

IN THE RACING APPEALS TRIBUNAL

BENJAMIN EASEY

Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION

Respondent

REASONS FOR DETERMINATION

Date of hearing	15 May 2026
Date of determination	18 May 2026
Appearances	Mr G Walters for the Appellant
	Mr B Gillies for the Respondent

ORDERS

- 1. The appeal is upheld.**
- 2. The determination of the Respondent to refuse the Appellant's application for registration as a Greyhound Attendant on the ground that he is not a fit and proper person to hold such registration is quashed.**
- 3. Any appeal deposit is to be refunded.**

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

INTRODUCTION

1. By a Notice of Appeal dated 16 March 2026, Benjamin Easey (the Appellant) has appealed against a determination of the Greyhound Welfare and Integrity Commission (the Respondent) to refuse his application for registration as a Greyhound Attendant.
2. The hearing took place on 15 May 2026, following which judgment was reserved.
3. The parties prepared a Tribunal Book (TB) for the purposes of the hearing of the appeal containing all relevant documentary material.

THE FACTS

4. On 24 November 2025, the Appellant applied to the Respondent for registration as a Greyhound Attendant.¹ In his application, the Appellant disclosed the fact that he had a criminal history. In answer to a supplementary question seeking the provision of details of that history, the Appellant stated:

Not sure of year but Comman (sic) Assault.

5. For the reasons discussed below, that answer understated the position somewhat.
6. As part of its consideration of the Appellant's application, the Respondent sought and obtained a National Police Certificate² which set out the following convictions having been recorded against him:

¹ TB 29 – 31.

² TB 23 – 24.

COURT AND DATE	OFFENCE	OUTCOME
Dubbo Local Court 22 January 2019	Use carriage service to menace/harass/offend	Fine - \$400.00
Dubbo Local Court 22 January 2019	Common assault (DV)	Community Correction Order – 12 months
Dubbo Local Court 22 January 2019	Use carriage service to menace/harass/offend	Community Correction Order – 9 months
Dubbo Local Court 22 January 2019	Contravene prohibition/restriction in AVO (domestic)	Section 10A conviction with no other penalty.
Dubbo Local Court 23 June 2020	Contravene prohibition/restriction in AVO (domestic)	Community Correction Order – 12 months
Dubbo Local Court 23 June 2020	Stalk/intimidate (domestic)	Community Correction Order – 12 months
Dubbo Local Court 23 June 2020	Contravene prohibition/restriction in AVO (domestic)	Community Correction Order – 12 months
Dubbo Local Court 23 June 2020	Contravene prohibition/restriction in AVO (domestic)	Community Correction Order – 12 months
Dubbo Local Court 23 June 2020	Contravene prohibition/restriction in AVO (domestic)	Community Correction Order – 12 months
Dubbo Local Court 23 June 2020	Contravene prohibition/restriction in AVO (domestic)	Community Correction Order – 12 months

7. On 27 January 2026, the Respondent wrote to the Appellant advising that it proposed to refuse his application. That correspondence included the following:³

The reasons, under the framework, for proposing to refuse your application for registration as a Greyhound Attendant are:

Criteria (sic) 5 – Applicant has convictions for repeated criminal offences of any nature.

Criteria (sic) 8 – Applicant was previously convicted of a serious offence involving violence, dishonesty, drug offences or sexual offences.

8. I interpolate that the “framework” to which reference is made is in the nature of a guide published by the Respondent. Although it has not been included in the

³ TB 25.

evidence before me, I am aware that the preamble to it provides, amongst other things, as follows:⁴

The Commission determines applications for registration on a case-by-case basis, based on the information available and having regard to all relevant factors. For example, the Commission will consider any mitigating factors surrounding previous offences or rule breaches, and references provided in support of an applicant's fitness to be registered.

9. The framework then goes on to set out certain criteria which (to the extent relevant) will be applied in a determination of whether an applicant for registration (in any capacity) is a fit and proper person, along with the Respondent's "*likely position*" on the application. The following criteria were apparently regarded by the Respondent as being relevant to its determination in the present case:

Number	Criminal history or background of applicant	Commission's likely position given the history and background of applicant
5	<i>Applicant has convictions for repeated criminal offences of any nature.</i>	<i>Application is likely to be refused but may be approved if applicant can demonstrate at least 10 years of no offending.</i>
8	<i>Applicant was previously convicted of a serious offence involving violence, dishonesty, drug offences or sexual offences.</i>	<i>Applicant may be asked for further information. Application may be refused, but the decision will take into account whether the offences occurred more than 10 years ago, and the penalty that was imposed.</i>

10. The Respondent's letter of 27 January 2026 gave the Appellant the opportunity to respond to the proposed decision. I have not been provided with any response which may have been provided by the Appellant, although I infer that it may have included

⁴ Version 3.1 published 11 July 2025.

the statement which is set out below.⁵ In any event, on 11 March 2026⁶ the Respondent advised that a determination had been made to refuse the Appellant's application "*under Criteria (sic) 5 and Criteria (sic) 8 of the Fit and Proper person framework*". Somewhat curiously, that determination did not appear to expressly state that a finding was made that the Appellant was not a fit and proper person to be registered, although that is the obvious effect of the conclusion which was reached.

11. The Respondent's determination to refuse the Appellant's application exposes no reasoning process at all. How the determination was made, how the criteria were applied, what findings were made about the Appellant's offending, what evidence was taken into account, and what conclusions were reached (other than the conclusion that the Appellant was not a fit and proper person to be registered) are largely, if not completely, unknown.

THE APPELLANT'S CASE ON THE PRESENT APPEAL

12. The Appellant relied on a statement⁷ on which he was not cross-examined. In fairness to him, it should be set out in full:

1. *I am the Applicant for registration as a Greyhound Attendant with the Greyhound Welfare and Integrity Commission.*
2. *I invite the Regulatory Authority to grant my Application for registration as a Greyhound Attendant.*
3. *I have read the contents of the publication headed "Being a Greyhound Attendant" prepared by GWIC. I understand the responsibilities and the role of a Greyhound Attendant. I am also aware of my requirement to comply with the Rules of racing. If I was granted registration as a Greyhound Attendant, I would always act in a way that maintained the integrity and welfare of the Greyhound Industry.*
4. *I have a current driver's licence. I have read, amongst other information in the Handbook, the information for the transporting of greyhounds and the types of transport to be used to transport greyhounds.*

⁵ At [12].

⁶ TB 27 – 28.

⁷ Commencing at TB 17.

5. *I was born on 3 July, 1987 and am 38 years of age. I reside with my partner [xxx] aged 31 at my above home address. [xxx] and I have been in a relationship for a period of 7 years. [xxx] is not the parent of any children.*
6. *I am currently not engaged in full time employment. I provide a casual labour hire service and work on an irregular and limited basis. I am seeking more hours of work each week and on a regular basis.*
7. *I am the father of 2 children namely [xxx] aged 13 and [xxx] aged 10. My children reside with their mother [xxx] at Dubbo.*
8. *My children [xxx] and [xxx] spend significant and substantial time in my care being from after school Wednesday to before school Monday during each 2 week cycle. [xxx] and I have an informal arrangement and as a result the children often spend additional time with me. I am emotionally and financially responsible for my children when they are in my care. This arrangement has been in place for a significant time.*
9. *I have read the letter to me from GWIC dated 27 January, 2026 setting out the information in my National Police History Certificate. I accept that during the period of my offending that I committed offences that are concerning, being domestic violence offences wherein the victim was [the mother of my children]. During that period, [xxx] and I were in a permanent relationship and both [xxx] and [xxx] were very young. There were significant financial pressures in our household and due to these stressors I behaved emotionally. My behaviour was inappropriate, irresponsible and at times unlawful. I am contrite and remorseful for my behaviour.*
10. *As a result of my improper and unlawful conduct, I was charged with a number of offences. I accepted responsibility for those offences and the Court record convictions against my name and placed me on a number of Community Corrections Orders, being Bonds to be of good behaviour. I complied with those Bonds and those Bonds have long expired. I was of good behaviour during the terms of the Bonds.*
11. *At the times of the sentencing proceedings at the Dubbo Local Court and subsequently I have engaged in and achieved rehabilitation. I accepted that my conduct, which amounted to criminal conduct at times, was unacceptable and caused emotional harm to [xxx]. As a result of this conduct, I was not permitted to spend time with my children for a period of approximately 18 months. Although at that time I could not accept and understand why I could not spend time with my children, I now accept that it was not in the children's best interests to spend time with me given my emotional state and my unacceptable behaviour. I accept that domestic related offences, which I pleaded Guilty to, are not trivial or minor and deserved the sanctions imposed by the Court.*
12. *The rehabilitation that has taken place since I was placed on the Community Corrections Order on 22 January, 2019 are extensive including the following:*
 - (i) *Interrelate Relationships, Making Choice Programs, 6 sessions – completion 22 June, 2021 (certificate attached "A").*
 - (ii) *The Respectful Man Program, 7 topics - successful completion certificate dated 30 September, 2021 (certificate attached "B").*

- (iii) *I engaged with the Smart Recovery Program. I was, at times during my offending, abusing alcohol and illicit drugs. I attach letter under the hand of L R Field, JP dated 13 August, 2021 (attached "C").*
- (iv) *I attended many counselling sessions including for anger management.*

13. *I have not re-offended for a lengthy period of time being over 5 years.*

14. *To the best of my recollection, none of my offending involved any degree of violence.*

15. *I now have the opportunity to be employed on a more regular basis with Keeping Kennels at Dubbo being a business being conducted by Registered Participant Charmaine Roberts. I have an offer to be employed for 30-40 hours per week and as part of my duties, to perform the role of a Registered Greyhound Attendant.*

16. *I have not used illicit drugs since the offending referred to in my Police History Certificate. I currently use alcohol on a very limited basis drinking 1-3 standard drinks on approximately 2 occasions each week. My opportunity to be employed by Keeping Kennels would provide me with more regular and stable employment and provide me with a more reliable income to support myself and my household. My income would be used to support my children [xxx] and [xxx] who are with me on a regular basis. As they get older, their needs will grow including their financial needs.*

17. *I am a very different person to the person that committed the offences. The mother of my children has, by the fact that our children spend significant and substantial time with me, accepted that I am a responsible and caring person and parent. Caring for children involves a great deal of trust and responsibility.*

13. The Certificates to which the Appellant referred in his statement form part of the evidence before me.⁸

14. The Appellant relied on a testimonial of Ms Courtney Webb,⁹ the Secretary of the Dubbo Greyhound Racing Club. Ms Webb described the Appellant as a person who “*demonstrates reliability, maturity and a strong sense of responsibility*”. She expressed that view whilst specifically acknowledging that she was aware of Appellant’s criminal history. In a separate document dated 14 May 2026 which was tendered at the commencement of the hearing,¹⁰ Ms Webb confirmed that she provided her testimonial in circumstances where she was aware that it would be relied upon in association with the Appellant’s application for registration.

⁸ TB 20 and 21.

⁹ TB 16.

¹⁰ Transcript 2.35.

15. The Appellant also relied upon a report provided by one L R Field. It is dated 13 August 2021, and makes reference to Mr or Ms Field having provided “services” to the Appellant which, I infer, included counselling for, amongst other things, anger management. The detail of any services actually provided to the Appellant is perfunctory to say the least. The author of the document makes reference to the Appellant’s “*past behaviour under the influence of ice*”, and the fact that the Appellant has changed “*from a victim of circumstance to a young man prepared to accept responsibility for his actions and wishing to move forward into a positive relationship with his children*”. Why it is said that the Appellant should be regarded as a “*victim of circumstance*” is entirely unexplained. In all of these circumstances, I have not given any weight to this report.

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

16. The written submissions of Mr Walters who appeared for the Appellant advanced the following propositions:

1. The offending to which criterion 5 applies occurred more than 5 years ago, and stemmed from financial stressors. It should be viewed as, in effect, the one episode of offending.
2. The offending to which criterion 8 applied is addressed in the Appellant’s statement. It should also be regarded as the one episode of offending.
3. Registration as an Attendant involves the licence holder having far less responsibility than that of other industry participants.
4. The evidence of Ms Webb confirms the Appellant’s good character.
5. The Appellant has undergone significant rehabilitation, the success of which is particularly reflected in the fact that he has not offended since 2020, a period of approximately 6 years.

6. The Appellant has clear insight into his prior conduct which renders the likelihood of reoffending remote.

7. The Appellant is clearly fit to be granted registration. The evidence demonstrates that he is also proper.

17. In oral submissions at the hearing, Mr Walters submitted¹¹ that the Appellant had certainly not intended to mislead the Respondent in terms of the details of his criminal history when answering questions in the application. He emphasised that the Appellant had, in fact, disclosed the existence of such history. Mr Walters also pointed, as evidence of the Appellant's rehabilitation, to the fact that his former partner, and the victim of his offending, had seen fit to allow him significant ongoing access to, and supervision of, the two children of their previous relationship.¹²

Submissions of the Respondent

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

1. The Appellant's offending was objectively serious, both individually and cumulatively.¹³ The convictions themselves are, without more, deserving of significant weight in any decision-making process.¹⁴

2. The fact that the offending was repeated is of particular significance.¹⁵

3. The recency of the offending is such that the Appellant has not demonstrated the extended period of lawful behaviour contemplated by Criterion 8.¹⁶

¹¹ Transcript 6.10 and following.

¹² Transcript 8.40 and following.

¹³ At [20].

¹⁴ At [28].

¹⁵ At [21].

¹⁶ At [22].

4. The nature of some of the offending of which the Appellant was convicted, specifically his breaches of Apprehended Violence Orders, were relevant to a consideration of whether, if granted registration, he would comply with his ongoing obligations. Those breaches necessarily give rise concerns that the Appellant would, if registered, fail to comply with the regulatory obligations imposed on any industry participant .¹⁷
5. The Appellant was less than forthcoming in his application in terms of his criminal history. That is a circumstance which reflects adversely on his credit.¹⁸

19. In oral submissions, Mr Gillies emphasised¹⁹ that although the Appellant had not breached any of the Community Corrections Orders which were imposed, part of his offending was constituted by his breach of Apprehended Violence Orders imposed by orders of a Court. This, he submitted, did not augur well in respect of the Appellant's future compliance with rules to which industry participants are subject, should he be registered.

CONSIDERATION

20. I acknowledge at the outset that in making my determination, I must be mindful of the fact that registration of industry participants is to be addressed by reference to the provisions of the *Greyhound Racing Act 2017* (the Act). The objects of that Act, which are set out in s 3A, include:

- (i) providing for the efficient and effective regulation of the greyhound racing industry;²⁰ and
- (ii) ensuring the integrity of greyhound racing.²¹

¹⁷ At [23]; [26].

¹⁸ At [33] – [35].

¹⁹ Transcript 10.45 and following.

²⁰ Section 3A(a)

²¹ Section 3A (d).

21. Any determination of the Appellant's fitness and propriety must be made with those objects firmly in mind.

22. Similarly, my determination must have regard to, and be consistent with, the Respondent's prescribed functions under the Act which include:

- (i) safeguarding the integrity of greyhound racing;²² and
- (ii) maintaining public confidence in the greyhound racing industry.²³

23. Notwithstanding that this appeal proceeds as a hearing *de novo*, the circumstances of the present case render it appropriate to commence by making some observations about the Respondent's determination.

24. Firstly, I am not bound by the framework, or by the criteria. For some time, including when the Tribunal was differently constituted, decisions in cases of this nature have been made by applying principles developed by the common law which provide guidance in determining whether a person is fit and proper. That will continue to be the Tribunal's approach. Those principles have been set out in a number of decisions and are set out again below.

25. Secondly, there is a degree of tension between the framework stating that matters will be determined on a case by case basis (i.e., on their individual merits) on the one hand, and the simultaneous application of (for example) criterion 5, which expresses the *likelihood* that an applicant will be unsuccessful, on the other. That tends to suggest that irrespective of what the circumstances of a case to which criterion 5 might be, the starting point will be the likely refusal of the application. Predisposition in any decision-making process is to be avoided.²⁴

²² Section 11(b).

²³ Section 11(c).

²⁴ See *Financial Services Complaints Limited v Chief Ombudsman* [2021] NZHC 307 at [86].

26. Thirdly, what was actually taken into account by the Respondent in reaching its determination in the present case is entirely unclear on the evidence. No statement(s) of facts tendered in the Court proceedings against the Appellant have been provided to me, nor has any transcript of those proceedings. I assume that the Respondent did not have access to such document(s) either. What conclusions the Respondent reached about the Appellant's offending, and on what basis, are completely unknown. The **fact** of offences having been committed is one thing. The **circumstances surrounding the commission of such offences** may be quite another. The only evidence of such circumstances is contained in the Appellant's statement which I infer was sent to the Respondent at some point. That statement, which is unchallenged, supports, rather than defeats, the Appellant's case. How that statement was taken into account by the Respondent (if at all) is not apparent. All of these matters are of some significance, given the Respondent's published statement that it will, in its decision-making process, have regard to "**all relevant factors**". The failure to take into account a relevant consideration is capable of constituting a miscarriage of the discretion, thus giving rise to a jurisdictional error, or an error of law.

27. Fourthly, not only do the terms of criterion 5 appear to adopt, as a starting point, the likely refusal of an application, they suggest that the displacement of that outcome will be dependent upon an Applicant for registration being able to demonstrate that there has been no offending for 10 years. That tends to suggest that if an Applicant **cannot** demonstrate that, that failure will, without more, likely be determinative of the application. If that is the manner in which criterion 5 has been interpreted and applied in this case, it may reflect a process which is fundamentally at odds with the Respondent's stated approach of taking into account all relevant factors.

28. Fifthly, the reason(s) for the adoption of a 10 year reference point for the purposes of applying criteria 5 and 8 is not apparent. The determination of a 10 year period appears to be completely arbitrary, bereft of any underlying rationale.

29. Finally, it is not clear whether, in making its determination, the Respondent applied criterion 8 to ***both*** episodes of offending, or just one. That aside, criterion 8 is said to apply to a “*serious offence involving violence*”. The seriousness of domestic violence offending generally cannot be gainsaid, and none of these observations should be viewed as understating its significance, and its deleterious effect upon the community as a whole. However, it is to be assumed, given its determination, that the Respondent found that some (or perhaps all) of the offending fell into the category of serious offending involving violence, but did so in the absence of any extensive evidence surrounding the commission of any of the offences, and in the face of the imposition of penalties which tend to suggest that the Court found that the objective seriousness of the offending fell towards the lower end of the scale.

30. As I have noted, this appeal proceeds *de novo*. It is therefore not necessary for the Appellant to prove error in the Respondent’s decision. However, the matters to which I have referred tend to indicate some shortcomings in the terms of the framework and the criteria, as well as some issues as to their application by the Respondent to the facts of this case. It is a matter for the Respondent as to whether it may wish to consider aligning its framework, its approach, and the criteria that it applies in matters of this kind, with the principles which have been consistently applied (and which will continue to be applied) by the Tribunal in cases of this kind. At the moment there is something of a displacement between the two. That is not conducive to the object of achieving consistency in decision-making.

31. The principles which are applied by the Tribunal in determining whether someone is a fit and proper person to be registered as a participant have been stated in a number of decisions, most recently that of *Chaker v Greyhound Welfare and Integrity Commission*,²⁵ as follows:

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

²⁵ 28 April 2026 at [25] citing *Fitzpatrick v Harness Racing New South Wales* 11 June 2024 commencing at [71].

known.²⁶ This Tribunal (differently constituted) has consistently been called upon to apply those principles to determinations of the present kind.²⁷ 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*.²⁸ They include the following:

- (i) a conviction is important to an assessment of whether someone is fit and proper;²⁹
- (ii) a conviction is not necessarily determinative, and the controlling body may inquire into the offending to ascertain its real facts;³⁰
- (iii) the question of whether an applicant is a fit and proper person is to be determined at the time of the hearing;³¹
- (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;³²
- (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;³³
- (vi) there may be little or no public interest in denying forever the chance of redemption and rehabilitation.³⁴

In *P v Prothonotary of the Supreme Court of New South Wales*,³⁵ 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;

²⁶ See for example *Hughes & Vale Pty Limited v New South Wales* (No. 2) (1955) 93 CLR 127 at 156.

²⁷ 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].

²⁸ (2016) 339 ALR 580; [2016] NSWSC 1617.

²⁹ At [6], citing *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 57 CLR 279.

³⁰ At [102] citing *Ziems*.

³¹ At [101] citing *Ex Parte Tziniolis; Re the Medical Practitioners Act* [1967] 1 NSWLR 57; (1966) 67 SR (NSW) 448 at 475.

³² At [103].

³³ At [103] citing *Tziniolis*, and *Saunders v Legal Profession Admission Board* [2015] NSWSC 1839 at [62].

³⁴ At [105] citing *Dawson v Law Society (NSW)* [1989] NSWCA 58 per Kirby P at [7].

³⁵ [2003] NSWCA 320.

- (iii) evidence of good character; and
- (iv) clear and convincing evidence of rehabilitation.

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.

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.*

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.³⁶

32. The Respondent does not suggest that the Appellant is not “fit” for registration, in the sense of not the necessary knowledge and skill to carry out the duties of a Greyhound Attendant. I make the following observations about whether the Appellant is a “proper” person to be registered, by reference to the principles set out above.

33. To begin with, in matters where a determination is made that someone is not a fit and proper person on the basis of criminal conduct which has been dealt with by a Court, a copy of any document(s) tendered as evidence of the facts of the offending should be obtained (by way of the issue of a Notice pursuant to s 16A of the *Racing Appeals Tribunal Act 1983* or otherwise) so that I can have the benefit of them on the hearing of any appeal. That material is not before me in this case. I am therefore left to draw such inferences, and reach such conclusions, as might reasonably be open about the circumstances of the offending from such evidence as is before me.

34. For the purposes of doing so, the starting point is obviously the fact that multiple convictions were recorded against the Appellant. That is clearly relevant, but it is not determinative. It is reasonable to infer that the offending which was dealt with before the Local Court on 22 January 2019 arose from the one set of circumstances.

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

Moreover, of the four offences which were before the Court on that occasion, one was dealt with by way of a modest fine of \$400.00 (substantially less than the maximum penalty of 5 years imprisonment for which provision is made in s 474 of the *Criminal Code 1995* (Cth)). Another was dealt with by way of an order pursuant to s 10A of the *Crimes (Sentencing Procedure) Act 1999* (NSW) which did not involve the imposition of any actual penalty. The obvious conclusion, which I am prepared to draw, is that the Court determined that the objective seriousness of those offences fell towards the lower end of the scale. Were that not the case, it is reasonable to think that a substantially higher penalty would have been imposed. Whether, in such circumstances, either of those offences could be regarded as a “*serious offence involving violence*” for the purposes of criterion 8 may be open to question. That said, I do not accept the Appellant’s assertion in his statement that none of his offending involved violence, nor do I accept the submissions made by Mr Walters in that respect.³⁷ The offence of common assault is, by definition, an offence involving violence.³⁸

35. The fact that the Appellant found himself before the Court for offending of a not dissimilar nature some 18 months following his first appearance necessarily increases one’s concern. However, two matters should be noted. Firstly, it can again be assumed that this second episode of offending arose from the one set of circumstances. Secondly, the imposition of a Community Corrections Order, which was the same penalty as that which was imposed in respect of two of the earlier matters, tends to suggest that the Court did not view the second episode of offending as constituting a material escalation (in terms of its objective seriousness) when compared with the earlier episode. Had the Court come to the view that there had been an escalation in seriousness, or in the Appellant’s level of culpability, it can be reasonably expected that the penalty for the latter episode would have been substantially greater than that which was ultimately imposed. The fact that the Appellant’s offending breached the orders of a Court must, of course, be taken into

³⁷ Transcript 3.38 and following.

³⁸ See for example *R v Lardner* (NSWCCA, 10 September 1998 unreported).

account but again, there is an inference available from the penalties imposed that this was not of particular concern to the sentencing Court.

36. I am also prepared to conclude from the Appellant's statement (which is unchallenged and which I accept) that his offending was, on both occasions, committed in the context of the use of, and perhaps an addiction to, illicit drugs, as well as in the context of financial pressures that he and his then partner were experiencing at the time. I hasten to add that none of that, of course, provides an excuse for his conduct. But those matters do serve to provide some explanation for the offending, and to place it into some context.

37. Whilst I do not have the precise date(s) of any of the offending, I have inferred that it occurred, in each case, a short time before the Appellant's appearances before the Local Court. Those appearances were approximately 6 years ago in each case. Those periods become all the more significant when I take into account that the Appellant is now 39 years of age, was in his early 30's at the time of the offending, and has no other criminal history, be it before or since his appearances before the Court in 2019 and 2020. The absence of such history lends weight to the conclusion that both instances of offending were committed in the context of the matters to which I earlier referred. Quite apart from the fact that the offending represents the Appellant's only breaches of the criminal law, there is some evidence in the testimonial of Ms Webb of his otherwise positive good character.

38. Whilst I recognise, in accordance with the principles I have set out, that a long passage of time without a transgression does not, of itself, establish a change in a person's character, there are three factors which in my view support the conclusion that the Appellant's character *has* changed since the offending. The first, is the practical (and apparently successful) rehabilitation that he has undertaken. The second, is the fact that there is no suggestion that his performance of the entirety of his obligations under the Community Corrections Orders which were imposed was anything other than satisfactory. The third, is the objective fact of the access that the Appellant now enjoys to his children, with the express consent of his former partner.

A combination of these matters leads me to the view that there is clear and convincing evidence of the Appellant's successful rehabilitation.

39. The Appellant's statement also demonstrates that he has insight into his prior offending. Whilst I again acknowledge that such offending involved the failure to comply with orders of a Court, I am satisfied that the Appellant's insight, coupled with his rehabilitation, generally support a conclusion that his risk of re-offending is low, as is his risk of failing to comply with the obligations of an industry participant.

40. I have had regard to Mr Gillies' submission surrounding the information provided by the Appellant in his application, and his understatement of the details of his criminal history. At a threshold level, Mr Gillies' submission is a point well made. The failure of the Appellant to provide a more complete answer to the question asked raises a concern. However, that failure must be balanced against the fact that the Appellant certainly disclosed that he had such a history. In that respect, a useful distinction can be drawn, in the Appellant's favour, between the circumstances of the present case and those considered by the Tribunal in *Hawkshaw v Greyhound Welfare and Integrity Commission*.³⁹

41. Finally, reference was made in the course of argument to a recent decision of *Chaker* which also involved the question of whether the Appellant was a fit and proper person to be registered as an industry participant. Determinations in cases of the present kind are quintessentially discretionary. There is, to say the least, limited utility in undertaking comparisons of such cases in those circumstances.

42. Bearing in mind that the issue of fitness and propriety is to be determined at the time of the hearing, I am, for the reasons stated, satisfied that the Appellant is a fit and proper person to be registered as an Attendant. I am fortified in that view by the observations made in *Chaker*⁴⁰ that differing levels of responsibility attach to different

³⁹ 4 November 2024 at [48] and following.

⁴⁰ At [35].

categories of licence. Any assessment of fitness and propriety is to be made against that benchmark. The test of fitness and propriety which is to be applied in a case where the registration which is sought is that of a Greyhound Attendant is necessarily less rigorous than that which would be applied when considering the case of a person seeking a higher category of licence. The Appellant should have the benefit of that approach.⁴¹

43. Finally, and importantly, the Respondent has expressly acknowledged the apparent lack of public interest in forever denying the Appellant the opportunity to become part of the greyhound racing industry.⁴² Had the Appellant's rehabilitation been less than what it is, there may well be some utility in allowing a further period for him to progress it. However, it is difficult to identify what more the Appellant could do in that regard. In those circumstances, there is little utility in denying him the opportunity to enter the industry at this point. Delaying that entry for any appreciable period would, in my view, be something of an exercise in futility given the entirety of the evidence.

CONCLUSION AND ORDERS

44. For the reasons given I make the following orders:

1. The appeal is upheld.
2. The determination of the Respondent to refuse the Appellant's application for registration as a Greyhound Attendant on the ground that he is not a fit and proper person to hold such registration is quashed.
3. Any appeal deposit is to be refunded.

45. 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

18 May 2026

⁴¹ *Mackenzie v Greyhound Welfare and Integrity Commission* 4 June 2025 at [48].

⁴² Submissions at [38].