GREYHOUND RACING NSW INQUIRY 18S007

in relation to the circumstances of the euthanasia of the greyhound ‘Better Cruise’ at the Wagga Wagga Greyhound Track.

DECISION

DATE: 18 January 2019
A. BACKGROUND

1. The GRNSW Inquiry Panel (Inquiry Panel) comprises Mr Ray Murrihy and Mr Grant Carroll. The Inquiry Panel members are appointed as Stewards under the GRNSW Greyhound Racing Rules (Rules).

2. On 6 February 2018 the Inquiry Panel issued notification that it had commenced inquiry 18S007 to investigate whether any person had breached the Rules in relation to the euthanasia of the greyhound ‘Better Cruise’ at the Wagga Wagga Greyhound Track on 5 January 2018.

3. On 28 March 2018 the Inquiry Panel issued charges against the following persons:
   (a) Ms Tanya Kemp (formerly Skaratt);
   (b) Mr Benjamin Talbot; and
   (c) Dr Mark Sayer.

4. On 18 April 2018 the Inquiry Panel held an inquiry hearing and heard evidence from:
   (a) Ms Tanya Kemp;
   (b) Mr Benjamin Talbot;
   (c) Dr Mark Sayer;
   (d) Dr Ainslee Munro (GRNSW Veterinarian);
   (e) Mr Paul Marks (GRNSW Steward); and
   (f) Dr Don Colantonio (GRNSW Manager).

5. The Inquiry Panel adjourned for the purpose of obtaining the footage from various locations at the Wagga Wagga Greyhound Race Track. On 8 May 2018 GRNSW’s Security Service advised that the CCTV system had been reviewed and the footage from the requested locations was not available.

6. On 18 May 2018 the Inquiry Panel provided an opportunity for the parties to provide final submissions and/or evidence to the Inquiry Panel.
7. On 27 August 2018 the Inquiry Panel issued its key findings and determinations in parts B to E of this decision and provided an opportunity for the parties to provide any additional submissions on penalty.

8. On 18 January 2019 the Inquiry Panel made its determinations in relation to penalty in parts F to H of this decision.
B. KEY FINDINGS

Greyhound Better Cruise

9. Ms Kemp (formerly Skarrat) was the registered owner and trainer of the greyhound Better Cruise (Greyhound) from 28 August 2017 to 27 December 2017. On 27 December 2017 Ms Kemp transferred the Greyhound to Mr Talbot to train. Ms Kemp remained the registered owner of the Greyhound.

Race meeting at the Wagga Wagga Greyhound Club on 5 January 2018

10. On 5 January 2018 the Wagga Wagga Greyhound Club held a race meeting (Race Meeting).

11. The meeting was officiated by:

   (a) Stewards Mr Paul Marks (chair) and Mr Brett Polson; and

   (b) Dr Mark Sayer, Club Veterinarian, and Dr Anslie Munro, GRNSW Veterinarian. Dr Sayer was responsible for conducting his usual duties as the on-track veterinarian (such as, the vetting of greyhounds at kennelling and during the race meeting) with Dr Munro responsible for additional veterinarian duties (such as, pre-race swabbing and trailer inspections).

12. Ms Kemp and Mr Talbot were both present at the Race Meeting.

Greyhound Better Cruise competing at the Race Meeting

13. The Greyhound competed in race five at the Race Meeting (Event).

14. The Stewards report indicates that the Stewards’ observed the following incidents during the Event:

   “SPRINGVALE MIKE (8) was slow to begin. Shortly after the start BETTER CRUISE (3), EM BEE AITCH (4), NITRO GLISTEN (9) and PRECIOUS METAL (6) collided checking NITRO GLISTEN (9). On the first turn GARCIA (1), MEILA ALLEN (2), BETTER CRUISE (3), EM BEE AITCH (4), SENORITA KERRY (7) and PRECIOUS METAL (6) collided checking BETTER CRUISE (3), EM BEE AITCH (4) and SENORITA KERRY (7), severely checking SPRINGVALE MIKE (8) and NITRO GLISTEN (9). Along the home straight BETTER CRUISE (3) eased and collided with MEILA ALLEN (2) as a result.”

15. Dr Sayer, at the direction of the Stewards, examined the Greyhound following the Event and reported that the Greyhound was not ill or injured.
16. The Stewards then held an inquiry into the Greyhound’s performance during the Event and found the Greyhound failed to pursue the lure with due commitment during the Event in breach of Rule 69A. The Stewards’ determined to:

(a) suspend the Greyhound from competing at the Wagga Wagga Greyhound Club for a period of 28 days; and

(b) require the Greyhound to complete a satisfactory trial before being eligible to return to racing.

**Euthanasia of the Greyhound Better Cruise**

17. Mr Talbot informed Ms Kemp about the inquiry into the Greyhound’s performance and the suspension. Mr Talbot and Ms Kemp provide vastly different accounts of the balance of their conversations:

(a) Ms Kemp’s evidence is that:

(i) Mr Talbot informed Ms Kemp that he couldn’t look after the Greyhound while it was suspended and Ms Kemp would have to take the Greyhound home;

(ii) Ms Kemp could not look after the Greyhound because she was the carer for her husband, who was commencing significant health treatment; and

(iii) Mr Talbot suggested that Ms Kemp approach Dr Sayer and discuss having the Greyhound euthanised.

(b) Mr Talbot’s evidence is that:

(i) The parties had already agreed (prior to the Race Meeting) that the Greyhound would be transferred back to Ms Kemp following the Race Meeting, with Ms Kemp taking the Greyhound home from the Race Meeting; and

(ii) Ms Kemp raised the option of euthanasia with Mr Talbot and Mr Talbot told Ms Kemp she would need to discuss that with Dr Sayer.

18. The Inquiry Panel is unable to make any findings in relation to these conversations to the extent that they contradict each other. This is because there is a lack of corroborating evidence for either account.
19. Ms Kemp’s evidence is that she asked possibly two people at the Race Meeting if they could take the Greyhound. They could not. As a result, Ms Kemp approached Dr Sayer and requested that Dr Sayer euthanise the Greyhound. Dr Sayer agreed to euthanise the Greyhound and Ms Kemp paid Dr Sayer.

20. After the completion of the last race, Mr Talbot removed the Greyhound from the kennels and took the Greyhound to the car park as prearranged with Dr Sayer. Following a conversation with Dr Sayer, Mr Talbot placed the Greyhound in the rear of Mr Talbot’s four wheel drive motor vehicle, located in the carpark.

21. Dr Sayer euthanised the Greyhound in the rear of Mr Talbot’s motor vehicle. The Greyhound was euthanised with 12 millilitres of Pentobarbitone given by intravenous injection.

22. Mr Talbot’s wife and three children were present in the vehicle at the time the Greyhound was euthanised. The evidence before the inquiry indicates that Mr Talbot’s children were watching a DVD, facing forward and there was mesh separating the cargo section of the vehicle from the seats.

Requirements in relation to the euthanasia of the Greyhound

23. Section 21 of the Greyhound Racing Prohibition Act 2016 (NSW) (Prohibition Act) provides:

“(2) The owner of a registered greyhound must not, except with the written consent of Greyhound Racing NSW:

(a) retire the greyhound from racing, or

(b) export the greyhound to a country other than Australia, or

(c) transfer the greyhound to a person who is not registered as a greyhound owner under the greyhound racing rules or under the law of any other State or Territory, or

(d) destroy the greyhound or cause it to be destroyed.

Maximum penalty: 50 penalty units.

(3) Despite subsection (2) (a)–(c), the consent of Greyhound Racing NSW is not required if Greyhound Racing NSW has been notified of the transfer of the greyhound in accordance with this Part.
Despite subsection (2) (d), the consent of Greyhound Racing NSW is not required if the greyhound is destroyed by a veterinary practitioner in an emergency in order to relieve it of suffering or distress due to injury or illness.

Greyhound Racing NSW may give consent under subsection (2) only if it is satisfied that the greyhound is to be appropriately cared for or humanely destroyed (as the case requires).


“Euthanasia should only be considered where a greyhound becomes seriously ill or injured and where it is recommended by a veterinarian who has examined the greyhound.”

25. GRNSW’s Supplement to Codes of Practice – Greyhound Euthanasia (29 August 2016) (Supplement Policy) provides:

1.1.1 “Despite paragraphs 14.1 to 14.6 in the Codes of Practice, euthanasia of greyhounds must only be undertaken in accordance with this Supplement.

1.1.2 You must not euthanase or otherwise destroy any greyhound without the written consent of GRNSW. To apply for consent, the GRNSW Consent Form must be completed and signed by the greyhound’s owner.

1.1.3 GRNSW’s consent to euthanase a greyhound is not required if the greyhound is destroyed by a veterinary practitioner in an emergency in order to relieve it of suffering or distress due to injury or illness.

1.1.4 GRNSW will only provide consent after the information provided in the Consent Form has been assessed and GRNSW is satisfied that the greyhound will be humanely destroyed. Following euthanasia of a greyhound, you must lodge a Notification of Retirement Form (along with a veterinary certificate of euthanasia) with GRNSW within two working days in order to meet the requirements of Rule 106.

1.1.5 The method of disposal and/or location of burial must be recorded and documented by the greyhound’s owner.
Guiding principles for greyhound euthanasia

1.1.6 Owners of racing greyhounds must explore all possible appropriate options for their retiring greyhounds prior to considering euthanasia.

1.1.7 Greyhounds which are physically healthy and behaviourally sound should be given the opportunity to be kept as a companion animal.

1.1.8 Greyhounds should only be placed in homes where it is believed they will be appropriately cared for.

1.1.9 There are certain circumstances where humane destruction of a greyhound may be unavoidable due to health, behavioural or legislative reasons or where the welfare and quality of life of the greyhound are at risk due to a lack of appropriate rehoming options.

1.1.10 The destruction of a greyhound must be undertaken humanely by a veterinary practitioner. Veterinary practitioners should continue to exercise their professional judgement to act in the best interests of the animals in their care."
C. FINDINGS IN RELATION TO TANYA KEMP (FORMERLY SKARRATT)

26. On 28 March 2018 the Inquiry Panel charged Ms Kemp as follows:

**Charge one:** That you, Tanya Skarratt, at the Wagga Wagga Greyhound Club meeting on 5 January 2018, failed to comply with the Code of Practice for Keeping of Greyhounds in training (1 December 2015) *(Policy)* and/or the Supplement to Codes of Practice – Greyhound Euthanasia (29 August 2016) *(Supplement Policy)* (being policies adopted by Greyhound Racing NSW) in relation to the euthanasia of the greyhound Better Cruise (Rule 86(ag)).

**Charge two:** That you, Tanya Skarratt, while at the Wagga Wagga Greyhound Track on 5 January 2018, did a thing, which, in the opinion of the Stewards, is improper (Rule 86(o)).

**Charge three:** That you, Tanya Skarratt, at the Wagga Wagga Greyhound Club meeting on 5 January 2018, committed acts and/or engaged in conduct that was detrimental or prejudicial to the interest, welfare, image or promotion of greyhound racing (Rule 86(q)).

27. Ms Kemp denied all charges.

**Findings in relation to charge one**

28. The Inquiry Panel finds that Ms Kemp was required to comply with the requirements in the Policy and Supplement Policy in relation to the euthanasia of the Greyhound. The requirements in the Policy and Supplement Policy are set out under the heading “Key Findings”.

29. The Inquiry Panel finds that Ms Kemp did not comply with the requirements in the Policy and Supplement Policy in relation to the euthanasia of the Greyhound because:

(a) the Greyhound was not seriously ill or injured in accordance with section 14.1 of the Policy;

(b) Ms Kemp did not obtain the written consent of GRNSW in accordance with section 1.2 of the Supplement Policy;

(c) Ms Kemp did not explore all possible appropriate options for retiring the Greyhound in accordance with section 1.6 of the Supplement Policy prior to considering euthanasia; and
(d) Ms Kemp did not give the Greyhound the opportunity to be kept as a companion animal in accordance with section 1.7 of the Supplement Policy.

30. The Inquiry Panel finds that Ms Kemp’s defence that she was not aware of the requirements of the Policy and Supplement Policy is not a basis on which Ms Kemp can avoid liability. GRNSW published the Policy and Supplement Policy in an accessible location on its website. As a licensed trainer, it was Ms Kemp’s responsibility to make herself aware of the Rules and policies necessary to participate in the greyhound racing industry.

31. As a result, the Inquiry Panel is satisfied that Ms Kemp has breached Rule 86(ag) as charged.

Findings in relation to charge two

32. The Inquiry Panel considers the word ‘improper’ should be interpreted according to its natural and ordinary meaning. A review of various dictionary definitions indicate that the word means “not in accordance with accepted standards”.

33. The Inquiry Panel finds that Ms Kemp’s actions in arranging, authorising and paying for the euthanasia of the Greyhound in the circumstances outlined under the heading “Key Findings” are not in accordance with the accepted standards as provided in the Policy, Supplement Policy and the Prohibition Act. The Inquiry Panel notes that these documents provide an indication of the standards expected by the general public as well as the greyhound racing community and its regulator.

34. As a result, the Inquiry Panel is satisfied that Ms Kemp has breached Rule 86(o) as charged.

Findings in relation to charge three

35. The Inquiry Panel considers that the Inquiry Panel must be satisfied of the following three elements endorsed in Waterhouse v Racing Appeals Tribunal [2002] NSWSC 1143 (Waterhouse):

(a) there is an element of public knowledge of Ms Kemp’s conduct and its broader context;

(b) there is a tendency in Ms Kemp’s conduct to prejudice greyhound racing generally as distinct from her own reputation; and
(c) Ms Kemp’s conduct must be capable of being labelled as blameworthy.

36. In relation to the first element, the Inquiry Panel considers that Ms Kemp’s conduct in arranging, authorising and paying for the euthanasia of the Greyhound attracted media and social media coverage and, as a result, there was a real prospect of creating in the minds of participants, the wagering public and the general public a negative impression of the standards of welfare of greyhounds in the greyhound racing industry.

37. In relation to the second element, the Inquiry Panel finds that Ms Kemp’s actions are of such an intolerable nature that it creates a prejudice in minds of participants, the wagering public and the general public about greyhound racing generally and not merely about Ms Kemp.

38. In relation to the third element, the Inquiry Panel is satisfied that Ms Kemp is blameworthy for the euthanasia of the Greyhound.

39. As a result, the Inquiry Panel is satisfied that Ms Kemp has breached the Rule 86(q) as charged.
D. FINDINGS IN RELATION TO BENJAMIN TALBOT

40. On 28 March 2018 the Inquiry Panel charged Mr Talbot as follows:

**Charge one:** That you, Benjamin Talbot, while at the Wagga Wagga Greyhound Track on 5 January 2018, did a thing, which, in the opinion of the Stewards, is improper (Rule 86(o)).

**Charge two:** That you, Benjamin Talbot, at the Wagga Wagga Greyhound Track on 5 January 2018, committed acts and/or engaged in conduct that was detrimental or prejudicial to the interest, welfare, image or promotion of greyhound racing (Rule 86(q)).

**Charge three:** That you licenced trainer, Benjamin Talbot, while at the Wagga Wagga Greyhound Track on 5 January 2018, knowingly aided and/or abetted Tanya Skarratt to commit a breach of the Rules (Rule 86(n))

41. Mr Talbot denied all charges.

Findings in relation to charge one

42. The Inquiry Panel considers the word ‘improper’ should be interpreted according to its natural and ordinary meaning. A review of various dictionary definitions indicate that the word means “not in accordance with accepted standards”.

43. The Inquiry Panel finds that Mr Talbot’s actions in facilitating and allowing the euthanasia of the Greyhound in the circumstances outlined under the heading “Key Findings” are not in accordance with the accepted standards having regard to the Policy, Supplement Policy and Prohibition Act. The Inquiry Panel notes that these documents provide an indication of the standards expected by the general public as well as the greyhound racing community and its regulator.

44. As a result, the Inquiry Panel is satisfied that Mr Talbot has breached Rule 86(o) as charged.

Findings in relation to charge two

45. The Inquiry Panel considers that the Inquiry Panel must be satisfied of the following three elements endorsed in Waterhouse:

(a) there is an element of public knowledge of Mr Talbot’s conduct and its broader context;
(b) there is a tendency in Mr Talbot’s conduct to prejudice greyhound racing generally as distinct from her own reputation; and

(c) Mr Talbot’s conduct must be capable of being labelled as blameworthy.

46. In relation to the first element, the Inquiry Panel considers that Mr Talbot’s conduct in facilitating and arranging the euthanasia of the Greyhound attracted media and social media coverage and, as a result, there was a real prospect of creating in the minds of participants, the wagering public and the general public a negative impression of the welfare standards of greyhounds in the greyhound racing industry.

47. In relation to the second element, the Inquiry Panel finds that Mr Talbot’s actions are of such an intolerable nature that it creates a prejudice in minds of the participants, the wagering public and the general public about greyhound racing generally and not merely about Mr Talbot.

48. In relation to the third element, the Inquiry Panel is satisfied that Mr Talbot is blameworthy for facilitating and allowing the euthanasia of the Greyhound.

49. As a result, the Inquiry Panel is satisfied that Mr Talbot has breached the Rule 86(q) as charged.

Findings in relation to charge three

50. The Inquiry Panel considers that it must be satisfied of the following three elements:

(a) that Ms Kemp committed a breach of the Rules by arranging and authorising the euthanasia of the Greyhound in the circumstances outlined under the heading “Key Findings”;

(b) that Mr Talbot knew, or should have known as a licensed participant, that the euthanasia of the Greyhound in those circumstances was a breach of the Rules; and

(c) that Mr Talbot assisted Ms Kemp to bring about the euthanasia of the Greyhound.

51. In relation to the first element, the Inquiry Panel has found that Ms Kemp breached the Rules as outlined under the heading “Tanya Kemp (formerly Skarratt)”.

52. In relation to the second element, the Inquiry Panel finds that, as a licensed trainer, it was Mr Talbot’s responsibility to make himself aware of the Rules and policies necessary to participate in the greyhound racing industry. GRNSW published the
Policy and Supplement Policy in an accessible location on its website. Mr Talbot cannot avoid liability on the basis that he was not aware of the requirements of the Policy and Supplement Policy.

53. In relation to the third element, the Inquiry Panel is satisfied that Mr Talbot assisted Ms Kemp to bring about the euthanasia of the Greyhound as outlined under the heading “Key Findings”.

54. As a result, the Inquiry Panel is satisfied that Mr Talbot has breached the Rule 86(n) as charged.
E. FINDINGS IN RELATION TO DR MARK SAYER

Charges one and two

55. On 28 March 2018 the Inquiry Panel charged Dr Sayer as follows:

**Charge one:** That you, Dr Mark Sayer, while at the Wagga Wagga Greyhound Track on 5 January 2018, did a thing, which, in the opinion of the Stewards, is improper (Rule 86(o)).

**Charge two:** That you, Dr Mark Sayer, at the Wagga Wagga Greyhound Club meeting on 5 January 2018, committed acts and/or engaged in conduct that was detrimental or prejudicial to the interest, welfare, image or promotion of greyhound racing (Rule 86(q)).

**Charge three:** That you, Dr Mark Sayer, at the Wagga Wagga Greyhound Club meeting on 5 January 2018, failed to comply with the GRNSW On Track Veterinarian Manual (February 2016) (being a policy adopted by Greyhound Racing New South Wales) (Rule 86(ag)).

56. Dr Sayer denied all charges.

Finding that the Rules apply to Dr Sayer

57. The Inquiry Panel is satisfied that:

(a) Dr Sayer is a ‘person associated with greyhound racing’ (being a person who handles greyhounds at a greyhound race or trial and/or a person who is an officer or employee of a greyhound racing club – whether or not he was functioning in an official capacity at the relevant race meeting) in accordance with section 3(2) of the *Greyhound Racing Act 2009* (*2009 Act*); and

(b) GRNSW has power to impose a fine or other penalty against him in accordance with section 21 of the 2009 Act.

Findings in relation to charge one

58. The Inquiry Panel considers the word ‘improper’ should be interpreted according to its natural and ordinary meaning. A review of various dictionary definitions indicate that the word means “not in accordance with accepted standard”
59. The Inquiry Panel finds that Dr Sayer’s actions in euthanising the Greyhound in the circumstances outlined under the heading “Key Findings” are not in accordance with the accepted standards having regard to the Policy, Supplement Policy and Prohibition Act. The Inquiry Panel notes that these documents provide an indication of the standards expected by the general public as well as the greyhound racing community and its regulator.

60. As a result, the Inquiry Panel is satisfied that Dr Sayer has breached Rule 86(o) as charged.

Findings in relation to charge two

61. The Inquiry Panel considers that it is fundamental to greyhound racing that participants, the wagering public and the general public have confidence that veterinarians working in the industry as official and/or club veterinarians for greyhound racing do not commit acts or engage in conduct that is detrimental or prejudicial to the interest, welfare, image or promotion of greyhound racing. The public revelation that a veterinarian working at a race meeting euthanised a greyhound in the car park of the race track in circumstances where the greyhound competed in a race and was free of illness or inquiry sends an intolerable message.

62. For the actions of Dr Sayer to be detrimental or prejudicial to the interest, welfare, image or promotion of greyhound racing, the Inquiry Panel considers that it must be satisfied of the following three elements endorsed in Waterhouse:

(a) there must be an element of public knowledge of Dr Sayer’s conduct and its broader context;

(b) there must be a tendency in Dr Sayer’s conduct to prejudice greyhound racing generally as distinct from his own reputation; and

(c) Dr Sayer’s conduct must be capable of being labelled as blameworthy.

63. In relation to the first element, the Inquiry Panel considers that the public exposure of the euthanasia of the Greyhound attracted media and social media coverage and, as a result, there was a real prospect of creating in the minds of participants, the wagering public and the general public a negative impression of the standards of welfare in the greyhound racing industry.
64. In relation to the second element, the Inquiry Panel finds that Dr Sayer’s actions are of such an intolerable nature that it creates a prejudice in the minds of participants, the wagering public and the general public about greyhound racing generally and not merely about Dr Sayer.

65. In relation to the third element, the Inquiry Panel is satisfied that Dr Sayer is blameworthy for performing the euthanasia of the Greyhound in the circumstances outlined under the heading “Key Findings”.

66. As a result, the Inquiry Panel is satisfied that Dr Sayer has breached the Rule 86(q) as charged.

Findings in relation to charge three

67. Dr Sayer submits that GRNSW did not provide the OTV Manual to him and he was not aware of the requirements of the manual relating to euthanasia. The Inquiry Panel has not located any evidence that indicates that the OTV Manual was distributed to Dr Sayer or published in an accessible location on GRNSW’s website.

68. On this basis, the Inquiry Panel is not satisfied that Dr Sayer breached Rule 86(ag) as charged.
F. PENALTY IN RELATION TO TANYA KEMP (FORMERLY SKARRATT)

69. The Inquiry Panel considers the objective seriousness having regard to the actual conduct of Ms Kemp and the facts and circumstances surrounding that conduct as outlined in this decision. The Inquiry Panel assesses the breach as objectively very serious and concludes that the message to be given to the industry on these facts and circumstances is a substantial one; that this type of conduct by a greyhound owner cannot be accepted in greyhound racing.

70. So far as Ms Kemp’s subjective factors are concerned, the Inquiry Panel has regard to the entirety of Ms Kemp’s submissions as well as other subjective factors within the knowledge of the Inquiry Panel. These include:

(a) Ms Kemp has been licensed as an owner trainer for a very short period.

(b) Ms Kemp’s significant personal circumstances that contributed to the decision to euthanise the Greyhound. Ms Kemp is the carer for her husband, who is undergoing very serious health treatment, and Ms Kemp did not believe she was in a position to provide a home for the Greyhound. However, the Inquiry Panel questions the urgency to euthanise the Greyhound that night and why Ms Kemp did not have the ability to care for the Greyhound while exploring rehoming options given the Kemp family already had a pet greyhound and Staffordshire Terrier at home.

(c) Ms Kemp submits that she arranged for the Greyhound to be euthanised by Dr Sayer, but she was not aware that the Greyhound would be euthanised in Mr Talbot’s car at the Wagga Wagga Greyhound track. Ms Kemp submits that she assumed the Greyhound would be taken to the veterinary surgery. However, the Inquiry Panel finds that there is no evidence before it that indicates that Ms Kemp made any enquiries or stipulations about where the Greyhound would be euthanised.

(d) Ms Kemp expresses remorse and regret.

71. Given the very significant personal circumstances that led to the decision to euthanise the Greyhound, the need for a message to be given to Ms Kemp to provide a specific deterrence is diminished to a degree. However, this is a case where subjective facts cannot outweigh the need for an appropriate penalty because of the gravity of the objective facts of the case.
Penalty

72. Having regard to the totality of the facts, the Inquiry Panel determines that the following penalties are appropriate in the circumstances:

(a) Charge one: two years disqualification

(b) Charge two: four years disqualification

(c) Charge three: four years disqualification

73. The conduct captured by charges one to three have a high degree of commonality; they all relate to the euthanasia of the Greyhound on 5 January 2018. Accordingly, the Inquiry Panel determines that the penalties are to be served concurrently.
G. PENALTY IN RELATION TO BENJAMIN TALBOT

74. The Inquiry Panel considers the objective seriousness having regard to the actual conduct of Mr Talbot and the facts and circumstances surrounding that conduct. These facts include that Mr Talbot was not the owner of the Greyhound who authorised and arranged the euthanasia, but rather the registered trainer of the Greyhound who had control of the Greyhound and undertook actions to facilitate the owner’s decision to euthanise the Greyhound.

75. The Inquiry Panel assesses the breach as objectively below the conduct of Ms Kemp. However, the Inquiry Panel concludes that the message to be given to the industry on these facts and circumstances is a substantial one; that trainers have a responsibility to ensure the welfare of all greyhounds in their care or custody in accordance with the Rules.

76. In relation to Mr Talbot’s subjective factors, the Inquiry Panel has regard to the entirety of Mr Talbot’s submissions as well as other subjective factors within the knowledge of the Inquiry Panel. These include:

(a) Mr Talbot’s participation in the industry as a hobby trainer, licensed since 1997 with a licence history that indicates that Mr Talbot has not committed any significant breaches of Rules in that time.

(b) Mr Talbot’s knowledge of the significant personal circumstances that contributed to Ms Kemp’s decision to euthanise the Greyhound.

(c) The Inquiry Panel’s view that, as an active participant in the industry, Mr Talbot should have been acutely aware of the Rules and policies related to the euthanasia of greyhounds.

(d) The facts and circumstances surrounding Mr Talbot’s role in the euthanasia, being the trainer who had control of the Greyhound and undertook actions to facilitate the owner’s decision to euthanise the Greyhound, including permitting the use of his vehicle to perform the euthanasia procedure.

(e) Mr Talbot’s personal and health circumstances, which are not repeated here for privacy reasons.
Penalty

77. Having regard to the totality of the facts, the Inquiry Panel determines that the following penalties are appropriate in the circumstances:

(a) Charge one: two years disqualification
(b) Charge two: two years disqualification
(c) Charge three: two years disqualification

78. The conduct captured by charges one to three have a high degree of commonality; they all relate to the euthanasia of the Greyhound on 5 January 2018. Accordingly, the Inquiry Panel determines that the penalties are to be served concurrently.
H. PENALTY IN RELATION TO DR MARK SAYER

79. The Inquiry Panel considers the objective seriousness test having regard to the actual conduct of Dr Sayer and the facts and circumstances surrounding that conduct as outlined in this decision.

80. The Inquiry Panel must include in its assessment of the objective seriousness consideration that Dr Sayer’s conduct did not breach any of his requirements as a licensed veterinarian. However, the Inquiry Panel concludes that the message to be given to the industry on these facts and circumstances is still a serious one; that officials (including veterinarians) performing duties in relation to greyhound racing have a responsibility in relation to the welfare of greyhounds in their care.

81. In relation to Dr Sayer’s subjective factors, the Inquiry Panel has regard to the entirety of Dr Sayer’s submissions as well as other subjective factors within the knowledge of the Inquiry Panel. These include:

(f) Dr Sayer’s record as a veterinarian as well as Dr Sayer’s record providing veterinary services under the Rules;

(g) The Inquiry Panel’s view that, as a paid official providing veterinary services at greyhound race meetings, Dr Sayer should have been aware of the Rules and policies related to the euthanasia of greyhounds.

(h) The facts and circumstances surrounding Dr Sayer’s conduct including Dr Sayer’s knowledge of the significant personal circumstances that contributed to Ms Kemp’s decision to euthanise the Greyhound.

(i) Dr Sayer’s expression of regret about the way in which the euthanasia procedure took place.

(j) Dr Sayer’s actions to understand the Rules and policies that apply to greyhound racing and undertaking to amend his practices when requested to euthanise a greyhound. This includes that Dr Sayer will:

(i) Inform the owner or trainer of their obligations including the obligation to obtain written consent prior to euthanising the greyhound;

(ii) Refuse to euthanise the greyhound (assuming it is not seriously injured);

(iii) Consider all the circumstances and use his professional judgement; and
(iv) Seek advice from the controlling body if his obligations are unclear.

**Penalty**

82. Having regard to the totality of the facts, the Inquiry Panel determines that the following penalties are appropriate in the circumstances:

(a) Charge one: two years warned off. Dr Sayer as a result is warned off from providing veterinary services at a race meeting, trials or any other event provided for by the Rules.

(b) Charge two: two years warned off. Dr Sayer as a result is warned off from providing veterinary services at a race meeting, trials or any other event provided for by the Rules.

83. Dr Sayer as a result is warned off from providing veterinary services provided under the Rules at a race meeting or trials.

84. The conduct captured by the charges have a high degree of commonality; they all relate to the euthanasia of the Greyhound on 5 January 2018. Accordingly, the Inquiry Panel determines that the penalties are to be served concurrently.