

IN THE RACING APPEALS TRIBUNAL

ALLAN IVERS

Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION

Respondent

REASONS FOR DETERMINATION

Date of hearing: 26 March 2024

Date of determination: 7 April 2024

APPEARANCES:

Ms C Chua for the Appellant

Mr B Gillies for the Respondent

ORDERS

- 1. The appeal is upheld.**
- 2. The decision of the Respondent of 23 January 2025 refusing the Appellant's application for registration as a Public Trainer is quashed.**
- 3. The appeal deposit is to be refunded.**

INTRODUCTION

1. By a Notice of Appeal dated 29 January 2025,¹ Allan Ivers (the Appellant) has appealed against a determination of the Greyhound Welfare and Integrity Commission (the Respondent) of 23 January 2025 to refuse his application for registration as a Public Trainer.
2. That refusal was based on a conclusion that the Appellant is not a fit and proper person to be registered.² As the hearing before me proceeds *de novo*, it is not necessary to make any further reference to the decision at first instance.
3. The appeal was heard on 26 March 2025, following which my determination was reserved. The parties provided a Tribunal Book (TB) containing all relevant material. No additional evidence was called at the hearing.

THE FACTS

The Charges against the Appellant

4. On 23 December 2022, the Appellant was charged with the following offences³ contrary to the provisions of the *Greyhound Racing Rules* (the Rules).

Charge 1

5. Charge 1 was contrary to r 86(c) of the Rules which provides as follows:

A person (including an official) shall be guilty of an offence if the person-

...

(c) Corruptly, fraudulently or improperly accepts, or offers to accept, offers to give any money, share in a bet or other benefit to any person, including but not limited to a person having duties in relation to the breeding and/or registration of greyhounds or any person have charge of, or access to, a greyhound, in connection with greyhound racing.

¹ TB 1 – 4.

² TB 6 – 7.

³ It is noted that 5 charges were brought originally, but one was later withdrawn. It is further noted that particulars were added to charges 1 and 3 which are set out in an earlier decision of the Tribunal at TB 75 – 78.

Particulars

1. *[The Appellant] was, at all material times, a Public Trainer and Breeder registered with [the Respondent].*
2. *Between 1 February 2021 and 17 October 2022, [the Appellant] was the trainer of the greyhound 'Battling Mavis'.*
3. *On 4 March at approximately 1.42 pm Ms April Mackay and [the Appellant] engaged in text message communications.*
4. *In the text message exchanges [the Appellant] accepted or offered to accept money from Ms Mackay to scratch 'Battling Mavis' from race 7 at the Gardens. The text messages included the following:*

| | |
|-------------------|--|
| <i>Ms Mackay</i> | <i>Don't tell Dan that I'm paying you to scratch!!!!!!</i> |
| <i>Respondent</i> | <i>Ok.</i> |
| <i>Ms Mackay</i> | <i>I'm being serious.</i> |
| <i>Respondent</i> | <i>All good, I won't say anything.</i> |
| <i>Ms Mackay</i> | <i>Good. Fuck this is doing my head in lately.</i> |
| <i>Respondent</i> | <i>Haha it's a very confusing situation.</i> |
| <i>Ms Mackay</i> | <i>Bahahaha not really. You can't tell no one I'm giving you money to scratch.</i> |
| <i>Respondent</i> | <i>I'm not telling a sole [sic]. Just be scratched due to being sick in the morning.</i> |
| <i>Ms Mackay</i> | <i>Cause you know how fucking people spread shit. So it's best it stays between us.</i> |
| <i>Respondent</i> | <i>Yes for sure.</i> |

5. *On 5 March 2022 at 5.01 am [the Respondent] scratched the greyhound 'Battling Mavis' from race 7 citing 'Sick. Has temperature. Didn't eat meal' as the reason for scratching the greyhound.*
6. *Ms April Mackay's father Mr Jason Mackay had 'Fantastic Raven' engaged in race 7 at the Gardens on 5 March 2022 drawn in an adjacent box to 'Battling Mavis'.*
7. *Scratching 'Battling Mavis' provided a possible advantage to the competitive chances of 'Fantastic Raven' by increasing the racing room afforded to 'Fantastic Raven' upon box rise.*

Charge 3

6. Charge 3 was contrary to r 163(a) of the Rules which provides as follows:

An offence is committed if a person (including an official):

(a) in connection with greyhound racing

- (i) corruptly;*
- (ii) fraudulently; or*
- (iii) improperly,*

accepts, or offers to accept, offers or gives, any money, share in a bet or other benefit to any person, including but not limited to a person having duties in relation to the breeding and/or the registration of greyhounds or any person having charge of, or access to, a greyhound.

Particulars

1. *[The Appellant], at all material times as a Public Trainer and Breeder registered with [the Respondent], corruptly and improperly offered to accept money to scratch the greyhound 'Redeem Our Cash' from Race 7 at Wentworth Park on 22 June 2022 by reason of the following particulars.*
2. *On 21 June 2022 [the Appellant] and Ms Mackay engaged in text message communications.*
3. *In the text message exchanges [the Respondent] accepted, or offered to accept, money to scratch the greyhound 'Redeem Our Cash' from Race 7 at Wentworth Park. The messages included the following:*

| | |
|-------------------|---|
| <i>Respondent</i> | <i>Haha far from it.</i> |
| <i>Ms Mackay</i> | <i>It's between us yeah. Anyone asked she hurt herself yeah. Cause Dad will ask tomorrow.</i> |
| <i>Respondent</i> | <i>Yep all good.</i> |
| <i>Ms Mackay</i> | <i>You sure.</i> |
| <i>Respondent</i> | <i>No problems.</i> |
| <i>Ms Mackay</i> | <i>See you tomorrow.</i> |
| <i>Respondent</i> | <i>Okis.</i> |
| <i>Ms Mackay</i> | <i>Surely ya didn't tell Dan that I'm paying you for scratching.</i> |
| <i>Respondent</i> | <i>No said nothing. He'd only be guessing.</i> |
| <i>Ms Mackay</i> | <i>Don't tell him nothing.</i> |
| <i>Respondent</i> | <i>I didn't.</i> |
| <i>Ms Mackay</i> | <i>Good.</i> |
| <i>Respondent</i> | <i>Hopefully u win now.</i> |
| <i>Ms Mackay</i> | <i>You recon I can.</i> |
| <i>Respondent</i> | <i>I think so. Gunna have to run 29.70/29/80.</i> |
| <i>Ms Mackay</i> | <i>If he don't turn up his gotta go. His trials are insane.</i> |

4. *On 22 June 2022 at 6.07 am [the Respondent] scratched 'Redeem Our Cash' from Race 7 at Wentworth Park citing 'Sick. Has temperature. Didn't eat' as the reason for scratching the greyhound.*
5. *A greyhound 'Impress Shades' trained by Ms April Mackay's father, Jason Mackay, was drawn in the box adjacent to 'Redeem our Cash'.*
6. *Scratching 'Redeem our Cash' provided a possible advantage to the competitive chances of 'Impress Shades' by increasing the racing room afforded to Impress Shades on Box Rise.*
7. *By scratching 'Redeem our Cash' you have acted corruptly and improperly.*

Charge 4

7. Charge 4 was contrary to r 86(o) of the Rules which provides as follows:

A person (including an official) shall be guilty of an offence if the person-

...

(o) has, in relation to a greyhound or greyhound racing, done a thing, or omitted to do a thing, which, in the opinion of the Stewards or the Controlling Body, is as the case may be, negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.

Particulars

1. *[The Respondent] as a registered Public Trainer and Breeder at all material times did a thing which, in the opinion of the Controlling Body was improper or constitutes misconduct, in circumstances where:*

a. On a number of dates between 21 December 2021 and 30 April 2022, [the Respondent] placed various bets on behalf of a minor; and

b. [The Respondent] was aware that the relevant person was, at the time of placing the bets, under the age of 18.

Charge 5

8. Charge 5 was contrary to r 156(f) of the Rules which provides as follows:

An offence is committed if a person (including an official):

...

(f) has, in relation to a greyhound or greyhound racing, done something, or omitted to do something, which, in the opinion of the Controlling Body or the Stewards:

(i) is corrupt, fraudulent, or dishonest;

(ii) constitutes misconduct or is negligent or improper.

Particulars

[The Respondent] as a registered Public Trainer and Breeder at all material times did a thing which, in the opinion of the Controlling Body was improper or constitutes misconduct, in circumstances where:

(a) On a number of dates between 1 May 2022 and 6 July 2022, [the Respondent] placed various bets on behalf of a minor; and

(b) [The Respondent] was aware the relevant person was, at the time of placing the bets, under the age of 18.

THE CIRCUMSTANCES OF THE OFFENDING

9. The circumstances of the Appellant's offending are evident from the particulars of the charges set out above. The genesis of that offending was the Respondent's relationship with Ms Mackay, a person many years his junior.⁴

THE EVIDENCE RELIED UPON BY THE APPELLANT IN SUPPORT OF THE APPEAL

10. In support of his appeal, the Appellant relied primarily upon:

- (i) his statement of 25 February 2025; and
- (ii) a series of testimonials.

11. The entirety of that evidence is unchallenged.

The Appellant's statement

12. The essential aspects of the Appellant's statement may be summarised as follows.

13. The Appellant has been an industry participant, in the capacity of a trainer, for 28 years.⁵ He described the offending which resulted in his disqualification as the "*worst decision [he] has made in [his] life*".⁶ Although he took issue with it at the time, the Appellant now accepts that his conduct was (at least in part) corrupt,⁷ but maintains that he had no intention to benefit financially.⁸ He spoke of the humiliation brought upon his family as a consequence of his conduct (his wife also being a trainer),⁹ before stating:¹⁰

37. If reinstated, it goes without saying that I will follow the rules to the tenth degree to ensure that I never engage in misconduct again. I will exercise transparency in

⁴ See the Appellant's statement at [24]; TB 44.

⁵ Statement at [5] – [9]; TB 42.

⁶ Statement at [21]; TB 44.

⁷ Statement at [22]; TB 44.

⁸ Statement at [26]; TB 44.

⁹ Statement at [26] – [31]; TB 44 – 45.

¹⁰ Statement at [37] – [42]; TB 45 – 46.

all my operations, strictly adhere to racing regulations, and maintain open communication with GWIC.

38. Additionally, I am willing to contribute to the industry beyond my role as a trainer, whether through voluntary participation, mentoring new trainers on ethical racing standards (by using my own embarrassment as a lesson to others).

39. My priority is to demonstrate through my actions that I am reformed and that my commitment to the sport is driven by passion and integrity, not personal gain.

40. To those who may still have doubts about my fitness to hold a licence again, I say this: I am not the same person I was two years ago. I have learned, I have grown, and I will never put myself, my family, or the sport in this position again.

41. I accept full responsibility for my past, and all I ask for is the chance to prove that I can contribute positively to greyhound racing moving forward. I recognise that I must earn back the trust of the community, and I am prepared to do whatever it takes to prove my trustworthiness.

42. If given the opportunity, I know that I can be a positive contributor to this sport that I really love, and I promise that if reinstated, I will conduct myself in a way that upholds its integrity.

14. At the conclusion of the hearing, the Appellant also said this:¹¹

And it's been very, very hard for me and my wife. But we've looked past this now and we're moving forward in a positive manner. And throughout my statement, I also say, like, I know what I did was wrong and I'm very remorseful, and when it comes to my wife and kids, like, I just wouldn't even consider the fact of ever – whether it be to do with in the past of what I've done, I could never – I would never do that again. Wouldn't even consider it. And also other aspects of the sport as well, whether it be with anything corrupt or dishonest.

I look at everything highly now. In time, from 20 years ago to now, the sport has changed immensely. And the Commission brought upon this about seven years ago. The sport has gone ahead in leaps and bounds. And I think it's also made not only myself, but a lot of other participants and trainers, stand up and take note of everything that goes on now. And it's not just simple anymore. It's like any industry and you've got to follow all aspects.

Yeah, but back to my family, it's been very, very hard and I totally understand what I did was wrong and I've had to show that to my wife and prove to my wife in the past two years. And also, too, a disqualification period is hard on anyone.

And I felt I've served my time and I don't expect to be just handed a licence back on a platter, but also, too, I feel that I've worked very, very hard for this and I will intend to work hard in the future to provide a good life for me and my family.

¹¹ Transcript 31.40 – 32.19.

The testimonial evidence

15. The Appellant relies upon a series of testimonials which variously describe him as:

- (i) honest and accountable for the decisions he has made, well-liked and respected in the industry, and genuinely remorseful for the offending which led to his disqualification;¹²
- (ii) a person who, but for his offending, has always conducted himself in an honest and transparent manner, and who is deeply regretful;¹³
- (iii) a person for whom the offending was out of character, who accepts full responsibility, who has learned from his mistakes, and who will meet the industry's expectations of a trainer if permitted to hold a licence;¹⁴
- (iv) a person whose application to return to the industry has widespread support;¹⁵
- (v) a skilled trainer who accepts the gravity and wrongfulness of his conduct, which, in the view of those providing testimonials, will never be repeated.¹⁶

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

16. The written submissions filed on behalf of the Appellant, and the oral submissions made in the course of the hearing of the appeal, advanced the following primary propositions:

¹² Testimonial of Dana Ivers at TB 47 – 48; Testimonial of Geoff Rose at TB 58 – 59.

¹³ Testimonial of David Blench at TB 50.

¹⁴ Testimonial of Ashley Dwyer at TB 52 – 53.

¹⁵ Testimonial of Ellen Harris at TB 54 – 55.

¹⁶ Testimonial of Damian Harris at TB 56 – 57.

- (i) the Appellant has extensive experience in the industry (the thrust of the submission being that the industry would benefit from his return);¹⁷
- (ii) the Appellant has the requisite degree of knowledge and skill to carry out the duties of a public trainer, and is therefore “fit” in the relevant sense;¹⁸
- (iii) the Appellant is, generally speaking, a person of good character within the greyhound racing industry;¹⁹
- (iv) the fact that the Appellant was found to have acted corruptly does not operate as an automatic exclusion from the industry;²⁰
- (v) the conduct which led to the disqualification:
 - (a) was the first of its kind in the Appellant’s history as an industry participant;
 - (b) was isolated rather than persistent ;
 - (c) was not financially motivated; and
 - (d) did not involve issues of animal welfare;²¹
- (vi) the evidence supported a conclusion that the Appellant had undergone significant rehabilitation in the period of disqualification;²²
- (vii) the character evidence was compelling;²³
- (viii) the Appellant had co-operated with the Respondent in the course of the application process;²⁴
- (ix) any risk of re-offending was low;²⁵
- (x) the Appellant was genuinely remorseful, which was inconsistent with a risk of recidivism;²⁶

¹⁷ Written submissions at [17]; Transcript 13.13.

¹⁸ Written submissions at [21] – [22]; Transcript at 5.35.

¹⁹ Transcript 6.16 – 6.22; 12.7 – 12.26.

²⁰ Transcript 6.42.

²¹ Written submissions at [26] – [29]; Transcript 10.31 – 11.9.

²² Written submissions at [32] – [35]; Transcript 7.28 – 7.34.

²³ Written submissions at [36]; Transcript 15.13 – 20.15.

²⁴ Written submissions at [37].

²⁵ Written submissions at [39]; [45].

²⁶ Written submissions at [47].

- (xi) the Appellant had served a substantial period of disqualification, in circumstances where there was no evidence to suggest that he would not abide by the rules in the future.²⁷

Submissions of the Respondent

17. The written submissions filed on behalf of the Respondent, and the oral submissions made in the course of the hearing of the appeal, advanced the following propositions:

- (i) the Respondent's decision was the correct one, particularly bearing in mind the obligations imposed by s 47(1) of the *Greyhound Racing Act 2017* to ensure that all persons seeking registration are fit and proper persons to be registered, as well as the power conferred by s 49(3) to refuse registration if it would be in the best interests of the industry to do so;²⁸
- (ii) it is necessary to have regard to the circumstances of the offending which resulted in the Appellant's disqualification;²⁹
- (iii) a determination of whether a person is fit and proper requires consideration of a number of principles, no single one of which is determinative of the outcome;³⁰
- (iv) whilst the Respondent did not cavil with the Appellant's experience in, or knowledge of, the greyhound racing industry (and thus did not place the Appellant's fitness in issue), the fact remained that he was found guilty of corrupt conduct at a high level;³¹
- (v) the Appellant had made an application for the highest category of licence, and his registration would erode public confidence in the

²⁷ Written submissions at [48].

²⁸ Written submissions at [10] – [11].

²⁹ Written submissions at [12].

³⁰ Written submissions at [15] – [16].

³¹ Written submissions at [21] – [22]; Transcript 24.34 – 24.43.

industry, although it was not the Respondent's position that the Appellant should be permanently prevented from returning;³²

- (vi) the Appellant had only recently accepted the gravity of his conduct;³³ and
- (vii) in circumstances where the Respondent's principal objectives include safeguarding the integrity of, and maintaining public confidence in, the greyhound racing industry, the evidence supported a conclusion that the appeal should be dismissed, because public confidence would be eroded if the Appellant was granted the highest form of licence immediately after serving a period of disqualification.³⁴

CONSIDERATION

18. As previously noted, the Appellant's fitness to hold a licence, in the sense of having the requisite knowledge and skill to carry out the duties of a trainer, have not been put in issue by the Respondent. Whilst the appeal centres generally upon the ultimate question of whether the Appellant is a fit and proper person, the focus is on the second of those considerations. In *Fitzpatrick v Harness Racing New South Wales*³⁵ I said the following in relation to the principles which govern that determination:³⁶

[71] I have already set out the legislative scheme in the Act for the licencing of participants. Unsurprisingly, one of the fundamental principles underlying that scheme is that registration functions are to be exercised by the Respondent so as to ensure that individuals who are registered are fit and proper persons to be so registered, having regard, in particular, to the need to protect the public interest. For the purposes of the present appeal, the Tribunal stands in the shoes of the Respondent, and must therefore have regard to that scheme, and its provisions.

[72] The authorities which set out the general principles to be applied in considering whether someone is a "fit and proper person" for a particular purpose are well known.³⁷ This Tribunal (differently constituted) has consistently been

³² Written submissions at [23] – [25]; Transcript 22.32 – 22.37; 24.19 – 24.32.

³³ Written submissions at [28].

³⁴ Written submissions at [30] – [31]; Transcript 22.40; 23.43 – 24.2.

³⁵ A determination of 11 June 2024.

³⁶ At [71] – [73].

³⁷ See for example *Hughes & Vale Pty Limited v New South Wales (No. 2)* (1955) 93 CLR 127 at 156.

called upon to apply those principles to determinations of the present kind.³⁸ The approach adopted, and the observations made, in those determinations have generally been drawn from decisions of superior Courts. Whilst those decisions have generally been in the context of decisions made by organisations regulating various professions, they nevertheless set out a number of fundamental principles which are applicable in matters of the present kind. Many of those principles were succinctly summarised, and in some instances expanded upon, by Beech-Jones J (as his Honour then was) in *Hilton v Legal Profession Admission Board*.³⁹ They include the following:

- (i) a conviction is important to an assessment of whether someone is fit and proper;⁴⁰
- (ii) a conviction is not necessarily determinative, and the controlling body may inquire into the offending to ascertain its real facts;⁴¹
- (iii) the question of whether an applicant is a fit and proper person is to be determined at the time of the hearing;⁴²
- (iv) consideration must be given to the passage of time which has passed since the commission of any offence, and the age of the person when such offence was committed;⁴³
- (v) a long passage of time may tend in favour of a conclusion that a person is fit and proper, although by itself, a passage of time without a transgression does not necessarily prove a change in character;⁴⁴
- (vi) there may be little or no public interest in denying forever the chance of redemption and rehabilitation.⁴⁵

[73] In *P v Prothonotary of the Supreme Court of New South Wales*,⁴⁶ Young CJ in Eq cited other factors which, in his view, provided general guidance in cases of this kind. They included:

- (i) the absence of any prior disciplinary or criminal record;
- (ii) honesty and co-operation with the authorities after detection;
- (iii) evidence of good character; and
- (iv) clear and convincing evidence of rehabilitation.

³⁸ See for example the decisions in *Zohn v Harness Racing New South Wales* (11 July 2013) at p. 2 and following; *Bennett v Harness Racing New South Wales* (21 May 2019) commencing at [12].

³⁹ (2016) 339 ALR 580; [2016] NSWSC 1617.

⁴⁰ At [6], citing *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 57 CLR 279.

⁴¹ At [102] citing *Ziems*.

⁴² At [101] citing *Ex Parte Tziniolis; Re the Medical Practitioners Act* [1967] 1 NSWLR 57; (1966) 67 SR (NSW) 448 at 475.

⁴³ At [103].

⁴⁴ At [103] citing *Tziniolis*, and *Saunders v Legal Profession Admission Board* [2015] NSWSC 1839 at [62].

⁴⁵ At [105] citing *Dawson v Law Society (NSW)* [1989] NSWCA 58 per Kirby P at [7].

⁴⁶ [2003] NSWCA 320.

[74] It must, of course, be emphasised that no single consideration is determinative. What I am required to do, is conduct a balancing exercise which takes into account all relevant considerations. The weight to be given to individual factors may well vary.

19. In the course of submissions, my attention was drawn to a previous determination of the Tribunal (differently constituted) in *Gallagher v Harness Racing New South Wales*⁴⁷ in which the observation was made that in a matter of this nature, it is the function of the Tribunal to “*project into the future*”. Whilst that may be correct to a degree, it cannot be allowed to derogate from the fundamental proposition that the question of a person’s fitness and propriety is to be determined *at the time of the hearing*,⁴⁸ not at some undefined time in the future.

20. Applying the principles to which I have referred, and for the following reasons, I have come to the view that the appeal should succeed.

21. First, I accept the submission of the Respondent that in making my determination, I must have regard to the provisions of ss 47(1) and 49(3) of the *Greyhound Racing Act 2017* (NSW). That said, those provisions, whilst clearly relevant, are not a means to an end. They constitute a statutory embodiment of the fundamental requirement that any industry participant must be a fit and proper person to be registered. It is that issue that I am required to determine.

22. Secondly, whilst the offending was clearly serious, the Appellant has provided an explanation for the circumstances in which it occurred. That explanation is unchallenged. Whilst that does not mean that such explanation should be accepted without scrutiny, the absence of any challenge provides a greater layer of comfort in accepting it, particularly where there is nothing within the explanation itself which would suggest that it ought be rejected. Accepting such explanation (as I do), I am satisfied that the Appellant’s conduct was motivated, at least primarily, by what could only be described as a gross error of judgment,

⁴⁷ A determination of 18 August 2017.

⁴⁸ See FN [44] above.

stemming from what he concedes was an entirely inappropriate relationship with a person many years his junior.

23. Thirdly, the essence of corrupt behaviour is dishonesty. The Appellant acted in that way. However, I am satisfied on the evidence before me that his conduct was not motivated by financial gain, but by a desire to ingratiate himself with a person with whom he was, on his own admission, engaged in an inappropriate relationship. That does not excuse his conduct, nor is it intended to suggest that such conduct was not serious. Clearly it was. But what I am satisfied was the Appellant's motivation goes some way to explaining what he did, and why he did it. It also tends to distance his actions from the realm of corrupt conduct in the sense in which that term is generally used.

24. Fourthly, the Appellant has served a disqualification period of 2 years. That is significant of itself. It is rendered all the more so by the absence of any suggestion of a transgression, of any kind, having occurred within that period.

25. Fifthly, the Appellant has the support of a broad range of industry stakeholders, all of whom speak highly of him and support his application to return as a trainer. Their opinions of the Appellant are unchallenged. Whilst not determinative, those opinions, emanating as they do from persons of considerable experience in different facets of the industry, certainly support the Appellant's case.

26. Sixthly, the conclusion that the Appellant has engaged in significant rehabilitation during his period of disqualification is, frankly, overwhelming.

27. Seventhly, I am not persuaded that the fact that the Appellant is seeking the issue of the highest category of licence has a material bearing upon the determination I am required to make. The fact is that any industry participant must be fit and proper and I am satisfied that the Appellant meets that test. I am also not persuaded that in the circumstances of this case, the fact that the Appellant has applied for registration immediately upon the expiration of his disqualification

period is a circumstance tending against the making of an order that the appeal be upheld. Such a conclusion may be open in other circumstances.⁴⁹ But at the risk of stating the obvious, each case must be determined on its own facts. If a conclusion is reached that a person is fit and proper, then the relevant test is met. It would be overly (and arguably impermissibly) punitive to exclude, from registration, a person who is found to be fit and proper, simply because he or she was making an application for readmission to the industry immediately upon the expiration of the relevant disqualification period. The mere fact that a person may seek registration at that time does not mean that he or she is not fit and proper. That is a determination to be made on the entirety of the evidence.

28. Finally, whilst it certainly cannot be said that the Appellant's disciplinary history as an industry participant is blemish-free, there is nothing in that history of a similar nature to the offending which resulted in his disqualification. Moreover, I am satisfied that the Appellant clearly understands the obligations to which he will be subject when granted a licence, and the consequences with which he will be faced in the event of non-compliance.

ORDERS

29. As I pointed out during the hearing of the appeal, I have no power to issue a licence to the Appellant.⁵⁰ However, consistent with the accepted practice, I will assume that Respondent will act in accordance with the conclusions which I have reached.

30. With those conclusions in mind, I make the following orders:

1. The appeal is upheld.
2. The decision of the Respondent of 23 January 2025 refusing the Appellant's application for registration as a Public Trainer is quashed.

⁴⁹ See for example *McKenzie v GWIC*, 3 December 2025.

⁵⁰ Appellant's written submissions at [2]; Transcript 20.19 – 20.31.

3. The appeal deposit is to be refunded.

THE HONOURABLE G J BELLEW SC

7 April 2025