

**DECISION ON AN INTERNAL REVIEW APPLICATION UNDER
SECTION 91 OF THE *GREYHOUND RACING ACT 2017***

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

Matters for determination	Decision dated 6 April 2023 of decision makers Wade Birch, Chief Operating Officer, and Sam Woolaston, Steward
Internal review decision date	30 May 2023
Internal review decision by	Mr Brenton (Alby) Taylor Chief Commissioner, GWIC
Internal review decision summary	Vary the decision of 6 April 2023 and instead issue a period of suspension for 9 months, with 4 months conditionally suspended for a period of 12 months

REASONS FOR DECISION

1. These are the reasons for the decision following an application by Mr Nathan Allan (“**Mr Allan**”) for internal review under the *Greyhound Racing Act 2017* (“**Act**”) of a Commission decision. That decision was to find Mr Allan guilty of a breach of Rule 165(c)(iv) and to disqualify his registration for a period of 9 months.
2. This is a reviewable decision within the meaning of section 91(1) of the Act. I confirm I was not involved in making the original decision, and I am a qualified person in accordance with section 91(5) of the Act. I lastly confirm I have dealt with this application for review.
3. Under section 91(7) of the Act, an internal reviewer is empowered to:
 - Confirm the reviewable decision the subject of the application; or
 - Vary the reviewable decision; or
 - Revoke the reviewable decision.

Background

4. Mr Allan was a registered Attendant within the greyhound racing industry at all material times.
5. On 31 December 2022, Mr Allan attended at the Wauchope Greyhound Club for the purpose of handling greyhounds during a race meeting.

6. Following the running of Race 4, Mr Allan collected the greyhound 'Topper's The One' ("**Greyhound**") from the catching pen. Mr Allan then overheard a direction on a 'walkie talkie' given by Steward Louise Warren to present the Greyhound to the attending On Track Veterinarian for examination.
7. Upon hearing the direction on the 'walkie talkie' being given by Steward Warren, Mr Allan responded by referring to Steward Warren as a "cunt". This reference was overheard by fellow participants and officials in the catching pen.
8. On 10 January 2023 an interim suspension was imposed upon Mr Allan while the Commission carried out an investigation into the alleged incident at the Wauchope Greyhound Racing Club.
9. On 8 February 2023 Mr Allan was issued with a Notice of Charge and Propose Disciplinary Action ("**Notice**") charging him with a breach of rule 165(c)(iv). Rule 165(c)(iv) relevantly reads:

Rule 165(c)(iv), Rules

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

...

(c) engages in contemptuous, unseemly, improper, insulting, or offensive conduct or behaviour in any manner or form towards, or in relation to:

....

(iv) a Steward or any other official of a Controlling Body or a Club

...

10. The particulars of the charge were:

1. At all relevant times [Mr Allan was] a registered Handler with the Greyhound Welfare and Integrity Commission;
2. On 31 December 2022 [Mr Allan] handled the greyhound 'Topper's The One' in race four at the Wauchope race meeting;
3. Following the running of race four [Mr Allan was] present in the catching pen area when [he] heard a direction from Steward Louise Warren that Topper's The One was to be examined by the On Track Vet;
4. Upon hearing this direction [Mr Allan] referred to Steward Louise Warren as a "cunt";
5. This reference in relation to Ms Louise Warren was heard by fellow participants and officials in the area of the catching pen;
6. This behaviour, as particularised, is both insulting and offensive behaviour in relation to Ms Louise Warren, a Steward of a Controlling Body.

11. Mr Allan attended a hearing on 16 February 2023 with the decision makers. At the hearing, Mr Allan entered a plea of not guilty to the charge and made submissions in respect of that plea.
12. On 6 April 2023 the decision makers found Mr Allan guilty of the charge and determined to disqualify Mr Allan for a period of 9 months with the time served on interim suspension from 25 January 2023¹ to be taken into account with the period of disqualification to expire on 26 October 2023.

Internal Review Application

13. On the 27 April 2023, Mr Allan formally requested a review of the decision made by the Stewards to find him guilty of a breach of Rule 165(c)(iv) and to disqualify his registration for a period of 9 months.
14. The internal review has been conducted on the papers.
15. As the internal reviewer, I have had regard to all the evidence considered by the decision makers. I have reviewed the following materials including:
 - Email from Steward Adams dated 31 December 2022;
 - Transcript of interview with Mr Allan dated 31 December 2022;
 - Transcript of interview with Mr Isaac McGuire and Mr Cody McGuire dated 31 December 2023;
 - Transcript of interview with Mr Tony Forbes dated 31 December 2023;
 - Transcript of interview with Mr Billy Urquhart dated 31 December 2023;
 - Transcript of interview with Ms Jessica Savage dated 31 December 2023;
 - Notice of proposed disciplinary action – interim suspension dated 3 January 2023;
 - Email from Mr Allan dated 4 January 2023;
 - Further email from Mr Allan dated 4 January 2023;
 - Email from Chief Operating Officer Birch dated 4 January 2023;
 - Notice of disciplinary action – interim suspension dated 10 January 2023;
 - Notice of charge and proposed disciplinary action dated 8 February 2023;
 - Transcript of hearing conducted on 16 February 2023;

¹ It is noted that this timeframe is incorrect, with the period of interim suspension having commenced on 10 January 2023.

- Notice of disciplinary action dated 19 April 2023;
- Registration and disciplinary history of Mr Allan.

Decision

16. In determining the matter as an Internal Review under Section 91 of the Act, I must consider whether this a reviewable decision under the Act. I consider the decision to disqualify Mr Allan for a period of 9 months to be a reviewable decision.
17. At the outset I find that Mr Allan did utter the word “cunt” in reference to Steward Warren after Mr Allan overheard Steward Warren on a walkie talkie give a direction for his greyhound to attend with the On Track Veterinarian.
18. I have also had particular regard to the fact that the comment made by Mr Allan about Steward Warren was not direct abuse made to her, but rather a comment made about her that was heard by other persons. I consider that to lessen the severity of the offending as compared to a situation where he had said those words directly to her in person, in her presence and hearing.
19. I confirm that upon review, I have established that the period of interim suspension served by Mr Allan commenced on 10 January 2023, and not on 25 January 2023 as stated in the original decision. Accordingly, the ultimate penalty awarded to Mr Allan will be backdated to 10 January 2023 to give Mr Allan the full benefit of the time served on interim suspension.
20. In consideration of this application, I have also had regard to the recent comments made by the Racing Appeals Tribunal in the matter of *Fairbairn*² regarding the need for crude language to be considered in the context of modern day vernacular. In particular, at paragraph [22] of his decision, President Armati states that:
- ... words only were uttered. Those words, in the 21st century in which we are, also require somewhat to be read down, as offensive as they were, as improper as they were...*
21. I find that the word “cunt”, is both offensive and improper, particularly when used in context of referring to a person carrying out their usual course of work. I also believe the word “cunt” is particularly offensive to women. However, as in the matter of *Fairbairn* the language used is unfortunately that which has become more commonplace in modern day. It is in that setting that this language must be assessed and read down to a degree.
22. Considering all the evidence and the submissions made by Mr Allan, I am satisfied that I should vary the original decision made by the stewards on 19 April 2023.
23. In accordance with section 91(7)(b) of the Act, I vary the decision of 6 April 2023 and instead issue a period of suspension for 9 months, with 4 months conditionally suspended for a period of 12 months. This period of suspension is to take into account the period of time spent on

² Racing Appeals Tribunal decision in the matter of Stephen Fairbairn dated 28 April 2023.

interim suspension from 10 January 2023, with the active period of suspension to expire at 12:01am on 10 June 2023.

A handwritten signature in blue ink, appearing to be 'Brenton Taylor', written in a cursive style.

Brenton (Alby) Taylor
Chief Commissioner