

## Appeal decision

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**Hearing date:** 21 December 2015

**Decision date:** 21 January 2016

**Code of racing:** Greyhound

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**Appeal panel:** Mr P James (Chair), Mr G Casey and Mr D Kays

**Appearances:** Mr John (Tony) Millen - the Appellant appeared on his own behalf.  
Mr N Torpey (Stipendiary Steward) appeared on behalf of the stewards.

**Decision being appealed:** Two years disqualification.

**Appeal result:** Decision varied to two years suspension of licence.

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This is an appeal against the decision by Racing Queensland Stewards whereby John (Tony) Millen was disqualified for two years for failing to provide proper care for a greyhound known as "Jewels" in his care when it suffered a serious injury at his property on Sunday 4 October 2015.

He was charged under Greyhound Australasian Rule 106(1)(d) which states:  
"Proper care (welfare of greyhound).

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

The stewards, as part of their particulars, alleged that Tony Millen failed to exercise reasonable care to alleviate the pain or suffering to the greyhound bitch – kennel name known as "Jewels" – Fiercephonic/Lorraine Hineman – after that greyhound suffered a serious injury at his property on Sunday 4 October 2015 by failing to obtain veterinary care in a timely manner consistent with the seriousness of the injury.

This panel, prior to the appeal, had read the transcript and we were handed certain exhibits by both the Appellant and Stewards relating to this appeal. The Appellant addressed us at length concerning his previous greyhound history and his care of greyhounds in the past, as well as health issues of his own which he had.

However, throughout the appeal, rather than addressing the essential element of the charge – a failure to ensure that a greyhound, clearly having sustained a broken leg, was provided with veterinary care when necessary, (it is difficult to imagine that such an injury would not demand immediate veterinary attention – not a delay of some 48 hours, when eventually euthanasia was performed), the Appellant sought to embark on an exercise of self-pity due to personal and health matters, self-praise of his actions and motives in his treatment of the

greyhound, while at the same time attacking the motives, competence and credibility of the Stewards, in particular the Chairman and the Racing Queensland Chief Veterinarian.

This Board finds that the Appellant's explanations concerning phone calls he made in endeavours to contact veterinary practices could not be relied on following inconsistencies in times calls were alleged to have been made, a denial from a veterinarian that a call had been received, and eventually the Appellant's advice at the appeal hearing that due to the area in which he resides, his phone does not work. He also stated at the appeal that he had "taken a chance" in not getting veterinary attention earlier.

This Board considers that it is essential and obligatory that any licensee having the control of animals, (in this case greyhounds) should have a knowledge of where their nearest and other vets are located and in particular vets who operate on weekends or public holidays. This is necessary to comply not only with the Greyhound Australasian Rules, but also with the Animal Welfare Policy of Racing Queensland.

Trainers with animals would be well aware that emergency situations arise and they do not confine themselves to weekdays. This Board would expect that any licensee is to be not only aware of the rules and these policies, but someone who has been training greyhounds for over 50 years should be well aware of their obligations in this regard.

We further find that contrary to the Appellant's assertions that due to the Monday following the accident being a public holiday, it would have been necessary to transport the greyhound 120 kilometres to a veterinary practice in the Brisbane area, evidence produced at the appeal hearing is such that, within a reasonable distance, a number of practices were available on the day of the accident and one on the public holiday Monday.

The decision of this Board is that the charge is sustained and the appeal in respect of conviction is dismissed.

Then turning to the question of penalty, evidence was submitted of previous penalties imposed in Queensland involving thoroughbred, harness, and greyhound racing matters involving a lack of providing necessary veterinary attention. The penalties range from six months to three years disqualifications. As this Board has stated previously, no two cases are ever the same and hence the wide variation in penalties.

In determining penalty, the Board is mindful of the Animal Welfare Policy of Racing Queensland which states that all persons are placed on notice that breaches of established Animal Welfare standards may result in a loss of their licences, and also the current climate where cruelty to animals is regarded as a significant offence against public morality and the public interest.

The decision of the Board on penalty having taken into account all of the relevant circumstances including the age of the Appellant being 76 years of age with an unblemished record over some 50 years, his training history and personal matters, is that a suspension rather than a disqualification would be an adequate penalty.

In that regard the appeal is upheld and the penalty of two years suspension of licence and registration is substituted for the previously imposed two years disqualification of licence and registration.

Further right of appeal information: The Appellant and the Steward may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **28 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)