

IN THE RACING APPEALS TRIBUNAL

RYAN SUTTLE

Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION

Respondent

REASONS FOR DETERMINATION

Date of hearing	17 June 2026 Further documentary evidence and written submissions received from the parties between 21 June 2026 and 6 July 2026.
Date of determination	17 July 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 refusing the Appellant's application for registration on the grounds that he is not a fit and proper person is quashed.**
- 3. The appeal deposit is 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 6 April 2026, Ryan Suttle (the Appellant) has appealed against the determination of the Greyhound Welfare and Integrity Commission (the Respondent) refusing his application for registration as a Greyhound Attendant on the grounds that he is not a fit and proper person to hold such a licence.
2. The parties prepared a Tribunal Book (TB) containing what was, at that time, all relevant documentary evidence. In addition, I heard oral evidence from the Appellant at the hearing which took place on 17 June 2026, following which judgment was reserved.
3. Following the conclusion of the hearing, Mr Walters, who appeared on behalf of the Appellant, was granted leave to file further documents in relation to the Appellant's completion of the Moderate Intensity Sex Offender Program (MISOP) whilst in custody. Upon those documents being filed, Mr Gillies, who appeared for the Respondent, sought and was granted leave to file evidence and submissions in reply. That material was followed by further submissions from Mr Walters. All of that additional material has been considered in addition to that originally filed by the parties.

FACTUAL BACKGROUND

The Appellant's history of industry participation

4. The Appellant was first registered as a Greyhound Attendant in 2009. He was then registered as an Owner Trainer in 2017. That registration expired in 2019. The Appellant was also registered as an Owner. That registration expired in June 2021.

The Appellant's application for registration as a Greyhound Attendant

5. On 17 March 2026, the Appellant made an application for registration as a Greyhound Attendant. In doing so, he submitted the following statement in support of that application:¹

I have been involved in the greyhound racing industry for many years, previously holding an attendant's licence for nearly ten years. Throughout that time, and continuing today, I have remained committed to supporting our family's racing operations across multiple tracks in NSW, including Nowra, Dapto, Bulli, Wentworth Park, and Wagga Wagga. I assist with all race-day preparation and regularly attend meetings where our dogs compete.

At our family-operated property, we currently own over 30 greyhounds. I play an integral role in the daily operations, including breeding, whelping, rearing, breaking-in, training, and racing. My responsibilities also include feeding, exercising and transporting dogs to meetings throughout NSW. I am dedicated to the ethical care and performance of our animals and to upholding the standards of the industry.

In addition to our kennel work, I actively volunteer at working bees at the track, contributing to maintenance and improvements that support the broader racing community. I value being able to give back to the sport and help ensure safe, well-maintained facilities for all involved.

My father, Mark Suttle, continues to face significant health challenges due to ongoing cancer treatment. As a result, the physical and mental demands of managing our racing operations fall heavily on him. My involvement is essential to sustaining our racing commitments across NSW. Holding an attendant's licence would allow me to contribute more effectively and responsibly, easing the burden on my father during this difficult period.

It has been more than eight years since any offence occurred, and I have demonstrated consistent responsibility and rehabilitation since that time. During my time in custody, I completed a range of personal development and vocational programs. This include R.U.S.H (Real Understanding of Self Help), Addictions, MISOP, Equipped/Foundations, and a Certificate III in Business. I successfully completed three years of parole without any concerns. If required, I can arrange for a reference from my former Community Corrections Officer. I wish to note that there are no restrictions preventing me from being around people under 18.

I am wholeheartedly committed to the sport, the welfare of our greyhounds, and maintaining the integrity of Greyhound Racing NSW. I respectfully ask that my application for an attendant's licence be considered with these circumstances in mind.

¹ TB 17 – 18.

6. The Appellant's application was supported by a number of other documents, including a testimonial of Stephen Fitch.² I have addressed that documentary evidence below.

The Applicant's criminal history

7. As part of its assessment process, the Respondent made enquiries about the Appellant's criminal history.³ There is no dispute that on 3 October 2019 the Appellant was sentenced by his Honour Judge Haesler SC in the District Court at Wollongong in respect of various counts of:

1. stalking and intimidating;
2. using a carriage service to send indecent material to a person under the age of 16 years;
3. using a carriage service to menace, harass or offend;
4. procuring a child for unlawful sexual activity;
5. having sexual intercourse with a person over the age of 14 years and under the age of 16 years;
6. using a child over the age of 14 years to make child abuse material;
7. inciting a person under the age of 16 years to commit and act of indecency;
8. indecently assaulting a person under the age of 16 years;
9. acting as a client with a child (over the age of 14 years but under the age of 18 years) in prostitution;
10. possessing child abuse material.

8. Those offences encompassed conduct which contravened both the *Criminal Code 1995* (Cth)⁴ (the Code) and the *Crimes Act 1900* (NSW) (the Act).⁵ They were committed between (approximately) 2014 and February 2018.⁶

² TB 19.

³ Commencing at TB 77.

⁴ The offending in [2] and [3] above.

⁵ The offending in [1] and [4] – [10] above.

⁶ Sentence judgment at [100].

9. I have been provided with a copy of his Honour's reasons on sentence.⁷ Separate sentences were imposed in respect of each group of offences. Those imposed for offences contrary to the Code were backdated, and expired in 2019.⁸ In respect of the offences contrary to the Act, the Appellant was sentenced to an aggregate term of imprisonment of 7 years and 6 months, with a non-parole period of 4 years and 6 months.⁹ There is no issue that the Appellant was released on parole on 3 March 2023 (i.e. at the expiration of the non-parole period imposed by his Honour). There is also no issue that he completed his parole period, and thus his total sentence, on 3 March 2026.

10. It is not necessary for present purposes to canvass the minute detail of each instance of offending. Its general nature will be apparent from the charges themselves. However, it is appropriate to make reference to a number of matters which emerge from the sentence judgment.

11. The Appellant pleaded guilty to the entirety of the offending, which involved a total of 7 complainants, when the charges were before the Local Court.¹⁰ In relation to the circumstances of the offending generally, his Honour observed:¹¹

[The Appellant] contacted most of the young women using social media. He propositioned all but one of them by communications via social media. He preyed on the young women's naivety, apparent immaturity, and desire to please. He video recorded some of their sexual acts on his mobile phone. [The Appellant] was himself young and immature but he was at the relevant times in his mid-20s, his victims were generally 14 and 15 years old. ... There is an absolute prohibition on sexual activity with children. That prohibition is intended to protect children from the physical and psychological harm taken to be caused by premature sexual activity.

12. His Honour's assessment of the Appellant's subjective case included findings that the Appellant:

⁷ *R v Suttle* [2019] NSWDC 538 (the sentence judgment).

⁸ Sentence judgment at [181].

⁹ Sentence judgment at [183].

¹⁰ At [1] – [2].

¹¹ At [2]; [4].

1. had not sought to excuse his offending;¹²
2. provided a letter to the Court in which he had (in his Honour's view, apparently genuinely) conceded that his conduct was "*disgusting*", and apologised to the complainants;¹³
3. had no other criminal history and was otherwise a person of good character;¹⁴
4. worked in family businesses until his arrest;¹⁵
5. had sought psychological intervention following his arrest, and had been diagnosed with extreme depression, and a possible adjustment disorder secondary upon a back injury he had suffered some years before;¹⁶
6. had more recently undergone a further psychological assessment which:
 - (a) confirmed the diagnosis of depression;
 - (b) confirmed that he was suffering from depression at the time of the offending;
 - (c) expressed the view that the offending was a means of the Appellant coping with emotional and physical pain;
 - (d) did **not** arrive at a diagnosis of paedophilic disorder;
 - (e) expressed the view that the Appellant presented an average risk of sexual offending;
 - (f) noted the fact that the Appellant had the ongoing support of his family ; and
 - (g) confirmed that full time employment available to him on release.¹⁷

13. His Honour was quick to point out that those factor could not, and did not, excuse what the Appellant did. However, he expressed the view that they helped to explain some of the Appellant's behaviour, and allowed for "*some understanding of the man [who appeared for] sentence*".¹⁸ His Honour also noted the Appellant's expressed willingness to undertake custodial sex offender treatment, and concluded that the Appellant would require ongoing treatment for depression,

¹² At [145].

¹³ At [145].

¹⁴ At [146].

¹⁵ At [147] – [148]

¹⁶ At [151].

¹⁷ At [152] [[153].

¹⁸ At [158].

and would benefit from individual counselling, upon his release.¹⁹ His Honour further concluded that the Appellant’s rehabilitation was likely to be successful²⁰, and that a favourable outcome in that respect would likely be enhanced by a longer period on parole.²¹ The structure of the sentence he imposed, which allowed for a longer period on parole, was entirely consistent with those observations.

14. His Honour found that the Appellant remained “very immature”. Importantly, for present purposes, his Honour also concluded that the law recognises that younger people can reform and learn to conform to society’s norms, and that immaturity can be a contributing factor to a person’s offending.²² Equally importantly, his Honour recognised that removal of a person from the community is only capable of achieving short term protection for the community, and that such protection was assisted by an offender’s successful rehabilitation.²³ Whilst expressly recognising the need for the imposition of an appropriate sentence to reflect the objective seriousness of the offending,²⁴ his Honour said:²⁵

I am confident that [the Appellant] can, with help, be restored to normal community life. He has strong pro-social supports in the community. He has the capacity to make a positive contrition [sic] after he has served the minimum period in gaol his crimes and all the purposes of sentencing demand. He will benefit from assist while on parole. He has the capacity to use that period to his advantage and if he does, the community will benefit. It is well accepted that offenders who received [sic] parole supervision upon release are less likely to commit new indictable offences and commit fewer offences than offenders who are released unconditionally into the community.

The Respondent’s determination of the Appellant’s application for registration

15. In an undated letter (which was seemingly sent to the Appellant in or around late March/early April 2026) the Respondent advised the Appellant that his application

¹⁹ At [155].

²⁰ At [171].

²¹ At [172].

²² At [160] – [161].

²³ At [175].

²⁴ At [179] – [180].

²⁵ At [178].

for registration as a Greyhound Attendant had been refused. That decision was expressed in the following terms:²⁶

*On 26th March 2026, your application was considered by the Commission's Application Assessment Panel (AAP). The AAP have determined to refuse your application for registration as a Greyhound Attendant under **Criteria 5, 8 and 15** of the Fit and Proper Person framework.*

The reasons for refusing your application for registration as a Greyhound Attendant are:

- *Under the 'fit and proper person' framework, **Criteria** (sic) **5** - applicant has convictions for repeated criminal offences of any nature.*
- *Under the 'fit and proper person' framework, **Criteria** (sic) **8** - applicant was previously convicted of a serious offence involving violence, dishonesty, drug offences and sexual offences.*
- *Under the 'fit and proper person' framework, **Criteria** (sic) **15** – applicant was previously convicted of a sexual offence against a child (emphasis in the original in each case).*

16. The terms of the criteria which were applied by the Respondent in reaching its determination were not set out in the correspondence sent to the Appellant, but are as follows:

CRITERION	CRIMINAL HISTORY OR BACKGROUND OF THE APPLICANT	COMMISSION'S LIKELY POSITION GIVEN THE HISTORY AND BACKGROUND OF THE APPLICANT
5.	Applicant has convictions for repeated criminal offences of any nature.	Application is likely to be refused but may be approved if applicant can demonstrate at least 10 years of no offending.
8.	Applicant was previously convicted of a serious offence involving ... sexual offences	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

²⁶ TB 108.

15.	Applicant has previously been convicted of a sexual offence against a child.	Application will be refused.
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17. No reasons were provided by the Respondent as to how these three criteria were applied in order to reach the conclusion that the Appellant’s application should be refused. In that regard, three observations might be made.

18. The first, is that there is, in my view, a question as to whether criterion 5 has any application at all to the present case. It is at least arguable that the phrase “*convictions for repeated criminal offences*” in that provision is intended to encompass repeated offending dealt with by a Court on separate and distinct occasions, as opposed to a case such as the present in which a multiplicity of offences stemming from the one set of circumstances were adjudicated upon together.

19. The second, is that in terms of the application of criterion 8, at least some of the offending occurred ***more*** than 10 years ago.²⁷ How that fact was taken into account (if at all) is not apparent.

20. The third, is that the somewhat absolute terms of criterion 15 are open to the interpretation that any application to which that criterion is said to apply will be refused *forever*, without any further consideration(s) being taken into account. Whilst it is not necessary to determine the issue for present purposes, that approach, and its outcome, are arguably both contrary to principle, and fundamentally at odds with the approach taken by the common law to the issue of whether a person is fit and proper in a given set of circumstances. Consistent with the common law, the approach of the Courts, and thus the approach of this Tribunal, has, for some time, centred upon the application of the common law principles set out further below. Those principles include the observations of

²⁷ Sentence judgment at [100].

Kirby P (as his Honour then was) that in matters of this kind, there may be little or no public interest in denying forever the chance of redemption and rehabilitation.²⁸

21. The fact that this Tribunal is obviously not bound by the Respondent's criteria, and does not apply them, creates a degree of displacement which is not conducive to the adoption of a consistent approach in decision making as between the Respondent on the one hand and the Tribunal on the other. The Tribunal will continue, absent judicial intervention, to approach matters of this kind in a manner which reflects application of the principles set out below. The Respondent's continued application of criteria, some of which are both inflexible in their operation and reflect an approach which is inconsistent with the common law, is of course a matter for the Respondent

THE DOCUMENTARY EVIDENCE

22. The Appellant relied upon a number of documents in support of his appeal which are appropriately addressed at this point.

23. A report of Gail Smith, a mental health social worker, dated 24 January 2024 (which, inferentially, was relied upon in support of an application for a variation of his conditions of parole to remove the requirement to provide schedules of his movements) confirmed that the Appellant was, at that time, undergoing treatment on a fortnightly basis. Ms Smith expressed the view that the Appellant was *"making steady progress in learning new skills and strategies to assist in his reintegration into society and being a responsible and productive member of the community"*. She also expressed the view that the requirement for the provision of schedules could be removed *"with little risk to [the Appellant] re-offending"*.²⁹

24. A report from the Appellant's treating psychologist Nicholas Browne confirmed that the Appellant attended for 5 sessions of treatment between March and

²⁸ See *Dawson v Law Society (NSW)* [1989] NSWCA 58 per Kirby P at [7], cited by Beech-Jones J in *Hilton v Legal Profession Admission Board* (2016) 339 ALR 580; [2016] NSWSC 1617.

²⁹ TB 27.

August 2025. Mr Browne described the Appellant's level of engagement as good. Results of clinical testing demonstrated a reduction in his level of depression from "moderate" to "mild". Mr Browne expressed the view that the Appellant's range of protective factors remained strong, and were not counter-balanced by any foreseeable risks. Mr Browne recommended continuing psychotherapy sessions.³⁰

25. There is also evidence of some (but not all) of the Appellant's obligations pursuant to the *Child Protection (Offenders Registration) Act 2000* (NSW).³¹ Whilst I do not propose to set out the entirety of them, it should be emphasised that the Appellant is not prevented from having contact with children, but is subject to an obligation to report certain aspects of any contact he may have with a child. There is no suggestion that the Appellant has breached any of those obligations, which are ongoing for a long period of time.

THE APPELLANT'S ORAL EVIDENCE

26. The Appellant gave oral evidence at the hearing of the appeal. He was not cross-examined, and his evidence, in the main, confirmed the various matters to which I have already referred. However, it is noteworthy that the Appellant is in a stable relationship. He and his partner have a young son, and his partner is currently pregnant with their second child.

THE APPELLANT'S COMPLETION OF THE MISOP

27. The Appellant completed a number of remedial programs whilst in custody.³² The MISOP was one of them. An extract of the report of Appellant's participation in that program was originally provided as part of the evidence before me.³³ The balance of the report was exchanged between the parties following the hearing and forms part of the evidence.

³⁰ TB 25 – 26.

³¹ TB 28 – 34.

³² TB 22 – 24.

³³ TB 20 and following.

28. The observations made by the author of the report include the following:

1. The Appellant impressed as being invested in bettering himself, and his prospects of rehabilitation.³⁴
2. Whilst assessed as being at an above average risk of re-offending at the time of the preparation of the report (on 12 August 2022), the continued application of treatment techniques by the Appellant would likely see a decrease in the risk of his re-offending within the first 18 months of his period in the community³⁵ (a prediction which appears to have come to fruition).
3. The Appellant presented as motivated and engaged during the program, and appeared to put meaningful effort into both task work and group discussions. He responded well to feedback, his participation in treatment appeared to assist him in addressing a number of criminogenic needs, and he developed plans to address and manage risk factors in the future.³⁶
4. The Appellant should be encouraged and supported in his role in the family business(es), the inference being that such roles would be conducive to the Appellant's reintegration into the community.³⁷

29. Importantly, given one aspect of the case put by the Respondent, the MISOP also made reference to the Appellant's gambling, which had been identified as part of a broader pattern of maladaptive coping behaviour, in circumstances where there had been an increase in his gambling prior to the offending.³⁸ On sentence, his Honour Judge Haesler observed³⁹ that the Appellant had increased his gambling in 2015 following surgery. His Honour also observed⁴⁰ that a report of Anita Duffy, Psychologist, which was before the Court made reference to the fact that the Appellant had an avoidant personality where he used activities to escape or to

³⁴ At [11].

³⁵ At [59].

³⁶ At [60].

³⁷ At [61].

³⁸ At [41] and following.

³⁹ TB 70 at [150]

⁴⁰ TB 70 at [153].

provide a distraction to his problems, and that this reinforced his addictions to both sex and gambling.

THE WAGERING REPORT

30. The references to gambling in the MISOP prompted the Respondent to obtain further evidence following the hearing, in the form of a Wagering Report prepared by Michael Park, a Wagering and Form Analyst. The conclusions expressed in that report may be summarised as follows:

1. No breaches of the Rules relating to betting were identified.
2. No areas of concern were identified in relation to the Appellant's betting transactions.
3. 951 bets were provided by the Appellant during the period March 2026 to 19 June 2026.
4. No concerning betting activity was identified.
5. The total turnover for bets across three bookmakers amounted to \$41,437.57.
6. The Appellant sustained a loss of \$6,451.18, or 15.57%.
7. The average bet size was \$32.55.
8. No breaches of any betting rule(s) were identified.

31. Mr Park, whilst conceding that no breaches were identified, expressed the view that the volume of bets placed by the Appellant "*may give rise to concern if he were operating as a kennel attendant*". He did not articulate that "*concern*", although I presume he was referring to the possibility of the Appellant continuing his betting activities if registered. There is now evidence that the Appellant has registered with BetStop, for a period of 2 years.

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

32. Prior to filing the present Notice of Appeal, the Appellant had sought an internal view of the Respondent's determination. In association with that application

(which was later abandoned in favour of this appeal) he filed written submissions which encapsulate the following propositions:⁴¹

1. Whilst the Appellant expressly acknowledged the seriousness of his actions, it remained necessary to go beyond the fact of his offending and consider a range of other factors, including the time which had elapsed since the offending took place, his rehabilitation, and the outcomes of the professional assessments which had been undertaken.
2. The offending had occurred (at least in some cases) more than eight years ago.
3. The Appellant had undergone a significant period of parole supervision in which he had consistently demonstrated his compliance with all of the conditions which had been imposed on him.
4. He undertook extensive rehabilitation whilst in custody, much of which was voluntary and reflected his commitment to change, rather than a willingness to simply comply with what might have been expected of him. That rehabilitation included the completion of:
 - (a) a Certificate III in Business;
 - (b) the Equips Foundations Program, which involved 40 hours focussed on behaviour management, social skills, and reducing reoffending risk;
 - (c) the RUSH (Real Understanding of Self Help) program, a 40 hour therapeutic program focussing upon Dialectical Behaviour Therapy and emotional regulation;
 - (d) the Equips Addictions Program, a 40 hour program addressing substance-related abuse and behavioural addictions;
 - (e) the MISOP, a 60 hour program extending over 6 months, delivered by two psychologists and examining cognitive distortions, victim impact, relapse prevention, and behavioural change, at the conclusion of which the Appellant was recommended for release on his earliest possible release date.
5. Having completed his parole period successfully, the Appellant had not offended since his release, and was focussed upon building a stable and

⁴¹ TB 4 and following.

productive life, in circumstances where no restrictions were placed on him in terms of being around people under 18 or in social spaces that they occupy.

6. The Appellant's sustained period of lawful behaviour served as strong evidence of the success of his rehabilitation, and the fact that he is unlikely to reoffend.
7. His family has a long standing involvement in the industry. The Appellant himself was previously registered for a period of 9 years without incident, and is currently involved in the care of greyhounds with members of his family. He also acts as a volunteer at working bees at the Nowra track, and thus contributes to the broader industry.
8. The Appellant's partner holds an attendant's licence and is actively involved in learning from the Appellant's father. The Appellant and his partner attend the track at least twice a week with their one-year-old son.
9. The Appellant's father is currently ill with an aggressive form of cancer, as a consequence of which he has become limited in his ability to tend to the greyhounds in his care. The issue of an Attendant's licence to the Appellant would allow him to alleviate the burden currently placed on his father.
10. Since his release, the Appellant has worked hard to rebuild his life by managing one of the family businesses six days per week.
11. As to the evidence of the Appellant's betting activities relied upon by the Respondent:
 - (a) there is no evidence of any nexus between the Appellant's previous gambling and his offending;
 - (b) there is no evidence of the Appellant breaching any rule in relation to betting during his previous periods of registration as a participant; and
 - (c) in any event, the Appellant is now registered with Betstop for a period of 2 years commencing 2 July 2026.

Submissions of the Respondent

33. The Respondent's written submissions⁴² may be summarised as follows:

⁴² TB 10 and following.

1. Registration as an Attendant would likely place the Appellant in an environment where there were young children present. Whilst this would not afford the Appellant unsupervised access to a child, the prospect of the Appellant being placed in such an environment would likely affect the integrity of the industry.⁴³
2. The Appellant's reputation falls to be assessed by reference to the nature of the offences, the circumstances in which they were committed, and the reasonable perception of industry participants.⁴⁴
3. Whilst it is likely that the Appellant has the requisite knowledge and ability to carry out the activities of an Attendant, the present application cannot be considered in isolation from the Appellant's criminal history and the circumstances of the offending, considerations which outweigh the personal factors upon which he seeks to rely.⁴⁵
4. Even if the Appellant is regarded as a fit and proper person to be registered, it remains the case that registration is not in the best interests of the greyhound racing industry.⁴⁶
5. As matters presently stand, a limited amount of time has passed since the commission of the Appellant's most recent offence.⁴⁷ An even more limited amount of time has passed since the Appellant's completion of his period of supervised parole. A further period should be allowed, outside of those circumstances, to allow the Appellant to further demonstrate his rehabilitation,⁴⁸ particularly in light of the fact that his betting activity was not evident during his period of parole supervision.⁴⁹
6. The evidence supports the conclusion that gambling previously formed part of the Appellant's maladaptive coping, and that in the absence of supervision he has returned to significant wagering activity which is of concern in relation to

⁴³ At [21] – [22]

⁴⁴ At [23] – [24].

⁴⁵ At [27] – [32].

⁴⁶ At [33].

⁴⁷ At [35].

⁴⁸ Oral submissions on behalf of the Respondent at the hearing.

⁴⁹ At [10].

the Appellant's judgment, insight, self-regulation and capacity to comply with the standards expected of a registered industry participant.⁵⁰

CONSIDERATION

The relevant principles

34. There is no issue that the Appellant is fit for registration, in the sense that he has the knowledge and skill required to discharge the duties and responsibilities of a Greyhound Attendant. The principles which are applied by the Tribunal in determining whether someone is a *proper* person to be registered as a participant have been stated in a number of decisions, including *Chaker v Greyhound Welfare and Integrity Commission*,⁵¹ 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 known.⁵² This Tribunal (differently constituted) has consistently been called upon to apply those principles to determinations of the present kind.⁵³ 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*.⁵⁴ They include the following:*

- (i) *a conviction is important to an assessment of whether someone is fit and proper;*⁵⁵
- (ii) *a conviction is not necessarily determinative, and the controlling body may inquire into the offending to ascertain its real facts;*⁵⁶

⁵⁰ At [12].

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

⁵² See for example *Hughes & Vale Pty Limited v New South Wales (No. 2)* (1955) 93 CLR 127 at 156.

⁵³ 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].

⁵⁴ (2016) 339 ALR 580; [2016] NSWSC 1617.

⁵⁵ At [6], citing *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 57 CLR 279.

⁵⁶ At [102] citing *Ziems*.

- (iii) *the question of whether an applicant is a fit and proper person is to be determined at the time of the hearing;*⁵⁷
- (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;*⁵⁸
- (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;*⁵⁹
- (vi) *there may be little or no public interest in denying forever the chance of redemption and rehabilitation.*⁶⁰

*In P v Prothonotary of the Supreme Court of New South Wales,*⁶¹ Young CJ in Eq cited other factors which, in his view, provided general guidance in cases of this kind. They included:

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

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.*⁶²

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

⁵⁸ At [103].

⁵⁹ At [103] citing *Tziniolis*, and *Saunders v Legal Profession Admission Board* [2015] NSWSC 1839 at [62].

⁶⁰ At [105] citing *Dawson v Law Society (NSW)* [1989] NSWCA 58 per Kirby P at [7].

⁶¹ [2003] NSWCA 320.

⁶² See *Australian Broadcasting Tribunal v Bond* [1990] HCA 33 at [36] per Toohey and Gaudron JJ.

35. In addition to those principles, and bearing in mind that for the purposes of this appeal I effectively stand in the shoes of the Respondent,⁶³ my determination must be made having regard to two particular matters.

36. The first, is that registration of industry participants must be addressed and determined having regard to the provisions of the *Greyhound Racing Act 2017* (the Act), the objects of which include:

- (i) providing for the efficient and effective regulation of the greyhound racing industry;⁶⁴ and
- (ii) ensuring the integrity of greyhound racing.⁶⁵

37. The second, is that the Respondent's prescribed functions under the which include:

- (i) safeguarding the integrity of greyhound racing;⁶⁶ and
- (ii) maintaining public confidence in the greyhound racing industry.⁶⁷

The application of the relevant principles to the Appellant's case

38. It is important to emphasise that what I am required to do in making my determination is conduct is a *balancing*, as opposed to a *tallying*, exercise. In other words, I must consider all of the relevant factors and ascribe to each of them the weight that I consider appropriate. The degree of weight attached to particular factors may obviously differ according to the circumstances of the case. At the end of that exercise, I must determine where the balance lies. Accepting that there is no issue as to the Appellant's fitness, the application of the relevant factors and principles leads me to the following conclusions as to whether the Appellant is a proper person to be registered.

⁶³ *Racing Appeals Tribunal Act 1983* s 17A(1)(b).

⁶⁴ Section 3A(a)

⁶⁵ Section 3A (d).

⁶⁶ Section 11(b).

⁶⁷ Section 11(c).

39. Firstly, it is self-evident that at the time of his offending, the Appellant would not have satisfied the test for propriety under any circumstances. However, the issue for my determination is not whether the Appellant was, at some time in the past, a fit and proper person to be registered. The authorities make it clear that the issue is whether the Appellant is a fit and proper person ***now***. Whilst his offending is, as discussed below, obviously relevant, the temporal determination of propriety necessarily encompasses a consideration, not only of what occurred previously, but also of what has occurred ***since*** the offending, including (importantly) the Appellant's rehabilitation.

40. Secondly, at the risk of stating the obvious, the Appellant's convictions for what was clearly serious offending are deserving of considerable weight. That is so for a variety of reasons. They include the fact that such offending:

1. was, by its very nature, objectively serious;
2. occurred over a significant period of time;
3. involved multiple complainants, and a range of different criminal acts; and
4. would be regarded as fundamentally repugnant by any right-thinking member of the community.

41. Further, as the sentencing Judge observed, any act that involves the sexual exploitation of a child is serious, for the simple reason that the law imposes an absolute prohibition on sexual activity with children for the purposes of protecting them.⁶⁸

42. However, I am unable to accept the submission advanced by the Respondent⁶⁹ that the Appellant's "reputation" falls to be assessed, in the present context, by reference to the nature of the offending and the circumstances in which it was committed. Leaving aside that the Appellant's reputation is not strictly the issue, the approach reflected in that submission would, if applied, tend to at best

⁶⁸ Sentence judgment at [4].

⁶⁹ At [23].

minimise, and at worst ignore, the myriad of other relevant factors relevant to the issue I am considering, and simultaneously attach what might be described as determinative primacy to the fact of the offending. Such an approach would, in my view, be erroneous.

43. Thirdly, contrary to both the apparent effect of Criterion 15 of the Respondent's framework and the general tenor of at least some of the Respondent's written submissions,⁷⁰ the fact of the offending is not determinative of the issue of whether the Appellant is a proper person to be registered. It is open to me to enquire into those convictions to ascertain the facts lying behind them. In that regard, whilst the objective circumstances of the offending are clear, the findings of the sentencing Judge in relation to, amongst other things, the Appellant's psychological state, and his youth, at the time, are instructive. Such considerations do not, as his Honour expressly stated, provide an excuse for the offending. However, as his Honour pointed out, they provide, in effect, a lens through which the offending is to be viewed. In that context, and whilst not derogating in any way from the seriousness of the offending, it should also be emphasised that it constitutes the Appellant's only transgression of the criminal law.

44. Fourthly, I must consider the passage of time which has passed since the offending, and the age of the Appellant at that time, in circumstances where, although not conclusive evidence of a change in character, a long passage of time without any subsequent transgression of the law may tend in favour of a conclusion that a person is fit and proper for the relevant purpose. In the present case, some of the offending occurred more than 10 years ago. The most recent offending occurred approximately 8½ years ago. In those circumstances, I am unable to accept the Respondent's submission⁷¹ that the latter passage of time is properly described as "*limited*". It is properly described as significant. Moreover, it is to be viewed

⁷⁰ See for example at [20]; [23]; [24]; [32]; and [35].

⁷¹ At [35].

against a background of the Appellant having no other convictions, either before or since.

45. As far as the age of the Appellant is concerned, I have already noted that that was a factor which was taken into account by the sentencing Judge in the Appellant's favour. Whilst I am obviously conducting an entirely different exercise to that in which his Honour was engaged, it seems to me that the principles underlying his Honour's assessment of the relevance of the Appellant's youth also have some relevance to my task.

46. It follows that in my view, the absence of any prior criminal history, and the Appellant's age at the time of the offending, are factors which assist him on the present appeal.

47. Fifthly, not only does the Appellant have no prior criminal history, he has no disciplinary history after a not insignificant period in the industry. The latter demonstrates a willingness on the part of the Appellant to comply with obligations which are placed upon him.

48. Sixthly, there is evidence that but for his offending, the Appellant is otherwise of good character. That evidence is constituted by the absence of any other convictions, as well as the testimonial of Mr Fitch.

49. Seventhly, I am mindful of the observations I made in *Chaker v Greyhound Welfare and Integrity Commission*⁷² (as well as in other cases) that differing levels of responsibility attach to different categories of licence, and that 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

⁷² At [35].

category of licence. That is not to say that an applicant for registration as an Attendant should have an expectation that he or she will be successful in obtaining such registration as a matter of course, without the appropriate degree of scrutiny, and absent application of the relevant principles. At the same time, the Appellant is entitled to the benefit of that approach⁷³.

50. Finally, there is, in my view, clear and convincing evidence of the Appellant's rehabilitation, both in custody and on parole. His efforts in that regard, apart from being comprehensive, are entirely consistent with the reasons which were expressed by the sentencing Judge for structuring the sentence to allow a longer period of parole supervision.

51. Bearing in mind the Respondent's concession that there may be little public interest in denying the Appellant's re-entry to the industry forever,⁷⁴ I find it difficult to identify what further specific rehabilitative step(s) the Appellant could realistically undertake which would materially change the circumstances as they presently stand. I have, in this particular respect, taken into account the additional evidence and submissions surrounding the Appellant's recent betting activities. Having done so, I am not persuaded that such activities erode, or otherwise adversely affect, the substance of the Appellant's rehabilitative efforts, or that they otherwise tend materially against a conclusion that he is a fit and proper person to be registered as an Attendant. That is so for a number of reasons.

52. The first, is that the report of Mr Park makes it clear that the Appellant's betting does not constitute any form of illegal activity.

53. The second, is that accepting that in the present context the Appellant's betting activities go beyond issues of mere legality, the evidence of such activities being

⁷³ *Mackenzie v Greyhound Welfare and Integrity Commission* 4 June 2025 at [48].

⁷⁴ At [34].

linked to maladaptive behaviour (a circumstance which is relied upon by the Respondent) is very much historical. Since that assessment was made, the Appellant has had the benefit of psychological and related interventions, both in custody and during his period of parole.

54. The third is that it is not clear to me whether the Appellant was subject to a prohibition on gambling as part of his parole conditions. In any event, the report of Mr Park indicates that the Appellant placed his first bet after completing his period of parole supervision earlier this year.

55. The fourth, is that leaving aside whether, as Mr Park has suggested, the Appellant will be prohibited under the *Greyhound Racing Rules* from engaging in gambling activities if he is registered, he has put in place a self-imposed ban through BetStop. That alleviates the concerns expressed by the Respondent, in circumstances where, for the reasons expressed above, those concerns had a tenuous evidentiary basis.

CONCLUSION

56. For the reasons I have expressed, the analysis of the factors set out above, and an application of those factors to the present case, weigh in favour of the appeal being upheld.

57. The primary factor which obviously does not assist the Appellant is his offending. For the reasons I have pointed out, no single factor is conclusive in a balancing exercise of this kind. Whilst I have placed significant weight on the fact of the Appellant's offending, I am not satisfied that it outweighs the remaining factors that I am obliged to take, and have taken, into account. The above analysis supports the conclusion that the remaining factors, without exception, are balanced (to varying degrees) in the Appellant's favour.

58. In my view, the evidence supports the conclusion that the community can have reasonable confidence that the Appellant's previous conduct is not likely to

repeated in the future. That conclusion is supported by the views of the sentencing Judge as to what he considered to be the most likely outcome for the Appellant following the completion of his sentence. In making those observations his Honour did so prospectively, without the benefit of being able to reflect on the Appellant's rehabilitative efforts, both in custody and beyond. Unlike his Honour, I have that benefit. The evidence points positively in the Appellant's favour. It is also important to recognise that the Appellant's rehabilitation has been, and continues to be, supported by the fact that he is in a stable relationship, and has a young family.

59. Accepting all of that to be the case, it is my view that the ongoing integrity of the industry is unlikely to be adversely affected by the Appellant's registration as an Attendant, and that there is unlikely to be any substantial threat to the maintenance of public confidence in the greyhound racing industry if the appeal is upheld.

60. It follows that the Appellant's appeal should succeed.

ORDERS

61. I make the following orders:

1. The appeal is upheld.
2. The determination of the Respondent refusing the Appellant's application for registration is quashed.
3. The appeal deposit is refunded.

62. 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

15 July 2026