

RACING PENALTIES APPEAL TRIBUNAL DETERMINATION

APPELLANTS: MS EMILY QUARTERMAINE

APPLICATION NO: 25/3843

PANEL: MR PHILLIP GLEESON (PRESIDING MEMBER)
MS KELLY ZHANG (MEMBER)
MR BENJAMIN WILLESEE (MEMBER)

DATE OF HEARING: 13 AUGUST 2025

DATE OF DETERMINATION: 12/11/2025

IN THE MATTER OF an appeal by EMILY QUARTERMAINE against a determination made by the Racing and Wagering Western Australia Stewards of Thoroughbred Racing (Stewards) on 3 June 2025 to impose a six-month disqualification for breach of Rule AR 232(b) of the Rules of Thoroughbred Racing (Rules)

Ms Emily Quartermaine appeared in person.

Ms Venetia Bennett appeared for the Racing and Wagering Western Australia Stewards of Thoroughbred Racing.

Result of the Appeal

1. Following the hearing of the appeal on 13 August 2025, the parties were informed that the decision on Appellant's appeal against her conviction and the penalty imposed was reserved.
2. The Tribunal dismisses the Appellant's appeal against conviction and penalty. The Tribunal's reasons are set out below.

Overview of the Appeal

3. Ms Quartermaine was charged with an offence under AR 232(b) under the Rules in that Ms Quartermaine, being an owner/licensed track work rider and thus a person bound to the rules of racing, failed to comply with a direction from Mr Denis Borovica, Chief Racing Integrity Officer, dated 23 December (**Direction**) directing Ms Quartermaine to:

Allow entry to your premises for the purposes of investigation in relation to horses located at the premises by no later than 3 January 2025. This direction stipulating that you must contact Dr Medd to make suitable arrangements to comply with the direction, which you failed to do.

4. Following a Stewards inquiry on 28 January 2025 and 15 May 2025 Ms Quartermaine pleaded not guilty to the charge. The Stewards issued their reasons for penalty on 3 June 2025.

5. By Notice of Appeal dated 4 June 2025, Ms Quartermaine appealed against the conviction and the penalty. The ground of appeal was described by Ms Quartermaine as:
 - a. her disagreeing with the decision as to conviction and penalty;
 - b. that she did not refuse entry but simply asked for compliance with the *Racing and Wagering Western Australia Act 2003* (WA) (**RWWA Act**) and “*stated my reasons for not being comfortable at the current time*”; and
 - c. that RWWA refused to comply with section 113 of the RWWA Act, and for this and other (unspecified reasons) the Direction was null and void.

Background

6. Ms Quartermaine is a licensed Trackrider and owns a number of horses.
7. On or around 18 December 2024, approximately 5 to 6 horses arrived on Ms Quartermaine’s property. During the Stewards inquiry Ms Quartermaine advised that these horses were unnamed thoroughbreds and a broodmare (tr 10). During the appeal, Ms Quartermaine confirmed that at least two horses were broodmares in respect of which a Mare Return had been lodged pursuant to AR 285.
8. On 19 December 2024 Ms Judith Medd, the Head of Veterinary Services exchanged texts with Ms Quartermaine seeking to attend on her premises to inspect the new horses.¹
9. On 22 December 2024, Ms Quartermaine texted Ms Medd to advise that “*it would be inappropriate to allow members of RWWA on my property at current*”.
10. On 23 December 2024 the Direction was issued.² The Direction cited AR 22 and AR 232, and stated:

Pursuant to the above, you are therefore directed to allow entry to your premises for the purposes of investigation in relation to horses located at the premises by no later than 3 January 2025.

You must therefore contact Dr Medd to make suitable arrangement to comply with this direction.

11. AR 22 provides, relevantly:

(1) Without limiting any other Stewards’ powers, the Stewards have the following powers in relation to investigations and inquiries:

(a) to investigate and/or inquire into any matter in connection with racing, including without limitation:

(i) any matter in connection with any race meeting; and

(ii) any incident or occurrence in connection with any official trial, jump-out, trackwork, or training facility.

(l) at any time to enter the premises occupied by or under the control of a licensed person and used in any manner relating to any licence to:

(i) inspect and search the premises;

(ii) search any licensed person or registered person on the premises;

(iii) examine any horse, take possession of it and cause that horse to be:

(A) removed from the premises and be detained; or

(B) detained at or within the premises,

for a period and on terms the Stewards consider necessary.

¹ Exhibit 1.

² Exhibit 4.

12. AR 232 provides, relevantly:

A person must not:

(b) fail or refuse to comply with an order, direction or requirement of the Stewards or an official

13. On 23 December 2024 Ms Quartermaine emailed Mr Borovica in response to the Direction, stating amongst other things:³

Your rule is not legally binding in association to myself again I am a track rider...

14. During the Stewards inquiry Ms Quartermaine accepted that she did not contact Ms Medd following receipt of the Direction (tr 10, 30 to 31, 69 to 70).

15. On 10 January 2025, Mr Chris Courtland, a senior steward at RWWA, emailed Ms Quartermaine to follow up on the Direction and asked if she could “*please provide details of action you have taken, if any, to comply with the direction order*”.⁴

16. Ms Quartermaine responded raising a host of concerns she had with RWWA and that:

...if you think you still have legal rights to enter go to a magistrates court and apply for a court order to enter my premises...

17. During the Stewards inquiry, Ms Quartermaine did not directly accept that she did not comply with the direction, stating (tr 29, 30):

I didn't not comply either. I just expressed that it was inappropriate.

18. The Stewards inquiry took place on 28 January 2025. The inquiry was adjourned to 15 May 2025 to allow for an earlier inquiry in which Ms Quartermaine was a party to be concluded, and also to call Dr Caroline McMullen at Ms Quartermaine's request.

19. On 15 May 2025 the Stewards put the charge to Ms Quartermaine, that she breached AR 232(b) (tr 78, 79). Ms Quartermaine confirmed she understood the charge and pleaded not guilty, and in response to the opportunity to put forward any defence stated that:

"I'm happy to appeal it and I'm happy enough to then make it a Supreme Court matter" (tr 79).

20. Having considered the material and Ms Quartermaine's submissions, the Stewards found Ms Quartermaine guilty of the charge (tr 81 to 86).

21. In response to the opportunity to put forward submissions as to penalty, Ms Quartermaine stated amongst other things that:

I don't think you should ... a penalty given the extenuating circumstances relating to... I've no problem with Judith [Medd] coming at a later date after I'd had a third party look at the horses. At no point in time, did Judith [Medd] ever specify that she was going to be accompanied by a Steward, and at no point in time, did any Steward contact me saying that they were going to come in association with Judith Medd" (tr 86).

22. The Stewards reserved their decision on penalty and issued their reasons for a penalty of six-month disqualification of Ms Quartermaine's license, the period to be served cumulatively with her current period of disqualification to commence from 11 October 2025 and to expire 11 April 2026.

³ Exhibit 2.

⁴ Exhibit 3.

The Appeal

23. By Notice of Appeal dated 4 June 2025, Ms Quartermaine appealed against the conviction and the penalty imposed on the basis that she “disagreed” with the decision and by reference to the grounds set out in 5 above.
24. At the appeal, Ms Quartermaine confirmed that her grounds of appeal were that:
 - a. her failure to comply with the Direction was because she had a reasonable excuse (which is particularised further below); and
 - b. there was no valid direction to trigger the application of AR 232.
25. Ms Bennett, on behalf of the Stewards, filed written submissions in opposition to the appeal and made brief oral submissions supplementing the matters addressed in writing during the hearing.
26. The Stewards’ submissions set out the relevant principles that apply in appeals. Appeals to this Tribunal are conducted pursuant section 11(3) of the *Racing Penalties (Appeals) Act 1990* (WA) by way of rehearing: *Harper v The Racing Penalties Appeal Tribunal of Western Australia* [2001] WASCA 217. That is, the Stewards’ decision ought to be affirmed unless the Appellant satisfies the Tribunal that there is error in the Stewards’ decision.
27. The Stewards’ position was that the appeal should be dismissed because there were no errors evident in the Steward’s decisions on both conviction and penalty.

Determination of the appeal

Ground 1

28. In respect of Ms Quartermaine’s first ground of appeal, that she had a reasonable excuse to fail to comply with the Direction, Ms Quartermaine’s submissions were to the effect that it was unreasonable for the Stewards to direct that she correspond with Dr Medd in circumstances where she has had a “bad history” with Dr Medd and where she had disclosed to RWWA her related mental health issues and distress at the time.
29. At the appeal, both parties accepted that at the relevant time it was known that there was high level of distrust by Ms Quartermaine towards RWWA.
30. The Stewards’ position was that:
 - a. distrust was not a reasonable basis to which to refuse to comply with a direction;
 - b. even if there was a reasonable excuse, there would still be a breach of AR 232 if there has been a failure to comply with a direction; and
 - c. if there had been a reasonable excuse, that could be taken into account at the penalty and mitigation stage.
31. The Tribunal agrees with the Stewards’ submissions in respect of Ms Quartermaine’s first ground of appeal. The Direction was issued by Mr Borovica, a Steward. AR 232(b) is clear that it is breached should there be a failure to comply with a direction of the Stewards. There are no qualifying words used, such as “unless with reasonable excuse”.

32. Further, there was no evidence before the Tribunal that RWWA had been advised of the circumstances set out in paragraph 28 above. Ms Quartermaine referred the Tribunal to the texts in exhibit 1 between her and Dr Medd including the following passage:

RWWA had the opportunity to view these horses at Tracy Rodwells property and failed to do so, and instead decided to villainise myself for raising concerns. A number of RWWA officials have commented (sic) serious misconduct against myself over the last 6 months in particular and as a result I will not be filing an official report to the CC and possibly the ACCC. This will also be followed with a compensation lawsuit for loss and damages, deformation (sic) to my character which has been very damaging to my business operations, not to mention the extreme physiological abuse I have been subjected to as a result of these offences and that of RWWA engaging themselves and promoting even aiding acts of domestic violence against myself

33. The Tribunal does not accept Ms Quartermaine's submissions that this passage informed RWWA that it was unreasonable for her to be required to correspond with Dr Medd, when no issue with Dr Medd herself has been raised.
34. Therefore, there is no error of fact in the Stewards' factual finding that Ms Quartermaine failed to comply with the Direction. On the evidence available, this was a finding of fact which was open to the Stewards to make.
35. For completeness, Ms Quartermaine raised as a new point in reply that it could be argued that she did in fact comply with the Direction by having previously (prior to the issue of the Direction) advised Dr Medd that she will confirm when Dr Medd could come out. This submission is at complete odds with the case run by Ms Quartermaine both at the Stewards inquiry and at the appeal, and on further questioning by the Tribunal Ms Quartermaine did not seek to press this point.

Ground 2

36. In respect of Ms Quartermaine's second ground of appeal, that the Direction was invalid, Ms Quartermaine's submissions were to the effect that:
- a. the horses the subject of the Direction were not in the Steward's jurisdiction including because no stable returns had been filed for some or all of them;
 - b. a matrix of background facts meant that it was inappropriate for the Stewards to issue the Direction, including because the police and RSPCA were also conducting their own investigations into the welfare of these horses and that RWWA ought to work alongside RSPCA and DPIRD. Further, at no time did the Stewards attempt to enter her premises; and
 - c. the direction did not comply with section 113(3)(a) of the RWWA Act which provides that an authorised person (defined in section 113(1) as relevantly, including a steward or a member of staff authorised in writing by the board) may enter premises on which racing horses are kept, trained or traced and so the direction was invalid because it referred only to contacting Dr Medd, who was not a steward or an authorised person.
37. The Stewards' position was that:
- a. the Rules apply to Ms Quartermaine as a licensed person and owner, pursuant to sections 45(6)(d) and (f) of the RWWA Act;
 - b. the Direction was issued during the course of an investigation in connection with racing pursuant to AR22 (1)(a), the connection being that Ms Quartermaine was a licensed

person and that the horses the subject of the Direction were broodmares and young thoroughbreds;

- c. the Direction arose out of a report by Ms Quartermaine herself on 18 December 2024, alleging welfare concerns for the relevant horses. To the extent that the horses were previously at Rosalee Park, an inspection by Dr McMullen in August 2024 did not identify any welfare concerns then. Once the welfare concerns were raised by Ms Quartermaine, the Stewards sought to investigate these concerns;
 - d. the Direction required positive action by Ms Quartermaine, to contact Dr Medd to facilitate the Stewards' investigation and did not impose any positive obligations on the Stewards; and
 - e. Ms Quartermaine has conflated the power for inspections pursuant to section 113 of the RWWA Act, and the Stewards' powers pursuant to the Rules.
38. The Tribunal accepts that for AR 232 to be triggered, there must in fact be a valid direction from the Stewards. In this context, valid means that the direction to do an act is one which the Stewards had the power to order pursuant to either the Rules or the RWWA Act.
39. The Tribunal does not accept Ms Quartermaine's submissions at paragraph 36.a above. The power for the Stewards to issue the Direction arose from AR 22(1)(a) which was during an investigation into a matter in connection with racing, in the context where Ms Quartermaine was a licensed person and owner, and where some of the horses the subject of the Direction were accepted to be broodmares.
40. The Tribunal does not accept Ms Quartermaine's submissions at paragraph 36.b above. There is no requirement for a direction to be appropriately issued, nor for RWWA to suspend any investigation until other regulatory bodies have conducted their own investigation. This is equally so where a welfare concern is raised, and where swift action ought to be taken. The Tribunal accepts the Stewards' submission that the Direction did not require RWWA to take any further affirmative action nor was it required to confirm Ms Quartermaine's failure to comply by physically attending Ms Quartermaine's premises. This is particularly so, in light of Ms Quartermaine's emails of 23 December 2024 and 10 January 2025 where she expressly confirms that she does not consider that she was subject to the Rules, and that she would not permit RWWA to enter her premises.⁵
41. The Tribunal does not accept Ms Quartermaine's submissions at paragraph 36.c above for the following reasons:
- a. AR 19(d) provides that the source of Stewards' powers in WA are the Rules and/or any valid government statute, such as the RWWA Act. It follows that there are at least these two sources of powers for the Stewards, noting that the Rules cannot be inconsistent with the RWWA Act;
 - b. the source of the power (and subsequent validity of the Direction) arises from the Stewards' powers in AR 22(1)(a). This is not inconsistent with section 113(3)(a) of the RWWA Act but is rather a further power available to the Stewards; and
 - c. it is open to the Stewards to conclude that on a fair reading of the Direction, that it was a direction issued by a Steward in relation to a Steward's investigation and that to facilitate this inquiry Ms Quartermaine was to liaise with Dr Medd as to make suitable inquiries to comply with that direction. The Tribunal does not accept Ms Quartermaine's submission that the direction was for Ms Quartermaine to permit only Dr Medd to attend at her premises, because those are not the words used in the Direction. The Direction

⁵ Exhibits 2 and 3.

clearly refers to an investigation pursuant to AR22(1)(a), and for Ms Quartermaine to henceforth take positive steps to contact Dr Medd to facilitate an entry for the purposes of that investigation. Whether or not the subsequent entry was by Dr Medd accompanied with a Steward or not is an irrelevant consideration including because no entry was in fact attempted given Ms Quartermaine's refusals on 23 December 2024 and again on 10 January 2025.⁶ While there is no express power of the Stewards to order a person contact another person for the purposes of an investigation, that is a necessary incidental power arising from AR 22(1)(a).

42. Given the above, there is no error of fact or law in the charge the subject of the appeal and the second ground of appeal is also without merit.
43. The appeal against conviction is therefore dismissed.

Decision on penalty

44. The approach this Tribunal takes when reviewing penalties imposed by the Stewards has been consistently stated in previous recent decisions of the Tribunal: see *Suvaljko v RWWA (Harness)*, Appeal No. 877 at [21]-[24], *Lewthwaite v RWWA (Thoroughbred)*, Appeal No. 863 (September 2023) [88]-[91]; and *Oliveri v RWWA (Thoroughbred)*, Appeal No. 861 (February 2023) [40].
45. The key feature of those statements is that it is not for this Tribunal to interfere with the penalty that has been imposed by the Stewards simply because it might have preferred to impose a different penalty had it been exercising the discretion. The discretion to impose penalty is entrusted to the Stewards by reason of their considerable background experience and knowledge of the racing industry. The Tribunal intervenes only where a penalty has been imposed in error.
46. The law regarding manifest excess establishes that:
 - a. intervention is not justified simply because the result arrived at below is markedly different to other sentences imposed for other cases; and
 - b. intervention is only warranted where the penalty is so far outside the range of penalties imposed in comparable cases such that it may be concluded that there must have been some misapplication of principle, even though where and how is not apparent from the reasons: *Hili v The Queen* (2010) 242 CLR 520 at [59].
47. At the appeal, Ms Quartermaine's submissions as to error were in effect that:
 - a. the penalty imposed was excessive in circumstances where the horses the subject of the Direction were allegedly placed onto her property by an earlier break in and that she has suffered the financial consequences of treating said horses;
 - b. the penalty imposed was more severe in circumstances where Ms Quartermaine was already subject to other penalties both formally imposed by RWWA and informally imposed, and so her penalty in relation to this charge ought to have been reduced and there was in effect double jeopardy; and
 - c. no penalty ought to have been imposed on her on the basis of there being no public interest.
48. The Stewards' position on penalty was that:

⁶ Exhibits 2 and 3.

- a. disqualification was the appropriate penalty for a breach of AR 232(b), where deterrence was a significant consideration for the Stewards in protecting the integrity and reputation of the industry;
 - b. the decision as to a penalty of 6 months disqualification was reached based on a consideration of the facts and mitigating circumstances, along with (the limited) comparable cases including the case of Mr Henwood; and
 - c. there was no error in the Stewards' approach and they had considered Ms Quartermaine's existing penalties in deciding to impose a cumulative disqualification period.
49. In respect of Ms Quartermaine's submission at paragraph 47.a above, this appears to be a submission that the Stewards failed to take into account relevant considerations in its reasons for penalty. Exhibits 8, 10 and 11 provide information on how it is said the horses the subject of the Direction came to arrive on Ms Quartermaine's premises, and this was also addressed by Ms Quartermaine in her submissions before the Stewards (tr 11 and 43). There is no evidence before the Tribunal of how and to what cost Ms Quartermaine was put to in treating the horses. These points were ultimately not raised by Ms Quartermaine when given an opportunity to address the Stewards on penalty.
50. In respect of her submission at paragraph 47.b above, Ms Quartermaine referred the Tribunal to exhibit 11, which she submitted that material was put before the Stewards as to the informal penalties imposed on her by RWWA which included an approximate 6-month ownership ban, lifted 20 December 2024 by email from Mr Mark Kemp of RWWA. These related issues were also raised in Ms Quartermaine's submissions before the Stewards (tr 17 and 54) but not raised when given an opportunity to address the Stewards on penalty. There is no double jeopardy submission in the circumstances where there is only consideration about the penalty for the current charge, and there has not already been a penalty imposed for said charge.
51. The Tribunal does not accept Ms Quartermaine's submission at paragraph 47.c above. It is not for the Tribunal to impose what it thinks is the appropriate penalty, but only to consider if the Stewards have erred in imposing the penalty. There is no error in the Stewards considering the type of offence, being a serious one which impedes the Steward's ability to investigate and access properties where there are potential animal welfare issues. The Steward's position, one which was open to them to take, is that this is a serious offence and one which has implication for the integrity and reputation of the industry.
52. The Stewards considered that the evidence and submissions put forward by Ms Quartermaine throughout the inquiry had little substance or merit on mitigating the rule breached (paragraph 8, reasons on penalty). While the above two grounds were not specifically referred to by the Stewards, neither were they specifically raised by Ms Quartermaine in respect to penalty.
53. The range of penalties in similar cases considered by the Stewards as 4 months (in the case Mr Millen) to three years disqualification (in the case of Mr Henwood). Just because a penalty falls within a range does not mean that it has not have been imposed in error, but comparison with analogous cases is a useful tool.
54. The Tribunal's view is that given the public facing effect of this type of offending, there was no error in the Stewards determining that disqualification was the appropriate penalty. The nature of the offending, in circumstances where it is somewhat inexplicable that Ms Quartermaine would raise a welfare concern with RWWA but not permit RWWA to investigate on the basis that they were not truly concerned about the welfare of the horses, is towards the lower end of the scale. It is closer to the case of Mr Millen than it is Mr Henwood, and there is no error in the Steward's exercise of discretion to impose a 6 months disqualification period.

55. Having regard to the above, the Tribunal's view is that the penalty in this case has not been imposed in error. The appeal against penalty is therefore dismissed.

Conclusion

56. For the reasons given above, the appeal must be dismissed in its entirety.



PHILLIP GLEESON
PRESIDING MEMBER



KELLY ZHANG
MEMBER



BENJAMIN WILLESEE
MEMBER

