



Neutral citation number: [2024] UKFTT 001150 (GRC)

Case Reference: D/2024/340

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

**Determined at an oral hearing
on 19th December 2024**

Decision given on: 02 January 2025

Before

**HHJ DAVID DIXON
RICHARD FRY
MARTIN SMITH**

Between

ADRIAN WHITING

Appellant

and

**THE REGISTRAR OF APPROVED
DRIVING INSTRUCTORS**

Respondent

Decision: The appeal is adjourned to a date to be fixed with directions

REASONS

Background to Appeal

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made on 5th July 2023 to remove his name from the Register.
2. The Registrar’s reasons for refusal, in summary, were that the Appellant had behaved in an unacceptable way towards DVSA staff such that he was no longer fit and proper to be on the Register. The Registrar took the view the behaviour 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.
4. The case initially came before the Tribunal on 21st August 2024, but there was a lack of detail of the allegations and of other pertinent matters such that the hearing then listed was adjourned with directions. The revised bundle for today’s hearing does not seem to have changed. The Registrar has failed to provide any of the materials sought or indeed explained why not. To say this is unhelpful is generous.

Appeal to the Tribunal

5. The Appellant’s Notice of Appeal, dated 31st July 2023, indicates that “a number of comments that were not intended to be taken seriously or at face value” have been blown out of proportion. He alleges that there are no recordings or indeed proper evidence of the relevant issues and it is unfair as a result to rely upon hearsay to determine such an important issue that will affect his career.
6. He further denies that in a second communication he made similar threats to harm the driving examiner to his GP. He suggests comments have been taken out of context knowingly.
7. The Respondent submitted a Response indicating that the Appellant spoke to the Manager of a local Test centre indicating that he would run over a particular driving examiner, who he referred to as a “c***,” and said she was someone who he hated. He described how he would inflict further harm with a baseball bat until she was dead and he wouldn’t care if he went to custody over the same. He had already been warned about his behaviour previously.
8. The Appellant told the Registrar that the particular examiner, Rachel Lincoln, had a grievance against him and was actively trying to destroy his livelihood. He suggests she had been spreading malicious lies about him for some time now.
9. It seems matters were referred to the police and bail conditions preventing the Appellant contacting Ms Lincoln were put in place. A decision was taken to await the police investigation.
10. Subsequently the Appellant’s GP contacted the police indicating further threats had been made to Ms Lincoln. The Registrar was apprised of the same and came to the view that the combined situation was too serious and the Appellant had to be removed.

Mode of Determination

11. The case was listed for oral hearing, and heard via the CVP system.

12. The Appellant was unrepresented. The Respondent was represented by Mr Davis of the DVSA Appeals team.

13. The Tribunal considered a bundle consisting of 37 pages.

Hearing

14. Mr Davis was asked to provide the details directed to be ascertained by the Registrar at the last hearing. He indicated that the Registrar did not have access to the CPS file and therefore did not have it. He was unable to say whether it had been requested from the CPS.

15. Mr Davis was asked for Mr Drummond's report, and he indicated he did not have it.

16. Mr Davis was asked for details of the complaints made by the Appellant regarding Ms Lincoln. He said he did not have them as a different team would deal with those.

17. Mr Davis was asked for details of any warnings given to the Appellant. He referred to the letters in the bundle, but had nothing more to assist as different teams would deal with that information.

18. The Tribunal indicated to Mr Davis that a failure to provide any assistance to the Tribunal in accordance with directions ordered by the Tribunal was less than helpful.

19. Mr Whiting indicated that his appeal against the malicious communication matter had unfortunately had to be adjourned, and was now listed on 7th February 2025 at 10am. He indicated that he only received that date late last week.

20. The Tribunal adjourned briefly and came to the view that it regrettably did not have time to simply explore matters with Mr Whiting and therefore was in the same position as before. The Tribunal regrettably therefore felt that the hearing had to be adjourned again.

21. Whilst the appeal issue was a factor, the Tribunal was of the view that it might have been able to make progress but for the complete failure of the Registrar to assist. The Registrar's failure to act was as close to, if not actually, contemptuous as one might ever see. If the Appellant had been represented the Registrar would have been asked to explain why the wasted costs of the hearing shouldn't be borne by the Registrar. Whilst the Tribunal is not going to engage in contempt proceedings and doesn't order wasted cost the Registrar should understand it was a very close decision not to.

22. Having said all of the aforesaid the Tribunal therefore repeats the earlier directions to be complied with under the revised dates:

Directions, as ordered previously

23. The Tribunal needs to know a good deal more about the circumstances of this case and its background and as a result orders the following be provided **by the Registrar**:

- a. Details of the exact conviction the Appellant was convicted of;
- b. A copy of the CPS bundle, including witness statements and interviews, that were provided to the Court re the conviction;
- c. Copy of any report prepared by Colin Drummond into allegations made by or about Rachel Lincoln;
- d. Details of any complaints made by the Appellant about Ms Lincoln, and any results from the same;

- e. Details of any issues affecting Ms Lincoln's ability to examine at any of the "local" test centres to the Appellant;
- f. Details of the warnings given to the Appellant, detailing what lead to the same;
- g. Any other relevant information.

24. The Appellant also needs to provide further materials:

- a. A statement setting out the chronology of events, what happened, what he said to different people and any other actions he has taken re Ms Lincoln;
- b. Details of any relevant medical position;

25. All of the aforesaid to be supplied to the Tribunal by Friday 14th February 2025.

26. The Appellant to indicate by 21st February 2025 the result of the appeal hearing, or an indication when it is to be heard if the planned hearing is vacated. In the event that the Crown Court Appeal is unsuccessful the Appellant is asked to inform the Tribunal whether this Appeal is maintained.

27. If the Appellant indicates that the Crown Court Appeal was successful, then the Registrar is asked to indicate whether the decision to remove the Appellant from the Register is maintained. The Registrar must reply by Friday 28th February 2025.

28. On the basis that this remains an appeal before the Tribunal it is relisted for the first available date after 1st March 2025 with a time estimate of ½ day. The extra listing is ordered to allow for Mr Whiting to give full evidence of everything concerned if nothing else is forthcoming. It is perhaps best listed at 2pm for the afternoon. If at all possible Mr Smith and Mr Fry should be kept as panellist to ensure a degree of consistency to the case. If HHJ Dixon cannot be accommodated a new chair to be appointed to deal with this case.

29. Save those directions the case is adjourned.

(Signed)

**HHJ David Dixon
Richard Fry
Martin Smith**

DATE: 19th December 2024