

GREYHOUND WELFARE & INTEGRITY COMMISSION
DISCIPLINARY ACTION DECISION

AS AMENDED 16 JUNE 2022

Warning: This report contains language which some readers may find offensive.

Date of decision: 25 August 2021

Decision-makers: Chief Inspector, David OShannessy, Senior Steward, Dean Degan & Acting Senior Legal Officer, Alice Stafford

Name of relevant person: Mr Kenneth Burnett

Track: Nowra

Date: 10 January 2021

Rule no.: Rule 86(ag), Rule 86(p); Rule 86(f)(i); Rule 86(g)

Charge(s): (1) Withdrawn;

(2) On 10 January 2021 Mr Burnett disobeyed a direct order given by a Steward during a race meeting at the Shoalhaven Greyhound Racing Club;

(3) On 10 January 2021, Mr Burnett used insulting and offensive language towards a Steward during a race meeting at the Shoalhaven Greyhound Racing Club;

(4) On 10 January 2021, Mr Burnett physically interfered with a Steward during a race meeting at the Shoalhaven Greyhound Racing Club.

Disciplinary action taken: Charge 1: Withdrawn;

Charge 2: 4-month disqualification;

Charge 3: 2-month suspension;

Charge 4: 12-month disqualification*

DECISION:

1. At all relevant times, Mr Burnett was a registered greyhound Public Trainer and Breeder.

2. On 10 January 2021, Mr Burnett attended the Shoalhaven Greyhound Racing Club with the greyhound 'Blue Chilli' ("**Greyhound**") which was trained by Mr Burnett and nominated to compete on that date.
3. Mr Burnett presented the Greyhound for kennelling, and the Greyhound was weighed as part of the usual pre-kennelling process. The Greyhound weighed in at 1.2 kilograms over its previous race weight, when it was weighed on 24 December 2020.
4. The Greyhound was then removed for the weighing scales, and re-weighed. It remained 1.2 kilograms over its previous race weight. The Greyhound was scratched by the presiding Steward as a result of this weight variation.
5. Mr Burnett requested to go outside and 'empty' the Greyhound, and then to have an opportunity to return and re-weigh the Greyhound. The Steward refused this request.
6. Mr Burnett then left the kennelling area with the Greyhound.
7. A short time later Mr Burnett returned to the kennelling area with the Greyhound, and again requested to be able to re-weigh the Greyhound.
8. The Steward again refused to allow the Greyhound to be re-weighed, and confirmed that the Greyhound would remain scratched from competing on that date.
9. Mr Burnett again repeated his request. The Steward advised Mr Burnett that after kennelling had closed he would be permitted to weigh the Greyhound, however the Greyhound would remain scratched from competing on that date.
10. Mr Burnett then moved towards the weighing scales with the Greyhound. The Steward advised Mr Burnett then that kennelling had not finished and he was not permitted to re-weigh the Greyhound at that time.
11. Mr Burnett advised the Steward that "*you can fuck off*" and continued to move towards the line for the weighing scales.
12. The Steward again advised Mr Burnett that he was not able to use the scales at that time. Mr Burnett said words to the Steward to the effect of: "*you are ruining the fucking industry, you and GWIC*". He remained in line to use the scales.
13. Mr Burnett approached the scales, and the Steward again directed Mr Burnett not to re-weigh the Greyhound at that time and placed an arm across the entry gate to the scales.
14. Mr Burnett replied words to the effect of: "*do not tell me what to fucking do*". He then physically interfered with the Steward and put the Greyhound onto the weighing scales. The Greyhound again weighed 1.2 kilograms in excess of its previous racing weight.
15. Mr Burnett again physically interfered with the Steward as he went to retrieve the Greyhound from the scales. Mr Burnett continued to swear at and argue with the Steward about whether or not he should be allowed to reweigh a greyhound after it had been 'emptied'.
16. A second Steward attended the kennelling area at that time and asked Mr Burnett to calm down.

17. Mr Burnett then left the kennelling area with the Greyhound. He did not return again on that date.

CHARGES:

18. On review of the evidence in this matter, the Commission charged Mr Burnett with breaches of Rule 86(p), Rule 86(f)(i) and Rule 86(g) of the Rules. These rules respectively read:

Rule 86

A person (including an official) shall be guilty of an offence if the person-

...

(f) engages in, publishes or causes to be published, broadcasts or causes to be broadcast, the use of any contemptuous, unseemly, improper, insulting, or offensive language, conduct or behaviour in any manner or form towards, or in relation to-

...

(iv) any other person having official duties in relation to greyhound racing

...

(g) wilfully assaults, obstructs, impedes, abuses, interferes, threatens or insults the Controlling Body, any member of the Controlling Body, a club, any member of the committee of a club, any Steward or any other official of the Controlling Body or a club in or at any place including in or in the vicinity of the place where an inquiry is to take place, is taking place or has taken place

...

(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing

19. The Commission also issued a charge against Mr Burnett for a breach of Rule 86(ag), relating to a separate matter. This charge was withdrawn by the Commission in September 2021.

20. Mr Burnett was legally represented, provided written submissions in response to the charges and elected to have the matter dealt with on the papers.

PENALTIES:

21. The Commission found the charges proven and took the following disciplinary action against Mr Burnett:

Charge 1 (Rule 86(ag))	Withdrawn by the Commission;
Charge 2 (Rule 86(p)):	To disqualify Mr Burnett for a period of 4 months;
Charge 3 (Rule 86(f)(i)):	To suspend Mr Burnett for a period of 2 months;
Charge 4 (Rule 86(g)):	To disqualify Mr Burnett for a period of 12 months*,

with:

- time served under an interim suspension (since 15 January 2021) taken into account as time served, with the remaining period of disqualification to expire at 12:00am on 14 January 2022;
- The periods of suspension and disqualification for Charges 1 to 3 to be served concurrently.

22. In taking this disciplinary action, the Commission considered all evidence and submissions, including:

- Mr Burnett has been a registered trainer in the greyhound racing industry since 2002, approximately 19 years;
- Mr Burnett's disciplinary history, having a previous breach of Rule 86(o) in 2014 for an incident in a kennel block;
- Mr Burnett's plea of not guilty to the charges;
- NSW greyhound racing precedents;
- The submissions made in mitigation of penalty made on behalf of Mr Burnett, including in relation to his personal and financial circumstances.

23. The Commission through its disciplinary matters has made it very clear that any abusive conduct directed at Commission staff will be treated very seriously. Further, any conduct that includes physical contact by participants upon Commission staff, including stewards, will always be met with significant periods of disqualifications.

24. Commission staff, and club officials, perform an important role in the delivery of race day integrity functions and must be protected by conduct from participants such as in the present case.

25. Mr Burnett has a prior matter on his disciplinary history, albeit some 7 years earlier, which counts against him. Further, the IHP considered there was little remorse for this conduct given Mr Burnett's plea of not guilty to the charges.

26. The Commission has provided warning in previous disciplinary action matters that any physical contact against a Commission employee will result in significant penalty.

** **Addendum:** Following a review of this decision, the Commission accepted a plea of guilty to charges 2, 3 and 4 from Mr Burnett and amended the penalty for charge 4 to 'time served'. Mr Burnett served a period of interim suspension of 7 months, 1 week and 3 days. Prior to a stay being granted by the Racing Appeals Tribunal on 8 November 2021, Mr Burnett served a period of disqualification of 2 months and 2 weeks. This is a total period of 10 months. Accordingly, Mr Burnett is no longer subject to any penalty and is free to engage in the industry in accordance with his registration status.*

.....End.....