

RACING NEW SOUTH WALES

APPEAL PANEL

Tuesday, 20 September 2016

MR T HALE SC — CONVENOR
MR C CLARE
MR T CARLTON

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IN THE MATTER OF THE APPEAL OF
HUGH BOWMAN

REASONS FOR DECISION

20 **PRINCIPAL MEMBER:** At a hearing before the Stewards on 14 September 2015 Mr Bowman, a licensed jockey, pleaded guilty to the following charge:

That near the 200m he permitted his mount to shift out when not clear of Adaboy Ross, which was taken out across the running of Silom Road, which was checked, blundered and lost the running to which it was entitled.

He was suspended from riding for seven metropolitan and provincial race meetings. The period of suspension was to commence on Sunday, 18 September 2016 until Sunday, 2 October 2016, on which day he could ride.

30 Mr Bowman appeals to the Appeal Panel pursuant to s 42 of the *Thoroughbred Racing Act 1996*. He appeals only against the severity of the penalty that was imposed. Pursuant to s 43(1) the appeal to the Appeal Panel is by way of a new hearing with fresh evidence or evidence in addition to or in substitution to the evidence on which the decision appealed from was made may be given on the appeal.

Mr Bowman did not seek a stay of the Steward's decision pending appeal.

The suspension was in respect of Race 4 at Warwick Farm Racecourse of 14 September 2016, the Schweppes Handicap over 1600 metres. Mr Bowman's mount was High Mist.

The Australian Rules of Racing rule 137(a) provides:

*Any rider may be penalised if, in the opinion of the Stewards,
(a) He is guilty of careless, reckless, improper, incompetent or foul riding.*

10 Mr Bowman was charged and pleaded guilty to careless riding. The charge to which Mr Bowman pleaded guilty was that near the 200 metre mark he permitted his mount High Mist to shift out when not clear of Adaboy Ross, which was taken out across the running of Silom Road, resulting in Silom Road being checked, blundering and losing the running to which it was entitled. The Stewards graded what occurred as a medium degree of carelessness.

Mr Pasterfield, who appeared for Mr Bowman, did not challenge this finding or the submission by Mr Van Gestel, on behalf of the Stewards, to this effect.

20 The Stewards applied the careless riding penalty template to assist in determining the period of suspension. On the basis of a medium degree of carelessness, the starting point was a suspension of seven meetings. Given that Mr Bowman had five suspensions within the last 12 months, a premium of 20 per cent was added. That, however, was offset by a 10 per cent reduction due to the early plea of guilty and a further 10 per cent to take into account the meetings that he would miss.

Mr Pasterfield, on behalf of Mr Bowman, points out that the Panel is not bound by the template. This, of course, is true. Like most policies that guide the exercise of a discretion, the policy is taken into account, but it must not fetter the exercise of
30 discretion.

The template is, of course, of great assistance in promoting consistency. We place great weight on it.

However, in considering all the evidence, we nonetheless consider that in this instance we should allow the appeal and reduce the suspension to six New South Wales

metropolitan and provincial meetings, which are the first six meetings referred on the copy of the template received in evidence.

In coming to this conclusion, we have taken into account the submissions of Mr Van Gestel and Mr Pasterfield and all the evidence. The factors that are of particular importance on which we relied in coming to the decision were, firstly, the seriousness of the incident; secondly, Mr Bowman's less than impressive riding record over the last 12 months, which weighed heavily upon us; thirdly, the fact that this will mean that Mr Bowman will miss the meetings at Mooney Valley on 23 September and 30 September; 10 and, fourthly, the fact that in our view to also miss the major meeting at Randwick on 1 October 2016 would in all the circumstances be too harsh a penalty.

In summary, the appeal is allowed. The penalty is varied so that Mr Bowman will be suspended from today, 20 September 2016 until 1 October 2016, on which day he may ride.

The appeal deposit may be returned.
