

Neutral Citation Number: [2026] UKUT 385 (AAC)
Appeal no. UA-2026-000470-GDI

IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER

Between:

Faisal Zafar Chaudhry

Appellant

and

Registrar of Approved Driving Instructors

Respondent

Before: Upper Tribunal Judge Johnston

Decision date: 02 October 2026
Decided on consideration of the papers

Representation:

Appellant: Represented himself
Respondent: Represented by Andrew Heard, Approved Driving Instructors, Appeals Manager

On appeal from: the First-tier Tribunal (General Regulatory Chamber)

SUMMARY

101.8 Fit and proper person – motoring offences.

The First-tier Tribunal erred in law by failing to make a finding on a relevant matter, failing to address the evidence of the appellant and his witness, and failing to address the absence of the witness in breach of the overriding objective in rule 2 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009.

DECISION

1. Mr Chaudhry's appeal is allowed.

2. The First-tier Tribunal decision dated 30 January 2026 (heard under reference FT/D/2025/0809/FPP) is set aside. The case is remitted to the General

Regulatory Chamber of the First-tier Tribunal, to be reheard in accordance with the directions at paragraph 23 of this decision.

REASONS FOR DECISION

Introduction

3. The appellant, Mr Chaudhry, appeals to the Upper Tribunal with my permission dated 18 June 2026. That permission was given on the papers.

4. On 15 July 2025 the Registrar of Approved Driving Instructors decided to remove the Mr Chaudhry's name from the register. The effect of the decision was delayed by the Registrar to allow time for the appeal to be heard in the First-tier Tribunal (section 128(7) of the Road Traffic Act 1988 "the Act"). Mr Chaudhry appealed to the First-tier Tribunal on 04 August 2025. The First-tier Tribunal dismissed the appeal by decision dated 30 January 2026. The removal from the list therefore took effect from 30 January 2026. Mr Chaudhry applied to the First-tier Tribunal for permission to appeal to the Upper Tribunal, and this was refused on 10 March 2026, and this decision was sent via email on 13 March 2026.

5. On 15 April 2026 Mr Chaudhry applied to the Upper Tribunal for permission to appeal 2 days outside of the time prescribed in rule 21(3)(b) of the Tribunal Procedure (Upper Tribunal) Rules 2008 (the TPR). I admitted the appeal and gave permission to appeal on 18 June 2026. I also suspended the effect of the decision of the First-tier Tribunal which remains in place until a new decision is made by them upon remitting the case to them for a new decision.

Appeal to the First-tier Tribunal

6. Mr Chaudhry appealed the decision of the Registrar of Approved Driving Instructors dated 15 July 2025 to remove his name for the Register of Approved Driving Instructors (the Register) to the First-tier Tribunal. His name had been removed by the Registrar pursuant to section 128(2)(e) of the Road Traffic Act 1988 on the basis he was "ceased, apart from fulfilment of any of the preceding conditions, to be a fit and proper person to have his name included in the register." The event leading to the removal was that on 10 May 2025, he had committed a motoring offence, by picking up his mobile telephone from the floor of the car. He was instructing at the time and due to him having to take evasive action by applying the brakes, the mobile telephone which was being used as a navigation tool was dislodged.

7. The First-tier Tribunal dismissed the appeal. In the first paragraph they noted the delay to the start of the hearing as Mr Chaudhry experienced technical difficulties and joined by audio only. They noted Mr Chaudhry had intended to call a witness who was the pupil being instructed at the time of the offence and who had provided a witness statement "but she did not appear either by CVP or by audio." They said no more about her written evidence or that she did not appear.

8. The tribunal set out Mr Chaudry's evidence that "…he was actively looking for a place to pull over…" and that the phone fell "…into the footwell of the front

passenger seat where the vehicle's dual controls were located…". The Tribunal found at paragraph 25, "if there had been a safety issue, the Appellant should have stopped – not lifted the phone from the footwell".

Permission to appeal to the Upper Tribunal

9. Mr Chaudhry applied to the Upper Tribunal for permission to appeal to the Upper Tribunal and I granted permission to appeal on 18 June 2026. The grounds on which permission was granted are below at paragraphs 15-20.

Submissions

10. The parties have both agreed: (i) to the decision of the First-Tier Tribunal being set aside for the reasons set out at paragraphs 15 to 20 of this decision; and (ii) to the Upper Tribunal remitting the case to the First-tier Tribunal for re-determination entirely afresh by a differently constituted panel.

Law

11. In any proceedings before a court or tribunal it is well established that the parties have a right to procedural fairness.

12. The overriding objective in the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 provides so far as relevant:

> "2.—(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.
>
> (2) Dealing with a case fairly and justly includes—
> …
> (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;"

13. The Road Traffic Act 1988 provides for the removal of names from register.

> S128 (1) The Registrar may remove the name of a person from the register if he is satisfied that—
>
> (a) in a case where his name has not been retained in the register under section 127 of this Act, at any time since the entry of his name was made, and
>
> (b) in a case where his name has been so retained under that section, at any time since it was last retained,
>
> any of the relevant conditions was fulfilled in his case.
>
> (2) Except in the case of a registered disabled instructor, the relevant conditions are—
>
> …

> (e) that he ceased, apart from fulfilment of any of the preceding conditions, to be a fit and proper person to have his name included in the register.
> …
> (7) But the Registrar may, when giving notice of his decision to remove the name from the register, direct that the decision shall instead take effect—
> (a) where no appeal under the following provisions of this Part of this Act is brought against the decision within the time limited for the appeal, on the expiration of that time,
> (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal,
> (c) where such an appeal is brought and not withdrawn or struck out for want of prosecution, if and when the appeal is dismissed, and not otherwise.
>
> S131(1) A person who is aggrieved by a decision of the Registrar—
> …
> (c) to remove his name from the register,
> may appeal to the First-tier Tribunal
> .

14. Section 11 of the Tribunals, Courts and Enforcement Act 2007 provides the right to appeal to the Upper Tribunal as follows:

> S11(1) For the purposes of subsection (2), the reference to a right of appeal is to a right to appeal to the Upper Tribunal on any point of law arising from a decision made by the First-tier Tribunal other than an excluded decision.
> (2) Any party to a case has a right of appeal, subject to subsection (8)…

Analysis

15. *Ground 1:* The First- Tier Tribunal erred in law in failing to make a finding on a relevant matter, that is, whether Mr Chaudhry could have stopped.

16. The tribunal found at paragraph 25 as follows: "…if there had been a safety issue the Appellant should have stopped – not lifted the phone from the footwell:" (my emphasis). There is no finding on whether he could have stopped. There is no analysis of the evidence of Mr Chaudhry that there was nowhere to stop and that he was actively looking for a place to stop. His statement before the Tribunal at page 22 of the bundle says: "We were on a dual carriageway with no parking or safe opportunities to pull up".

17. *Ground 2:* The First-Tier Tribunal erred in law in failing to say what they made of his evidence that he could not have stopped and that there was "…not an emergency that required the appellant to lift the phone…". This was a material mistake of fact amounting to error of law.

18. The evidence of Mr Chaudhry before the tribunal was that he could not stop. He was on a dual carriageway with no safe place to stop and was actively looking for a place to stop. The tribunal failed to say what they made of his evidence that he could not have stopped. This evidence was central to his case before them and the First-tier Tribunal erred in law by failing to make a finding on this evidence before them. The tribunal also failed to explain why they found there was "…not an emergency that required the appellant to lift the phone…" if the phone was obstructing the pedals which he needed to use, particularly as he had just used them in an emergency.

19. *Ground 3:* The First-tier Tribunal erred in law in failing to say what they made of the witness statement from the witness who was present at the time of the incident. The written statement of Hafsa Begum said: "During this the mobile phone dislodged from its holder and fell near the instructor's pedals. This occurred while turning into a road with a sharp bend on the park viaduct where he had to use the brake pedal to slow me down and grab my steering to avoid me hitting the railings." The tribunal notes there was a written statement at paragraph 1 but said nothing further about this statement.

20. *Ground 4:* The First-tier Tribunal erred in law in that they held against the applicant, by ignoring the witness's statement, the witness's failure to attend when in fact the witness had been trying to attend. The tribunal failed to consider why the witness was not present when they expected her to appear and enquire of the applicant the reasons for this and whether they should adjourn to hear from her particularly given their emphasis on the other witnesses not being present at the time of the incident. At paragraph 1 the tribunal said: "The Appellant had also intended to call evidence from the pupil he was instructing at the time the motoring offence in question was committed, who provided a written witness statement, but she did not appear either by CVP or by audio." The tribunal is inquisitorial and the applicant was unrepresented. It was incumbent upon the tribunal given the overriding objective in rule 2 to ensure as far as is practicable the parties were able to participate fully in the proceedings. The tribunal did not address this in their decision.

Disposal

21. Both parties agreed to remittal to the First-tier Tribunal on the grounds identified above at paragraphs 15-20. I consider remittal appropriate for the First-tier Tribunal to redetermine the case afresh.

Conclusion

22. It is for the above reasons that I allow the appeal, set aside the First-tier Tribunal decision, and remit the case to a freshly constituted panel of the First-tier Tribunal, for redetermination entirely afresh.

CASE MANAGEMENT DIRECTIONS

23. I therefore direct as follows:

(1) The case is to be redetermined entirely afresh by the First-tier Tribunal.

(2) The First-tier Tribunal panel which rehears the case must contain no-one who was on the panel which sat on 21 January 2026, decided the case on 30 January 2026 and gave their decision on 03 February 2026.

Sarah Johnston
Judge of the Upper Tribunal
02 October 2026