



NCN: [2025] UKFTT 00972 (GRC)

Case Reference: FT/D/2025/0066

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

Heard by Cloud Video Platform  
**Heard on: 1 August 2025**  
**Decision given on: 13 August 2025**

**Before**

**JUDGE HEALD**  
**MEMBER BOOTH**  
**MEMBER ROANTREE**

**Between**

**MARK WILLIAM HUDSON**

**and**

**THE REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Appellant

Respondent

**Representation:**

For the Appellant: the Appellant appeared in person.

For the Respondent: Mr Heard represented the Respondent.

**Decision:** The Appeal is Dismissed.

**REASONS**

1. This Appeal is brought by the Appellant pursuant to section 131(1)(c) Road Traffic Act 1988 ("the Act"). It relates to a Decision made by the Respondent ("the Registrar") dated 9 December 2024 ("the Decision") to remove the name of the Appellant from the Register ("the Register") of Approved Driving Instructors ("ADI").
2. What follows is a summary of the submissions, evidence and our view of the law. It does not seek to provide every step of our reasoning. The absence of a reference by us to any specific submission or evidence does not mean it has not been considered.

3. In this Decision page numbers indicated by their inclusion in brackets refer to pages of the Bundle.

### **Law**

4. By section 123(1) of the Act a person may only provide paid driving instruction if that person's name is on the Register or he holds a Licence by section 129(1) of the Act and in accordance with The Motor Cars (Driving Instruction) Regulations 2005.
5. Section 128(1) of the Act provides that:-

*"The Registrar may remove the name of a person from the register if he is satisfied that –*

*(a) in a case where his name has not been retained in the register under section 127 of this Act, at any time since the entry of his name was made, and*

*(b) in a case where his name has been so retained under that section, at any time since it was last retained,*

*any of the relevant conditions was fulfilled in his case."*

6. By section 128(2)(e) of the Act those conditions include:-

*"that he ceased, apart from fulfilment of any of the preceding conditions, to be a fit and proper person to have his name included in the register."*

7. By section 128(4) and (5) of the Act before removing name from the Register the Registrar is to give notice to the Appellant who is able to make representations.
8. By section 128(7) of the Act the Registrar can delay the effect of the Decision.
9. In *Harris -v- Registrar of Approved Driving Instructors* [2010] EWCA Civ 808 Richards LJ held at para 30:-

*".....I do not accept that the scope of the "fit and proper person" condition is as narrow as Mr Levisseur contended. Of course, a central question is an applicant'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 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: those registered are known as "Driving Standards Agency Approved Driving Instructors".*

### **The Guidance and the Code**

10. The Driver & Vehicle Standards Agency ("DVSA") has issued Guidance ("the Guidance") which an ADI is required to declare they have read when applying to become an ADI. It states for example:-

### ***Offences where it's unlikely you're 'fit and proper'***

*"There are some situations where it's unlikely that...you'd be allowed to remain on the register once qualified...These include both motoring and non-motoring offences."*

#### ***"Motoring Offences"***

*"It's also unlikely that you'll be classed as a 'fit and proper' person if you've been found guilty of: excessive speeding"*

*Many of these offences will result in 6 or more penalty points being put on your driving licence.*

*The ADI Registrar has refused applications or removed an ADI from the register when they've had 5 or more penalty points within the last 3 years under the 'totting up' rules."*

### **Being a 'fit and proper' person**

*You must be a 'fit and proper' person to be an ADI.*

*ADIs are in a position of considerable trust. The ADI Registrar protects the image of the register and maintains the public's confidence in the ADI industry.*

### ***What 'fit and proper' means***

*The law says you must be a 'fit and proper' person, but does not define what it means.*

*The ADI Registrar interprets it as the personal and professional standards, conduct or behaviour that could be unacceptable in the eyes of the public and other ADIs.*

*"It's not possible to be definitive about what's classed as 'fit and proper'. There has to be some discretion to take into account the circumstances of each case.*

*The ADI Registrar makes an assessment of the risk you're likely to pose to the public."*

11. Additionally a code of practice for ADI ("the Code") has been agreed between the DVSA and the National Associations Strategic Partnership a steering group for approved driving instructor associations. Whilst it is voluntary the Guidance states that *"It is a framework within which all instructors should operate."* This includes for example that an ADI agrees to *"at all times comply with legislative requirements..."* and to uphold safety standards and demonstrate a high standard of driving.

### **Role of the Tribunal**

12. Section 131(1) of the Act provides that:-

*"A person who is aggrieved by a decision of the Registrar... (b)to refuse an application for the retention of his name in the register... may appeal to the First-tier Tribunal."*

13. Section 131 (3) of the Act provides that the Tribunal may make such order:-

*"(a)for the grant or refusal of the application"*

or,

*(b)for the removal or the retention of the name in the register, or the revocation or continuation of the licence,*

*(as the case may be) as it thinks fit."*

14. Section 131(4) of the Act provides that:-

*"An order for such refusal, removal or revocation may direct that an application by the appellant –*

*(a)for the grant of a licence under this Part of this Act, or*

*(b)for his name to be entered in the register,*

*shall not be entertained before the expiration of such period, not exceeding four years beginning with the day on which the order is made, as may be specified in the order."*

15. Section 131 (4A) of the Act enables the matter to be remitted back to the Registrar for reconsideration

*"If the...Tribunal considers that any evidence adduced on an appeal had not been adduced to the Registrar before he gave the decision to which the appeal relates"*

16. In considering the Appeal the Tribunal must also give appropriate weight to the Registrar's view. The Court of Appeal in *Hope and Glory Public House Ltd, R (on the application of) v City of Westminster Magistrates Court & Ors* [2011] EWCA Civ 31 (26 January 2011) held that the answer to " How much weight was the district judge entitled to give to the decision of the licensing authority?" was:-

*"45...the proper conclusion....can only be stated in very general terms. It is right in all cases that the magistrates' court should pay careful attention to the reasons given by the licensing authority for arriving at the decision under appeal, bearing in mind that Parliament has chosen to place responsibility for making such decisions on local authorities. The weight which the magistrates should ultimately attach to those reasons must be a matter for their judgment in all the circumstances, taking into account the fullness and clarity of the reasons, the nature of the issues and the evidence given on the appeal."*

17. Therefore when making its Decision, 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 the relevant legislation with making such decisions. It is not the role of the Tribunal to carry out a procedural review of the Registrar's decision-making process but it does need to consider all the circumstances. Our decision is reached on the balance of probabilities.

**Evidence and matters considered**

18. We had a Bundle of 25 pdf pages and heard from the Appellant and Mr Heard.

### **Chronology**

19. In outline the chronology and facts (which are not in dispute) leading to this Appeal are as follows:-
- (a) the Appellant's name was first entered into the Register in April 1989 (13).
  - (b) on 5 May 2023 the Appellant committed the offence of speeding for which he accepted a fixed penalty notice for speeding and 3 penalty points (13).
  - (c) on 31 August 2023 (20) the Registrar wrote to the Appellant about the points.
  - (d) on 27 August 2024 (13) the Appellant the Appellant again committed the offence of speeding and received a further fixed penalty notice and 3 penalty points.
  - (e) on 6 November 2024 the Appellant wrote to the Registrar to report that he had received 3 penalty points for speeding (17).
  - (f) on 7 November 2024 (21) the Registrar wrote to the Appellant indicating that he was considering removing his name from the Register on the basis he was no longer a FPP.
  - (g) on 5 December 2024 (23) the Appellant made representations.
  - (h) on 9 December 2024 (24 & 1) the Appellant was informed of the Decision which was that his name was to be removed from the Register but that by section 128(7) of the Act the Decision would not take immediate effect.
20. The Appellant's ADI registration was due to end in April 2025 in any event (13). Mr Heard, at the Appeal, confirmed that an application by the Appellant for his name to remain of the Register had been received and was on hold pending the outcome of this Appeal.

### **The Appeal**

21. On 20 February 2025 the Appellant commenced this Appeal (2-11). The Registrar provided a Response (12-16) dated 23 June 2025.

### **The Registrar's position**

22. The Registrar's does not consider the Appellant to be a FPP. His position is set out in the Decision and the Response to the Appeal and at the Appeal hearing itself. In his Response to the Appeal the Registrar said his reasons for the Decision related to the existence of the 6 penalty points for two offences of using excessive speed. He said (15):-

*"(a)...The Conditions for entry onto the register extend beyond instructional ability alone and require that the applicant is a fit and proper person.....Teaching(generally) young people to drive...should only be entrusted to those with high standards and a keen regard for road safety.*

*I would..be failing in my public duty if I allowed a person who had committed these offences having been warned following the first, to have his name retained in the register"*

*"(b)...in 2020 excessive speed contributed to 219 deaths, 1,674 serious injuries and 4,666 minor injuries..."*

*(c)...I do not consider that I can condone motoring offences of this nature. To do so would effectively sanction such behaviour, if those who transgress were allowed to remain on an official Register that allows them to teach others.*

*(d) It would be offensive to other ADIs and persons trying to qualify as ADIs who had been scrupulous in observing the law for me to ignore these offences."*

### **The Appellant's case**

23. The Appellant's position was set out in his representations (23), Appeal (2-11) and at the Appeal. He accepts that he was speeding and the facts set out by the Registrar.
24. As regards the 2023 speeding offence the Appellant said that:-
  - (a) he was late for a lesson and under pressure to be there on time.
  - (b) he recalls it was day time and he was doing 34mph in a 30 mph area and the road had previously had a 40 mph limit although this change may have been in place for as long as 2 years.
25. He was asked why he was not offered a speed awareness course and he told us that it was not available to him as he had been on one within the previous 5 years.
26. As regards the 2024 speeding offence the Appellant said that:-
  - (a) he was driving from an airport to his home during the day. A close family member was a passenger in the car and she was suffering a severe migraine. He was concerned to complete the journey (a distance he said of about 3 miles or 15 minutes) to get this person home as soon as possible. He went over the speed limit as he was distracted "*in the panic*" of trying to comfort and reassure this person (8).
  - (b) he recalls he was travelling at about 49 mph in a 40 mph area and the road had previously had a 50 mph limit and before that a 70 mph limit although again these changes may have been in place for as long as 2 years.
27. More generally he said that he had been an ADI for some 36 years and enjoys the job which he believes, from feedback, he is good at. He is reliable and has never let a pupil down and has a lot to offer and would be "*devastated if I had to stop teaching people how to drive.*" In his view he would find it very difficult to get new work if he was not able to continue as an ADI.

28. He also told us that he takes as pupils people with a disability and he gave as an example a person with cerebral palsy. He said that he thought that there were not many ADIs who did this.

29. He concluded his Reasons for Appeal (8) by saying:-

*"I feel I am still a fit and proper person to give driving lessons and would like to be able to continue with the job I have done in a fit and proper manner for the last 36 years"*

### **Our review**

30. We considered all the circumstances presented to us noting the Registrar's view as the person who has the statutory role to maintain the Register. We accept the Registrar's position as set out in this Appeal in particular noting the harm caused by excessive speed.

31. There is no dispute that the Appellant incurred 3 penalty points for excessive speed on two occasions making 6 points in total. It is also right to note that at some point prior to the 2023 speeding offence he undertook a speed awareness course indicating he had also been caught speeding prior to the 2023 points.

32. ADIs are held to a higher standard than ordinary drivers. The public has the right to expect ADIs to adhere to the highest standards of motoring. The public must have confidence in the Register and we note the decision in *Harris* on this and agree with the Registrar's position on it.

33. The Appellant must have been aware that any speeding put his ADI registration at risk from:-

(a) having been on a speed awareness course pre 2023.

(b) the Guidance which specifically says

*"It's also unlikely that you'll be classed as a 'fit and proper' person if you've been found guilty of...: excessive speeding"*

(c) being in receipt of 3 points in 2023.

(d) the warning letter of 31 August 2023 after the 2023 speeding points in which the Registrar said (20):-

*"...I must point out that if it becomes necessary in future to consider whether or not you are a "fit and proper" person to have your name included in the register your record as a whole, will be taken into account"*

34. We considered the circumstances of the speeding offences. In our view:-

(a) while the 2023 offence, we were told, did not involve considerable excessive speed we did not think that being late or being on a road with a new speed limit in daylight was a persuasive excuse for an ADI.

(b) as regards the 2024 offence this occurred within about 16 months of the 2023 penalty points being incurred. We can understand the feelings a driver would have in these circumstances. However being on a road with a new speed limit in daylight is not a persuasive excuse for an ADI in our view. Also he would have known that exceeding the speed limit by a few miles an hour over a distance of just 3 miles would make almost no difference to the arrival time.

35. At the Appeal he mentioned the potential difficulty he would face getting an alternative job but we did not consider this to be a particularly relevant consideration. The need to maintain the integrity of and public trust in the Register is likely to be greater than the needs of any individual appellant and we gave this point little weight.

36. We did however note that:-

(a) he had been a successful ADI for some 36 years.

(b) over that lengthy period since 1989 there had been no issues with him as an ADI (apart from the speeding referred to above).

(c) despite the FPP decision the Registrar by section 128(7) of the Act had allowed the Appellant to continue as an ADI since 9 December 2025 with apparently no issues reported.

(d) the Appellant was willing and able to train people with various disabilities which is to his credit and we expect requires a unique skill set and approach.

### **Decision**

37. Using excessive speed and having 6 points for speeding (and a previous speeding offence) is a serious issue that undermines the FPP status of an ADI. The Registrar's view is that his name should be removed for the Register. We noted his very long record as an ADI and other points mentioned as being to his credit. However on balance, especially bearing in mind the warning he had received, the Guidance and the previous speed awareness course undertaken, we were not persuaded that the Registrar's Decision was wrong

38. Accordingly the Appeal is dismissed.

**Signed Judge Heald**

**Date: 11 August 2025**