



Case Reference: FT/D/2025/0290

Neutral Citation Number: [2025] UKFTT 01013 (GRC)

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

Decided without a hearing  
**Heard on: 1 August 2025**  
**Decision given on: 27 August 2025**

**Before**

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

**Between**

**DANNY WATERALL**

Appellant

**and**

**THE REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**Decision:** The Appeal is Dismissed

## **REASONS**

1. This Appeal is brought by the Appellant pursuant to section 131(2)(a) Road Traffic Act 1988 ("the Act"). It relates to a Decision made by the Respondent ("the Registrar") dated 18 February 2025 ("the Decision") to refuse the Appellant's application for a third (trainee) Licence.
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. The Appeal was decided without a hearing as agreed by the parties and allowed by the Tribunal by rule 32(1) of the Tribunal Procedure (First -Tier Tribunal) (General Regulatory Chamber) Rules 2009 ("2009 Rules") and as provided for by the Directions of 4 July 2025.

### Law

4. The Appellant's name is not on the Register of Approved Driving Instructors ("the Register") and he is therefore prohibited from giving paid driving instructions by section 123 (1) of the Act unless he holds a Licence issued by the Registrar pursuant to section 129(1) of the Act and in accordance with The Motor Cars (Driving Instruction) Regulations 2005.
5. To qualify as an Approved Driving Instructor ("ADI") an applicant is required to pass a Qualifying Examination. This is in 3 parts namely part 1 being a written examination, the driving ability and fitness test in part 2 and the instructional ability and fitness test in part 3. Three attempts are allowed at each part. The whole examination (parts 1-3 inclusive) must be completed within two years of passing part 1. If this is not done then the whole examination has to be retaken. A Licence relates to giving paid instruction and is not needed to be able to take part 3.

6. A Section 129(1) Licence may be granted by the Registrar once an applicant has passed part 2. This is granted:-

*"...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 referred to in section 125(3)(a) as consists of a practical test of ability and fitness to instruct."*

7. By section 129(3) of the Act:-

*"The Registrar may refuse to grant a licence under this section to an applicant to whom such a licence has previously been issued."*

8. By section 129(8)(c) of the Act:-

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

9. By section 129(4) of the Act if such an application is refused the Registrar must give notice of that in writing to the applicant and provide the grounds of refusal.

10. By section 129(6) of the Act:-

*"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."*

### **Role of the Tribunal**

11. Section 131(2) of the Act provides:-

*"A person who is aggrieved by a decision of the Registrar – (a) to refuse an application for the grant of a licence under this Part of this Act...may appeal to the First-tier Tribunal"*

12. 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.*

13. Section 131(4A) of the Act provides that, in addition, if the Tribunal is provided with evidence that was not before the Registrar at the relevant time it may remit the matter back to the Registrar.

14. In considering the Appeal the Tribunal must 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."*

15. 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 being the person tasked 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.

16. The Appellant has the burden of proof in satisfying the Tribunal that the Registrar's decision was wrong and we reach our conclusions on the balance of probabilities.

### **Evidence and matters considered**

17. For this Appeal we had and considered the content of a Bundle of 20 pdf pages. In this Decision page numbers indicated by their inclusion in brackets refer to pages of the Bundle.

### **Chronology**

18. In summary:-

(a) the Appellant passed his part 1 test on 2 September 2023 (19) and part 2 on 1 December 2023 (19).

(b) he was first granted a Licence on 21 January 2024 (17) and then a second Licence on the 22 July 2024 (14).

(c) he took and failed his part 3 test on 10 June 2024 and 10 October 2024. He booked but appears to have cancelled two further part 3 tests on 14 February 2024 and 12 May 2024 (19).

(c) on 9 December 2024 the Appellant applied for a 3rd Licence to start on 22 January 2025 (15).

(d) the Appellant was notified on 9 January 2025 (16) that the Registrar was considering refusal of the application.

(e) the Appellant made representations on 21 January 2025 (17).

(f) on 18 February 2025 (18 & 1) the Registrar notified the Appellant that his representations had been considered but the Decision was to refuse the application for a 3rd Licence.

19. We noted that the Appellant has a further part 3 test booked for 21 August 2025 (19).

### **The Appeal**

20. This Appeal was commenced on 2 March 2025 (2-10). The Registrar provided a Response on 18 July 2025 (11-13).

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

21. The Registrar's position is set out in his letter of 9 February 2025 (16), the Decision (18) and the Response (11-13). In the Response the Registrar said that the reasons for refusal were:-

*"(i) the purpose of the provisions governing the issue of licences is to afford applicants the opportunity of giving instruction to members of the public whilst endeavouring to achieve registration. The system of issuing licences is not and must not be allowed to become an alternative to the system of registration;*

(ii). *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 up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition. The Appellant has already had two trainee licences which cover a period of 12 months. Moreover, by virtue of the Appellant having applied for a third licence before the expiry date of the second, that licence has remained in force to the present time and will allow him to continue to give paid instruction until determination of the appeal;*

(iii). *since passing his driving ability test the Appellant has failed the instructional ability test twice and cancelled two more such test(s) booked for 14 February 2025 and 12 May 2025. (Annex A). Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor; and*

(iv). *the refusal of a third licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. He does not need to hold a licence for that purpose, nor is it essential for him to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on his own (provided that he does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all."*

### **The Appellant's position**

22. This is set out in his representations and his Appeal. In his representations of 21 January 2025 (17) he says in summary:-

(a) that when he got his 1st Licence he remained working full time until 20 June 2024 to be more certain being an ADI was the right thing for him.

(b) he had a child born prematurely in November 2023.

(c) the feedback he got gave him the confidence to resign from his job in June 2024 and focus on his route to becoming an ADI.

(d) he has invested effort and is performing well.

23. He said for example

*"I would greatly appreciate it if you could grant me a new trainee licence so that I can have a little more time before taking my final attempt at the part three test"*

24. In his Appeal he added a reference to a "final" test to be taken on 12 May 2025 (which we note (19) was cancelled). He also said (8) for example:-

(a) he faced long waiting times to schedule a test

(b) there had been an issue for him as he has had to sell his family car which as an AA franchisee hinders his ability to prepare for a test.

25. He concluded his Appeal by saying:-

*"...I am concerned about the potential impact on my student base. Losing my trainee licence would not only impede my ability to work and practice but could also jeopardise my franchise with the AA and students I currently serve. I am fully committed to my role and feel I'm ready to pass the part 3 test now but have to wait until 12 May for my test".*

### **Review**

26. We took account and gave weight to the Registrar's view. The Registrar did consider the representations made and there was no material information provided to us about which the Registrar was not aware when making the Decision. We noted that:-

(a) despite the 3rd application being refused the Appellant was able to continue on as a paid driving instructor pending the outcome of this Appeal by section 129(6) of the Act itself an additional period to the date of this Appeal of over the extra 6 months sought.

(b) while he did not leave his job until 20 June 2024 he booked and took (but failed) his part 3 first on 10 June 2024.

(c) he issued the Appeal to be able in his view to make a "final attempt" at the part 3 test on 12 May 2025 but this was cancelled and a further test is booked for 21 August 2025.

(d) as notified to him by the Registrar in the refusal letter, that refusal of the Licence did not prevent the Appellant taking the ADI test and one is booked for 21 August 2025 just before the second anniversary of passing part 1.

(e) he has taken and failed part 3 twice and booked but cancelled two further tests.

27. We have sympathy with the Appellant as regards the premature birth of his child in November 2023 and do understand why he delayed leaving his previous job. However the Appellant has had the benefit of a trainee licence since 21 January 2024 (now a period of just over 18 months), while tests may have been hard to get he has had four opportunities to take and pass the part 3 test and more than 6 months has now elapsed since he asked for a 3rd 6 months Licence.

28. While we note the Appellant's concern for pupils we agree with the Registrar that the purpose of a Licence is to give applicants the opportunity of giving instruction and it is not an alternative to the system of registration. The Appellant has had adequate time to pass part 3.

### **Decision**

29. For the reasons above the Appellant has not persuaded us that the Registrar's decision was wrong and accordingly the Appeal is dismissed.

**Signed Judge Heald**

**Date: 20 August 2025**