



RACING AND WAGERING WESTERN AUSTRALIA

17 October 2018

## HARNES PENALTY GUIDELINES

Following a determination by the Racing Penalties Appeal Tribunal in Appeal No 818 in the matter of Mr A. De Campo appealing against a penalty issued for a breach of Rule 162, RWWA Stewards have, as they were encouraged by the Chairperson to do so, reconsidered the concept of penalty guidelines.

In that determination the Chairperson indicated, *inter alia*,

22. The gazetted *RWWA Rules of Harness Racing* have a specific rule (Rule 256) which is clear as to the range of penalties available to the Stewards with regard to any rule that does not of its own terms impose a specific penalty. Stewards should, when considering the appropriate penalty, have regard to all available options in sub rule 2 of Rule 256, with the general aim of imposing a penalty that is appropriate in the circumstances, having regard to all the circumstances of the breach of any rule of harness racing.

23. To attempt to come up with a 'formula' to calculate a penalty inhibits the requirement of the Stewards to take into account the individual circumstances of each offence, and the circumstances of the person convicted of breaching the Rules, in determining an individual penalty.

26. In so doing, it is not my intention to suggest that any mathematical 'formula' for breaches of rules relating to driving should be encouraged. I would encourage Stewards to reconsider the concept of penalty guidelines and instead to ensure that the industry is given an indication of what they can expect to receive by way of penalty for breaches of the rules of harness racing by applying general principles and consistent penalties.

27. Whilst I see no danger in Stewards advising the industry that, for breaches of particular Rules, certain types of penalty will ordinarily be considered, room must remain for Stewards to consider other penalties in particular circumstances of the case.

28. Likewise, whilst it would be appropriate for Stewards to indicate which matters would ordinarily be taken into account as aggravating or mitigating any particular breach of the Rules, attempting to devise a mathematical formula for the construction of penalties overlooks the particular circumstances of any breach.

Stewards acknowledge and respect the comments of the Chairperson.

Accordingly the RWWA Integrity Assurance Committee (IAC), acting on a recommendation from the Stewards and in view of the RPAT Chairperson's comments, have resolved that the Harness penalty guidelines with respect to driving offence be rescinded forthwith.

Stewards will in determining any penalties apply the general principles of penalty applicable to the determination of such driving matters giving regard to, but not limited to,

- the plea,
- the record of the person concerned,
- the degree of carelessness,
- degree of interference,

- circumstances of the offender and the offending and all available options

with respect to penalty prescribed by the Rules of racing, taking full regard of the particular circumstances of any breach.

In assessing records Stewards will continue to apply the existing prescribed criteria of discount to any penalty where it is determined to apply a suspension. Where after consideration of all matters and available penalties, suspension is determined to be appropriate, a starting point of penalty shall continue to be 28-days subject to variation as circumstances may deem appropriate.

The above approach to penalty determination is consistent with that which has been successfully applied by the WA Thoroughbred Stewards and the Stewards of many other national jurisdictions.

**Denis Borovica**  
**GM Racing Integrity**