. This priority finds expression in the Act, as was pointed out in the passage from *Harris* cited above, which stresses that the 'fit and proper person' condition is related explicitly to membership of the Register.

13. Secondly, the evidence-based findings about Mr Khan's behaviour recorded in the judgment of the Crown Court are utterly damning and he has given us no reason to take a more forgiving view than that court did. The findings identify a disturbing set of traits including preparedness to exploit a young and vulnerable woman, a disposition to behave violently, a propensity to mis-use drugs and alcohol, contempt for authority and disdain for what most would regard as ordinary standards of courtesy and decency. Each of these traits would seem to us sufficient on its own to justify the Registrar's decision. Taken together, they argue compellingly for a finding that Mr Khan was and is quite obviously unworthy of the trust which entry on the Register connotes.

14. Thirdly, aside from acknowledging what, in the face of video evidence, had to be acknowledged, Mr Khan gives no ground and expresses no remorse. There is no sign that, given a further chance, he would learn from his mistakes and acknowledge the responsibilities which registration entails.

15. Fourthly, while we acknowledge (with regret) the serious personal blow which our decision will represent for Mr Khan, we judge it a wholly necessary on the material before us. Those trusted with membership of the Register are under a continuing duty to maintain proper standards of behaviour. It is the duty of the regulatory system to uphold those standards. To allow this appeal could only serve to undermine them and public confidence in the registration system generally.

Outcome

16. For the reasons stated, we must dismiss the appeal.

(Signed) Anthony Snelson
Judge of the First-tier Tribunal

Date: 3 July 2025