



Neutral citation number: [2025] UKFTT 00826 (GRC)

Case Reference: FT/D/2025/0194P

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

**Heard on the papers on 4<sup>th</sup> July 2025  
Decision given on: 08 July 2025**

**Before**

**JUDGE ARMSTRONG-HOLMES**

**Between**

**STEWART MARK MCNAIR**

**and**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Appellant

Respondent

**Decision:** The appeal is dismissed.

## **REASONS**

1. This is an appeal against the decision of the Registrar of Approved Driving Instructors (“the Registrar”), dated 28<sup>th</sup> January 2025, refusing the Appellant’s application for a third trainee licence.
2. The parties were agreeable to the determination of this appeal on the papers, that is to say, without an oral hearing. I am satisfied, pursuant to Rule 32(1)(b) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, that I can properly determine the issues without a hearing.
3. I had been provided with a 20-page bundle for the purposes of this appeal, containing a number of documents, including the Notice of Appeal and written representations

made by the Appellant upon receipt of notification that the Registrar was considering refusing his application for a third licence.

4. The Appellant had previously been granted two trainee licence, which were valid over the period from 15<sup>th</sup> January 2024 to 14<sup>th</sup> January 2025. On 2<sup>nd</sup> January 2025, he applied for a third licence.
5. On 7<sup>th</sup> January 2025, the Registrar notified the Appellant by email that consideration was being given to refusing her application. The Appellant was invited to make written representations in response within 14 days of the date of that email.
6. On 8<sup>th</sup> January 2025, the Appellant made written representations to the Registrar. These representations are summarised as follows:
  - a) That tests are hard to secure and he not been able to book his final Part 3 test despite searching for a date.
  - b) That because his instructor handed in his notice to the AA Driving School, he was forced to wait until a new instructor could provide him with lessons. The dates of these extra lessons were 21<sup>st</sup> November 2024 and 4<sup>th</sup> December 2024. He then took his second test, which he failed, on 2<sup>nd</sup> January 2025, having only received 5 days' notice of this test date, having booked the first test slot he could find.
  - c) That he has 17 active pupils and 5 of his pupils have test dates in the next 3 months, with the first being on 18<sup>th</sup> January 2025 and the 4 others actively looking for a test date.
  - d) To date, he has had 16 pupils pass their driving tests successfully, with some passing first time, reflecting his improving standards.
7. On 28<sup>th</sup> January 2025, the Respondent gave the Appellant notice under section 129(4) of the Act that he was refusing his application for a subsequent trainee licence. The following reasons were given for the Registrar's refusal of the Appellant's application for a third trainee licence:
  - a) That no evidence of lost practice time had been provided.
  - b) That the Appellant had already been granted two trainee licences of six months' duration for the purpose of gaining sufficient experience to pass the final part (Part 3) of the ADI qualifying examination.
  - c) That it was not Parliament's intention that candidates should be issued licences for as long as it takes them to pass the examination.
  - d) That the trainee licence system must not be allowed to become an alternative to registration as a fully qualified Approved Driving Instructor.

6. The Appellant was informed in that notice that he may appeal this decision to this Tribunal within 14 days from the date of that notification, and that if he did appeal against the decision of the Registrar, his present licence would continue in force until the appeal has been decided.
8. The Appellant's Notice of Appeal was dated 10<sup>th</sup> February 2025 and was received by the Tribunal on the same date. The Appellant's reasons for his appeal are stated in the Notice of Appeal as being that he had a break in his training, but the AA had not provided him with the evidence for this, which he included with the Notice. That evidence is in the form of an email from a Driving Instructor Training Academy Administrator at the AA Driving School, dated 5<sup>th</sup> February 2025, and which states the following:

*"As discussed in our call, I can confirm that there was a break in your training due to our instructor trainer [name redacted] deciding to step down as an Instructor Trainer and the search for us to reassign you to an alternative Instructor in your local area. There was roughly a 3-4 month break in your training due to allocation challenges between July 2024 and November 2024."*

9. In the Response to the appeal, dated 10<sup>th</sup> June 2025, the Respondent provides the following reasons for refusing the Appellant's application for a third licence:
  - a) The purpose of the provisions governing the issue of licences is to afford applicants the opportunity to give instruction to members of the public whilst working towards registration as an Approved Driving Instructor. However, the system of issuing licences must not be allowed to become an alternative to the system of registration.
  - b) The licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow recipients up to six months experience of instruction. This provides a very reasonable period within which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition.
  - c) The Appellant has already had the benefit of two trainee licences covering a period of 12 months. Additionally, as the Appellant applied for a third licence before the expiry of the second, that licence has remained in force until the determination of this appeal, permitting him to continue to give paid instruction.
  - d) Since passing his driving ability test (Part 2), the Appellant has failed the instructional ability test (Part 3) twice and cancelled one test booked for 15<sup>th</sup> February 2024.
  - e) Despite this ample time and opportunity, the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor.

- f) It is not necessary to hold a trainee licence to sit the Part 3 assessment, nor is it essential for the Appellant to give professional tuition under licence in order to obtain further training. By way of example, he could attend a training course, or study and practise with an Approved Driving Instructor, or give tuition on his own, provided that he does not receive payment of any kind for this.
10. Although not submitted as a reason for refusing the Appellant's trainee licence, the Registrar states that the Appellant has his final attempt at the instructional ability test (Part 3) booked for 4<sup>th</sup> August 2025.

## **Legal Framework**

11. The circumstances in which a person may be granted a trainee licence are detailed within Section 129 of the Road Traffic Act 1988 ("The Act"), and the Motor Cars (Driving Instruction) Regulations 2005 ("the Regulations"). The granting of a trainee licence permits applicants to provide instruction for payment before they are qualified and placed on the Register of Approved Driving Instructors. The granting of a trainee licence under section 129(1) of the Act is:

*"for the purpose of enabling a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing such part of the examination...as consists of a practical test of ability and fitness to instruct."*

12. To qualify as an Approved Driving Instructor, applicants must pass the 'Qualifying Examination', comprised of three parts: the written examination ('Part 1'); the driving ability and fitness test ('Part 2'); and the instructional ability and fitness test ('Part 3').
13. The whole qualifying examination must be completed within two years of passing the Part 1 examination, and whilst there is no restriction on the number of attempts a candidate may take the Part 1 qualifying examination, Parts 2 and 3 permit only three attempts at each. Should an applicant fail to comply with these requirements, the entire examination would need to be retaken (i.e. Parts, 1, 2 and 3). However, they would not be permitted to retake any part of the examination until 2 years after the date when they passed their Part 1 examination – *see Regulation 3(3) of the Regulations*.
14. Upon passing Part 2, an applicant may be granted a trainee licence. The granting of a trainee licence permits applicants to provide driving instruction for payment before they are fully qualified and on the Register of Approved Driving Instructors (s.123(1) of the Act). It is possible to qualify as an Approved Driving Instructor without having held a trainee licence.
15. Section 129(3) of the Act permits the Registrar to *"refuse to grant a licence under this section to an applicant to whom such a licence has previously been issued"*. However, he must give written notice stating that he is considering the refusal of the application and give particulars of the grounds upon which he is considering this (s.129(7) of the Act). Once notice of this consideration has been given, section 129(8)(c) provides that:

*“before deciding whether or not to refuse the application, the Registrar must take into consideration any such representations made within that period.”*

16. The period referred to within that section is a period of 14 days from the date when notice was given by the Registrar (s.129(8)(a) of the Act), and the Registrar is not permitted to decide to refuse the application for the licence until after this period has come to an end (s.129(8)(b)).

17. Section 129(6) provides as follows:

*“Notwithstanding any provision of regulations made by virtue of subsection (5) above prescribing the period for which a licence is to be in force, where a person applies for a new licence in substitution for a licence held by him and current at the date of the application, the previous licence shall not expire–*

*(a) until the commencement of the new licence, or*

*(b) if the Registrar decides to refuse the application, until the time limited for an appeal under the following provisions of this Part of this Act against the decision has expired and, if such an appeal is duly brought, it is finally disposed of.”*

18. The Appellant’s right of appeal and the powers of the Tribunal to determine this appeal are set out within s.131 of the Act. The Tribunal may make such an order as it thinks fit.
19. 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 Parliament with making such decisions.
20. It is for the Appellant to show, on the balance of probabilities, that the Respondent’s decision was wrong.

## **Discussion and Conclusions**

21. The Appellant has provided evidence of there being a three to four month break in his training by way of an email from the AA Driving School, dated 5<sup>th</sup> February 2025, as a result of his trainer stepping down from his role and the school’s search to find him another instructor. The email states that this break was between July and November 2024 and that it was caused by allocation challenges during this period. However, one of the Appellant’s Part 3 tests took place on 18<sup>th</sup> July 2024, which was of course during this period. He failed that test, and subsequently went on to take a further test, some months later, on 2<sup>nd</sup> January 2025, which he again failed. Both of those tests were within the period covered by his second licence, which, but for this appeal, would have expired on 14<sup>th</sup> January 2025. However, as a result of this appeal, his second licence continues to run until the determination of this appeal. In that regard, he has had the additional benefit of nearly a full further 6 months in which to

gain the necessary practical experience of tuition, with a view to passing his Part 3 test. Of course, had he been granted a third licence, it would expire on 14<sup>th</sup> July 2025.

22. In addition to the abovementioned tests which he did take, the Appellant had cancelled a Part 3 test on 15<sup>th</sup> February 2024, roughly five months before he went on to take his first Part 3 test. Whilst it is understood that there may be a significant wait involved when it comes to booking Part 3 tests, the Appellant managed to book a total of four tests within the period covered by his two trainee licences.
23. It is understood that the Appellant has his final Part 3 test booked for 4<sup>th</sup> August 2025, which, pass or fail, will result in him either being placed on the Register of Approved Driving Instructors or being required to start the entire qualifying examination from the beginning (i.e. Parts 1, 2 and 3). However, he would not be able to restart the process until 2 years have elapsed since he passed his part 1 test (i.e. 14<sup>th</sup> July 2025). Should he fail to take that test, then he will be required to complete his final Part 3 test by 19<sup>th</sup> September 2025, which would be the end of the two-year period within which he is required to complete all elements of the qualifying test.
24. Despite it being a common understanding, it is not the case that individuals are entitled to the continual renewal of trainee licences until they pass their Part 3 test. The six-month period of such licences is set on the basis that this is an adequate period to prepare for the Part 3 assessment, as it is not necessary to hold a trainee licence in order to either prepare for or take the Part 3 test. It is submitted by the Respondent that six months is a very reasonable period within which to reach the qualifying standard in the examination, and in particular, to obtain any necessary practical experience in tuition. Here, the Appellant has had an extension to the licence period by the granting of a second trainee licence, affording him twelve months within which to obtain further practical training, and although there had been a gap in his training, he then went on to take a further Part 3 test, albeit he failed it.
25. I have regard to the submission that it was not Parliament's intention that candidates should be issued licences for as long as it takes them to pass the examination, and that that the trainee licence system must not be allowed to become an alternative to registration as a fully qualified Approved Driving Instructor. I am not persuaded, on the balance of probabilities, that the Respondent was wrong in deciding to refuse the Appellant's application for a third licence.
26. The appeal is dismissed.

Signed:

Judge Armstrong-Holmes

Date:

4<sup>th</sup> July 2025