

GREYHOUND WELFARE & INTEGRITY COMMISSION

DISCIPLINARY ACTION DECISION

Date of decision:	13 September 2023
Decision-makers:	Chief Commissioner Brenton (Alby) Taylor
Name of relevant person	Mr Garry Alan Hartley
Date:	30 March 2023
Location:	Gunnedah
Rule no.:	Rule 156(g)(iii)
Charges:	On 30 March 2023 Mr Hartley wilfully assaulted an employee of the Gunnedah club by rubbing his groin and penis on the employee's buttocks.
Plea:	Not guilty
Disciplinary action taken:	To disqualify Mr Hartley for a period of 16 months. The time Mr Hartley has been subject to an interim suspension will be taken into account as time served. The period of disqualification will end at 11:59pm on 4 September 2024 .

BACKGROUND

1. On 30 March 2023, an employee ("**the Victim**") of the Gunnedah Greyhound Racing Club ("**the Club**") who was working at the race meeting being conducted that day, reported to Steward Woolaston that Mr Hartley had assaulted her by rubbing his groin and penis on her buttock area.
2. On 1 May 2023 the Commission issued a Notice to Mr Hartley, proposing to interim suspend his registrations pending further investigation into the matter. Mr Hartley was invited to a hearing to make submissions on this proposed disciplinary action.
3. On 5 May 2023, following consideration of all available material, Mr Hartley was interim suspended by the Commission, pursuant to Rule 169(5)(c).
4. The Commission notes that on the face of it, the conduct alleged against Mr Hartley is such that it may give rise to criminal charges. The Commission was advised by the Victim that she did not wish to make a police complaint, and accordingly the Commission has dealt with the matter as it is empowered to do.

DECISION

5. On 11 May 2023 the Commission charged Mr Hartley with a breach of Rule 156(g)(iii) of the Greyhound Racing Rules, which reads:

Rule 156

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

...

(g) wilfully assaults, obstructs, impedes, abuses, interferes with, threatens or insults:

...

(iii) a Club, or an officer, employee or member of a Club;

6. On 16 August 2023 Mr Hartley attended a hearing held at the Gunnedah racetrack. On this day, the decision maker heard evidence from Mr Hartley, as well as evidence from the Victim, GWIC Steward Woolaston, a Mr Howarth, who is a registered participant who witnessed the incident, and a Mr Kelly who is another Club employee also working on 30 March 2023.
7. Mr Hartley entered a plea of not guilty to the charge and gave evidence in response to the charged conduct. Mr Hartley's evidence was that, whilst he was present at the Gunnedah track on 30 March 2023, the alleged conduct, the subject of the charge, did not occur and that there was no physical contact between himself and the victim at any point.
8. The Victim gave evidence that during the course of her duties at the end of the race meeting, Mr Hartley approached her from behind and pushed his penis and groin area into her buttocks, and then apologised.
9. The Victim then confirmed that she had reported the incident to another employee of the Club, Mr Kelly, within a short time of the incident occurring, and then later that same night she also reported the incident to Steward Woolaston. The victim gave evidence that the incident made her feel unsafe and uncomfortable.
10. Mr Howarth, a greyhound racing industry participant, gave evidence that he witnessed Mr Hartley approach the victim from behind and make contact with the victim's body. Mr Howarth gave evidence that the contact appeared to him to be deliberate and that he could see the face of the Victim during the incident, and that she appeared distressed. Mr Howarth's evidence was that this incident occurred during the course of the race meeting.
11. Mr Kelly, the employee of the Club to whom the incident was first reported to, gave evidence that he did not witness the event but was approached by the Victim who reported to him that Mr Hartley had 'come up behind her' and that his pelvis touched her. Mr Kelly gave evidence that the Victim told him the action seemed to her to be deliberate and sexual in nature.
12. Steward Sam Woolaston gave evidence that the Victim also approached him that same night and reported that Mr Hartley had made contact with her from behind and then said words to the effect of "*Oh sorry baby*". Steward Woolaston gave evidence that the Victim presented as flustered and that the matter seemed to be of some concern to her.

13. In the course of giving evidence, Mr Hartley's version of events changed. In one instance, he suggested that he was holding a greyhound at the time of the incident. Mr Hartley suggested that the greyhound was to blame because that dog, he suggested, has a tendency to gravitate towards a person's groin area. Mr Hartley suggested that any contact between himself and the Victim only occurred as a consequence of the dog's behaviour and the dog 'pulling' him into contact with the Victim.
14. Mr Howarth gave evidence that Mr Hartley was not holding a greyhound at the time of the incident. Following this evidence from Mr Howarth, Mr Hartley retracted his prior evidence and denied that the incident ever occurred at all.
15. Whilst the evidence of the witnesses differed regarding the exact time of the incident, the decision maker accepted and preferred the evidence of the Victim and Mr Howarth and found that the incident did in fact occur. Accordingly, Mr Hartley was found guilty of the charge.
16. The Notice issued 11 May 2023 outlined a three (3) year disqualification as the proposed penalty, if Mr Hartley was found guilty of the charge. In considering the circumstances of the matter, including all the evidence and the submissions made by Mr Hartley, the decision maker determined to impose a penalty equating to a sixteen (16) month disqualification.
17. This period of disqualification is backdated to take into account the period of time Mr Hartley has served on an interim suspension, from 5 May 2023. Accordingly, the period of disqualification will expire at 11:59pm on 4 September 2024.
18. In taking this disciplinary action, the decision maker considered all evidence and submissions before him, including:
 - The objective seriousness of the conduct, noting the importance that staff of both the Commission and Greyhound Racing Clubs ought to be able to perform the duties of their employment without the personal interference of another;
 - The Commission's Penalty Guidelines, which outlines that abuse or assault of staff will result in a period of disqualification;
 - The length of time Mr Hartley has been registered, a period of approximately two (2) years at the time of the offending conduct;
 - The submissions made by Mr Hartley and on his behalf, including submissions as to his personal health circumstances and the impact a period of disqualification may have upon him.

.....End.....