

IN THE RACING APPEALS TRIBUNAL

JACKSON CHAKER

Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION

Respondent

REASONS FOR DECISION

DATE OF HEARING **8 April 2026**

DATE OF DETERMINATION **28 April 2026**

APPEARANCES **Mr B Wrench for the Appellant**

Mr B Gillies for the Respondent

ORDERS

- 1. The appeal is upheld.**
- 2. The decision of the Greyhound Welfare and Integrity Commission of 21 January 2026 refusing the Appellant's application for registration as a Greyhound attendant is quashed.**
- 3. The appeal deposit is to be refunded.**

INTRODUCTION

1. By a Notice of Appeal dated 27 January 2026, Jackson Chaker (the Appellant) has appealed against the determination of the Greyhound Welfare and Integrity Commission (the Respondent) to refuse his application for a Greyhound attendant's licence on the basis that he is not a fit and proper person to be a licence holder.
2. The evidence is largely contained in a Tribunal Book (TB) which was prepared by the parties. The only additional material is a copy of the Statement of Agreed Facts (the agreed facts) which was tendered in sentence proceedings against the Appellant in the Local Court. That document was provided at my request, but without opposition from either party.

FACTUAL BACKGROUND

The charges against the Appellant

3. On 19 February 2022, the Appellant was charged by Police with three counts of supplying a prohibited drug in an amount in excess of the indictable quantity, but less than the commercial quantity, contrary to the *Drug Misuse and Trafficking Act 1985* (NSW)
4. The first count involved the supply of 54.67g of methylamphetamine. The agreed facts record that following conversations between the Appellant and another person (H), in the course of which the Appellant told H that he could get him "some", an amount of \$3,000.00 was transferred into the Appellant's bank account. The Appellant and H met the next day, at which time the Appellant supplied H with 54.67g of methylamphetamine. H was arrested a short time later in possession of the drug.¹

¹ Agreed Facts at [5] – [9].

5. The second count involved the supply of 19.467kg of cannabis between 9 August 2021 and 19 February 2022. The agreed facts state that the Appellant supplied 10.64 kgs of cannabis to another person (C) on 9 August 2021.²
6. The third count involved the supply of 26.5g of cocaine. The agreed facts record that the Appellant was stopped by police on 19 February 2022, at which time the cocaine was found in his vehicle (along with the balance of the cannabis referable to count 2).³

The proceedings in the Local Court

7. The Appellant pleaded guilty to each count. On 18 January 2024 at the Campbelltown Local Court he was sentenced, in respect of each matter, to an Intensive Correction Order (ICO) for a period of 18 months. Each order was expressed to commence on 18 January 2024 and to expire on 17 July 2025 (i.e., they operated concurrently) and each had the following conditions:
 1. The continuation of psychological treatment and compliance with any supervision plan.
 2. The completion of 100 hours of community service work.
 3. The compliance with supervision by Community Corrections.⁴
8. The Appellant completed the work component by 7 May 2025, only 4 months after the orders were imposed.⁵ He satisfactorily completed each order without incident.

The Appellant's application for registration and the Respondent's decision

9. The Appellant has been a registered industry participant since 2013. His most recent registration was that of a Public Trainer, which was cancelled by the

² Agreed Facts [10] – [13].

³ Agreed facts at [14] – [20].

⁴ TB 76 – 78.

⁵ TB 84.

Respondent on 14 June 2022, i.e. following his arrest but before the Court's determination.⁶

10. On 11 November 2024, the Respondent advised the Appellant that a decision had been made to disqualify him until 17 June 2025, that being the date of the expiration of the ICOs imposed in the Local Court.⁷

11. In or around September 2025, the Appellant made an application to the Respondent for registration as a Greyhound attendant.⁸ That application was considered by the Respondent on 16 January 2026.⁹

12. On 21 January 2026, the Respondent wrote to the Appellant advising that the application had been refused. The Respondent's letter included the following:¹⁰

The Commission has determined to refuse your application for registration as a Greyhound Attendance under Criteria 8 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) 8 provides that where an Applicant was previously convicted of a serious offence involving violence, dishonesty, drug offences or sexual offences, the Commission's likely position given the history and background of the applicant is the Application is likely to be refused but the decision will take into account whether the offences occurred more than 10 years ago, and the penalty that was imposed.

In making this determination, the Commission has had particular regard to the seriousness and the nature of the offences you are returning from, and considering your disciplinary history, which demonstrates a pattern of behaviour not consistent with that of a fit and proper person.

⁶ TB 90.

⁷ TB 71.

⁸ TB 27 at [13].

⁹ TB 69.

¹⁰ TB 69.

13. Although nothing turns on it (given firstly, that I am not bound by the criteria, and secondly, that this is a hearing de novo) it would appear to me that the terms of criterion 8 were not correctly cited, and thus not correctly applied, in the determination to refuse the Appellant’s application.

14. Criterion 8 is accurately reproduced in the Respondent’s submissions as follows:¹¹

| Criminal history or background of Applicant | Commission’s likely position given the history and background of the Applicant |
|---|---|
| 8. Applicant was previously convicted of a serious offence involving violence, dishonesty, drug offences or sexual offences | Applicant may be asked for further information. Application may be refused but the decision will be taken into account whether the offences occurred more than 10 years ago and the penalty that was imposed. |

15. Those terms accord with my understanding of Criterion 8 of the Respondent’s published criteria. However, they were not the terms of criterion 8 which were cited by the Respondent in the correspondence of 21 January 2026 (and which were inferentially applied in the decision making process). That bespeaks a jurisdictional error and/or an error of law.¹² Moreover, bearing in mind the terms of the Respondent’s letter to the Appellant of 21 January 2026, it is not clear what aspects of the Appellant’s “*history and background*” (other than the offending I have outlined) were taken into account when the decision was made. There is evidence before me that the Appellant has no prior disciplinary history at all.¹³

16. I would simply note that this is not the first occasion on which I have made observations about the incorrect application of the applicable criteria in matters of this nature.¹⁴

¹¹ Submissions at [10].

¹² See generally *LPDT v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2024] HCA 12.

¹³ See submissions at [4](e); TB 5. See also the concession made during the course of the hearing on behalf of the Respondent at 128.27

¹⁴ See *Mackenzie v GWIC* 4 June 2025 at [27] and following.

THE APPELLANT'S CASE

17. The Appellant's solicitor swore an affidavit of 24 February 2026¹⁵ which establishes that:

1. since being charged with the offending, the Appellant has:¹⁶
 - (a) undertaken 62 appointments for psychological treatment and undergone 32 negative drug analyses; and
2. completed a remedial program entitled "*Seeds of change*" as part of his supervision by Community Corrections.¹⁷

18. The psychological treatment was undertaken between 24 February 2022 and 12 January 2024.¹⁸ Although it would have assisted if I had been provided with a report of those who had administered such treatment, in an unchallenged statement made on 23 February 2026 the Appellant said, in effect, that as a consequence of the assistance provided by that treatment he has severed ties with those with whom he was associating at the time of the offending, and is confident of not re-offending. In the same statement, the Appellant expressed remorse for his conduct.¹⁹ There is an inference available that these changes have been assisted by the treatment he has undergone.

19. The Appellant also relies on a series of testimonials which are similarly unchallenged. His mother, an industry participant, made reference to the "*significant change*" she has seen in the Appellant since undertaking psychological treatment.²⁰ His brother expressed an unequivocal commitment to supporting the Appellant's ongoing rehabilitation, and made reference to the

¹⁵ Commencing at TB 25.

¹⁶ At [5] and Annexure A.

¹⁷ At [7] and Annexure B.

¹⁸ TB 28 – 30.

¹⁹ TB 15 – 16.

²⁰ TB 17.

Appellant's "*sincere remorse*" for his offending.²¹ Similar views were expressed by Jeff Schroll who also provided a testimonial.²²

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

20. The written submissions of the Appellant advanced the following principal propositions:²³

1. The offending occurred more than 4 years ago.
2. The charges were dealt with in the Local Court, by way of the imposition of ICOs.
3. The Appellant completed his ICOs without incident.
4. The registration sought by the Appellant is limited to that of an attendant.
5. The evidence supports a conclusion that the Appellant is a fit and proper person to hold a licence.

21. In oral submissions, Mr Wrench emphasised that the registration sought by the Appellant was the lowest in the hierarchy of available licences, that the offending occurred more than 4 years ago, and that there had been no further offending in the intervening period.

Submissions of the Respondent

22. The written submissions of the Respondent advanced the following principal propositions:

1. The offending was, obviously, objectively serious.²⁴
2. An ICO is tantamount to serving a sentence of imprisonment in the community.²⁵

²¹ TB 18.

²² TB 20.

²³ TB 4 – 5.

²⁴ At [23].

²⁵ At [24]

3. The matters in [1] and [2] were deserving of significant weight.²⁶
4. The psychological treatment undertaken by the Appellant ceased shortly before he was sentenced and has not continued since, and the drug analyses ceased in October 2023. In those circumstances, such evidence should be viewed cautiously.²⁷
5. The testimonial evidence of the Appellant’s mother and brother should be viewed in light of the fact that it had come from family members, whilst the testimonial of Mr Schrull is broad in its terms.²⁸
6. Whilst the Appellant has the knowledge and skill to perform the duties of an attendant, the necessity to maintain public confidence in, and protect the integrity of, greyhound racing, weighed in favour of the appeal being dismissed,²⁹ although there may be little public interest in denying forever the Appellant’s re-entry into the industry.³⁰

23. In oral submissions, Mr Gilles emphasised the importance of maintaining the integrity of the industry, and the seriousness of the Appellant’s offending.

CONSIDERATION

24. There is no issue as to the Appellant’s fitness, i.e., his knowledge and skill to hold a licence as, and perform the duties of, an attendant. The focus is on the question of whether he is a “*proper*” person in that respect.

25. Bearing in mind that I am not bound by criterion 8, it is appropriate to commence by stating the principles which are to be applied in reaching my determination. They were set out in *Fitzpatrick v Harness Racing New South Wales*³¹ and may be summarised as follows:³²

²⁶ At [25].

²⁷ At [27] – [30].

²⁸ [32] – [36].

²⁹ [40] – [41].

³⁰ At [42].

³¹ A determination of 11 June 2024.

³² *Fitzpatrick* commencing at [71].

[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.³³ This Tribunal (differently constituted) has consistently been called upon to apply those principles to determinations of the present kind.³⁴ 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*.³⁵ They include the following:

- (i) a conviction is important to an assessment of whether someone is fit and proper;³⁶
- (ii) a conviction is not necessarily determinative, and the controlling body may inquire into the offending to ascertain its real facts;³⁷
- (iii) the question of whether an applicant is a fit and proper person is to be determined at the time of the hearing;³⁸
- (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;³⁹
- (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;⁴⁰
- (vi) there may be little or no public interest in denying forever the chance of redemption and rehabilitation.⁴¹

[72] In *P v Prothonotary of the Supreme Court of New South Wales*,⁴² 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;

³³ See for example *Hughes & Vale Pty Limited v New South Wales (No. 2)* (1955) 93 CLR 127 at 156.

³⁴ 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].

³⁵ (2016) 339 ALR 580; [2016] NSWSC 1617.

³⁶ At [6], citing *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 57 CLR 279.

³⁷ At [102] citing *Ziems*.

³⁸ At [101] citing *Ex Parte Tziniolis; Re the Medical Practitioners Act* [1967] 1 NSWLR 57; (1966) 67 SR (NSW) 448 at 475.

³⁹ At [103].

⁴⁰ At [103] citing *Tziniolis*, and *Saunders v Legal Profession Admission Board* [2015] NSWSC 1839 at [62].

⁴¹ At [105] citing *Dawson v Law Society (NSW)* [1989] NSWCA 58 per Kirby P at [7].

⁴² [2003] NSWCA 320.

- (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.

26. Relevant questions to be considered when determining fitness and propriety may also include whether:

- (a) improper conduct has occurred;
- (b) such conduct is likely to occur again;
- (c) it can be assumed that such conduct will not occur; and
- (d) the general community will have confidence that it will not occur.

27. Further, in certain contexts, character or reputation may be sufficient to ground a finding that a person is not fit and proper to undertake the activities in question.⁴³

28. The Appellant relies on the fact that the offending was dealt with in the Local Court, by way of the imposition of ICOs. Those facts are not really to the point. Neither detracts from the high degree of objective seriousness of the offending. Specifically, as to the second, an ICO is an alternative to full-time imprisonment. It must be said that, in and of itself, the offending is a circumstance which tends against a finding in the Appellant's favour.

29. It is also important to bear in mind that in exercising its registration functions under s 49 of the *Greyhound Racing Act 2017* (NSW), the Respondent must act in what it considers to be the best interests of the industry, and in a manner which is conducive to meeting the objects of the Act. Those objects include protecting the interests, and ensuring the integrity, of the industry.⁴⁴

⁴³ See *Australian Broadcasting Tribunal v Bond* [1990] HCA 33 at [36] per Toohey and Gaudron JJ.

⁴⁴ Section 3A(b) and (d).

30. All of that said, no single factor is determinative of the question that I am required to decide. Assessments of fitness and propriety are to be made not in isolation, but by assessing the evidence holistically rather than in a piecemeal way. The adoption of that approach, and the application of the principles I have identified, leads to the following conclusions.
31. First, the fact of the Appellant's conviction, whilst obviously important, is not of itself determinative of the question of his fitness and propriety.
32. Secondly, the offending in the present case occurred more than 4 years ago. It represents the Appellant's only criminal offending.
33. Thirdly, there is unchallenged evidence that the Appellant has undergone significant rehabilitation since the offending. That rehabilitation is reflected, in part, in the fact that he has not committed any further offences. I acknowledge the force of the Respondent's submission that the Appellant's treatment and intervention in that respect appears to have ceased at or about the time he was sentenced. Although not expressly put by the Respondent, that is a circumstance which gives rise to the question whether the Appellant engaged in those interventions purely for the purposes of presenting a favourable picture to the sentencing Court. However, there is evidence from the Appellant himself, and from members of his family, which supports a conclusion that such interventions have materially assisted in his rehabilitation. That evidence was not the subject of any direct challenge, and there is no reason not to accept it. It is entirely consistent with the objective evidence of Appellant's completion of his ICOs, and what appears to be his generally positive response to supervision.
34. Fourthly, I have noted the Respondent's entirely fair concession that there may be little or no public interest in denying the Appellant forever the chance of redemption and rehabilitation. Inherent in that concession is the tacit acceptance that there is likely to come a time when the Appellant's return to the industry is appropriate. I would go one step further, and express the view that

there is little or no public interest in denying the Appellant the opportunity to do so any further. I have reached that conclusion for the simple reason that it is difficult to imagine what more he could have done in terms of his rehabilitation since his offending. There is (to use the term adopted by Young CJ in Eq in the case of *P*) clear (and in my view convincing) evidence of successful rehabilitation. That assumes particular significance, given that the issue of the Appellant's fitness and propriety is, as I have noted, to be determined now, and not at some future time. At least in terms of the Appellant's rehabilitation, any further period out of the industry would seemingly serve little or no purpose.

35. Finally, I am mindful of the type of registration that the Appellant seeks. In *Mackenzie*, it was accepted that differing levels of responsibility attach to different categories of licence, as a consequence of which any assessment of fitness and propriety is to be made against that benchmark. The holder of an attendant's licence has far less responsibility than (for example) the holder of a public trainer's licence. Accordingly, the test of fitness and propriety which is to be applied in a case such as the present is necessarily less rigorous than that which would be applied when considering the case of a person seeking a higher category of licence. It follows that, all other things being equal, a determination could be made that an applicant would *not* be a fit and proper person to hold (for example) a licence as a public trainer, but *would* be a fit and proper person to hold a licence as an attendant. Given the evidence, the Appellant should have the benefit of that approach.⁴⁵

CONCLUSION

36. For the reasons stated, I am satisfied that the Appellant's appeal should succeed and I make the following orders:

1. The appeal is upheld.

⁴⁵ See *Mackenzie* at [48].

2. The decision of the Greyhound Welfare and Integrity Commission of 21 January 2026 refusing the Appellant's application for registration as a Greyhound attendant is quashed.
3. Any appeal deposit is to be refunded.

37. For the avoidance of doubt, in making order [2] I have proceeded on the assumption that the Appellant will be issued with a licence by the Respondent in the absence of any further order.

THE HONOURABLE G J BELLEW AM SC

28 April 2026