



Neutral citation number: [2024] UKFTT 001030 (GRC)

Case Reference: FT/D/2024/0690

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

Choose jurisdiction.

Heard on: 12 November 2024.

Decision given on: 21 November 2024

Before

Judge Brian Kennedy KC

Between

MARC HINTON

and

THE DRIVER AND VEHICLE STANDARDS AGENCY

Appellant

Respondent

Decision on the Papers: The appeal is Dismissed

REASONS

1. Section 123(1) of the Road Traffic Act 1988 ('the Act') prohibits the giving of instruction paid for by or in respect of a pupil in the driving of a motor car unless the instructor's name is on the Register of Approved Driving Instructors, or he is the holder of a current licence issued under Section 129(1) of the Act.
2. The Appellant is not now and has never been on the said Register.

3. A licence under Section 129 of the Act was granted to the Appellant for the purpose of enabling him to gain practical experience to undergo the examination of his ability to give instruction in the driving of motor cars and was valid from 29 January 2024 to 28 July 2024.
4. On 08 July 2024 the Appellant applied for a second licence. **(D2)** By way of an email dated 15 July 2024 **(D3)** the Appellant was notified that the Respondent was considering the refusal of his application for a second licence. By way of an email received on 19 July 2024 **(D4)** the Appellant made representations. He apologised for not completing his training and said his ADI 21AT training form would be sent as soon as he has completed the additional hours. He explained his only reason for applying for a second pink licence was that he was unable to get a a Part 3 test within the 6 months allowed. However he also indicated a reason was he had managed to get test on 26 September 2024.
5. After considering these representations the Respondent decided to refuse the Appellant's application. He has failed to comply with the conditions of his first licence as the training objectives on his ADI 21AT training record form **(D5)** were not completed within the first three months of the licence period. The Respondent gave him notice of their decision in accordance with Section 129(4) of the Act by an email dated 07 August 2024 **(D6)**.
6. The reasons for the Respondents decision were summarised as follows:
 - (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. Moreover, by virtue of the Appellant having applied for a second licence before the expiry date of the first, 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 yet to take the instructional ability test. Regrettably, DVSA cancelled one such test booked for 26 September 2024 **(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 second 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.

7. It was noted that the Appellant had his first attempt at the instructional ability test booked on hold, awaiting a test date and was given on 26 September 2024.
8. I am not persuaded that the Appellant has good reason or justification for disputing the Respondents decision and I must refuse the appeal.

Signed: Brian Kennedy KC

Date:13 November 2024.