IN THE RACING APPEALS TRIBUNAL

APRIL MACKAY
Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

REASONS FOR DETERMINATION

DATE OF HEARING 28 October 2025

DATE OF DETERMINATION 3 November 2025

APPEARANCES Mr G Walters for the Appellant

Mr B Gillies for the Respondent

ORDERS

1. **The appeal is dismissed.**
2. **The appeal deposit is forfeited.**

INTRODUCTION

1. By a Notice of Appeal dated 4 August 2025[1], April Mackay (the Appellant) has appealed against a determination made by the Greyhound Welfare and Integrity Commission (the Respondent) on 30 July 2025 refusing her application for registration as a greyhound Attendant, on the ground that she is not a fit and proper person to be registered as an industry participant.

2. The appeal was heard on 28 October 2028. The parties prepared a Tribunal Book (TB) containing all relevant documentary evidence.

FACTUAL BACKGROUND

The charges brought against the Appellant

3. On 14 March 2023, the Respondent wrote to the Appellant advising her that a number of charges had been brought against her with the following particulars:[2]

Charge 1 – Rule 86(c) - Particulars

1. *Ms April Mackay was, at all material times, registered as an Attendant with the Commission;*
2. *Between 1 February 2021 and 17 October 2022 Mr Ivers was the trainer of the greyhound 'Battling Mavis' ("Greyhound");*
3. *On 4 March 2022 Ms April Mackay gave or offered to give money or other benefit to Mr Allan Ivers, a person having charge of or access to a greyhound, 'Battling Mavis' in connection with greyhound racing for the purpose of facilitating the scratching of the Greyhound from an event;*
   a. Ms Mackay gave or offered to give money or other benefit to Mr Ivers to scratch' Battling Mavis' for the purpose of attempting to obtain an advantage for greyhound 'Cool Bourbski' and 'Fantastic Raven' trained by Mr Jason Mackay and drawn in Boxes 4 and 7 of race 7;
4. *On 5 March 2022 the Greyhound was scratched from race 7 at The Gardens; and*
5. *By giving or offering to give money or other benefit to Mr Ivers in relation to the scratching of the Greyhound, Ms Mackay has acted corruptly and/or fraudulently and/or improperly.*

Charge 2 – Rule 86(o) – Particulars

1. *Ms April Mackay was, at all material times, registered as an Attendant with the Commission;*

[1] TB 3 – 5.

[2] The particulars of charges 1, 2 and 3 were amended in correspondence of 11 April 2023 and are reproduced in their amended form.

2. *On 22 April 2022 Ms Mackay gave or offered to give money or other benefit to Mr Allan Ivers in order for him to facilitate the scratching of the greyhound 'Little Bit Dry' ("Greyhound");*
a. *Ms Mackay gave or offered to give money or other benefit to Mr Ivers to facilitate the scratching of 'Little Bit Dry' for the purpose of attempting to obtain an advantage for the greyhound 'Zipping Starsky' trained by Jason Mackay and drawn in Box 6 of race 2;*
3. *On 22 April 2022 the Greyhound was scratched from race 2 at The Gardens; and*
4. *By giving or offering to give money or other benefit to Mr Ivers, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was corrupt and/or fraudulent and/or improper or constitutes misconduct.*

Charge 3 – Rule 163(a) - Particulars

1. Ms April Mackay was, at all material times, registered as an Attendant with the Commission;
2. Between 8 June 2021 and 17 October 2022 Mr Allan Ivers was the trainer of the greyhound
'Redeem Our Cash ("Greyhound")';
3. On 22 June 2022 Ms April Mackay gave or offered to give money or other benefit to Mr Ivers, a person having charge of, or access to a greyhound 'Redeem Our Cash' in connection with greyhound racing, for the purpose of facilitating the scratching of the Greyhound from an event;
a. Ms Mackay gave or offered to give money or other benefit to Mr Ivers to facilitate the scratching of 'Redeem Our Cash' for the purpose of attempting to obtain an advantage for the greyhound 'Impress Shades' trained by Jason Mackay and drawn in Box 2 of race 7;
4. On 22 June 2022 the Greyhound was scratched from race 7 at Wentworth Park; and
5. By giving or offering to give money or benefit to Mr Ivers, Ms Mackay has acted corruptly and/or fraudulently and/or improperly.

Charge 4 – Rule 86(o) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On various dates between 21 December 2021 and 30 April 2022, Ms Mackay engaged and arranged for Mr Allan Ivers to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person, under the age of 18; and*
4. *By engaging Mr Ivers to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body was improper or constitutes misconduct.*

Charge 5 – Rule 156(f) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On various dates between 1 May 2022 and 6 July 2022 Ms Mackay engaged and arranged for Mr Allan Ivers to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*

4. *By engaging Mr Ivers to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body was improper or constitutes misconduct.*

Charge 6 – Rule 86(o) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On 20 February 2022, Ms Mackay engaged and arranged for Mr Daniel Gatt to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*
4. *By engaging Mr Gatt to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was improper or constitutes misconduct.*

Charge 7 – Rule 156(f) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On 24 June 2022, Ms Mackay engaged and arranged for Mr Daniel Gatt to place a bet on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bet to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*
4. *By engaging Mr Gatt to place a bet on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was improper or constitutes misconduct.*

Charge 8 – Rule 86(o) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On various dates between 7 January 2022 and 30 April 2022, Ms Mackay engaged and arranged for Mr Daniel Flanagan to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*
4. *By engaging Mr Flanagan to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was improper or constitutes misconduct.*

Charge 9 – Rule 156(f) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On various dates between 1 May 2022 and 7 July 2022, Ms Mackay engaged and arranged for Mr Daniel Flanagan to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*
4. *By engaging Mr Flanagan to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was improper or constitutes misconduct.*

Charge 10 – Rule 86(o) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On various dates between 22 January 2022 and 30 April 2022, Ms Mackay engaged and arranged for Mr Mark Merlino, a licenced bookmaker, to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*
4. *By engaging Mr Merlino to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was improper or constitutes misconduct.*

Charge 11 – Rule 156(f) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On various dates between 1 May 2022 and 22 June 2022, Ms Mackay engaged and arranged for Mr Mark Merlino, a licenced bookmaker, to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*
4. *By engaging Mr Merlino to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was improper or constitutes misconduct.*

Charge 12 – Rule 86(o) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On various dates between 22 January 2022 and 30 April 2022, Ms Mackay engaged and arranged for Ms Kristine Langham, a bookmaker clerk, to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*
4. *By engaging Ms Langham to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was improper or constitutes misconduct.*

Charge 13 – Rule 86(o) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On various dates between 19 February 2021 and 30 April 2022, Ms Mackay engaged and arranged for Mr Jason Mackay, to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*
4. *By engaging Mr Mackay to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was improper or constitutes misconduct.*

Charge 14 – Rule 156(f) - Particulars

1. *Ms April Mackay was at all material times registered as an Attendant with the Commission;*
2. *On various dates between 1 May 2022 and 7 July 2022, Ms Mackay engaged and arranged for Mr Jason Mackay to place various bets on her behalf;*
3. *Ms Mackay was aware, at the time of arranging the bets to be placed on her behalf, it was illegal for her to engage in gambling, being a person under the age of 18; and*
4. *By engaging Mr Mackay to place bets on her behalf, Ms Mackay has done a thing which, in the opinion of the Controlling Body, was improper or constitutes misconduct.*

4. In a determination made on 31 May 2023, the Respondent disqualified the Appellant for 27 months, with 5 months suspended on the condition that she complete a gambling counselling course approved by the Respondent.[3] The Appellant chose not to complete that course and accordingly served the full period of disqualification which expired on 30 November 2024.

The wagering report of 18 September 2024

5. During a routine monitoring of betting activities which was conducted during the Appellant's period of disqualification, she was identified as having placed bets on NSW Greyhound racing.[4] Local Rule 178F of the Rules provides (inter alia) as follows:

> **LR178F Additional restriction on persons disqualified**
>
> *A person disqualified in respect of an offence related to betting or race manipulation must not:*
> *(a) open a betting account;*
> *(b) operate an existing betting account*
> *(c) transact a bet or have a bet transacted on their behalf;*
> *(d) have any interest in or share in any bet; and/or*
> *(e) receive a benefit from any bet placed with a licenced wagering operator in connection with any greyhound racing meeting held in Australia.*

6. It should be noted that no proceedings have been brought against the Appellant for a breach of LR178F. However, as a disqualified person, the Appellant was

[3] TB 82.
[4] The material in this section of this determination is based on the report of Mr Psillis, the Manager, Racing Integrity, of the Respondent, which commences at TB 22.

prohibited, by operation of that rule, from placing bets on any greyhound race meeting held in Australia.

7. Betting records revealed that between 12 January 2024 and 4 September 2024, the Appellant placed 250 bets on Australian greyhound racing through wagering service provider Ladbrokes. The results can be summarised in the following table:

BET COUNT	AVERAGE BET AMOUNT	TURNOVER	PROFIT/LOSS	YIELD
250	**$28.36**	**$33,662.88**	**($7,881.24)**	**-23.41%**

8. A report prepared by Mr Psillis, the Respondent's Manager of Integrity, recommended that an inquiry be conducted into a possible breach of LR178F. Whether that inquiry has taken place is not entirely clear. What *is* clear, is that the Appellant has not been charged with an offence against LR178F. It is no part of my function on the present appeal to determine whether any offence against LR178F has been committed.

The Appellant's application for registration

9. On 5 May 2025, the Appellant applied for registration as a greyhound attendant.[5] In association with that application, she was interviewed by representatives of the Respondent on 23 May 2025. A transcript of that interview forms part of the evidence before me.[6]

10. The Appellant explained that she had applied for registration because she had grown up in the industry. She described her earlier offending as a consequence of involving herself "*with the wrong people, the wrong crew*", at a time when she was a teenager.[7] She said[8] that of those with whom she had previously been involved,

[5] TB 23 – 124.
[6] Commencing at TB 28.
[7] Q and A 10 – 12 at TB 29 – 30.
[8] Q and A 67 – 69 at TB 35.

two remained associated with the industry. At a personal level, the Appellant said that she was now in a stable relationship with a young child.[9]

11. The Appellant was interviewed again on 11 July 2025.[10] When asked why it was that she did not undertake the gambling counselling which formed part of the order for disqualification, and specifically whether she made a conscious decision not to do so, the Appellant said:[11]

> *Yeah, because I didn't really – or not that I didn't want to do it or anything like that – I was just – I got a new job at a Chinese Takeaway, and I was working every day, and there wasn't really any time for me to do that. So, I was just like, I would just wait the extra six months and just hold it out.*

12. When asked to describe her gambling habits, the Appellant said:[12]

> *Maybe I – I probably do gamble a little bit too much. I – I'm pretty good now like these days, I only really gamble on Dad's dogs, but before, it probably was too much. Yep, I will admit to that.*

13. When asked if she would seek help with gambling if it were needed, the Appellant said:[13]

> *Yep. Yeah, of course, I would get help, but I know there's certain places – like I've already – I did search it up on Safari, but they were more like online courses. The ones that GWIC at the time wanted me to do was in person courses and over a certain amount of weeks. ... So I just – I didn't – I didn't really worry about it because I – I stopped. Once I was out of like – at the start I stopped. And then, I started a little bit again, at the end of like my disqualification, maybe six months before and then – I do still gamble a little bit now but not – not ridiculous.*

[9] Q and A 81 – 85 at TB 36 – 37.
[10] Transcript commencing at TB 38.
[11] A 9 at TB 39 – 40.
[12] A 10 at TB 40.
[13] A 14 – 15 at TB 40.

14. The Appellant was adamant that her gambling activities were not affecting her financially.[14] When asked about her betting activities carried out on behalf of others, the Appellant said:[15]

> ..... *But it's definitely stopped. I'm going to say that – I'm not going to sit here and lie, but I've – it's definitely stopped. Like there's a – I'm – if you were to check my records now, it's recently, that's that's my bets and they're not that often. It's just when Dad races the dogs pretty much.*

15. When specifically asked about the contents of Mr Psillis' report, the Appellant said:[16]

> *Yeah, it's quite a few. No, but I only – if I'm gambling, I don't really – I only gamble on greyhounds. I never bet on horses or trots or anything like that. It's just always the greyhounds. And, there probably was so many then because when Dad had his disqualification ceased and then his licence back and started training again, we were race – he was racing dogs a couple of times a week, every week, and he was getting a lot of success from that.*

The Respondent's determination of the Appellant's application

16. On 30 July 2025, the Respondent refused the Appellant's application for registration.[17] The Respondent's reasons were expressed as follows:

> *The Commission finds your history demonstrates a pattern of behaviour not consistent with that of a fit and proper person and had determined to refuse your application for registration as a Greyhound Attendant under Criteria 11 and 17 of the Commission's Fit and Proper person framework. The reasons for refusing your application for registration as a Greyhound Attendant under these criteria are:*
>
> ***Criteria [sic] 11** provides that where 'An applicant was a participant in the greyhound racing industry or another racing industry and was previously suspended or disqualified, the Commission's likely position given the history and background of the Applicant is the Applicant will be asked for further information. Application may be refused.*

[14] A 16 at TB 40.
[15] A 23 at TB 40.
[16] A 27 at TB 41.
[17] TB 44 – 45.

> ***Criteria [sic] 17*** *states that where 'Industry interest Consideration – section 49(3) of the Greyhound Racing Act 2017, the Commission's likely position given the history and background of the Applicant is 'the Commissioner may refuse to register a person as a greyhound racing industry participant if it is of the opinion that it would be in the best interest of the greyhound racing industry to do so.*

17. The decision makers expanded on these matters in (inter alia) the following terms:[18]

> *Any person applying for registration in the greyhound racing industry, regardless of the role must meet the fit and proper person criteria. This framework is designed to ensure participants uphold the integrity, safety, and welfare standards of the sport. The Commission assesses each application on its own merits, considering the nature of the role and the responsibilities it entails. The Commission must be comfortably satisfied that the applicant is a fit and proper person to fulfill the requirements of the registration applied for.*
>
> *There are two matters which are of concern in assessing the Applicant's integrity and appropriateness. First, the Applicant's previous offending involving race manipulation.*
>
> *Section 11 of the Greyhound Racing Act 2017 outlines that the "Principal objectives of Commission" are:*
>
> *(a) to promote and protect the welfare of greyhounds,*
> *(b) to safeguard the integrity of greyhound racing and betting, and*
> *(c) to maintain public confidence in the greyhound racing industry.*
>
> *Whilst we hold the view that of these three objectives the promotion and protection of the welfare of greyhounds is the most paramount, ensuring greyhound racing is a fair contest for all, where all competitors have an equal chance of competing such that the integrity of the contest is at all times maintained is critically important in guaranteeing:*
>
> 1. *participants have an equal chance of success; and*
> 2. *Punters wagering on the contest, can do so with the knowledge their chosen runner is competing on a fair and level playing field, where the sanctity of the sporting contest is protected; and*
> 3. *The public can be confident in the operation and management of the sport.*
>
> *The Applicant's indiscretions in the matter referred to above, were actions which are at odds with each of the above listed guarantees.*
>
> *When first considering this application, we were inclined to afford the Applicant an opportunity to demonstrate her indiscretions were unfortunate, and a failing of youth. More importantly, now armed with the benefit and learnings of that period in her life, she was now well positioned to move forward. However, that leads us to the second matter we have considered.*

[18] TB 48 – 49.

During a routine monitoring of betting activities by the Commission, it came to the notice of Commission Officers that the Applicant, who at that time was a "Disqualified Person", was identified as placing bets on NSW Greyhound racing. As the Applicant was a disqualified person, she was prohibited under Greyhound Racing Rule 178F from placing bets on any greyhound race meeting held within Australia during her period of disqualification.

Specifically, Local Rule 178F, places "Additional restriction on persons disqualified" and it states that:

A person disqualified in respect of an offence related to betting or race manipulation must not:

(a) open a betting account;
(b) operate an existing betting account;
(c) transact a bet or have a bet transacted on their behalf;
(d) have any interest in or share in any bet; and/or
(e) receive a benefit from any bet placed with a licensed wagering operator,
in connection with any greyhound race meeting held in Australia.

During the investigation and hearing conducted into the Applicant in 2023, it was evident, and the Applicant conceded that her indiscretions occurred due to a combination of her age and immaturity and a predilection to gambling. In fact, during the hearing, we formed a view it would be in the best interests of the Applicant if she was to undertake a gambling counselling course to help rehabilitate her and school her in the importance of responsible gambling. Hence, we proposed to suspend a component of her disqualification should she complete such a course. The Applicant though chose not to pursue this option.

The significance of ***this new breach of the Rules*** *(breaching Rule 178(f)) (sic) was not insignificant, and without going into specifics, it involved hundreds of individual bets totalling tens of thousands of dollars. Rather than pursuing the Applicant at the time for a breach of the Greyhound Racing Rules, the Commission determined this was a matter which could best be dealt with should the Applicant at some point in the future, apply for re-registration, an occurrence which has now crystallised.*

Aware of the previous predilection of the Applicant to wager on greyhounds, which in 2021 and 2022 led her to committing inappropriate acts, now combined with significant wagering during her period of disqualification, we are concerned the Applicant has a real and subsisting gambling compulsion. Accordingly, the Commission is not comfortably satisfied that allowing her to re-enter the sport as a participant is in the best interests of greyhound racing, as it considers her participation would place her in a position where she could again attempt to manipulate a racing outcome motivated by her wagering.

The Commission is of the view that the Applicant is not currently a fit and proper person (emphasis mine).

18. The present appeal proceeds as a hearing *de novo* and accordingly, the Appellant does not have to establish specific error on the part of the decision makers in order to succeed. I determine the matter completely afresh. However, there is nevertheless one observation I should make arising from the reasons set out above.

19. It is evident from those reasons that one of the principal matters taken into account in refusing the Appellant's application was what was said to be a breach of LR178F. So much is clear from the reference in the reasons to what was said to be the *"new breach of the Rules"*. It is equally evident that the Appellant has never been *charged* with the commission of any offence contrary to LR178F. Accordingly, there has been no formal determination, following any proper process, that any breach has in fact occurred.

20. As I have pointed out above[19], and as I pointed out at the hearing,[20] it is no part of my function to determine whether or not that rule has been breached. I also accept that the betting activity disclosed in the report of Mr Psillis is relevant to my determination. Mr Walters, who appeared for the Appellant, did not suggest otherwise. However, there is a subtle, but important, difference between taking into account evidence of a participant's activity on the one hand, and elevating that activity to evidence of an established breach of the rules on the other, when the allegations underpinning that alleged breach have never been the subject of a charge to which the participant has had the opportunity to respond.

21. It follows that in my view there is some danger, from the point of view of affording a participant procedural fairness, in summarily concluding that there has been an established disciplinary breach on the part of the Appellant, when the allegation has never been the subject of any charge much less any adjudication, and then taking that breach into account in a manner adverse to her. For all of these

[19] At [8].
[20] Transcript 3.20.

reasons, I make it clear that I have taken the evidence of the Appellant's betting activity into account. However, I have not proceeded on the basis that she is a guilty of a breach of LR178F.

ADDITIONAL EVIDENCE IN THE APPELLANT'S CASE

22. The Appellant, who is now 20 years of age made a statement for the purposes of the appeal,[21] and also gave oral evidence at the hearing.[22] She was not cross-examined on either. Her evidence may be summarised as follows:

    (i) she was aged between 16 years and 11 months and 17 years and 3 months at the time of the earlier offending;[23]

    (ii) there was encouragement, falling short of duress, on the part of another person (with whom the Appellant was in a relationship) which played a part in the earlier offending, although the Appellant did not seek to abdicate responsibility for the offending;[24]

    (iii) the Appellant is now in a new relationship, in regular employment, and has a young child;[25]

    (iv) her principal reason for seeking a licence is to provide her father with some assistance in his training business;[26]

    (v) it is her ultimate goal to become registered as a public trainer, and to become a good role model for the industry;[27]

    (vi) she would accept the imposition of a condition on any registration preventing her from gambling.[28]

[21] Commencing at TB 15.
[22] Commencing at Transcript 5.22.
[23] At [12].
[24] At [13] – [19].
[25] At [21] – [23].
[26] At [24].
[27] At [26].
[28] Transcript 7.5 – 7.33.

23. The Appellant also relied upon a series of testimonials, the authors of which variously expressed the view that she had learned her lesson and would not offend again,[29] that she has matured since her previous offending and has made positive changes in her life,[30] and that she has taken deliberate steps to distance herself from previous negative influences.[31]

SUBMISSIONS OF THE PARTIES

Submissions on behalf of the Appellant

24. Mr Walters submitted that the Appellant:

    (i) has the skill and ability to carry out the duties of an attendant;[32]

    (ii) fully co-operated with the earlier investigation;[33]

    (iii) demonstrated remorse;[34]

    (iv) served a substantial period of disqualification[35] which arose from a breach of the rules as opposed to the commission of a criminal offence;[36] and

    (v) was a particularly young person at the time of the previous offending[37] and now has the benefit of the support of a number of persons, including her father.[38]

25. Mr Walters also pointed out that registration as an Attendant incorporates limited duties and responsibilities when compared with other categories of licence, and that in light of her age, the Appellant has good prospects of furthering the rehabilitation which she has already demonstrated.[39]

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[29] Testimonial of David Irwin.
[30] Testimonial of Kathy Elasi.
[31] Testimonial of C S and T F Lim.
[32] TB 6 at 4.1.
[33] TB 6 at 4.2.
[34] TB 6 at 4.3.
[35] TB 6 at 4.4.
[36] TB 6 at 4.5.
[37] TB 6 at 4.6.
[38] TB 6 at 4.7.
[39] TB 7 at 4.9 and 4.10.

26. Mr Walters expanded on these matters in oral submissions. He emphasised the Appellant's willingness to have conditions imposed on any licence issued to her.[40] He also emphasised the Appellant's age,[41] and submitted, in effect, that there were cogent personal reasons for the Appellant not to avail herself of any counselling in respect of gambling issues.[42]

Submissions of the Respondent

27. In written submissions, the Respondent advanced the following propositions:

(i) the legislative framework, provided by the *Greyhound Racing Act 2017,* includes:

(a) the imposition of an obligation on the Respondent to ensure that those who are registered as participants are fit and proper persons;[43]

(b) the conferral of the power on the Respondent to refuse registration if it is of the opinion that it would be in the best interests of the industry to do so;[44]

(ii) the Respondent's Framework provides guidance regarding the standards to be met by those seeking registration;[45]

(iii) whilst it was accepted that the Appellant had the knowledge, skill and ability to carry out the duties of an Attendant, her ongoing gambling were at odds with her honesty; [46]

(iv) the Appellant's failure to engage in available rehabilitation in respect of her gambling was significant in light of her recent betting activity;[47]

(v) notwithstanding her youth and immaturity at the time of the earlier offending, the remaining matters relied upon by the Respondent

[40] Transcript 10.1 – 10.5.
[41] Transcript 10.21 – 10.24.
[42] Transcript 10.28 – 11.34.
[43] TB 9 at [12].
[44] TB 10 at [13].
[45] TB 10 at [14] – [15].
[46] TB 11 at [21] – [22].
[47] TB 12 at [25] – [26]; [30] – [31].

supported a conclusion that the Appellant was not a fit and proper person to be registered, although there may be little public interest in denying the Appellant's re-entry into the industry forever.[48]

28. Mr Gillies, who appeared for the Respondent, expanded upon all of these matters in oral submissions at the hearing. He confirmed that there was no issue in respect of the Appellant's fitness, in the sense of her knowledge, skill and ability to perform the duties of an Attendant, and that the crux of the Respondent's case revolved around the circumstances of the previous offending, and the evidence of the Appellant's recent transactional betting.[49] Mr Gillies emphasised that the Respondent's primary concern around the Appellant's fitness and propriety was related to her gambling activities,[50] particularly in circumstances where she had chosen not to avail herself of available counselling.[51]

CONSIDERATION

29. It is appropriate to commence by setting out the relevant principles. In doing so, I emphasise that I have determined the present appeal by reference to those principles, and not by reference to the Respondent's "Framework". As Mr Gillies properly pointed out, I am not bound by the Framework.[52] Quite apart from that, the somewhat nebulous terms in which it is expressed render it largely if not entirely, unhelpful.

30. For example, Criterion 11 makes reference to the fact that in certain circumstances, an "*Application may be refused*". Equally, an application may be *allowed*. Similarly, Criterion 17 makes reference to the fact that the Respondent "*may refuse to register*" a person if it comes to the view that it would be in the best interests of the greyhound racing industry to do so. Conversely, if it does not come to that view, it *may* register the person. The terms of those criteria do little more

[48] TB 13 at [33] – [35]; TB 13 at [39] – [41].
[49] Transcript 13.29 – 13.35.
[50] Transcript 14.37.
[51] Transcript 15.6 – 15.23.
[52] TB 10 at [14].

than confirm that the power of registration is a discretionary one. Moreover, the Framework generally fails to articulate, at least with any degree of clarity, the factors which might inform the exercise of the discretion.

31. In those circumstances, I have determined the appeal by reference to principles developed at common law which were set out in full in the determination in *Fitzpatrick v Harness Racing NSW*[53] and which I now repeat (noting that some of them do not apply to the circumstances of the present case):

> *[71] 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.*[54] *This Tribunal (differently constituted) has consistently been called upon to apply those principles to determinations of the present kind.*[55] *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.*[56] *They include the following:*
>
> *(i) a conviction is important to an assessment of whether someone is fit and proper;*[57]
>
> *(ii) a conviction is not necessarily determinative, and the controlling body may inquire into the offending to ascertain its real facts;*[58]
>
> *(iii) the question of whether an applicant is a fit and proper person is to be determined at the time of the hearing;*[59]
>
> *(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;*[60]

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[53] 11 June 2024 at [71] – [73].
[54] See for example *Hughes & Vale Pty Limited v New South Wales (No. 2)* (1955) 93 CLR 127 at 156.
[55] 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].
[56] (2016) 339 ALR 580; [2016] NSWSC 1617.
[57] At [6], citing *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 57 CLR 279.
[58] At [102] citing *Ziems*.
[59] At [101] citing *Ex Parte Tziniolis; Re the Medical Practitioners Act* [1967] 1 NSWLR 57; (1966) 67 SR (NSW) 448 at 475.
[60] At [103].

(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;[61]

(vi) there may be little or no public interest in denying forever the chance of redemption and rehabilitation.[62]

[72] In P v Prothonotary of the Supreme Court of New South Wales,[63] *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.

[73] 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.

32. Three further matters should be noted.

33. The first, is that the onus is on the Appellant to establish that she is a fit and proper person.[64]

34. The second, is that there is no issue in the present case that the Appellant is "fit", in the sense of having the necessary skill and knowledge to carry out the duties of an Attendant.

35. The third, arises from the following observations made in *McKenzie v GWIC*:[65]

[48] Importantly, the Respondent expressly acknowledged that differing levels of responsibility attached to different categories of licence, as a consequence of which any assessment of fitness and propriety was to be made against that benchmark. In other words, the Respondent's position was that:

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[61] At [103] citing *Tziniolis,* and *Saunders v Legal Profession Admission Board* [2015] NSWSC 1839 at [62].
[62] At [105] citing *Dawson v Law Society (NSW)* [1989] NSWCA 58 per Kirby P at 16.
[63] [2003] NSWCA 320.
[64] *Fitzpatrick* at [3] – [6].
[65] 4 June 2025 at [48].

(i) *the holder of an attendant's licence has far less responsibility than (for example) the holder of a public trainer's licence;*

(ii) *the level of fitness and propriety expected of the holder of an attendant's licence is therefore less when compared with that which is expected from the holder of a higher category of licence;*

(iii) *it would follow that, all other things being equal, a determination could be made that an applicant was not a fit and proper person to hold (for example) a licence as a public trainer, but was a fit and proper person to hold a licence as an attendant;*

(iv) *it would further follow that I would not be bound by my determination in the previous appeal to reach the same conclusion in the present appeal.*[66]

36. Taking all of these factors into account, I make the following observations.

37. First, it is important to bear in mind that the question of fitness and propriety is to be determined *at the time of the hearing* – i.e., now, not at some time in the past. Whilst the Appellant's previous offending is obviously relevant to my determination, it occurred a long time ago. The Appellant has served the entirety of a substantial period of disqualification which was imposed on her for that offending. To that extent, she has paid her penalty. For the purposes of determining whether the Appellant is a fit and proper person it would, in my view, be an error to give primacy to that offending to the exclusion of all other considerations.

38. Secondly, it is relevant that the Appellant seeks registration as an Attendant. Subject to what appears below,[67] the Respondent's approach to that issue as expressed in the matter of *McKenzie* has a role to play in the present case.

39. Thirdly, the Appellant's youth at the time of the previous offending is important. Over and above that, the unchallenged evidence supports the proposition that her youth rendered her vulnerable to the negative influences of others. The degree of stability she has now achieved in her personal life suggests that such negative influences, which were obviously causally related to at least some of her offending, have been removed from her life.

[66] Transcript 9.1 – 10.15.
[67] At [46].

40. Fourthly, there is unchallenged evidence of the Appellant's good character. That evidence speaks for itself.

41. Fifthly, apart from the offending previously discussed, the Appellant has no other relevant history, be it within the industry or otherwise.

42. Sixthly, the Appellant co-operated with the Respondent, both in terms of its investigation into the previous offending and its investigation into the present application.

43. The factors referred to above are, generally speaking supportive of a conclusion that the Appellant is a fit and proper person to be registered. Collectively, they reflect a strong subjective case, and a substantial degree of rehabilitation which appears to be partly the result of the stability that the Appellant is now fortunate to have in her personal life.

44. However, whilst that rehabilitation is significant, it is lacking in one important respect. The Appellant has taken no steps at all to address her gambling issues, in circumstances where those issues were inextricably linked to her previous offending. The Appellant was given the opportunity to do so by the terms of the Respondent's previous determination to disqualify her.

45. That she did not take that opportunity was due to personal considerations. It is, frankly, difficult to be unduly critical of the Appellant, as a young mother who had employment available to her, for not taking the opportunity which was open to her. But the consequence, is that her rehabilitation is at this point incomplete, in circumstances where, in my view, there is a demonstrated need for her to address her gambling issues, particularly in light of the report of Mr Psillis. That, in my view, presents a barrier to a finding that she is a fit and proper person to be registered.

46. Further, whilst I am (consistent with the observations made in *McKenzie)* mindful of the fact that the level of fitness and propriety expected of the holder of an

Attendant's licence may be less than that expected of the holder of another form of licence, that must, particularly in this case, be balanced against the fact that the potential effect of gambling issues may be equal across participants generally, regardless of the class of licence they hold.

47. A determination of this kind is not performed by "*tallying*" the relevant factors in some form of mathematical exercise, and reaching a conclusion according to what side of a notional ledger the majority of those factors might fall. Rather, my task is in the nature of a balancing exercise, in which I must ascribe the weight that I think fit to such relevant factors as are identified. Whilst the Appellant has a strong case, the matters in her favour are, in my view, outweighed by the (contemporaneous) betting issues which have been identified and, perhaps more specifically, the fact that has undertaken little or no rehabilitative steps in relation to them.

48. In *Dawson v Law Society of NSW*[68] Kirby P (as his Honour then was) made the following observation in the context of a legal practitioner being re-admitted to the roll:

> *There is no public interest in denying forever the chance of redemption and rehabilitation to former practitioners. On the contrary, the public is better served if, in appropriate cases, those who have offended, once they have affirmatively proved reform, are afforded a second chance, under whatever conditions and after whatever time, the Court considers appropriate.*

49. In my view, that observation is apposite to the present case. It may well be that if the Appellant were able to establish that her rehabilitation was complete, and her gambling issues appropriately addressed, her position would fall squarely within the type of situation that Kirby P contemplated. However in my view, she has not yet reached that point. Those observations in should not be construed as expressing an opinion, or even an indication, that if the Appellant did undergo further rehabilitation in relation to her gambling she could expect a successful

[68] [1985] NSWLR 58 at 16.

outcome, as a matter of course, in relation to any future application for registration she might make. I do not, obviously, seek to bind any decision maker, nor do I seek to bind this Tribunal, however it might be constituted in the future, in relation to the determination of any further application that the Appellant might make. At the same time, it is my firmly-held view that the Appellant has presented a strong case for re-entry into the industry. All other things being equal, evidence of her completed rehabilitation would, as a matter of common sense, be an obviously powerful factor weighing in support of a future application for registration being granted.

ORDERS

50. I make the following orders:

    1. The appeal is dismissed.
    2. The appeal deposit is forfeited.

THE HONOURABLE G J BELLEW SC

3 November 2025