

GREYHOUND WELFARE & INTEGRITY COMMISSION

DISCIPLINARY ACTION DECISION

Date of decision:	23 February 2022
Decision-makers:	Chief Commissioner Alan Brown and Commissioner Peter Collins
Name of relevant person:	Mr Toby Weekes
Track:	N/A
Date:	30 March 2020
Rule no.:	Rule 106(1)(d), Rule 106(2)
Charge(s):	(1) On 30 March 2020, Mr Weekes failed to provide veterinary treatment to a greyhound; (2) On 30 March 2020, Mr Weekes failed to exercise reasonable care and supervision, which inflicted undue suffering on a greyhound.
Disciplinary action taken:	Charge 1: 7-month disqualification Charge 2: Not proven.

EVIDENCE, PLEA & SUBMISSIONS

1. Mr Weekes has been a registered trainer since 2011.
2. On 29 March 2020 Mr Weekes was working at a location other than his registered kennel address. In his absence the greyhounds registered to his care were being supervised by his employee.
3. During the course of the employee's duties on 29 March 2020, he placed several greyhounds into the same yard. One of these greyhounds was 'Kerrigan Bale'.
4. These greyhounds remained in the same yard overnight.
5. On 30 March 2020 Mr Weekes had returned to the property and was the only person at the property supervising the greyhounds located at the property.
6. Mid-morning on 30 March 2020, Mr Weekes was alerted by his partner that several greyhounds were fighting in the yard. The yard was located at the rear of the house.
7. Mr Weekes approached the yard and saw that three greyhounds were involved in a dog fight. He entered the yard and separated the three greyhounds.

8. After separating the greyhounds, Mr Weekes noticed that Kerrigan Bale had sustained injuries to her chest and legs. Mr Weekes sewed and/or stapled a wound on the shoulder of Kerrigan Bale, and gave her meloxicam as a method of pain relief.
9. On the morning of 31 March 2020 Mr Weekes presented Kerrigan Bale to the Orange Vet Hospital to be treated for the wounds sustained in the dog fight.
10. Kerrigan Bale was assessed and ultimately euthanased by the treating veterinarian. The reason given for the euthanasia was "*Dog fight wounds sustained on the weekend. It was in the best interest of the dog to be euthanased.*"
11. The treating veterinarian examined Kerrigan Bale upon presentation on 31 March 2020 and noted the following:
 - a) Kerrigan Bale was presented by Mr Weekes who advised that the fight had occurred between two female brood bitches two days prior to presentation;
 - b) There were significant wounds to the limbs and lateral left thorax;
 - c) Some of the wounds were infected, and some contained maggots;
 - d) The wounds on Kerrigan Bale were not clipped around the edges prior to being 'repaired';
 - e) Suture material and staples were visible in the wound on the lateral left thorax;
 - f) Lameness in the hind end of the walk which was presumed to indicate pain felt by Kerrigan Bale.
12. The treating veterinarian provided GWIC with an expert report, which concluded the following:
 - a) That she considered that there was a failure to provide appropriate veterinary treatment for substantial dog fight wounds once they were sustained;
 - b) That should Kerrigan Bale had been presented on the day of the injury, there would have been opportunity for the wounds to be cleaned and sutured appropriately without the potential for wound infection, breakdown, and in her opinion, the unnecessary euthanasia of Kerrigan Bale.
13. On 8 September 2021 Mr Weekes was issued with a notice of proposed disciplinary action ("**Notice**") setting out the proposed disciplinary action to be taken and the grounds in support of that proposed disciplinary action. The Notice issued two charges under Rule 106(1)(d) and 106(2) of the GWIC Greyhound Racing Rules ("**Rules**"), which respectively read:

Rule 106(1)(d)

- (1) A registered person must ensure that greyhounds, which are in the person's care or custody, are provided at all times with-
 - ...
 - d. veterinary attention when necessary.

Rule 106(2)

A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person's care or custody from being subjected to unnecessary pain or suffering.

14. Mr Weekes elected to have the matter dealt with on the papers. Mr Weekes pleaded guilty to Charge One, pleaded not guilty to Charge Two and made written submissions in relation to both charges.
15. On 27 October 2021 Mr Weekes was issued with a further notice of proposed disciplinary action ("**second Notice**"), which found Charge One proven and withdrew Charge Two, finding it was not proven. The second Notice proposed a penalty for Charge One and invited Mr Weekes to make further submissions.
16. On 19 November 2021 Mr Weekes made submissions on the proposed penalty.
17. Mr Weekes' submissions stated, in summary:
 - That Mr Weekes' thought he had sufficiently aided and treated Kerrigan Bale in such a way that veterinary attention would not be required;
 - That Kerrigan Bale scratched at her injuries over the night, resulting in the aid and treatment provided by Mr Weekes failing, and causing her injuries to become worse;
 - When this occurred Mr Weekes immediately attended upon the vet;
 - Mr Weekes acknowledged his poor judgement in not taking Kerrigan Bale to the vet immediately on 30 March 2020;
 - Mr Weekes expressed his regret and remorse for his actions, and stated that he did not want Kerrigan Bale to suffer unnecessarily, and wanted her to heal from her injuries;
 - Mr Weekes submitted that this is a once-off event and that he is a person that takes great care of his greyhounds. Mr Weekes submitted that he has been in the industry for approximately 10 years and during that time has looked after approximately 4000 greyhounds as a trainer, carer and/or stud keeper without complaint;
 - Mr Weekes provided references from two veterinarians that regularly treat his greyhounds. The first reference stated that in their treatment of Mr Weekes' dogs, the vast majority have been in good body condition, and that Mr Weekes is compliant with veterinary aftercare and attention. The second reference stated that, in their experience, Mr Weekes has shown the utmost compassion for his dogs;
 - Mr Weekes submitted that an appropriate penalty would be a period of suspension, wholly and conditionally suspended, in addition to the imposition of a fine;
 - Mr Weekes submitted that he has cared for approximately 200 greyhounds since the time of the offence without incident;
 - Mr Weekes provided details of the change in procedure at his property to ensure that a similar dog fight does not occur again;

- Mr Weekes also made submissions in mitigation to his personal circumstances, his health, and his work in the local community; and
- Mr Weekes submitted that this matter was a genuine mistake in judgment as opposed to an intentional wrong.

18. The decision makers considered Mr Weekes' plea and submissions, in conjunction with the evidence produced in this matter, and made the following determination.

DECISION

19. The decision makers found Charge One proven as particularised and found Charge Two not proven.

20. The decision makers took the following disciplinary action against Mr Weekes:

Charge 1 (Rule 106(1)(d)) To disqualify him for a period of seven months; and

Charge 2 (Rule 106(2)) Charge not proven.

21. In finding Charge Two not proven, the decision makers accepted the submission made by Mr Weekes that he had left Kerrigan Bale in the care and supervision of someone that he considered to be an experienced registered participant, and that there had been no previous issues with Kerrigan Bale being in a yard with other greyhounds.

22. In relation to penalty, factors in mitigation were taken into account, including the following:

- a) Mr Weekes has held a registration since 2007, and a trainer registration since 2011;
- b) Mr Weekes' plea of guilty to charge one at the earliest opportunity;
- c) Mr Weekes does not have any disciplinary history of a similar nature;
- d) Mr Weekes took some steps to provide what he felt was adequate care to Kerrigan Bale, and when it became apparent this was not appropriate, sought veterinary attention; and
- e) Mr Weekes' submissions in mitigation, particularly in relation to his personal circumstance, his health and his work in the local community.

23. In deciding the penalty for Charge One, the decision makers had regard for previous disciplinary matters heard by the Commission and the Racing Appeals Tribunal for breaches of the same Rules, including *Cartwright*, where the Racing Appeals Tribunal found a starting point of a 12-month disqualification for a charge under Rule 106(1)(d) was appropriate. The decision makers considered a penalty of a 12-month disqualification to be appropriate in this matter, and, when taking into account Mr Weekes' early guilty plea, proposed a nine-month penalty to Mr Weekes in the second Notice. Mr Weekes' representative provided further submissions and ultimately the decision makers determined a seven-month disqualification period to be appropriate.

24. An integral issue for determination was Mr Weekes' delay in the provision of veterinary treatment. By failing to seek veterinary attention when the injury was first discovered and

instead attempting to treat it himself in a manner he considered appropriate, Mr Weekes has directly impacted the outcome for Kerrigan Bale who, ultimately, had to be euthanased.

.....End.....