

13 May 2024

## DECISION

**GREYHOUND RACING VICTORIA**

and

**KEVIN TIRCHETT**

**Dates of hearings:** 22 January 2024, 13 March 2024 and 6 May 2024

**Date of decision and penalty:** 6 May 2024

**Panel:** Judge Marilyn Harbison (Chairperson) and Mr Des Gleeson.

**Appearances:** Ms Amara Hughes, instructed by Mr Anthony Pearce appeared on behalf of the Stewards.  
Mr Kevin Turchett represented himself.  
Mr Ray Bartolo appeared as a witness.  
Ms Amber Knapp appeared as a witness.  
Ms Bianca Brocchi appeared as a witness.  
Mr Gavin Goble appeared as a witness.  
Mr Kevin Turchett appeared as a witness.

**Charges and particulars:**

**Charge No. 1 of 13**

Local Racing Rule **42.6(c)** reads as follows:

**42.6 Rehoming and notice requirements**

- (c) *Without limiting LR42.6(a), actions that an Owner must take to find a suitable long term home for their greyhound include:*
  - (ii) *after the end of the wind down period under LR42.6(c)(i), making at least one genuine attempt of each of the following:*

- (A) seek to re-home the greyhound with at least two appropriate third parties who are capable of ensuring the welfare and well-being of the greyhound, and*
- (B) seek the greyhound's admission to the Greyhound Adoption Program, and*
- (C) seek to rehome the greyhound's through at least one other animal adoption, re-homing or rescue agency.*

**Particulars of the Charge being:**

1. You were, at all relevant times, an owner and trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331), and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the registered owner of the greyhound 'BLAZING BUTLER' (VHWWC).
3. On 8 July 2021, you surrendered the greyhound 'BLAZING BUTLER' (VHWWC) to the RSPCA Epping which acts as a Pound for the Moreland Shire Council.
4. You failed to make any reasonable effort to re-home the greyhound 'BLAZING BUTLER' (VHWWC) by finding the greyhound a suitable long term home.

**Charge No. 2 of 13**

Local Racing Rule **42.6(c)** reads as follows:

**42.6 Rehoming and notice requirements**

- (c) Without limiting LR42.6(a), actions that an Owner must take to find a suitable long term home for their greyhound include:*
  - (ii) after the end of the wind down period under LR42.6(c)(i), making at least one genuine attempt of each of the following:*
    - (A) seek to re-home the greyhound with at least two appropriate third parties who are capable of ensuring the welfare and well-being of the greyhound, and*
    - (B) seek the greyhound's admission to the Greyhound Adoption Program, and*
    - (C) seek to rehome the greyhound's through at least one other animal adoption, re-homing or rescue agency.*

**Particulars of the Charge being:**

1. You were, at all relevant times, an owner and trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331), and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the registered owner of the greyhound 'ASTRO NAUGHTON' (VHCVU).
3. On 31 July 2021, you surrendered the greyhound 'ASTRO NAUGHTON' (VHCVU) to the Moreland Shire Council Pound.
4. You failed to make any reasonable effort to re-home the greyhound 'ASTRO NAUGHTON' (VHCVU) by finding the greyhound a suitable long term home.

**Charge No. 3 of 13**

Local Racing Rule **42.6(c)** reads as follows:

**42.6 Rehoming and notice requirements**

- (c) Without limiting LR42.6(a), actions that an Owner must take to find a suitable long term home for their greyhound include:*
- (ii) after the end of the wind down period under LR42.6(c)(i), making at least one genuine attempt of each of the following:*
- (A) seek to re-home the greyhound with at least two appropriate third parties who are capable of ensuring the welfare and well-being of the greyhound, and*
- (B) seek the greyhound's admission to the Greyhound Adoption Program, and*
- (C) seek to rehome the greyhound's through at least one other animal adoption, re-homing or rescue agency.*

**Particulars of the Charge being:**

1. You were, at all relevant times, an owner and trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331), and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the registered owner of the greyhound 'MINTER EXPLODE' (VHWWD).
3. On 12 April 2022, you surrendered the greyhound 'MINTER EXPLODE' (VHWWD) to the Moreland Shire Council Pound.

4. You failed to make any reasonable effort to re-home the greyhound 'MINTER EXPLODE' (VHWWD) by finding the greyhound a suitable long term home.

**Charge No. 4 of 13**

Local Racing Rule **42.6(c)** reads as follows:

**42.6 Rehoming and notice requirements**

- (c) Without limiting LR42.6(a), actions that an Owner must take to find a suitable long term home for their greyhound include:*
- (ii) after the end of the wind down period under LR42.6(c)(i), making at least one genuine attempt of each of the following:*
- (A) seek to re-home the greyhound with at least two appropriate third parties who are capable of ensuring the welfare and well-being of the greyhound, and*
- (B) seek the greyhound's admission to the Greyhound Adoption Program, and*
- (C) seek to rehome the greyhound's through at least one other animal adoption, re-homing or rescue agency.*

**Particulars of the Charge being:**

1. You were, at all relevant times, an owner and trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331), and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the registered owner of the greyhound 'BILLY TIRCH' (VHEQZ).
3. On 12 April 2022, you surrendered the greyhound 'BILLY TIRCH' (VHEQZ) to the Moreland Shire Council Pound.
4. You failed to make any reasonable effort to re-home the greyhound 'BILLY TIRCH' (VHEQZ) by finding the greyhound a suitable long term home.

**Charge No. 5 of 13**

Local Racing Rule **42.6(c)** reads as follows:

**42.6 Rehoming and notice requirements**

- (c) Without limiting LR42.6(a), actions that an Owner must take to find a suitable long term home for their greyhound include:
- (ii) after the end of the wind down period under LR42.6(c)(i), making at least one genuine attempt of each of the following:
- (A) seek to re-home the greyhound with at least two appropriate third parties who are capable of ensuring the welfare and well-being of the greyhound, and
- (B) seek the greyhound's admission to the Greyhound Adoption Program, and
- (C) seek to rehome the greyhound's through at least one other animal adoption, re-homing or rescue agency.

**Particulars of the Charge being:**

1. You were, at all relevant times, an owner and trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331), and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the registered owner of the greyhound 'JERRY BUZZARD' (VHEQY).
3. On 12 April 2022, you surrendered the greyhound 'JERRY BUZZARD' (VHEQY) to the Moreland Shire Council Pound.
4. You failed to make any reasonable effort to re-home the greyhound 'JERRY BUZZARD' (VHEQY) by finding the greyhound a suitable long term home.

**Charge No. 6 of 13**

Local Racing Rule **12.1** reads as follows:

**12. Greyhound rehoming efforts**

*12.1. When a greyhound is to no longer be utilised for racing or breeding purposes, every effort must be made by the Owner of the greyhound to rehome that greyhound to an appropriate home*

**Particulars of the Charge being:**

1. You were, at all relevant times, an owner and trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331), and a person bound by the Greyhound Australasia Rules and Local Racing Rules.

2. You were, at all relevant times, the registered owner of the greyhound 'SARAH BEAUTY' (VHTHV).
3. On 13 July 2022, you surrendered the greyhound 'SARAH BEAUTY' (VHTHV) to the Moreland Shire Council Pound.
4. You failed to make any reasonable effort to rehome the greyhound 'SARAH BEAUTY' (VHTHV) to an appropriate home.

**Charge No. 7 of 13**

Greyhound Australasia Rule **24(1)** reads as follows:

**24 Mandatory sterilisation of greyhounds retired as pets**

- (1) Unless a greyhound is being accepted by an adoption agency approved by a Controlling Body that undertakes sterilisation, the owner or person responsible for the greyhound at the time of such retirement as a pet must ensure that the greyhound has been surgically sterilised by a veterinarian before allowing the greyhound to leave their care and custody, except where a veterinarian certifies after examining that greyhound, to the satisfaction of a Controlling Body, that being surgically sterilised would be detrimental to its welfare.*

**Particulars of the Charge being:**

1. You were, at all relevant times, an owner and trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331), and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the registered owner of the greyhound 'SARAH BEAUTY' (VHTHV).
3. On 13 July 2022, you surrendered the greyhound 'SARAH BEAUTY' (VHTHV) to the Moreland Shire Council Pound.
4. You failed to sterilise the greyhound 'SARAH BEAUTY' (VHTHV) by a veterinarian before allowing the greyhound to leave your care and custody.

**Charge No. 8 of 13**

Local Racing Rule **12.1** reads as follows:

## **12. Greyhound rehoming efforts**

*12.1. When a greyhound is to no longer be utilised for racing or breeding purposes, every effort must be made by the Owner of the greyhound to rehome that greyhound to an appropriate home*

### **Particulars of the Charge being:**

1. You were, at all relevant times, an owner and trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331), and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the registered owner of the greyhound 'CHASING LOVE' (VIANU).
3. On 13 July 2022, you surrendered the greyhound 'CHASING LOVE' (VIANU) to the Moreland Shire Council Pound.
4. You failed to make any reasonable effort to rehome the greyhound 'CHASING LOVE' (VIANU) to an appropriate home.

### **Charge No. 9 of 13**

Greyhounds Australasia Rule **24(1)** reads as follows:

#### **24 Mandatory sterilisation of greyhounds retired as pets**

*(1) Unless a greyhound is being accepted by an adoption agency approved by a Controlling Body that undertakes sterilisation, the owner or person responsible for the greyhound at the time of such retirement as a pet must ensure that the greyhound has been surgically sterilised by a veterinarian before allowing the greyhound to leave their care and custody, except where a veterinarian certifies after examining that greyhound, to the satisfaction of a Controlling Body, that being surgically sterilised would be detrimental to its welfare.*

### **Particulars of the Charge being:**

1. You were, at all relevant times, an owner and trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331), and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were, at all relevant times, the registered owner of the greyhound 'CHASING LOVE' (VIANU).
3. On 13 July 2022, you surrendered the greyhound 'CHASING LOVE' (VIANU) to the Moreland Shire Council Pound.
4. You failed to sterilise the greyhound 'CHASING LOVE' (VIANU) by a veterinarian before allowing the greyhound to leave your care and custody.

**Charge No. 10 of 13**

**Local Racing Rule 12.1** reads as follows:

**12. Greyhound rehoming efforts**

*12.1. When a greyhound is to no longer be utilised for racing or breeding purposes, every effort must be made by the Owner of the greyhound to rehome that greyhound to an appropriate home.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer and breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the registered owner of the greyhound "JUST SHOUT" (VJDIV).
3. On 11 April 2023, you nominated and raced "JUST SHOUT" (VJDIV) at Geelong Greyhound Racing Club. "JUST SHOUT" (VJDIV) raced in race four (4) from box six (6).
4. "JUST SHOUT" (VJDIV) faltered entering the catching pen, underwent a post-race veterinary examination and was found to have a tarsal fracture.
5. "JUST SHOUT" (VJDIV) was transported to Geelong Vet Hospital where it was left.
6. You had no agreements written or spoken for any persons to take responsibility for "JUST SHOUT" (VJDIV).



7. You failed to rehome "JUST SHOUT" (VJDIV) to an appropriate home when "JUST SHOUT" (VJDIV) was no longer to be utilised for racing.

**Charge No. 11 of 13**

**Local Racing Rule 12.2**, reads as follows:

**12.2. An Owner must:**

*12.2.1. keep detailed records of their compliance with LR 12.1, and*

*12.2.2. provide records and evidence kept under this rule to the Controlling Body on request*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer and breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the registered owner of the greyhound "JUST SHOUT" (VJDIV).
3. On 11 April 2023, the greyhound "JUST SHOUT" (VJDIV) was left at Geelong Vet Hospital by you.
4. You failed to keep detailed records of this rehoming including to whom and the location of where the greyhound "JUST SHOUT" (VJDIV) was rehomed.

**Charge No. 12 of 13**

**Greyhounds Australasia Rule 34 (5) (a)**, reads as follows:

**34 Requirements in relation to notification of control and location of a greyhound (including as a result of a greyhound having its ownership transferred)**

*(5) (a) A registered person must as soon as possible notify a Controlling Body that a greyhound has come into, or left, the person's care or custody (and in each of those cases including as a result of a greyhound having its ownership transferred);*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer and breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 7 June 2023, an audit was conducted of greyhounds that were under your care or custody at your registered kennel address at 24 Raeburn St, PASCOE VALE.
3. Registered greyhound "JUST SHOUT" (VJDIV) was listed on your FastTrack account but was not located at your property.
4. As the registered owner of "JUST SHOUT" (VJDIV) you did not notify the Controlling Body (GRV) that "JUST SHOUT" (VJDIV) left your care or custody.

**Charge No. 13 of 13**

**Greyhounds Australasia Rule 156 (h)** reads as follows:

**156 General Offences**

*(h) disobeys or fails to comply with a lawful order of a Controlling Body, the Stewards, or another person authorised by a Controlling Body with official duties in relation to greyhound racing;*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer and breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 4331) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 7 June 2023, you were issued with a Lawful Order by Investigative Stewards by way of Directions Notice which directed you to:
3. You are required to have an Establishment Health Management Plan (EHMP) issued by a vet for your kennels located 24 Raeburn Street, Pascoe Vale 3044 then fill out the online declaration.
4. On 21 June 2023, you failed to comply with the lawful order by not submitting an Establishment Health Management Plan (EHMP) for your kennels located 24 Raeburn Street, Pascoe Vale 3044.

**Pleas:** Charges 1 and 2 were withdrawn.  
Not Guilty to Charges 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.

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## **DECISION**

1. This case primarily concerns alleged breaches of the provisions inserted into the Rules to provide for the correct procedures to be followed for the rehoming of greyhounds once they have finished their racing careers.
2. These Rules arose out of a concern that greyhounds who had passed their working peak were in danger of being cruelly treated by unscrupulous greyhound owners. There have been circumstances in which unwanted greyhounds have been disposed of in inhumane ways. The Rules now require detailed steps to be taken prior to the rehoming of all greyhounds, to protect the dogs from being abandoned when they have lost their usefulness as racing animals.
3. Mr Tirchett is alleged to have breached Rule 42.6(c) and the later Local Racing Rule 12.1, which replaced it on 1 May 2022.

### **Charges 3 to 5 – Rule 42.6(c) – Surrender of dogs to a pound**

4. Rule 42.6 (c) required all greyhound owners to find a suitable home for their greyhound once its working life had ended. The Rule required owners to attempt to rehome the greyhound with at least two appropriate third parties who were capable of ensuring the welfare and well-being of the greyhound; to seek the greyhound's admission to the greyhound adoption programme; and further to seek to rehome the greyhound through at least one other animal adoption rehoming or rescue agency.
5. GRV alleges that Mr Tirchett has breached this rule in respect of three of his greyhounds. These relate to charges 3, 4 and 5.
6. He was the owner of the greyhounds Minter Explode, Billy Tirch, and Jerry Buzzard. On 12 April 2022, he surrendered each of those 3 greyhounds to the RSPCA Epping.
7. Mr Tirchett was asked about the surrender of these dogs in a preliminary inquiry at his house on 1 September 2022. He said "They were out of date, and they were probably over 4 years old." He said that every time they raced, they came last.
8. Mr Tirchett said in respect of each of the dogs surrendered that he rang up "heaps of times" to offer them to unnamed persons. He said that in the past he had been through

the greyhound adoption programme, but not for those three greyhounds. He said that he was ill at the time as a result of chronic cardiac problems. These had arisen out of open heart surgery which he had undergone some 35 years ago. He said that sometimes he feels well, and that he can physically cope with the demands of greyhounds. Indeed, he sees his involvement in greyhound racing during those periods as therapy for depression. However, on other occasions he feels overwhelmed and ill. When he is in this phase, he has to relinquish his greyhounds. He said that he was in the depression phase at the time he surrendered these greyhounds and he did not know what else to do. He said that he was not aware of the process that needed to be followed.

He said that, when he has a greyhound ready to retire or unsuitable to continue racing, he usually rings around other trainers to see if they want that greyhound. If they did not, he then would ring his local council.

In respect of these dogs in question, he said that he rang the local council and was advised to call the Epping RSPCA. He did so and the RSPCA said to bring the greyhounds into them. He said he was not aware of any other options open to him. He said that he has contacted the greyhound adoption programme in the past, but the waiting list could be 8 months or more. He said that he thought that he was doing the right thing by his dogs, as they were likely to find a good home through the RSPCA.

9. Mr Tirchett was originally charged under this rule in respect of two other greyhounds – Blazing Butler and Astro Naughton. These two charges (Charges 1 and 2) were withdrawn in circumstances which we will discuss later in these reasons.

#### **Charges 6 and 8 – Surrender of dogs to a pound**

10. Local Racing Rule 12.1, which is the current version of the rehoming rule, provides that when a greyhound is no longer to be utilised for racing or breeding, every effort must be made by the owner of the greyhound to rehome that greyhound to an appropriate home. It is more general in its terms than the previous rule 42.6, but GRV submitted that it must be read in conjunction with two other documents. The first is the Victorian Government Code of Practice for the Keeping of Greyhounds, which was current from 1 January 2020, and the second is the GRV Rehoming Guidelines and Policy, which came into operation on 1 May 2022.
11. GRV alleges that Mr Tirchett has breached Local Racing Rule 12.1 on two occasions.
12. The first occasion is found in charge 6 and relates to the greyhound, Sarah Beauty. The second occasion is found in charge 8 and relates to the greyhound, Chasing Love. On 13 July 2022 he surrendered both greyhounds to the Epping RSPCA.

13. In respect of the dogs Sarah Beauty and Chasing Love, his reason for doing so specifically was that the dogs were too old and were not competitive for racing. He said that he would do so “when you race the dog and he keeps on running last”. He said that he also rang people to try to rehome these dogs, but could not identify any particular people or rescue organisations that he had contacted. He said he had rung his local council for advice, and the Council officer had suggested taking them to the RSPCA. He did so.

## **Discussion**

14. During the hearing before us some problems became apparent with each of the charges laid in respect of Rule 42.6 and its successor, rule 12.1.
15. It was established in the evidence that the RSPCA was managing its Epping facility as a pound for three Councils. One of those Councils was Moreland Council – which was Mr Turchett’s local Council. Dr Gavin Goble, the General Manager of the Greyhound Welfare and Rehoming department at GRV, told us that, since this facility opened until 16 October 2022, it was managed by the RSPCA as a pound. It was not clear from the evidence whether the conduct of the pound was the only activity carried on by the RSPCA at that site.
16. Dr Goble said that the difference between a pound and an animal shelter is that an animal shelter’s primary purpose is to rehome the animals that they accept. The shelter can refuse to accept an animal based on the resources available to it rather than them to rehome that animal. An animal shelter, or an “animal adoption, rehoming or rescue agency” (to use the words in Rule 42.6) can refuse to accept any animal and will do so if it has no realistic chance of rehoming it. In contrast, a pound has a legal responsibility to accept an animal brought in by a resident of the Council operating it. It cannot refuse to do so. He said that the RSPCA operates as an animal shelter and also operates from some locations as a pound.
17. The significance of this is that the Stewards submitted that, although neither Rule specifically mentions the surrendering of dogs to a pound, it is implicit, at least in the Rule 42.6 charges, that a Council pound would not come under the definition of an ‘animal adoption, rehoming or rescue agency’. Thus, the Rule was breached by Mr Turchett surrendering the dogs to a pound.
18. The Stewards pointed out that the Victorian Government Greyhound Code of Practice, which came into operation on 1 January 2020, specifically states ‘Greyhounds must not be surrendered to a pound.’

19. The subsequent GRV rehoming guidelines also preclude the surrendering of dogs to a pound 'that provides pound services for the local government area in which any connections to a greyhound reside'.
20. There is a good policy reason behind this distinction. Dr Goble explained it in this way. A rescue or rehoming agency has as its primary purpose the rehoming of animals. This mirrors GRV's goal of rehoming greyhounds into the community. A pound, in contrast, is a facility set up for the collection of stray and unwanted animals. The pound has a legal responsibility to take in every animal surrendered, regardless of whether it can find a home for it or not. This has in the past meant a high kill rate in such facilities. This is not what GRV expects for its greyhounds and it is well out of kilter with community expectations.
21. However, in practice we have concluded that this distinction has not been well explained to participants, including Mr Tirchett. It was a distinction that was not never enshrined in the Rules, but was left to one sentence in the Code of Practice.
22. Dr Goble said that GRV had communicated this to the industry on 'numerous occasions since late 2019'. We were not shown any examples of this communication.
23. In the summary prepared for this hearing, the Stewards contended that Mr Tirchett had been advised repeatedly that he could not surrender his dogs to a pound, and that he had received "extensive education" about this fact. There was some confusion in the evidence about when this "education" was alleged to have occurred.
24. It was initially asserted that this information was provided to Mr Tirchett in December 2020. Then, prior to the commencement of evidence, the Stewards advised that the evidence would be that Mr Tirchett was advised of this by a Steward in August of 2021 – thus before the surrender in Charges 3, 4 and 5, but after the dates of the Charges 1 and 2. The Stewards appeared to accept that, if Mr Tirchett had not been advised that surrender to a pound was not acceptable, the Charges relating to rehoming could not be sustained. It was on that basis that Charges 1 and 2 were withdrawn.
25. The initial evidence about Mr Tirchett's 'extensive education' which we heard was from Investigative Steward, Ms Amber Knapp. She said that she had looked up Mr Tirchett's fast track file. This file recorded that on 3 August 2021 Mr Tirchett had been given a "Statement of Responsibilities". She could not tell us what was in this statement. She did not know if this document had been handed to Mr Tirchett, or forwarded in some other way. She did not know who had created this entry on fast track. She presumed that this statement contained a directions about not surrendering a dog to a pound, but had no knowledge one way or the another.

26. The hearing was adjourned to enable the Stewards to call further evidence. At the adjourned hearing we heard evidence from Ms Bianca Brocchi, an Investigative Steward, who had extensive dealings with Mr Tirchett, but who was on maternity leave at the time of the alleged offences. She said that she had been able to trace three further instances of Mr Tirchett being advised that he must not surrender his dogs to a pound. These instances were recorded on the GRV electronic files. She produced those instances before us.
27. The first was on 18 December 2019. The maker of the recording, Mr Kirk Branton, made a note that Mr Tirchett “strongly and repeatedly indicated he would be rehoming his dogs, they are too much to handle”. It was further noted that rule 42.6 was “explained to him together with changes as of 2019”. It was recommended that he read rule 42.6 before rehoming.
28. We note that rule 42.6 does not on its face refer to the word “pound”.
29. The second entry on the computer was on 15 January 2020.
30. It reads ‘I have previously spoken to Mr Tirchett in relation to his use of the RSPCA for rehoming and he is now aware that the preferred method of rehoming is GAP’. Mr Branton was not called to give evidence before us. We are not persuaded that either of these instances establish that Mr Tirchett was advised not to surrender his dogs to a pound prior to his being charged.
31. Lastly, we were played part of a video recorded interview made on 24 December 2019. The segment went for 3 minutes. In it the Steward can be heard telling Mr Tirchett that until the end of December he had the choice of rehoming dogs by way of GAP or rescue.
32. The Steward then told him that ‘from January 2020 you can’t do rescue but will have to go to GAP’. After further discussion, the Steward said – ‘you can do RSPCA. Try GAP, talk to other people, give them all a go’.
33. We do not see any proof in that segment of notification to Mr Tirchett that he could not surrender his dogs to a pound.
34. Mr Tirchett said that he did not know, and had no way of knowing, that the RSPCA to whom he had surrendered the dogs was in fact a pound. He produced a business card he had been given at the time of surrender, in which the facility is described as an “Animal Welfare Facility”.

35. The facility at Epping was managed by the RSPCA. Ms Amber Knapp, the Steward charged with this investigation, agreed that if the RSPCA at Epping, to which Mr Tirchett had taken the dogs, was not a pound, then each of the charges 3, 4, 5, 6 and 7 must fail. It was conceded that the first two charges had been withdrawn because there was no evidence that Mr Tirchett knew at the time of surrendering these two dogs that the facility to which he took them was a pound.
36. This was said to be so, even having regard to the more exhaustive wording of rule 42.6, as counsel for the Stewards explained that if a dog was surrendered to an RSPCA facility that was not operating as a pound, the arrangement would be accepted as constituting a “animal adoption, rehoming or rescue agency” and there would be no need to follow through with the requirements of the other subparagraphs of that Rule.
37. The questions which concern us are whether the facility described in charges 3, 4, 5, 6 and 8 was a pound, whether Mr Tirchett knew it was a pound, and whether lack of knowledge that the facility was a pound would be a defence to these Charges.
38. As Mr Tirchett represented himself in the hearing, we did not have the benefit of detailed legal argument on these issues. However, there is insufficient evidence before us to conclude that Mr Tirchett knew that the Epping RSPCA facility was in fact a pound before the surrenders which are the subject of these charges. We have reached the conclusion that, in respect of the Section 42.6 Charges, he made a genuine attempt to seek to rehome the greyhounds through what he believed to be an animal adoption, rehoming or rescue agency. We have reached the conclusion, that in respect of the Rule 12.1 Charges, every effort was made by Mr Tirchett to rehome the two greyhounds to in appropriate facility.
39. We accept his evidence that he had been surrendering greyhounds to the RSPCA at Epping for many years. This is confirmed by the evidence of Mr Gavin Goble, who estimated that Mr Tirchett had surrendered approximately 20 greyhounds to that facility over the last 6 to 7 years. Mr Tirchett said that he stopped doing so when he was told that he could not. We have no reason to disbelieve this evidence. In this respect, we consider it significant that the card that he was given at the time of surrender is headed in large lettering with the logo of the RSPCA and describing the facility as an “animal welfare facility”, not as a pound.
40. It has been argued before us that this offence is one of strict liability. The onus is on participants to satisfy themselves as to whether or not the surrender facility is a pound. It was said that Mr Tirchett should have rung someone at GRV to check, or to have looked at the provisions on the GRV website.



41. There are many situations in which strict liability must apply to racing offences. We do not believe that this is one of them. Here the difference between a pound and a rescue agency – although ascertainable if one was a lawyer familiar with the various statutory provisions cited to us – is not clear in practice. This can be seen from the description of the facility on the business card which is in evidence. The RSPCA logo is prominent. There is no mention of pound services. There is no suggestion that the RSPCA worker at the facility cavilled at the request to take the dogs on either occasion. This was something that Mr Tirchett had done many times before. We were told that the definition of a pound can be found on the GRV website. However, we were not shown any notification in plain language that would have alerted industry participants to this rather obscure difference between the suitability of pounds and rescue centres for surrender. The arbitrariness of the concept is illustrated by the fact that had Mr Tirchett taken the dogs to a pound which was not servicing his local area, then the Stewards concede that no offence would have been committed. This is because the Code of Practice only prohibits using a pound which is within the jurisdiction of the owner, trainer or racing participants own Council.
42. Further, if the Epping pound conducted rehoming facilities separate to the use of the facility as a council pound, the acceptance of the dogs in its rehoming capacity would not constitute an offence. We note in respect to that last point that Dr Goble was not sure what facilities were available at the Epping RSPCA and thought that there was a “rehoming aspect” at that facility. Perhaps the dogs were accepted in this capacity? We heard no evidence one way or other from the operators of the facility.
43. In our view, it is hardly reasonable for GRV to argue that this is an offence of strict liability. Its own witnesses have stated that, if Mr Tirchett had not known it was a pound, no offence would have been committed.
44. In all the circumstances, we find Mr Tirchett not guilty of each of the surrender charges.

#### **Charges 7 and 9 – Failure to sterilize**

45. As well as being charged under Local Racing Rule 12.1 in respect of the surrender of these two greyhounds, Mr Tirchett is also charged under GAR 24.1 in respect of a failure to sterilize each of Sarah Beauty and Chasing Love.
46. GAR 24(1) provides that, unless a greyhound is accepted by an adoption agency or such other organisation that undertakes sterilisation, the owner at the time of the retirement of the greyhound must ensure that the greyhound has been surgically sterilised by a veterinarian before allowing the greyhound to leave their his or her care and custody. The only exception to that rule is where a veterinarian has certified that to be surgically sterilised would be detrimental to the welfare of the dog.

47. Mr Tirchett said that he was advised when surrendering these dogs that they would be sterilised by the RSPCA. He also said he was not aware that sterilization prior to surrender was required.
48. We find each of these charges in relation to failure to sterilize proved, but note that they occurred within 2 months of the change of the Rule. This is relevant to the penalty to be imposed.

**Charges 10, 11 and 12 – Just Shout**

49. There is a particular sequence of events alleged concerning Just Shout. This dog competed in a race on 11 April 2023 at the Geelong Greyhound Racing Club. At a post-race veterinary examination, it was found to have a broken hock. We heard evidence about the interaction between Mr Tirchett and race Stewards in respect of the treatment of this greyhound after that point. The dog was transported to the Geelong Veterinary Hospital. Mr Titchett refused to take it home and left it at the hospital without making any arrangements for any person to take responsibility for it. Mr Tirchett made it clear to Stewards that he refused take it home with him. It is alleged that he made no further attempts to check up on the greyhound or assist in any way. When he was contacted by GRV some months after the incident, he said that he was not interested in the greyhound and did not want it returned.
50. Mr Tirchett’s conduct in relation to Just Shout was the subject of three charges. The first, Charge 10, is a Charge under Rule 12.1, it being that he did not make any effort to rehome the greyhound to an appropriate home. Charge 11 is laid under Rule 12.2, being that he did not keep any records of his compliance with 12.1. Local Racing Rule 12.2 requires an owner to keep detailed records of his or her compliance with Rule 12.1 and provides that records and evidence kept under this Rule to GRV if so requested. Charge 12 is that he did not notify the controlling body that a greyhound had left his care or custody.
51. Rule 34(5)(a) provides that a person in Mr Tirchett’s position must as soon as possible notify GRV that a greyhound is coming to or has left the person’s care or custody. GRV alleges that Mr Tirchett has breached this Rule in respect of the sequence of events that resulted in the greyhound being taken into the care and control of GRV.
52. Mr Ray Bartolo, the General Manager of the Geelong Greyhound Racing Club, gave evidence regarding the circumstances surrounding Just Shout. He spoke to Mr Tirchett immediately after the greyhound had been diagnosed with a broken hock. He said that Mr Tirchett questioned the by veterinary surgeon about what he would need to do about the dog. He was told very firmly by the veterinary surgeon that the dog would need to go off track and have an Xray to determine the severity of the injury. Mr Tirchett told him

that he did not use a veterinary surgeon. Mr Bartolo arranged for the dog to be seen at the Geelong Animal Referral Service. He and another staff member transported the dog, together with Mr Tirchett, to this service, which was about a 15 minute drive away from the track.

53. Mr Bartolo said that he told Mr Tirchett to go inside and admit the dog, providing his own details so that the clinic would know whom to contact. He then carried the dog into a consulting room. The veterinary surgeon asked Mr Tirchett questions about himself and the dog. Once the veterinary surgeon had left the room, Mr Tirchett asked Mr Bartolo what they were going to do. Mr Bartolo said that they would repair the injury. Mr Tirchett appeared frustrated and said that he had a number of greyhounds and could not care for them. Mr Bartolo told him that the greyhound would not be euthanized.
54. Mr Bartolo described Mr Tirchett as appearing “confused”. He thought that Mr Tirchett may have been traumatised by the injury to his dog. Mr Tirchett also said to Mr Bartolo that he could not look after Just Shout at that time because of his own health.
55. When he was questioned about the circumstances surrounding Just Shout in an inquiry on 26 June 2023, Mr Tirchett said that Mr Bartolo had helped him to take it to a veterinary surgeon in Geelong. He said that the Stewards would have to ask Mr Bartolo what had happened to the dog because he did not know himself. He said that at the time he had said to the veterinary surgeon ‘I don't want her to be stressed out. Maybe we can put her out of her misery’ The veterinary surgeon had refused to euthanise the dog. Mr Tirchett said that he had told the Stewards at Geelong that, whatever they were going to do to the dog, it could not come back to his house. He said to them that he would not have a clue what happened to the dog and that he was not really interested. He said that he hoped it found a good home, but there was no way it was coming home with him because he couldn't afford it. He agreed that he never had any agreement in place with anybody to look after Just Shout. He said that he “Wanted nothing to do with it. End of story”.
56. He confirmed this account when he gave evidence before us.
57. In respect of the Charges concerning Just Shout, we find as follows:
58. In respect of charge 10 we find the charge proven. Mr Tirchett does not appear to have made any effort to rehome Just Shout. He clearly left this to the GRV officials and the veterinary surgeon at the hospital. He should not have done so.
59. In respect of Charge 11 we find the Charge proven. Mr Tirchett did not keep records of rehoming. However, the fact that all parties knew that the rehoming had been carried out under the auspices of GRV is in our view relevant to penalty.

60. In respect of Charge 12, we find the Charge proven. Mr Tirchett did not notify GRV of the fact that Just Shout had left his custody. However, as with Charge 11, we find this to be a technical breach, given that at all times and due to Mr Tirchett's default, the greyhound was under the care and control of GRV in the rehoming process.

**Charge 13 – Establishment of Health Management plan**

61. Finally, Mr Tirchett is required under GAR 156 to comply with a lawful order of the Stewards. On 7 June 2023, arising out of the investigation into the above matters, the Stewards ordered Mr Tirchett to have an Establishment Health Management Plan issued by a veterinary surgeon and implemented for his kennels. GRV alleges that he failed to comply with that order.

62. When he was asked about this at the inquiry on 26 June 2023, he said that the plan had not been signed because he could not find a veterinary surgeon who was prepared to sign it.

63. At the adjourned hearing before us, he produced a signed plan dated 10 March 2024.

64. We find this charge proven. Mr Tirchett provided us with no good reason as to why the direction was not complied with in a timely manner.

65. In all the circumstances, we make the following findings:

Charge 1: withdrawn.

Charge 2: withdrawn.

Charge 3: dismissed.

Charge 4: dismissed.

Charge 5: dismissed.

Charge 6: dismissed.

Charge 7: proven.

Charge 8: dismissed.

Charge 9: proven.

Charge 10: proven.

Charge 11: proven.

Charge 12: proven.

Charge 13: proven.

**PENALTY**

1. We turn now to the task of sentencing Mr Tirchett. He is 78 years of age and has been a participant in the greyhound industry for 40 years. In all that time he has never been charged by the Stewards with a significant offence. This is a record of which he is justly proud.
2. He is on an aged pension and, apart from the house in which he lives, Mr Tirchett has no assets. As previously outlined, he has had significant health concerns. He has been in and out of hospital recently. His wife acts as his carer. As a result of this investigation, Mr Tirchett has been suspended since 30 November 2023 and he now has no greyhounds.
3. In contrast to his past record, the events which form the basis of Charge 10 show an extraordinary lack of concern for Just Shout.
4. The greyhound was badly injured. Mr Tirchett showed no interest in accepting any responsibility for the dog. It is hard to resist the conclusion that he wanted to abandon it because it was no longer able to race. On the other hand, we do note Mr Bartolo's evidence that he thought that Mr Tirchett may have been traumatised by the injury to his dog on the night that the dog was taken to the veterinary surgeon. Mr Bartolo also observed that Mr Tirchett was concerned about his own health and his capacity to look after an injured dog in his own home. However, Mr Tirchett's attitude persisted in the following months, to the extent that, when he was contacted by GRV several months after the event, he said that "he didn't have a clue what had happened to the dog and wasn't really interested".
5. Given all of those circumstances, we treat Charge 10 as being the principal charge before us. General deterrence is a significant part of our sentencing task. It is very important and indeed fundamental to the reputation of the greyhound industry that participants must not abandon a dog when its racing career is over. This is such a fundamental principle that it barely needs emphasis. Mr Tirchett abandoned Just Shout in a callous manner. It beggars belief that any participant in this industry would act in such a way towards his dog. His action in doing so must be wholeheartedly condemned.

6. Specific deterrence is also important. This means that we must deter Mr Tirchett from acting in the same way in the future. It may be that he never re-enters the greyhound industry. However, his attitude at the hearing before us showed no sign of comprehension of how wrong it was for him to have abandoned the dog as he did.
7. In our view, a period of suspension from the industry is required.
8. Charges 7 and 9 are of a different nature. We accept that they occurred only two months after the relevant Rule had changed.
9. Charges 11 and 12 are in our view a technical breach of the Rules, although it is clear that they arise out of Mr Tirchett's reprehensible behaviour in relation to the abandonment of his dog.
10. As to charge 13, we can see no justification for Mr Tirchett's failure to comply with the Stewards' request. His attitude to the request was arrogant in the extreme. We are satisfied that he made no significant attempt to comply with the request until well after these charges had been laid.

The sentences which we impose are as follows:

11. On Charge 10 we impose a period of suspension of six months. This suspension is backdated to commence as from 30 November 2023, being the date on which Mr Tirchett's licence was suspended.
12. On each of Charges 7 and 9, we impose a fine of \$300. This fine is fully suspended for a period of 12 months. Each of those charges are to be served concurrently.
13. On each of Charges 11 and 12, we impose a fine of \$500 with \$300 of that fine suspended for 12 months. Each of those Charges is to be served concurrently and also concurrently with the penalties for charges 7 and 9.
14. On Charge 13 we impose a fine of \$500.

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Mark Howard  
Registrar, Victorian Racing Tribunal