



Neutral citation number: [2025] UKFTT 00315 (GRC)

Case Reference: FT/D/2024/0640

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(TRANSPORT)**

**Heard by Cloud Video Platform
On: 24 February 2024**

Decision given on: 13 March 2025

Before

**JUDGE DAMIEN MCMAHON
TRIBUNAL MEMBER DAVID RAWSTHORN
TRIBUNAL MEMBER MARTIN SMITH**

Between

ROBERT PATCHELL

Appellant

-and-

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Representation:

For the Appellant: Neither the Appellant, nor any representative on his behalf, appeared.
For the Respondent: Mr. D. Russell.

Decision:

The appeal is Dismissed. The Decision of the Respondent made on 29 May 2024 is confirmed.

REASONS

1. This appeal was listed for oral hearing by CVP on 24 February 2025 for oral hearing by CVP at 15.00, as directed by the GRC Registrar. The Appellant did not appear nor was there any contact from him. The clerk attempted to telephone him on four occasions but the calls went straight to voicemail. The Tribunal decided to proceed in the Appellant's absence at 15.15. Oral evidence and submissions were made on behalf of the Respondent by its representative.
2. The Appellant appealed against a decision of the Respondent dated 29 May 2024 to remove the Appellant's name from the Register of Approved Driving Instructors ('the Register'), pursuant to section 128(6) of the Road Traffic Act 1988 ('the Act'), having taken account of representations made by the Appellant by email received on 30 April 2024, on the basis that he ceased to be a fit and proper person to have his name remain on the Register due to the contents of a complaint made against him by a pupil of the Appellant.
3. The Appellant submitted an appeal on 11 June 2024 against the Respondent's said decision on the following grounds, in terms:
 - that he had made a 'little mistake' in all his years as an Approved Driving Instructor 'ADI') and should be given 'another opportunity';
 - that he had a diary full of pupils who relied on him weekly;
 - that working as an ADI was the only source of income for himself, his wife and two young children [now aged 14 years and 10 years];
 - that he had worked hard over years and had built up his business from nothing showing, therefore that he was a fit and proper person to have his name remain on the Register;
 - that he would never get into this situation again;
 - that he intended to expand his business but, if not on the Register, could not do so;
 - that he was 'good as his job' as an ADI.
4. While all of the evidence, and submissions, both written and, in the case of the Respondent, written and oral, was carefully considered by the Tribunal, it did not alter the Tribunal's decision to dismiss this appeal as the said evidence and submissions before the Tribunal were not of sufficient persuasive value to do otherwise.
5. In his said representations to the Respondent before it made the decision under appeal, the Appellant stated that he had been an ADI for nearly 10 years; that he was very good at his job, having 250 pupils over the years and that he never touched, or would touch, a pupil inappropriately; that he had built a very good

business over the years; that his good reputation would not have survived if the complaint was true; that he would not jeopardise his business; that he worked hard daily teaching pupils; that he would lose his house, his car, his family and all things important to him if his name was removed from the Register; that the message he had sent to the complainant 'looked absolutely terrible' and it 'would never happen again'.

6. The basis of the Respondent's decision was that the Appellant did not fulfil the criteria to be a 'fit and proper person', as required by s.128(2A)(f) of the Act by reason of the contents of the complaint made against him by a pupil concerning his behaviour that was held to be inappropriate.
7. Conditions require that an ADI, to have his name remain on the Register (the Appellant in this case), to be a 'fit and proper person'. This requires account to be taken of an applicant's character, behaviour and standards of conduct. This involves consideration of all material matters, including convictions, and other relevant behaviour, placing all matters in context, and balancing positive and negative features as appropriate.
8. An appeal to this Tribunal against the Respondent's decision proceeds as an appeal by way of re-hearing, that is, the Tribunal makes a fresh decision on the evidence before it. The Tribunal must give such weight as it considers appropriate to the Respondent's reasons for its decision as the Respondent is the regulatory authority tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Respondent's decision-making process.
9. The Respondent, in its Response document, dated 27 January 2025, confirmed that the Appellant's name had been first entered onto the Register in January 2016 and the said entry would expire on 31 January 2028. The Respondent removed the Appellant's name from the Register following an investigation of the said complaint received on 25 February 2024. The Respondent submitted that its primary role was to ensure that driving instruction provided by ADIs met the required standards and met, and continued to meet, the 'fit and proper person' criterion; that ADIs were expected to adhere to professional standards and business ethics when dealing with pupils, noting the contents of the voluntary Code of Conduct for ADIs. The Respondent confirmed that, as here, where a complaint concerning the behaviour of an ADI had been received, it is referred to the Respondent's Counter Fraud and Investigation Team to conduct an investigation. This was done here and the investigation report was before the Tribunal. The Appellant denied many of the complaints to the investigator and, in particular, asserted that the messages he sent to the complainant did not request her to send him images of herself and that this was 'taken out of context'. The Respondent acknowledged that the Appellant had not been convicted of any criminal offence arising out of the complaint, but had pursued a course of conduct that was not appropriate to a professional relationship between an instructor and a pupil, the conditions for entry onto, or remaining on, the Register extending beyond instructional ability; that driving instruction is a responsible and demanding task that should only be entrusted to those with high standards; that the Respondent would be failing in its duty if it were to permit an ADI who conducted himself in the manner alleged by the complainant to remain on the Register; that regard must be had to the Appellant's character, behaviour and

standards of conduct and that the good name of the Respondent would be tarnished and public confidence undermined if it became generally known that the Appellant's name was allowed to remain on the Register and, finally, it would be offensive to other ADIs and aspiring ADIs, who had been scrupulous in observing professional behaviour, if the Appellant's alleged conduct was ignored.

10. The Tribunal had sight of the complainant's written complaint dated 25 February 2024 and written witness statement to the Respondent's investigator; various screen shots sent to the complainant by the Appellant and the Respondent's investigator's record of an interview with the Appellant on 23 April 2024.
11. In his oral evidence and submissions, the Respondent's representative, confirmed that the complaint concerned sexual comments by the Appellant; physical touching of the complainant by the Appellant and messages of a sexual nature. He stated that the Respondent was very concerned, too, at the Appellant's messages to the complainant after her driving test; that the Appellant appeared to accept the inappropriateness of his behaviour; that he had broken the ADI voluntary Code of Conduct; that his account, to the extent that he sought to deny or minimise his conduct, was not credible on the balance of probabilities and his behaviour was simply not acceptable. The Respondent's representative confirmed that the complaint's complaint would have been shown to the Appellant. He confirmed that a previous complaint concerning the Appellant's behaviour had been unsubstantiated and it would not be normal practice that an Appellant would have been notified of a previous unsubstantiated complaint.
12. As a matter of law, the standing of the Respondent could be substantially diminished, and the public's confidence undermined, if it were known that a person whose name was included in the Register when they had demonstrated behaviours substantially material to the question of fitness. This can be in respect of behaviour pertaining to matters of responsibility, trustworthiness; professionalism and prudence; indeed, it would, indeed, be unfair to others who have been scrupulous in their behaviour, and in observing the law, if such matters were ignored or overlooked.
13. The judgment of the Court of Appeal in *Harris v. Registrar of Approved Driving Instructors* [2010] EWCA Civ 808 confirmed that -

“..... 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, ... ”.
14. In reaching the Decision, the Tribunal took into account all of the evidence and submissions received, written and oral, of both parties and considered all of the circumstances relevant to this appeal.
15. The Tribunal must bear in mind the significant importance which attaches to the integrity of the Register. For the public to have trust in it, the Respondent must act

in a way that encourages belief that those on it have high standards. Allowing those who do not meet those standards would undermine the trust placed in it with serious consequences for those who do maintain the necessary high standards. These are matters of wider, and public interest, which attract significant weight even where, as in this case, being refused entry onto the Register, potentially may have significant consequences for the Appellant.

16. The Tribunal had no hesitation in dismissing this appeal and found it proportionate to do so. The Tribunal decided that the behaviour of the Appellant fell far short of that expected of a professional ADI and, indeed, broke the voluntary Code of Conduct that outlined the expected standards of behaviour of a professional ADI.
17. Taking all these factors into account and, noting that the Tribunal needs to maintain public trust in the Register and to prioritise consumer protection over the interests of the Appellant as an individual driving instructor, the Tribunal concluded that the Appellant, at the time of this appeal, was not a fit and proper person to have his name remain on the Register.
18. Accordingly, the appeal is dismissed.

Signed: *Damien McMahon*,

Tribunal Judge

Date: 11 March 2025