



Neutral citation number: [2024] UKFTT 00455 (GRC).

Case Reference: D/2024/74

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

**Determined at a panel paper hearing.  
on 30<sup>th</sup> May 2024**

**Before**

**HHJ DAVID DIXON  
DAVID RAWSTHORN  
STUART JAMES**

**Between**

**GULAMHUSEN MANGERA**

Appellant

**and**

**THE REGISTRAR OF APPROVED  
DRIVING INSTRUCTORS**

Respondent

**Decision:** The appeal is dismissed, and the Registrar's decision remains.

## REASONS

### *Background to Appeal*

1. This appeal concerns a decision of the Registrar of Approved Driving Instructors (“the Registrar”) made on 6<sup>th</sup> December 2023 to refuse to admit his name to the Register.
2. The Registrar’s reasons for refusal, in summary, were that the Appellant had committed an offence of using his mobile phone whilst in control of a car and received 6 penalty points. The Registrar took the view the offending was serious and allowing him to remain on the Register would undermine confidence in it, so determined the Appellant must be refused. The fact that the Appellant had not told the Registrar of the offence further reinforced the decision.
3. The Appellant now appeals the Registrar’s decision.

### *Appeal to the Tribunal*

4. The Appellant’s Notice of Appeal, dated 26<sup>th</sup> December 2023, indicates that he held a responsible banking job for a number of years and transferred to being an ADI in 2011. He provided details of tragic events that befell him and his family during COVID and of the psychological impact that understandably had upon him. Part of the impact of the tragic events was that the Appellant lost his ADI status and had to re-register. During a lesson (not for profit) he was stopped by the police and the Appellant was noticed to have a mobile phone in his hand. (In the email to the Registrar that the Appellant provided, he indicates that he took an emergency call.) He was given a fixed penalty as a result. The Appellant indicates he paid the fine and thought that was the end of things. It wasn’t until he tried to register his ADI status he realised that he had been endorsed.
5. The Appellant argues if he had been a full ADI the phone incident wouldn’t have happened. He indicates he has an exceptional pass rate and seeks to be readmitted to his registered status, he maintains that he is fit and proper. He also indicates that at 65 years of age losing his ADI position would have financial complications.
6. The Appellant provided details of his ill health and driving record separately.
7. The Respondent failed to submit a Response. The Tribunal was somewhat surprised by this and more than a little concerned that basic steps in an important matter like this were “overlooked” by the Registrar. In this case the Tribunal felt able to consider the issues, in others a very different position could apply.

### *Mode of Determination*

8. The case was listed for paper hearing and the Tribunal met via the video enabled hearing system to discuss the case. The Appellant wished for a paper determination and the Tribunal in the circumstances of this particular case, applying the Tribunal Rules, decided such a procedure was fair and appropriate.

9. The Tribunal considered a bundle of evidence consisting of the decision letter and the notice of Appeal.

### *The Law*

10. Conditions for entry and retention on the Register require the Applicant to be and continue to be a “*fit and proper person*” to have his name on the Register of Approved Driving Instructors – see s. 125 (3) and s. 127 (3) (e) Road Traffic Act 1988<sup>1</sup>.
11. The Registrar may take the view that a person no longer meets this requirement where there has been a change in circumstances. The burden of showing that a person does not meet the statutory criteria rests with the Registrar.
12. In *Harris v Registrar of Approved Driving Instructors* [2010] EWCA Civ 808<sup>2</sup>, the Court of Appeal described the “*fit and proper person*” condition thus:

*“..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, including consideration of the implications of any convictions of an applicant or a registered ADI. This is why there are stringent disclosure requirements”.*

13. An appeal to this Tribunal against the Registrar’s decision proceeds as an appeal by way of re-hearing i.e. the Tribunal stands in the shoes of the Registrar and take a fresh decision on the evidence before it. The Tribunal must give such weight as is considered appropriate to the Registrar’s reasons<sup>3</sup> as the Registrar is the person tasked by Parliament with making such decisions. The Tribunal does not conduct a procedural review of the Registrar’s decision-making process.

### *Conclusion*

14. The Tribunal considered carefully all the papers before it.
15. Here the Appellant used a mobile phone whilst in control of a car; worse still he did so whilst he was instructing a learner driver. Such conduct will always be looked at extremely seriously.

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/1988/52/part/V/crossheading/registration>

<sup>2</sup> <http://www.bailii.org/ew/cases/EWCA/Civ/2010/808.html>

<sup>3</sup> See *R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court* [2011] EWCA Civ 31. <http://www.bailii.org/ew/cases/EWCA/Civ/2011/31.html>. Approved by the Supreme Court in *Hesham Ali (Iraq) v Secretary of State for the Home Department* [2016] UKSC 60 at paragraph 45 – see <https://www.supremecourt.uk/cases/docs/uksc-2015-0126-judgment.pdf>.

16. The Tribunal reflected on the Appellant's character, the alleged one off nature of this matter and the implications of a removal. The Tribunal found great difficulty accepting the argument that the offence would not have happened if the Appellant had held full ADI status at the time. The Appellant had been an ADI for many years. For the reasons explained he had to re-register, but that shouldn't have affected his approach to vehicle control.
17. Further to this the Appellant's suggestion that he did not understand that endorsement followed, for using a mobile phone whilst in control, showed either a lack of crucial driving law knowledge or was an attempt to mislead. Neither put the Appellant in a good position.
18. The Registrar is charged with the duty of ensuring that only those of appropriate standing are on the Register, that those who are on it understand their responsibilities, and can show they not only know the rules but follow them. Here, if the Appellant was allowed to be readmitted to the Register it would undermine all of that. It seems to the Tribunal that it would undermine confidence if the Appellant was allowed to reregister. The Tribunal comes to the view the Registrar had no option but to refuse the application and therefore the decision was correct.
19. The Tribunal considered with care the proportionality of its decision when the Appellant had indicated the consequences financially that would befall him, but came to the view, as indicated, that the offending for an ADI was so serious that refusal was still justified.
20. This appeal is therefore dismissed with immediate effect.

**(Signed)**

**HHJ David Dixon  
David Rawsthorn  
Stuart James**

**DATE: 30<sup>th</sup> May 2024**