

I. INFORMATION SHEET: DE NOVO HEARINGS



As you prepare for your hearing it is important to keep in mind that appeal hearings before the Horse Racing Appeal Panel (HRAP or Panel) are considered *de novo*.

What is a de novo hearing before the HRAP?

In a *de novo* hearing, the **Panel decides a matter “from scratch” as if it were a new hearing**. In other words, the Panel will decide the matter on the basis of what they hear and what they see at the hearing itself, without taking into account the decision of the Judges or Stewards under appeal. The Panel has the power to confirm, vary, or set aside the decision that has been appealed, based on the evidence presented at the hearing.

What does this mean for parties?

There are a few key elements that parties may wish to consider in a *de novo* hearing before the HRAP:

- **The Panel does not use any findings of fact or conclusions from the ruling of the Judges or Stewards in making their decisions. Instead, they decide the matter solely on the evidence and submissions made before them at the hearing.**
 - » **Evidence** comprises the testimony made by witnesses in the witness box and documents that are filed as exhibits at the hearing (e.g. medication records, notes, invoices).
 - » **Submissions** are not evidence but rather the arguments that parties make based on the evidence, the Rules of Racing/HRAP Rules of Procedure and any relevant law in an effort to persuade the Panel to accept their positions (e.g. opening and closing statements).
 - » Parties should come to the hearing prepared to **offer any evidence that they wish the Panel to consider** and to support their positions by making submissions.

- Parties may present new evidence in a hearing at the HRAP, including **evidence that was not presented to the Judges or Stewards** that made the ruling under appeal.
- The **burden of proof is on the Registrar** to satisfy the Panel on a balance of probabilities that the violation of the rule occurred, meaning that the Panel will weigh the evidence to determine whether it is more likely than not that the alleged violation occurred. The Registrar will also make submissions as to penalty. The Registrar will present their case first at the hearing, and then the appellant follows to respond to the Registrar’s case.

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This information sheet is intended to provide general information to appellants and other related parties regarding the appeal process of the Horse Racing Appeal Panel. It does not constitute legal advice. If any information in this Guide is not consistent with the Rules of Procedure, the Rules of Procedure will prevail.

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