

IN THE RACING APPEALS TRIBUNAL

WAYNE DARGAN
Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

REASONS FOR DETERMINATION

DATE OF HEARING 20 May 2026

DATE OF DETERMINATION 9 June 2026

APPEARANCES

The Appellant appeared in person

Ms C Maish for the Respondent

ORDERS

1. The order made on 18 March 2026 pursuant to cl 20 of the *Racing Appeals Tribunal Regulation 2024* (NSW) is vacated.
2. The appeal against the finding of guilt is dismissed.
3. Subject to order [4], the appeal against the penalty imposed by the Respondent, namely a suspension of 4 months, is dismissed.
4. The determination of the Respondent in respect of penalty is varied by ordering that the penalty in [3] be wholly suspended for a period of 12 months commencing on 12 March 2026.
5. The appeal deposit is to be refunded.

INTRODUCTION

1. By a Notice of Appeal dated 13 March 2026, Wayne Dargan (the Appellant) has appealed against a determination made on 12 March 2026 by the Greyhound Welfare and Integrity Commission (the Respondent) finding him guilty, and imposing a 4 month suspension, for a breach of r 156 of the Greyhound Racing Rules (the Rules). By an order made by the Tribunal (by consent) on 18 March 2026, the operation of that determination was suspended pending the outcome of the present appeal.
2. The Appellant pleaded not guilty to the charge and adhered to that plea at the hearing of the appeal.
3. The parties prepared a Tribunal Book (TB) containing all relevant information and I had the benefit of further oral submissions at the hearing of the appeal on 20 May 2026.

FACTUAL BACKGROUND

The application for transfer lodged by the Appellant

4. The Appellant has been registered with the Respondent as an Owner since 2024 and an Owner/Trainer since 2022. On 8 August 2023, he lodged with the Respondent an application for transfer of the greyhound “*Dixie Showband* (the greyhound).¹ The application nominated the date of transfer as 8 August 2023. Under the heading “*New NSW/ACT participant’s details*” the Appellant nominated his cousin, Joel Mancell (Mancell) as the transferee. Despite the terms of the heading under which Mancell’s details appeared, he was not a registered industry participant in either NSW or the ACT at the time.
5. On the same date, after the application had been lodged, the Respondent wrote to the Appellant in the following terms:²

¹ TB 20.

² TB 31.

“Hi Wayne,

Your ownership transfer is nearly complete and has been sent to Joel Mancell with the transfer key 200011124589 for completion. Joel will have 14 days to complete their part of the application.

You will remain as the owner of Dixie Showband if the application is not completed within 14 days....”

The events of 15 May 2025

6. On 15 May 2025, more than 1 year and 9 months after he had lodged the application, the Appellant was telephoned by Ms Amanda West, the Acting Manager (Traceability and Welfare) of the Respondent. Ms West made a statement in which she said the following:³

On 15 May 2025 I called Mr Dargan regarding greyhound, Dixie Showband. I explained that I had not been successful in my attempts to contact Joel Mancell regarding the greyhound and as the owner transfer for Joel was declined, the greyhound, Dixie Showband, was still in Mr Dargan’s ownership.

I advised Mr Dargan that we will need a declaration from him regarding the transfer and what became of Dixie Showband. I advised that by doing the declaration, it would enable GWIC to remove the (sic) Dixie Showband from his ownership.

Mr Dargan became frustrated and stated he had already done everything he needed to do. He stated he felt it was up to GWIC to “do your jobs” and resolve the matter at our end. I explained that this is what I was trying to do and that all he needed to do was to complete the declaration and I could resolve the matter once and for all.

I issued a direction to Mr Dargan to resolve the overdue check-in for Dixie Showband within 7 days and reiterated that completing the declaration would resolve the alert.

I advised Mr Dargan that I would send him emails detailing what needed to be done to resolve the alert as well as a written 7 day direction. I explained that failure to comply with the direction may result in disciplinary action. Wayne told me to go ahead and take disciplinary action against him before he terminated the call.

7. Ms West then sent the following email to the Appellant at 2.38 pm on the same day:⁴

³ TB 76 – 77 at [5] – [9].

⁴ TB 44.

Dear Mr Dargan,

Further to our recent telephone conversation, you currently have overdue eTrac Check-in Alerts that the Commission has sought resolve with you relating to the following greyhounds:

Dixie Showband

You are hereby directed to complete the overdue eTrac Check-in's within 7 days by either

- i. presenting the greyhound for check-in or*
- ii. lodging the appropriate end of life or retirement notification in eTrac,*

*These overdue eTrac Check-in's must be completed by the close of business on **22/05/2025**.*

Failure to complete these eTrac Check-in's may result in the scratching of your nominations under Local Rule 34B(2), as well as the commencement of Disciplinary Action, which may result in penalties up to and including the Disqualification of your Registration under Rule 174.

8. The correspondence went on to cite various provisions of the Rules which were said to be applicable, including r 156 which is set out below.
9. One minute later, at 2.39 pm, Ms West sent a further email which was in the following terms:⁵

Good afternoon Mr Dargan,

Thank you for your time on the phone today.

As discussed, the Greyhound Dixie Showband is still listed as being owned by yourself as the previous outgoing ownership transfer that you submitted on 3/11/23 was declined.

I note that you have discussed the matter of Dixie Showband with Commission staff in the past, during which you advised that the Greyhound had gone to Joel Mancell.

The Commission has attempted to contact Mr. Mancell on a number of occasions with the hope of confirming the transfer and the whereabouts of Dixie Showband. As the Commission has not been able to obtain this confirmation we require you to complete a registered participant declaration detailing what became of Dixie Showband.

⁵ TB 46.

I have attached the registered participant declaration form for your use. Please complete the form and return to me by reply e-mail.

Once I have reviewed the completed form, I will be able to remove the greyhound from your ownership and close the related check in alert.

If you have any questions, please contact me using the details below.

10. It should be noted that Ms West's assertion that attempts had been made to contact Mancell is very much in issue. Mancell has consistently denied that he had received any contact from anyone on behalf of the Respondent about the transfer.

THE INTERVIEW WITH THE APPELLANT

11. The Appellant was interviewed on 7 August 2025.⁶ He explained⁷ the circumstances in which the greyhound had been acquired, and the fact that he had trained her, generally without success. He said that Mancell had indicated to him that he proposed to obtain his own trainer's licence and train the greyhound himself. The Appellant maintained⁸ that, in terms of the transfer, he had "*done his bit*" and that Mancell "*had done his*". He said⁹ that he had "*started getting emails saying that (the greyhound) needed to be checked in.*" He was then asked:¹⁰

A31 So, with the changeover, I'd done my bit on the e-track system - - -

Q32 Yep. Yep.

A32 - - - and, he had done his and, that – that's all I heard. That, I heard that. Until maybe, six months later, I started getting emails saying that she needed to be checked in - - -

Q33 Yeah.

A33 - - - and, I was like, "I don't need to check her in." So, I – look, I can't remember and, I don't want to tell you a lie.

Q34 Yeah.

A34 But, I can't remember if I'd spoken to someone about why I was getting the emails - - -

⁶ Transcript commencing at TB 50.

⁷ At Q and A 24.

⁸ Q and A 31 – 32.

⁹ Q and A 33.

¹⁰ Q and A 31 and following.

Q35 Yep.

A35 - - or, they were contacting me months and, months after I started getting these emails around why I wasn't checking her in and, I was like, "Look, the paper -" And then, every time I had a - a conversation with someone from that side of the fence, they'd assured me they'd follow it up. "You won't be getting sent anymore emails." "Yeah. I can see what's happening, we'll follow it up." By then, sure enough, a month later I'll get another email. And then, other six months, I'd get another phone call and, I was like, "You know what, the last time I spoke to someone -" I was like, "You know what, you said you're going to fix this up over a year ago." And, I said, "I'm still getting emails." And, they were frequent but, there was no real follow up regarding why it was happening, why I was still - you know, there was no information given to me around what my responsibility was.

Q36 Yep.

A36 Because, I'd thought I'd done the right thing and, done all the paperwork with changing it back over into Joel's name.

Q37 Yep.

A37 So, the backend of that was, I got a - a call from a lady, pretty much threatening me with cancelling my licence around some of the stuff that I was failing to do. And, I was like, "No. I'm pretty sure I've done everything that I needed to do. The dog hadn't been in my name for like, over two years now and, you're trying to threaten me with losing my licence." I was like, "Come on. Like, it's not - that can't be serious."

...

Q47 Yep.

A47 I just thought I'd done my part and, it was finished and, that was it.

Q48 Yep.

A48 But, see Joel being - because, I didn't really fully understand how to do it properly because, Joel was still owner of it but, I trans - I didn't know how to do it properly to even include his name on the ownership.

Q49 Yep. Well, see - and, he could never be an owner because, he was never registered as one.

A49 Yeah. So - - -

Q50 So - - -

A50 Yeah. Okay.

Q51 - - - even though between you guys, in your mind that he was part owner and, you were part owner - - -

A51 Yeah.

...

Q55 Yep.

A55 - - - I can go through my Messenger and, have a look - - -

Q56 Yep.

A56 - - - at the screenshot Joel had sent me.

Q57 Okay.

A57 Because, he had been in conversations 'cause, I said – he said to me around how would he go around being a – a trainer.

...

Q66 Yeah. What – what's your understanding of what happened there?

A66 So, he – he – like I said, when I – when I said to Joel to come get her, that was – wasn't one of the reasons why in – like, solely, I – I said to him to come and, get her. One of the reasons was like, she'd gone sour. And, when I say sour, like, she went off her food, she wasn't the right personality to be around. Like, other dogs. You'd just like – and, when I first got her, she was like, a happy dog. Like, I could interact her and, she was fine. But, she did start to get snappy and, when I say snappy, like I couldn't trust her. Like - - -

Q67 Around other dogs or, humans?

A67 Both.

...

Q79 Yeah.

A79 'Cause it wasn't – no. That's what it was. It was the lady that had rang me - - -

Q80 Yep.

A80 - - - asking information and, I was like, "You know what, like I've had this conversation a few times now." I said, "I've given you all I – all I know. I don't know anything." And, like I – I said to you, I don't talk to Joel that – Joel that frequently, to be able to give you his day-to-day, what's going on with his animals, his kids, like his rodeo career. I don't have any of that.

Q81 Yep.

A81 So, I said, "You're better off ringing him." And, they said that they tried speaking to him and, couldn't get hold of him. And, I rang him straight away and, I said, "Hey, I've just had another phone call. Like, what – what's the latest here?" And then, in that time – like, I spoke to him and, said, "Look, they're trying to get hold of you." And, he goes, "Mate, I – I own a business. I answer all my calls so, I don't know what they're saying, when they're been trying to call."

Q82 Okay.

A82 I was like, "Well, they're trying to get hold of you." And then, I said, "Where is the dog? What's going on?" And, he goes, "I had to put her down." And then, told me the reasons why and, I was like, "Look." I said, "Look, we've spoken about this before." Just to give him the heads up too. I didn't want to set him up and, be careful with his kids but, that was it. Like, I - - -

...

Q97 All right. So, just confirming, you did get the direction to – I think it was Amanda West that you spoke to – that you were saying you spoke to and, you – you told her – if I'm understanding this correctly through your end, are you saying that you didn't comply with the direction because, you didn't believe it was your dog anymore?

A97 It wasn't even a direction. It was a threat.

Q98 Okay.

A98 And, what I took from the phone call was that if I – if I – I don't even know the right way to put it. It – I took it as a – a massive threat and, it wasn't really coming – 'cause, if – if I'm having a conversation like, with you?

Q99 Yeah.

A99 It's got to go two ways. Like, a conversations got to be somewhat transparent where I understand what you're saying. You can hear what my answers are and, we can have a conversation around conclusions, and – and, understanding.

Q100 Yep.

A100 But, the way she communicated with me was a directive and, I don't really comply with that sort of, conversation because, I've got no issues at all. And, I've done more thing than enough to – to stay compliant with what I need to do within greyhound racing, within having kids, within having other animals. I do above and, beyond to make sure my animals and, my kids, my people around me, my – everyone's safe.

...

A104 And, with this – yeah. And, with – with that conversation, she was saying, I was taking it like, I was responsible for what was going on. And, I was like, "No. I'm not responsible for anything that's gone on." I said, "I don't even know what you're talking about. All you've pretty much said now, is that I'm a shit person. You – you need me to do this and, want me to do that with no real context or, understanding of why you're calling me." 'Cause my frustration was I've had this phone conversation with – with the same people two years ago. And, I said, "If you actually done your job properly, I wouldn't be having this same phone conversation two years later. You would've actually been out onto the arm, looking for the dog and, actually scanning the dog." Every conversation I've had has only gone to a certain point. And then, they've sort said, "Yep. I can see what's going on. You won't hear from us. The emails won't continue." And then, they do.

Q105 I think the drama was that Joel, we couldn't get in touch with Joel.

A105 Yep.

Q106 So, I did believe they had gone down physically to Joel's property but, via, phone, he just wasn't responding. So, I – I don't know what's happened there.

A106 Yeah.

Q107 All right. So, just to cover off – so, to your knowledge, in terms of leaving the greyhound with an unregistered person, **you believed he was registered, did you? Is that what - - -**

A107 Yep.

Q108 Yep. Okay.

A108 Yep.

Q109 And - - -

A109 Can you go on – can you go on to his profile and, check and, see what he's - -

Q110 Yeah. There's nothing there. I've looked, Wayne. There's not - - -

A110 Yeah. Right. But, does that – does that like, stop after a period of time?
Because, I – I can tell you that I've actually seen - - -

Q111 Yep. So, what happens is - - -

A111 - - - **screenshots.**

Q112 - - - when – by the looks of it - - -

A112 Yeah.

Q113 - - - **he's got a GWIC ID number.** So – but, it's like, a – it's like a number before you get – it's like when you make the application.

A113 Yep.

Q114 So, when you make an application, you get a number and, it's got like, two letters in front of it.

A114 Yep.

Q115 And then, when you – you know, as your number, it'll be just like, six or, seven numbers. His – his hasn't gotten out of that stage of the application process.

A115 Yeah.

...

Q134 Yep.

A134 So, **that was all done through Joel 'cause, Joel – from my understanding, was the owner.**

Q135 Yeah. Were you – do you mean Joel got the – the car – the dog returned from retired to racing?

A135 Yeah. Well, we – we both done it because, we both had - - -

Q136 'Cause, it's got your name.

A136 Say that again.

Q137 Yeah. Okay.

A137 Sorry.

Q138 It's just got your name. On e-track, it just shows that, that reversal was yourself. Again, because you would've been an – a registered participant.

A138 Yeah.

Q139 Because he's – he couldn't have done any of those things. Like, we wouldn't have allowed him to.

A139 But, his name was on the original paperwork that had the dog – like, got the dog. So, that's how that last person would've transferred it into his name or, have his name on the paperwork.

Q140 Right. Well, that wasn't registered with GWIC. So, that might've been between the owner and, Joel.

A140 Yeah. Okay.

Q141 That's possible. I'm assuming if that's what you're saying you've seen but, in terms of GWIC's understanding, it's been the whole time, just yourself.

A141 Yeah. Right.

Q142 Because – simply because he wasn't registered. If he had been the registered participant, it would've gone through when you did the transfer. So - - -

A142 Okay.

THE EUTHANISATION OF THE GREYHOUND

12. A certification of euthanasia of the greyhound was subsequently completed, nominating Mancell as the owner.¹¹ A certificate signed by Elizabeth Bramley of Woinda Veterinary Hospital dated 7 August 2025 confirmed that the greyhound had been euthanised on the basis of being a known risk to people, and failing a temperament assessment for rehoming as a pet.¹² An accompanying document recorded a report being made by Mancell that the greyhound had become aggressive towards his daughter, and had attempted to bite her.¹³ Those documents were, obviously, sent to the Respondent although when that occurred is not entirely clear.

THE INTERVIEW OF MANCELL

13. Mancell was interviewed on 7 August.¹⁴ He said that he had originally purchased the greyhound from Samuel Bell,¹⁵ and that he gave the greyhound to the Appellant to train.¹⁶ He said that the Appellant later told him that the greyhound had “gone sour” and had sent her back to him.¹⁷ He explained that the greyhound was euthanised after attempting to bite his daughter.¹⁸

14. Mancell said that he and the Appellant had “gone halves” in the purchase of the greyhound.¹⁹ He said that at that time, he was unaware of any responsibilities with

¹¹ TB 47.

¹² TB 48.

¹³ TB 49.

¹⁴ Commencing at TB 67.

¹⁵ Q and A 6; 17.

¹⁶ Q and A 20.

¹⁷ Q and A 21.

¹⁸ Q and A 22 and following.

¹⁹ Q and A 32.

which he had to comply²⁰, and that although he had sought registration, the Appellant had not been aware that it “*didn’t go through*” at the time.²¹

15. Mancell stressed²² that he was unaware of any attempts made by the Respondent to contact him. He emphasised²³ that the Appellant “*wouldn’t have knew*” (sic), and that there was “*no way he would have (known)*”, that he (Mancell) was not registered with the Respondent as a participant.

FACEBOOK MESSAGES EXCHANGED BETWEEN THE APPELLANT AND MANCELL

16. A number of Facebook messages exchanged between the Appellant and Mancell form part of the evidence.

17. On 30 July 2023, before the Appellant lodged the transfer application, the following exchange occurred:

<i>Appellant:</i>	<i>Hey mate don’t forget about ya license. I have to take her out of my name this week.</i>
<i>Mancell:</i>	<i>Candy on to it.²⁴</i>
<i>Appellant:</i>	<i>Sweet mate, I just don’t want ya to go through all that stuff again.</i>
<i>Mancell:</i>	<i>Na fuck that.</i>

18. Two days later, on 1 August 2023, the following further exchange took place:

<i>Appellant:</i>	<i>You done the license yet?</i>
<i>Mancell:</i>	<i>She has been mate.. I ask where she at when I go inside.</i>

19. The following day, 2 August, Mancell sent a message to the Appellant as follows:

<i>Mancell:</i>	<i>Hey mate all sent just waiting for approval bud.</i>
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²⁰ Q and A 42 – 45.

²¹ Q and A 54; 57.

²² Q and A 63.

²³ Q and A 65.

²⁴ Candy is seemingly Mancell’s partner. See TB 69 and Q and A 19.

20. A short time later, Mancell sent the Appellant a photograph of a communication from the Respondent stating, “Welcome Joe” (sic) which included an ID number and recorded the status as “Active”.

21. On 14 November 2023, the Appellant sent Mancell a photograph²⁵ of a communication received by him from the respondent headed “A reminder that your Greyhound is due to check in. It’s time to check-in your greyhounds”. That was accompanied by the message:

“They sent another email. Asking for her to be checked in. I will send them your details.”

22. Mancell responded:²⁶

Cheers bud.

23. Later the same day, Mancell sent a further message to the Appellant stating:²⁷

Just spoke to ‘em gunna try get me owner trainer licence as it’s same deal.... Might as well try do something with em as I reckon this black dog will go proper good.

24. On 15 May 2025, inferentially after the contact had been made by Ms West, the Appellant sent one of the communications he had received from the Respondent to Mancell, accompanied by the message:²⁸

Hey mate can you please sort this out tomorrow.

²⁵ TB 25.

²⁶ TB 25.

²⁷ TB 25.

²⁸ TB 27 – 28.

25. Mancell replied:

Yer mate I call em in morning.

The instigation of disciplinary action

26. On 16 January 2026, the Respondent wrote to the Appellant advising of proposed disciplinary action. For present purposes, it is sufficient to note that the Appellant was advised of an alleged breach of r 156(6) in the following terms:²⁹

That [the Appellant], as a registered Owner with [the Respondent] at all relevant times, did a hing which, in the opinion of the Controlling Body, constitutes an offence in circumstances where:

- 1. [He was] at all relevant times the owner of greyhound Dixie Showband.*
- 2. On 15 March [sic] 2025 [he was] issued a lawful order by an Officer of the Controlling Body to complete a Registered Participant Declaration Form, outlining the circumstances of the greyhound, within 7 days.*
- 3. [He] failed to comply with the lawful order by 22 March [sic] 2025.*

27. The references in that charge to 15 March 2025 and 22 March 2025 would appear to be an error. Assuming the Respondent relies on the correspondence sent by Ms West to the Appellant, such correspondence was sent on 15 May 2025, not 15 March.

28. A disciplinary hearing was convened on 12 February 2026³⁰ at which, generally speaking, the Appellant advanced the same explanation as he did when he was previously interviewed. The hearing was adjourned and resumed on 12 March 2026.³¹ When it was pointed out to the Appellant in the course of the resumed hearing that Ms West was simply asking the Appellant to make a declaration, he replied:³²

I wasn't gonna do it I was never gonna do it.

²⁹ TB 33 and following.

³⁰ Commencing at TB 83.

³¹ TB 104 and following.

³² TB 108.25 – 108.40.

29. Ultimately, the Appellant was formally charged and suspended for a period of 4 months.³³

THE CHRONOLOGY OF EVENTS

30. Drawing on the above, and before addressing the substantive issues, it is appropriate to summarise the facts by a Chronology of the relevant events.

<i>DATE</i>	<i>EVENT</i>
2022	<i>Appellant becomes registered with the Respondent as an Owner Trainer.</i>
30 July 2023	<i>Appellant reminds Mancell to attend to his licence saying that he had to “take her out of his name next week”. Mancell responds that his partner is “on to it”.</i>
1 August 2023	<i>Appellant reminds Mancell to attend to his licence. Mancell responds by saying that he will check with his partner.</i>
2 August 2023	<i>Mancell: 1. advises the Appellant that it’s “all sent” and “just waiting for approval”. 2.sends the Appellant a copy of correspondence received from the Respondent containing an ID number and the word “Active”.</i>
8 August 2023	<i>Appellant lodges application for transfer of Dixie Showband. Respondent advises Appellant that the transfer is “nearly complete” and has been sent to Mancell for completion within the next 14 days.</i>

³³ TB 125.

14 November 2023	Appellant sends Mancell a photograph of correspondence received from the Respondent reminding him of the necessity for check-in and saying that he will send the Respondent Mancell's details. Mancell later says that he just "spoke to them" and will try and get his Owner Trainer licence.
15 May 2025	Ms West speaks with the Appellant and then writes to him: 1. directing him to complete the overdue check-in within 7 days, i.e. by 22 May 2025; and 2. advising that a failure to do so may result in disciplinary action. Appellant immediately sends a message to Mancell asking him to "please sort this out tomorrow". Mancell responds to the effect that he will call them in the morning.
7 August 2025	Appellant interviewed by officers of the Respondent. Mancell interviewed by officers of the Respondent. Certificate of euthanasia signed.
16 January 2026	Respondent advises Appellant of proposed disciplinary action.
12 February 2026	Disciplinary hearing day 1.
12 March 2026	Disciplinary hearing day 2. Appellant suspended for 4 months.
13 March 2026	Notice of Appeal lodged.
18 March 2026	Stay granted by consent.

THE RELEVANT PROVISION OF THE RULES

31. Rule 156(h) of the Rules is in the following terms:

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

...

(h) disobeys or fails to comply with a lawful order of a Controlling Body, the Stewards, or another person authorised by a Controlling Body with official duties in relation to greyhound racing.

SUBMISSIONS OF THE PARTIES ON LIABILITY

Submissions of the Appellant

32. Bearing in mind that the Appellant maintains his plea of not guilty, his submissions in respect of that issue may be summarised as follows:

1. He had several conversations with the Respondent in which the confusion which had arisen was acknowledged, and an indication given that Mr Mancell would be contacted.³⁴
2. He was never told what he needed to do and had never been told that the transfer had been rejected.³⁵
3. In the circumstances, he reasonably believed that he had taken the necessary steps to effect the transfer.³⁶
4. He was not properly made aware that he remained legally responsible for the transfer.³⁷
5. He reasonably believed that he had discharged his obligations, such that any failure in the process was administrative in nature and not his fault.³⁸
6. The direction of 15 May 2025 from Ms West was unreasonable.³⁹
7. He did not deliberately ignore, or refuse to comply with, the direction.⁴⁰

³⁴ TB 6.

³⁵ TB 6.

³⁶ TB 7.

³⁷ TB 7.

³⁸ TB 7.

³⁹ TB 8.

⁴⁰ TB 8.

Submissions of the Respondent

33. The written submissions of the Respondent focussed upon what was said to be the fact of the Appellant's breach, and the importance of the protection and welfare of greyhounds.⁴¹ In oral submissions, it was emphasised that a direction had been issued to the Appellant by Ms West on behalf of the Respondent with which he had failed to comply.⁴² Particular reliance was placed on the Appellant's statement at the resumed disciplinary hearing, to the effect that he had no intention of making the declaration which had been sought by Ms West.

CONSIDERATION

34. Despite the extent of the factual material set out above, the resolution of the issue of whether I am satisfied that the Appellant is guilty of the offence with which he has been charged is a relatively simple one. The evidence supports the conclusions that:

1. on 15 May 2025 Ms West directed the Appellant to complete the check-in within 7 days;
2. the Appellant, on his own admission, did not do so, and had no intention of doing so.

35. That is sufficient, without more, to establish the commission of the offence. The reality is that on his own admission, the Appellant never intended to comply with the direction given to him by Ms West. Whilst I am not entirely without sympathy for the Appellant's position, I am not able to accept his various assertions that:

1. he was never told what he needed to do;
2. he had never been told that the transfer had been rejected;
3. he was not properly made aware that he remained legally responsible for the greyhound;
4. any failure in the process was administrative in nature and not his fault.

⁴¹ At [18] – [25].

⁴² Transcript 5.24 – 5.45.

36. Each and every one of those assertions runs contrary to the objective evidence.

37. For these reasons I am satisfied that the offence is made out.

SUBMISSIONS OF THE PARTIES ON PENALTY

Submissions of the Appellant

38. The Appellant made the following submissions:⁴³

1. The penalty is excessive.
2. The breach was administrative in nature and occurred in unusual circumstances.

Submissions of the Respondent

39. The Respondent's submissions on penalty may be summarised as follows:⁴⁴

1. The penalty is appropriate.
2. The Appellant's failure to comply with Ms West's order warrants a penalty of suspension.
3. The objective seriousness of the Appellant's conduct was such that no lesser penalty was warranted.

40. In oral submissions at the hearing, the following additional propositions were advanced on behalf of the Respondent:⁴⁵

1. The Appellant's conduct "*inhibited*" the Respondent from being able to carry out one of its principal objectives.
2. The Appellant's failures effectively eroded the efficacy of the greyhound tracking program.
3. Any industry participant has an obligation to comply with the responsibilities imposed on them.
4. As a consequence of all of these matters, it was necessary for any penalty to reflect considerations of both general and personal deterrence.

⁴³ TB 9.

⁴⁴ At [26] – [29].

⁴⁵ Transcript 6.20 = 6.41.

CONSIDERATION

41. In considering the question of penalty, it is necessary to examine three broad factors, namely:

1. the objective seriousness of the offence;
2. the issue of delay; and
3. the Appellant's subjective case.

42. As to the first of those matters, the Respondent's submissions emphasised the importance of the Respondent's objective to promote and protect the welfare of greyhounds generally, as well as the industry itself. It was submitted that one of the principal methods by which those objectives are sought to be achieved is the maintenance of an accurate register which allows the Respondent to track the registration and whereabouts of greyhounds, and thus maintain the integrity of the industry.

43. It would be virtually impossible to take issue with those general propositions. It follows that, *prima facie*, any offence which interfered with the efficacy of the tracking system, and the ability of the Respondent to protect greyhounds and maintain and integrity of the industry, should be regarded as objectively serious.

44. However, even accepting all of that to be the case, it is difficult, to say the least, to reconcile the submissions advanced on behalf of the Respondent with the fact that a period of more than 1 year and 9 months elapsed between the time that the Appellant lodged the transfer, and the time at which Ms West spoke to him. Ms West's contact with the Appellant represents, on the evidence before me, the Appellant's first *substantive* step towards tracking the whereabouts of the greyhound. Why it was that it took the time that it did is not explained.

45. In *R v Schwabegger*⁴⁶ Vincent AJA relevantly observed:

⁴⁶ (1998) 4 VR 649 at 659.

*Delay which is not attributable to the offender, of course, constitutes “a powerful mitigatory factor. ... Further, there is, in my opinion, a **serious incongruity between the assertion that an offence is serious and that the courts must, through the sentences they impose, endeavour to limit its incidence, on the one hand, and such a leisurely progression of the criminal justice proceedings which follow its commission that literally years pass before the matter comes before the court, on the other. For a number of reasons, the investigation and prosecution of criminal conduct should be conducted as quickly as is reasonably practicable if the objectives of the system are to be attained.** Additionally, a legitimate sense of unfairness can develop when the criminal justice process proceeds in what can be perceived as too leisurely a fashion.*

46. I unreservedly accept that these observations were made in the context of a criminal prosecution, and that caution must be exercised when applying principles developed within the criminal law to the assessment of regulatory breaches.⁴⁷ At the same time, the rationale which underlies his Honour’s observations is apt. In the circumstances of the present case there is, by analogy, something of an incongruity between asserting that the Appellant’s conduct is serious because it inhibited the Respondent’s ability to properly govern and supervise the industry, and the objective fact that the Respondent took the best part of 2 years to act on the information it had in its possession. Any inhibition upon the Respondent’s capacity to govern the industry in this particular respect was, to a not insignificant extent, self-imposed. It was brought about by the Respondent’s failure to properly pursue the matter for what was, on any view, an inordinately long period of time.

47. It is also relevant to note that after that initial period of delay, a further 7 months elapsed before the Appellant was charged. That period of delay occurred in circumstances where both the Appellant and Mancell had been extensively interviewed in August 2025. The Appellant’s case must have been evident from those interviews. Why, in those circumstances, it took the Respondent such a long time to advise the Appellant of its intention to bring disciplinary action is not explained.

48. Independently of any issue of delay, and its effect as a powerful mitigatory factor, there are aspects of the Appellant’s subjective case which assume some importance.

⁴⁷ See generally *Australian Building and Construction Commissioner v Pattison* [2022] HCA 13.

49. Put simply, it is the Appellant's case that he held a belief that he had discharged his responsibilities or, as he put it, had "*done his bit*". Obviously, in light of his refusal to act upon the direction of Ms West, he had not. However, an objective assessment of the evidence supports the proposition that the Appellant had some basis to take that position, and that did not completely ignore his responsibilities.

50. To begin with, the Appellant had reminded Mancell, on two separate occasions, of the need to attend to his licence application even *before* the transfer was lodged. His message to Mancell on 30 July 2023 makes it clear that he was conscious of the need to remove himself as the greyhound's owner, but would not do so unless and until he was satisfied that Mancell had taken the necessary steps to be issued with a licence. On 2 August 2023, Mancell sent the Appellant a copy of correspondence received from the Respondent, advising him that he (Mancell) was "*just waiting for approval*". The Appellant, not unreasonably in my view, formed the view that the necessary steps had been taken. Consistent with holding that belief, he lodged the transfer application 6 days later.

51. Upon lodging the application, the Appellant was immediately informed by the Respondent that:

1. the transfer was "nearly complete";
2. it had been sent to Mancell for completion; and
3. Mancell had 14 days to do so.

52. That information, which was provided by the Respondent, fortified the Appellant's belief that he had done what was required of him. The Appellant was, of course, also informed that if Mancell did not complete the transfer he (the Appellant) would remain the registered owner. It was no doubt because of that notification that the Appellant reminded Mancell, from the outset, of the necessity to do what he had to do. In that regard, I am satisfied that at all material times, the Appellant was entitled to accept what Mancell was telling him in the messages that they exchanged. That

finding is supported by Mancell's statements when interviewed that the Appellant would not have known about the fact that he had not become registered.

53. Aside from those matters, and viewing the matter more generally, the messages that passed between the Appellant and Mancell are replete with exhortations by the Appellant to Mancell to, in effect, do what needed to be done. Significantly, on each and every occasion, Mancell's response was to the effect that he was pursuing the matter. None of that absolves the Appellant from ultimate responsibility. But it does demonstrate that he was not, as it were, sitting on his hands doing nothing.

54. There is no doubt that the Appellant should have responded appropriately to the enquiry made by Ms West, and complied with the direction he was given. It is to be inferred that he did not do so out of frustration which was brought about, at least in part, by the time which had elapsed since the application for transfer was lodged. Whilst all of that is understandable in a sense, it is not an excuse and it cannot be condoned. Industry participants must comply with their obligations. However, it remains the case that when viewed as a whole, the evidence supports a conclusion that the Appellant was otherwise generally cognisant of his responsibilities and that he took such other steps as were reasonably open to him to ensure that Mancell took the necessary action. It is also not without significance that he has no record at all for any similar offending.

55. Whilst I am satisfied that the penalty is an appropriate one, the circumstances I have outlined warrant that penalty being wholly suspended. I should make it clear that such a determination has no general precedential value. It is one which is made in the circumstances of **this** case, in accordance with the general principle that each case must be determined on its own facts.

ORDERS

56. I make the following orders:

1. The order made on 18 March 2026 pursuant to cl 20 of the *Racing Appeals Tribunal Regulation 2024* (NSW) is vacated.

2. The appeal against the finding of guilt is dismissed.
3. Subject to order [4], the appeal against the penalty imposed by the Respondent, namely a suspension of 4 months, is dismissed.
4. The determination of the Respondent in respect of penalty is varied by ordering that the penalty in [3] be wholly suspended for a period of 12 months commencing on 12 March 2026.
5. The appeal deposit is to be refunded.

THE HONOURABLE G J BELLEW AM SC

9 June 2026