



Department of
**Local Government, Sport
and Cultural Industries**

Racing Penalties Appeal Tribunal

2021-22 Annual Report



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Statement of Compliance

The Hon Dr Tony Buti, MLA
Minister for Racing and Gaming

In accordance with section 63 of the *Financial Management Act 2006*, I submit, for your information and presentation to Parliament, the Annual Report of the Racing Penalties Appeal Tribunal of Western Australia for the financial year ended 30 June 2022.

The Annual Report has been prepared in accordance with the provisions of the *Financial Management Act 2006*.

The financial statements comply with Australian Accounting Standards – Simplified Disclosures issued by the Australian Accounting Standards Board.



Robert Nash
Chairperson

31 October 2022

Executive Summary

It is with pleasure that I present the Annual Report of the Racing Penalties Appeal Tribunal for the year ended 30 June 2022.

The Racing Penalty Appeals Tribunal (the Tribunal) continues to provide a valuable service to the WA racing community by ensuring industry confidence in the enforcement of the various racing rules by providing an impartial judicial forum for the hearing of appeals.

During the year, two appeals were carried over from the previous reporting period, and 10 new appeals were lodged with the Tribunal. Of these, 10 were determined and two were carried over to the 2022-23 financial year.

The Tribunal has undergone substantial changes to its membership, in particular, the departure of Ms Karen Farley as Chairperson and Mr Patrick Hogan as a long-standing member.

In June 2022, Ms Farley, a member of the Tribunal since 1997 and chairperson since 2018, accepted the position of chairperson of the Racing and Wagering Western Australia Board to take effect from 31 July 2022. The Tribunal will certainly miss Karen's expertise and contribution and her enthusiasm and dedication to her role were much admired by members. I am sure she will excel in her new role, and I wish her all the best in this endeavour.

Mr Patrick Hogan, who has been a valued member of the Tribunal since its commencement in March 1992, resigned in May 2022 as he is entering retirement. Patrick's careful and insightful consideration of appeals will be greatly missed.

Ms Zoe Gilders term expired in December 2021, and I thank her for her contributions to the Tribunal and wish her well in her future endeavours.

I take this opportunity to thank members for their invaluable contribution to the efficient operation of the Tribunal. They continue to give their time and expertise willingly in discharging their responsibilities and coping with the workload.

On behalf of the Tribunal, I also thank the Department of Local Government, Sport and Cultural Industries for its ongoing provision of executive services, and the State Administrative Tribunal for permitting the Tribunal to use its facilities. It would not be possible for the Tribunal to conduct its activities without this invaluable support.



Robert Nash
Chairperson
31 October 2022

Operational Structure

Enabling legislation

The Racing Penalties Appeal Tribunal is established under the *Racing Penalties (Appeals) Act 1990* (the Act). The Tribunal was established to confer jurisdiction in respect to appeals against penalties imposed in disciplinary proceedings arising from, or in relation to, the conduct of thoroughbred racing, harness racing and greyhound racing, and for related purposes.

Responsible Minister

As of 30 June 2022, the Minister responsible for the Racing and Gaming Portfolio was the Hon Dr Tony Buti, MLA, Minister for Finance; Aboriginal Affairs; Racing and Gaming; Citizenship and Multicultural Interests.

Purpose of the Tribunal

The aim of the Act is to create and maintain industry confidence in the enforcement of the various racing rules by providing an impartial judicial forum for the hearing of appeals.

Executive support for the Tribunal is provided by the Department of Local Government, Sport and Cultural Industries (DLGSC). The DLGSC recoups the cost of providing these services from the Tribunal, which is funded by Racing and Wagering Western Australia (RWVA).

Appeals which may be heard by the Tribunal

A person who is aggrieved by a determination of RWVA, a steward or a committee of a racing club may appeal to the Tribunal within 14 days of the determination date. The Tribunal can hear the following matters:

- the imposition of any suspension or disqualification, whether of a runner or of a person;
- the imposition of a fine; or
- the giving of a notice of the kind commonly referred to as a “warning-off”.

Additionally, the Tribunal may grant leave to appeal in relation to a limited range of other matters.

Appeals which are outside the jurisdiction of the Tribunal

The jurisdiction of the Tribunal does not extend to a determination of a steward, a racing club, or a committee in matters regarding:

- any protest or objection against a placed runner arising out of any incident occurring during the running of a race;
- the eligibility of a runner to take part in, or the conditions under which a runner takes part in, any race; or
- any question or dispute as to a bet.

These matters are dealt with by RWVA.

Determination of appeals

The Tribunal is required to hear and determine an appeal based on the evidence of the original hearing but may allow new evidence to be given or experts to be called to assist in its deliberations.

When determining an appeal, the Tribunal may make the following orders:

- refund or repayment of any stakes paid in respect of a race to which the appeal relates;
- refer the matter to RWWA, the stewards or the committee of the appropriate racing club for rehearing;
- confirm, vary, or set aside the determination or finding appealed against or any order or penalty imposed to which it relates;
- recommend or require that RWWA, the stewards or the committee of the appropriate racing club, take further action in relation to any person; and
- such other orders as the member presiding may think proper.

Decisions of the Tribunal are final and binding.

Organisational structure

Sections 5 and 6 of the Act provide that the Tribunal shall consist of a Chairperson and a panel of members, each appointed by the Minister. The Schedule to the Act specifies terms of appointment shall not exceed three years, with eligibility for reappointment. The Tribunal, constituted by the Chairperson (or the Acting Chairperson or member presiding) and two members sitting together hear appeals. An appeal may be heard by the Chairperson, Acting Chairperson or member presiding sitting alone where the Regulations so provide.

As of 30 June 2022, the Tribunal consisted of five members, namely:

Ms Karen Farley SC - Chairperson

Ms Karen Farley was appointed Chairperson in March 2018. Ms Farley holds a Bachelor of Jurisprudence and a Bachelor of Laws from the University of Western Australia (UWA). She is a Senior Appeals Consultant at Legal Aid WA.

Ms Farley has taught at UWA, Notre Dame and Murdoch University law schools. She has held positions on many government and non-government Boards and Committees. She has served on the Council of Management of St Hilda's Anglican School for Girls for 15 years and was Chair of Council for seven years. Currently she is an elected member of the Shire of Peppermint Grove. From 2000 to 2006 she was Supervising Solicitor of the Unrepresented Criminal Appellants Scheme (UCAS), an innovative forensic legal skills programme initially operated from UWA Law School which gave law students the opportunity to assist otherwise unrepresented litigants prepare and present their case in the Court of Criminal Appeal.

In 2011, Women Lawyers of WA named her as Senior Lawyer of the year. In December 2013, she was appointed Senior Counsel for and in the State of Western Australia.

Mr Robert Nash

Mr Nash was appointed to the Tribunal in March 1997. He is a Barrister admitted as a Practitioner of the Supreme Court of Western Australia and the High Court of Australia, and a General Public Notary. Mr Nash has, during the course of his career, served in a non-executive capacity on several Councils, Committees, and charitable and non-charitable Boards, including Chairman of Australian Silica Quartz Group Limited, Councillor for the Town of Mosman Park, Chairman of the WA Soccer Disciplinary Tribunal, Council Member of the Law Society of WA,

Convenor of the Education Committee of the Law Society of WA, Counsel Assisting the Royal Commission into the City of Wanneroo, Member of the Professional Conduct Committee and Ethics Committee of the Law Society of WA, Head of the WA Legal Panel of the Royal Australian Navy, and Council Member of the WA Bar Association Council.

Mr Andrew Monisse

Mr Monisse was appointed to the Tribunal in March 1997. He was admitted as a Barrister and Solicitor of the Supreme Court of Western Australia in December 1990 after completing articles at Mallesons Stephen Jaques. Mr Monisse's employment experience has included working as a Solicitor assisting counsel assisting at the WA Inc Royal Commission in 1991 and as a Prosecutor for the Commonwealth Director of Public Prosecutions in the Perth office from 1992 to 1998. In July 2000, Mr Monisse commenced his practice as a Barrister. Since October 2000, he has been a member of the WA Bar Association. In April 1997, he commenced serving in the Australian Defence Force as a RAAF Specialist Reserve Legal Officer. Since September 2006 he has held the rank of Squadron Leader. Mr Monisse practises in Criminal Law and other areas of law at Quarry Chambers.

Ms Brenda Robbins

Ms Brenda Robbins practices as a Barrister and Mediator at Murray Chambers in a variety of areas of law. Prior to her legal career she held a number of CEO and senior executive positions in Western Australian Government agencies. She has served on numerous Boards, including the Senate of the University of Western Australia, the Legal Aid Commission, Keystart Loans Ltd and the Australian Institute of Management (including a term as President). She is currently the Chair of the Metropolitan Cemeteries Board and a member of its Audit and Risk Committee. She is a Trustee of the Scholarships Trust of Graduate Women WA Inc. Brenda holds a Juris Doctor (High Dist.), BA (Econs), Graduate Certificate in Australian Migration Law and Practice and is a Graduate of Australian Institute of Company Directors (GAICD). Brenda is a Life Fellow of the Australian Institute of Management and a Fellow of the AICD.

Ms Johanna Overmars

Ms Johanna Overmars, Barrister and Solicitor, graduated from the University of Notre Dame in 2003 with degrees in Law and Arts. Ms Overmars was admitted in 2005 after completing her articles as an Associate at the Family Court of WA and at Legal Aid WA. She has practiced in the areas of family and criminal law and set up her own firm Hills Hope Legal Pty Ltd in May 2013, which closed in 2019 as she commenced maternity leave. She currently works at Frichot Lawyers where she specialises in wills and estates. Ms Overmars is a horse owner, who has studied horsemanship for many years. She previously undertook volunteer work with a horse rescue organisation.

Administered legislation

The Tribunal is responsible for administering the *Racing Penalties (Appeals) Act 1990*.

Other legislation impacting Tribunal activities

The Tribunal complied with the following relevant written laws in the performance of its functions:

- *Auditor General Act 2006*;
- *Corruption and Crime Commission Act 2003*;
- *Disability Services Act 1993*;
- *Electoral Act 1907*;
- *Equal Opportunity Act 1984*;
- *Electronic Transactions Act 2003*;
- *Financial Management Act 2006*;
- *Freedom of Information Act 1992*;
- *Industrial Relations Act 1979*;
- *Public Interest Disclosure Act 2003*;
- *Public Sector Management Act 1994*;
- *Salaries and Allowances Act 1975*;
- *State Records Act 2000*; and
- *State Supply Commission Act 1991*.

Performance Management Framework

Outcome-based management framework / agency level government desired outcome

Broad government goals are supported by the Tribunal via specific outcomes. The Tribunal delivers services to achieve these outcomes. The following table illustrates the relationship between the Tribunal's services and desired outcomes, and the government goals the Tribunal contributes to.

Government Goal	Desired Outcome of the Tribunal	Services Delivered by the Tribunal
Sustainable Finances: Responsible financial management and better service delivery.	To provide an appeal tribunal in relation to determinations made by racing industry stewards and controlling authorities.	Processing appeals and applications in accordance with statutory obligations.

Changes to outcome-based management framework

The Tribunal's Outcome Based Management Framework did not change during 2021-22.

Shared responsibilities with other agencies

The Tribunal did not share any responsibilities with other agencies in 2021-22.

Report on Tribunal Performance and Operations

Actual results versus budget targets

The table below provides a summary of key financial targets for 2021-22. A detailed explanation is provided in the financial statements.

Financial Targets	Target (\$)	Actual (\$)	Variation (\$)
Total cost of services (expense limit) (sourced from Statement of Comprehensive Income)	247,536	226,652	-20,884
Net cost of services (sourced from Statement of Comprehensive Income)	7,354	11,532	4,178
Total equity (sourced from Statement of Financial Position)	10,676	39,323	28,647
Net increase (decrease) in cash held (sourced from Statement of Cash Flows)	-7,354	6,608	-17,759
Approved salary expense level*	0	0	0

* Executive support for the Tribunal is provided by the DLGSC.

The table below provides a summary of key performance indicators for 2021-22. A detailed explanation is provided later in the report.

Summary of Key Performance Indicators	Target	Actual	Variation
Total number of stay applications received	4	2	2
Number of stay applications determined as per KPI	4	2	2
Average cost of processing an appeal	\$15,471	\$20,651	\$5,180

Performance summary for 2021-22

During the year, two appeals were carried over from 2020-21 and 10 new appeals were lodged with the Tribunal. As at 30 June 2022, the Tribunal determined 10 appeals, with two carried over to 2022-23. These appeals, together with appeals from the previous year, are summarised by racing code:

Racing Code	Appeals carried over from 2020-21	Appeals Lodged	Appeals Determined	Appeals carried over to 2022-23
Thoroughbred	0	2	1	1
Harness	2	5	7	0
Greyhound	0	3	2	1
TOTAL	2	10	10	2

The results of the determinations in respect of the racing codes for the year 2021-22 are summarised below:

Results	Thoroughbred	Harness	Greyhound
Allowed in Full	0	1	0
Allowed in Part (Penalty Reduced)	1	2	2
Referred Back to Stewards (RWVA)	0	0	0
Dismissed	0	4	0
Withdrawn/not progressed	0	0	0
Leave to Appeal Refused	0	0	0
Total	1	7	2

Appeals Carried Over to 2022-23	Thoroughbred	Harness	Greyhound
Reserved Decision	1	0	0
Reserved Decision on penalty only	0	0	0
Reasons to be published	0	0	0
Yet to be heard	0	0	1
Total	1	0	1

The number of appeals determined over a 10-year period is summarised in the following table:

Racing Code	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Thoroughbred	5	2	2	4	0	3	2	3	2	1
Harness	2	2	3	6	5	11	5	4	5	7
Greyhound	2	2	2	4	2	6	2	3	0	2
TOTAL	9	6	7	14	7	20	9	10	7	10

Stays of proceedings

In 2021-22, there were two applications for stays of proceedings. The Chairperson or the presiding member made the determinations as follows:

Stays of Proceedings 2021-22			
Results	Thoroughbred	Harness	Greyhound
Stays Granted	0	0	0
Stays Refused	1	1	0
Withdrawn	0	0	0
Total	1	1	0

The following table provides a summary of the number, nature and outcome of matters before the Tribunal during 2021-22. Full determinations are available from the Tribunal's website: [Racing Penalties Appeal Tribunal](#).

Applications Heard and Determined in 2021-22					
Case No.	Name	Nature of Appeal	Hearing Date	Determination Date	Outcome
843	Terence Ferguson	Appeal against a 12 month disqualification for a breach of Rule 190(1), (2) and (4) of the Rules of Harness Racing	25/8/2021	15/10/2021	Appeal dismissed.
844	Christine O'Driscoll	Appeal against an 18 month disqualification served concurrently for a breach of Rule 196A(1)(ii), HR190(1)(2) and (4), and HR196B(1) of the Rules of Harness Racing	9/8/2021	12/10/2021	Appeal upheld in part, penalty varied to 12 months disqualification.
845	Francis Lowry	Appeal against a 6 month disqualification for a breach of Rule 84(4)(a) of the Rules of Greyhound Racing	10/8/2021	15/10/2021	Appeal upheld in part, penalty of 2 months suspension imposed backdated to commence on 22 June 2021.
846	Gary Hall Jnr	Appeal against a fine of \$100 for a breach of Rule 162(1)(y) of the Rules of Harness Racing	25/8/2021	12/10/2021	Appeal upheld in part, fine of \$50 imposed.
847	Kyle Goodwin	Appeal against a disqualification of 18 months for a breach of Rule 86(d) of the Rules of Greyhound Racing	14/9/2021 for appeal against conviction; and 8/11/2021 for appeal against penalty	14/9/2021 for appeal against conviction; and 23/12/2021 for appeal against penalty	Appeal against conviction dismissed on 14/9/2022. Appeal against penalty allowed, penalty of 9 months disqualification imposed on 23/12/2021.

Applications Heard and Determined in 2021-22					
Case No.	Name	Nature of Appeal	Hearing Date	Determination Date	Outcome
848	Mitchell Pateman	Appeal against a suspension of four weeks for a breach of the AR 229(1)(a) of the Rules of Thoroughbred Racing	15/9/2021	12/10/2021	Appeal upheld in part, penalty of 14 days suspension imposed
849	Emily Suvaljko	Appeal against a fine of \$100 for a breach of Rule 162(1)(y) of the Rules of Harness Racing	28/10/2021	17/12/2021	Appeal dismissed
850	Sharon Howie	Appeal against the disqualification of SECRET REACTION under HRR 195 and applying a 12 months restriction of racing under HRR 190AA(4) and from relevant races for breach of HRR 65 under the Rules of Harness Racing	1/11/2021	1/11/2021	Appeal dismissed
851	Christopher Voak	Appeal against a suspension of three weeks for a breach of Rule 168(1)(e) of the Rules of Harness Racing	21/12/2021	21/12/2021	Appeal dismissed
852	Gary Hall Jnr	Appeal against a 12 day suspension for a breach of rule 162(1)(u) of the Rules of Harness Racing	24/2/2022	24/2/2022	Appeal upheld

Examples of appeals before the Tribunal

The Tribunal determined 10 appeals during the reporting period. Below are some examples of the types of matters which come before the Tribunal.

Appeal No 844 – Mrs Christine O’Driscoll

Mrs Christine O’Driscoll’s horse, MISTER RIGGERS, was the subject of a post-race urine sample test after he had raced and won Race 4 at Northam Harness Racetrack. That sample returned a positive reading to cobalt, which is a substance that, over a prescribed level, is deemed to be a prohibited substance.

Mrs O’Driscoll was charged with three breaches of the Rules of Harness Racing:

- An administration charge under HR196A(1)(ii), for allegedly administering, prior to the race, 20ml of VAM with a concentration of cobalt in excess of the threshold being detected post-race.
- A presentation charge under HR190(1)(2) and (4), for presenting the horse for racing with the elevated cobalt level.
- A “lack of permission charge” under HR196B(1) for allegedly permitting the injection to a horse without the permission of the Stewards within one clear day of that race’s commencement.

All three charges followed free admissions made by Mrs O’Driscoll when visited by investigators following the finding of 19 ug/L of cobalt in the sample taken from MISTER RIGGERS. Mrs O’Driscoll pleaded guilty, and she was disqualified for 18 months.

At the hearing, Mrs O’Driscoll tendered written submissions outlining why she believed the penalty imposed was too harsh. She referred to several other penalties imposed as comparator examples.

In response, the Stewards submitted that positive swab results, the likely cause of which are an administration by a trainer, are the most serious substance offences known to the Rules, particularly where the substance may act to enhance performance. In this case, MISTER RIGGERS won the race.

In considering the appeal, the Tribunal was mindful of the necessity to maintain the integrity of racing, and to ensure that it is perceived to be fair and honest by the betting community, and by the broader community in general.

Mrs O’Driscoll is 70 years of age. She has held a trainer’s licence for 40 years. She has no prior penalties imposed by Stewards. She had two horses in work at the time of the offences. She is a hobby trainer, and horses are her passion.

The Tribunal determined that the offences to which Mrs O’Driscoll pleaded guilty were of such a serious nature as could only attract periods of disqualification. However, the penalty imposed of 18 months disqualification was deemed to be manifestly excessive in the circumstances of the case.

Mrs O’Driscoll was a first offender with a 40 year unblemished record. She made full and frank admissions during the course of the inquiry. Had she not cooperated fully with investigators, in particular disclosing the fact that she had administered the VAM (according to the expert veterinarian as the “probable culprit” for the high cobalt reading), the Stewards would have been unlikely to have been able to bring against her any charge other than one of Presentation.

Full and frank cooperation with Stewards' Inquiries is to be encouraged, to the point that credit should be given in real terms for voluntary, appropriate admissions.

The Tribunal determined that the penalty of 18 months disqualification should be reduced to 12 months disqualification.

Appeal No 845 Mr Francis Lowry

Mr Francis Lowry appealed against the sentence imposed by the RWWA Stewards on 22 June 2021 where they imposed a disqualification of his trainer's licence for 6 months, having found him guilty of breaching Greyhound Rule of Racing 84(4)(a) for having allowed a vet to administer a testosterone limiting implant called suprelorin into his dog ASTON COOPERS which contained deslorelin, a permanently banned substance pursuant to Rule 79A.

At the hearing, Mr Lowry's lawyer confirmed the sole ground of appeal was that the penalty imposed by the Stewards was in all the circumstances manifestly excessive. An alternative penalty was sought by way of a warning; or the disqualification be backdated to the first day of the 7-week ban imposed on 8 January 2021; or a nominal fine issued in lieu of disqualification.

Counsel for the Stewards argued that the appeal be dismissed on the basis that the penalty imposed was wholly appropriate in the circumstances. Mr Lowry pleaded guilty to the administration charge, despite not knowing that the suprelorin implant contained a permanently banned substance because the relevant Rule is an absolute one.

The Tribunal accepted Mr Lowry's evidence that he did not know the implant contained a permanently banned substance; that he was motivated by the welfare of his greyhounds; and that he believed the overall reduction in testosterone would act to reduce ASTON COOPERS' performance.

In considering the penalty, the Tribunal also considered what effect the offence had on the industry and the message that would be sent to other trainers. The Tribunal was conscious that the penalty imposed in this case should not discourage trainers to contact RWWA veterinarians to seek advice or be a disincentive for trainers to report a potential error.

The Tribunal concluded that Mr Lowry's actions are not likely to tarnish the reputation of the industry, as ASTON COOPERS did not race and there was very little disruption caused within the industry due to the incident.

The Tribunal determined that the penalty imposed on Mr Lowry was manifestly excessive and upheld his appeal. The 6 month disqualification was quashed and instead a penalty of 2 months suspension imposed, backdated to commence on 22 June 2021.

Appeal No 847 Mr Kyle Goodwin

Mr Kyle Goodwin is a greyhound trainer, licensed in Victoria and normally resident in that State. On 22 May 2021, he presented a greyhound to race at the Cannington track.

Following the race there was an incident in the vicinity of the kennel area. Mr Goodwin acted in an intimidatory manner by shouting and swearing in the presence of other people. This ultimately led to a misconduct charge under Rule 86(o) of the Rules of Greyhound Racing. Mr Goodwin pleaded guilty and was fined \$1,000.

Subsequently there was a further, more serious incident. An unknown person assaulted a Steward by taking hold of the Steward's arm in a hostile manner. The assault was brought to an end by Mr Goodwin.

The Stewards conducted an inquiry dealing with both the misconduct and the assault on the Steward. Mr Goodwin had committed the earlier misconduct, but in relation to the assault on the Steward he was a witness.

The Stewards asked Mr Goodwin who the offender was, on the basis that he had been in company with the offender for a considerable period of time in the bar and restaurant area that night. Mr Goodwin said he did not know the offender.

The Stewards did not believe Mr Goodwin and he was subsequently charged with making misleading statements, an offence against Rule 86(d) of the Rules of Greyhound Racing. He pleaded not guilty but was convicted and disqualified for 18 months.

Mr Goodwin appealed against the conviction and penalty for breaching Rule 86(d).

On 14 September 2021, the Tribunal heard the appeal against the conviction. The Tribunal dismissed the appeal against the conviction on the basis that it was fanciful for Mr Goodwin to assert that he only had a chance meeting with the offender when the CCTV footage of their interaction that day suggested otherwise.

On 8 November 2021, the Tribunal heard the appeal against the penalty. The Tribunal noted that Mr Goodwin could not explain his motive because he maintained that he did not mislead the Stewards. On the other hand, there was no suggestion that Mr Goodwin had any motive of personal gain to himself, whether financial or otherwise. The Tribunal concluded that Mr Goodwin did not want to incriminate the other person.

The Tribunal was of the view that the Stewards did not take into account Mr Goodwin's actions in intervening in order to stop the assault. In the Tribunal's opinion, it would be right to give him a benefit for his actions in doing the right thing by intervening. Other licensed persons might then be motivated to act in the same way should they find themselves in the same position.

The Tribunal allowed the appeal against the penalty. It set aside the penalty of disqualification for 18 months and imposed a penalty of disqualification for 9 months.

Disclosures and Legal Compliance

Financial statements

The aim of these financial statements is to inform the Parliament and other interested parties, not only of what the Racing Penalties Appeal Tribunal has achieved during the financial year, but also of the reasons behind those achievements.

Disclosures and Legal Compliance

Racing Penalties Appeal Tribunal of Western Australia

Certification of financial statements

For the reporting period ended 30 June 2022

The accompanying financial statements of the Racing Penalties Appeal Tribunal of Western Australia have been prepared in compliance with the provisions of the *Financial Management Act 2006* from proper accounts and records to present fairly the financial transactions for the reporting period ended 30 June 2022 and the financial position as at 30 June 2022.

At the date of signing we are not aware of any circumstances which would render the particulars included within the financial statements misleading or inaccurate.



Name: Liam Carren
Chief Finance Officer

12 October 2022



Name: Robert Nash
Chairperson

12 October 2022



Name: Andrew Monisse
Member

12 October 2022



Racing Penalties Appeal Tribunal of Western Australia
Statement of Comprehensive Income
For the year ended 30 June 2022

	Notes	2022 \$	2021 \$
COST OF SERVICES			
Expenses			
Tribunal members' expenses	2.1	22,098	13,947
Supplies and services	2.2	204,554	192,555
Total cost of services		226,652	206,502
Income			
User charges and fees	3.2	2,400	2,438
Total income		2,400	2,438
NET COST OF SERVICES		224,252	204,064
Income from State Government			
Income from other public sector entities	3.1	235,784	155,161
Total income from State Government		235,784	155,161
SURPLUS/(DEFICIT) FOR THE PERIOD		11,532	(48,903)
TOTAL COMPREHENSIVE INCOME FOR THE PERIOD		11,532	(48,903)

The Statement of Comprehensive Income should be read in conjunction with the accompanying notes.



Racing Penalties Appeal Tribunal of Western Australia
Statement of Financial Position
As at 30 June 2022

	Notes	2022 \$	2021 \$
ASSETS			
Current Assets			
Cash and cash equivalents	5.1	35,714	29,106
Receivables	4.1	4,676	3,771
Total Current Assets		40,390	32,877
TOTAL ASSETS		40,390	32,877
LIABILITIES			
Current Liabilities			
Payables	4.2	917	4,836
Contract liabilities	4.3	150	250
Total Current Liabilities		1,067	5,086
TOTAL LIABILITIES		1,067	5,086
NET ASSETS		39,323	27,791
EQUITY			
Accumulated surplus		39,323	27,791
TOTAL EQUITY		39,323	27,791

The Statement of Financial Position should be read in conjunction with the accompanying notes.



Racing Penalties Appeal Tribunal of Western Australia
 Statement of Changes in Equity
 For the year ended 30 June 2022

	Notes	Accumulated surplus/(deficit) \$	Total equity \$
Balance at 1 July 2020		76,694	76,694
Deficit		(48,903)	(48,903)
Total comprehensive income for the period		(48,903)	(48,903)
Balance at 30 June 2021		27,791	27,791
Balance at 1 July 2021		27,791	27,791
Surplus		11,532	11,532
Total comprehensive income for the period		11,532	11,532
Balance at 30 June 2022		39,323	39,323

The Statement of Changes in Equity should be read in conjunction with the accompanying notes.



Racing Penalties Appeal Tribunal of Western Australia
Statement of Cash Flows
For the year ended 30 June 2022

	Notes	2022 \$	2021 \$
Cash flows from State Government			
Funds from other public sector entities		235,686	155,252
Net cash provided by State Government		235,686	155,252
<i>Utilised as follows:</i>			
Cash flows from operating activities			
Payments			
Tribunal members' expenses		(23,542)	(11,586)
Supplies and services		(204,554)	(192,555)
Other payments		(250)	-
GST payments on purchases		(20,458)	(19,223)
GST payments to taxation authority		(23,544)	(15,460)
Receipts			
User charges and fees		2,300	1,900
GST receipts on sales		23,515	15,460
GST receipts from taxation authority		17,455	19,226
Other receipts		-	250
Net cash used in operating activities		(229,078)	(201,988)
Net increase/(decrease) in cash and cash equivalents		6,608	(46,736)
Cash and cash equivalents at the beginning of the reporting period		29,106	75,842
Cash and cash equivalents at the end of the reporting period	5.1	35,714	29,106

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the Financial Statements
For the year ended 30 June 2022

1 Basis of Preparation

The Racing Penalties Appeal Tribunal of Western Australia (the "Tribunal") is a WA Government entity and is controlled by the State of Western Australia, which is the ultimate parent. The Tribunal is a not-for-profit entity (as profit is not its principal objective).

A description of the nature of its operations and its principal activities have been included in the 'Overview' which does not form part of these financial statements.

These annual financial statements were authorised for issue by the Accountable Authority of the Tribunal on 12 October 2022.

Statement of compliance

These general purpose financial statements are prepared in accordance with:

- 1) The *Financial Management Act 2006 (FMA)*
- 2) The Treasurer's Instructions (TIs)
- 3) Australian Accounting Standards (AAS) – Simplified Disclosure
- 4) Where appropriate, those AAS paragraphs applicable for not-for-profit entities have been applied.

The *Financial Management Act 2006* and the Treasurer's Instructions take precedence over AASs. Several AASs are modified by TIs to vary application, disclosure format and wording. Where modification is required and has had a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

Basis of preparation

These financial statements are presented in Australian dollars applying the accrual basis of accounting and using the historical cost convention. Certain balances will apply a different measurement basis (such as the fair value basis). Where this is the case, the different measurement basis is disclosed in the associated note. All values are rounded to the nearest dollar.

Accounting for Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of goods and services tax (GST), except that the:

- a) amount of GST incurred by the Tribunal as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of an asset's cost of acquisition or as part of an item of expense; and
- b) receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

Judgements and estimates

Judgements, estimates and assumptions are required to be made about financial information being presented. The significant judgements and estimates made in the preparation of these financial statements are disclosed in the notes where amounts affected by those judgements and/or estimates are disclosed. Estimates and associated assumptions are based on professional judgements derived from historical experience and various other factors that are believed to be reasonable under the circumstances.

Services performed for the Racing Penalties Appeal Tribunal of Western Australia by the Department of Local Government, Sports and Cultural Industries

The Department of Local Government, Sports and Cultural Industries ("DLGSC") provides support to the Tribunal to carry out its objectives. This support comprises most of the amount recorded in the Statement of comprehensive income under 'Supplies and services'. These expenses are in the nature of salaries and administration costs in providing these support services.

Recoups from the Tribunal to DLGSC are made on a monthly basis under a net appropriation determination.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the Financial Statements
For the year ended 30 June 2022

2 Use of our funding

Expenses incurred in the delivery of services

This section provides additional information about how the Tribunal's funding is applied and the accounting policies that are relevant for an understanding of the items recognised in the financial statements. The primary expenses incurred by the Tribunal in achieving its objectives and the relevant notes are:

	Notes
Tribunal members' expenses	2.1
Supplies and services	2.2

2.1 Tribunal members' expenses

	2022	2021
	\$	\$
Board fees	20,137	12,718
Superannuation - defined contribution plans	1,961	1,229
Total Tribunal members' expenses	22,098	13,947

Superannuation is the amount recognised in profit or loss of the Statement of Comprehensive Income comprises employer contributions paid to the GSS (concurrent contributions), the WSS, the GESB schemes or other superannuation funds.

2.2 Supplies and services

	2022	2021
	\$	\$
Professional services	180,027	180,027
External audit fees	22,700	11,673
Other	1,827	855
Total supplies and services expenses	204,554	192,555

Supplies and services expenses are recognised as an expense in the reporting period in which they are incurred. The carrying amounts of any materials held for distribution are expensed when the materials are distributed.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the Financial Statements
For the year ended 30 June 2022

3 Our funding sources

How we obtain our funding

This section provides additional information about how the Tribunal obtains its funding and the relevant accounting policy notes that govern the recognition and measurement of this funding. The primary income received by the Tribunal and the relevant notes are:

	Notes
Income from State Government	3.1
User charges and fees	3.2

3.1 Income from State Government

	2022	2021
	\$	\$
Income received from other public sector entities during the period:		
Contribution from Racing and Wagering Western Australia (RWVA)	235,130	154,925
Interest revenue	654	236
Total income from State Government	<u>235,784</u>	<u>155,161</u>

Income from other public sector entities are recognised as income when the Tribunal has satisfied its performance obligations under the funding agreement. If there is no performance obligation, income will be recognised when the Tribunal receives the funds.

Revenue is recognised at a point-in-time for contributions from RWVA. The agreement between the Tribunal and RWVA contains no obligation to provide any service to RWVA in exchange for their contribution. Therefore, the Tribunal recognises the revenue in accordance with AASB 1058 at the time the funds are received.

3.2 User charges and fees

	2022	2021
	\$	\$
User charges and fees:		
Stay of proceedings	100	400
Appeal fees	2,300	2,038
Total user charges and fees	<u>2,400</u>	<u>2,438</u>

Revenue is recognised at the transaction price when the Tribunal transfers control of the services to customers. Revenue is recognised for the major activities as follows:

Revenue is recognised at a point-in-time for stay of proceedings (to suspend penalties) in relation to greyhound and harness racing. The performance obligations for these user fees and charges are satisfied when services have been provided. Stay applications are typically determined within one working day of receiving the submission.

Revenue is recognised over-time for appeal fees (appeal against penalties imposed in disciplinary proceedings) in relation to greyhound and harness racing. The Tribunal typically satisfies its performance obligations in relation to these user fees and charges when the appeal is determined and revenue is then recognised.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the Financial Statements
For the year ended 30 June 2022

4 Other assets and liabilities

This section sets out those assets and liabilities that arose from the Tribunal's controlled operations and includes other assets utilised for economic benefits and liabilities incurred during normal operations:

	Notes
Receivables	4.1
Payables	4.2
Contract liabilities	4.3

4.1 Receivables

	2022	2021
	\$	\$
Current		
Interest receivable	140	42
Other receivable	-	2,226
GST receivable	4,536	1,503
Total current	<u>4,676</u>	<u>3,771</u>
Total receivables at end of the period	<u>4,676</u>	<u>3,771</u>

Receivables are initially recognised at their transaction price or, for those receivables that contain a significant financing component, at fair value.

4.2 Payables

	2022	2021
	\$	\$
Current		
Accrued expenses	917	4,586
Other payables	-	250
Balance at end of period	<u>917</u>	<u>4,836</u>

Payables are recognised at the amounts payable when the Tribunal becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is equivalent to fair value, as settlement for the Tribunal is generally within 15-20 days.

Accrued expenses represent the amount due to the board member but unpaid at the end of the reporting period. Accrued expenses are settled within a fortnight after the reporting period. The Tribunal considers the carrying amount of accrued expenses to be equivalent to its fair value.

4.3 Contract liabilities

	2022	2021
	\$	\$
Reconciliation of changes in contract liabilities		
Opening balance	250	788
Additions	150	250
Revenue recognised in the reporting period	(250)	(788)
Balance at end of period	<u>150</u>	<u>250</u>
Current contract liabilities	150	250
Non-current contract liabilities	-	-

The Tribunal's contract liabilities relate to appeal fees yet to be determined at the end of the reporting period. Typically, an appeal fee is received upfront upon submission of an application for review.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the Financial Statements
For the year ended 30 June 2022

5 Financing

This section sets out the material balances and disclosures associated with the financing and cashflows of the Tribunal.

	Notes
Cash and cash equivalents	5.1

5.1 Cash and cash equivalents

	2022	2021
	\$	\$
Cash and cash equivalents	35,714	29,106
Balance at end of period	35,714	29,106

For the purpose of the statement of cash flows, cash and cash equivalent assets comprise cash at bank.

6 Financial instruments and contingencies

This note sets out key risk management policies and measurement techniques of the Tribunal.

	Notes
Financial instruments	6.1
Contingent assets & liabilities	6.2

6.1 Financial instruments

The carrying amounts of each of the following categories of financial assets and financial liabilities at the end of the reporting period are:

	2022	2021
	\$	\$
<u>Financial assets</u>		
Cash and cash equivalents	35,714	29,106
Financial assets at amortised cost ^(a)	140	2,268
Total financial assets	35,854	31,374
<u>Financial liabilities</u>		
Financial liabilities measured at amortised cost ^(b)	917	4,836
Total financial liability	917	4,836

a) The amount of financial assets at amortised cost excludes GST recoverable from the ATO (statutory receivable).

b) The amount of financial liabilities at amortised cost excludes GST payable to the ATO (statutory payable).

6.2 Contingent assets and liabilities

Contingent assets and contingent liabilities are not recognised in the Statement of financial position but are disclosed and, if quantifiable, are measured at the best estimate.

Contingent assets and liabilities are presented inclusive of GST receivable or payable respectively.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the Financial Statements
For the year ended 30 June 2022

6.2.1 Contingent assets

The Tribunal is not aware of any contingent assets as at the end of the reporting period.

6.2.2 Contingent liabilities

The Tribunal is not aware of any contingent liabilities as at the end of the reporting period.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the Financial Statements
For the year ended 30 June 2022

7 Other disclosures

This section includes additional material disclosures required by accounting standards or other pronouncements, for the understanding of this financial report.

	Notes
Events occurring after the end of the reporting period	7.1
Key management personnel	7.2
Related party transactions	7.3
Related bodies	7.4
Affiliated bodies	7.5
Remuneration of auditors	7.6

7.1 Events occurring after the end of the reporting period

The Tribunal is not aware of any matters or circumstances that have arisen since the end of the financial year to the date of this report which has significantly affected or may significantly affect the activities of the Tribunal, the results of those activities or the state of affairs of the Tribunal in the ensuing or any subsequent financial year.

7.2 Key management personnel

The Tribunal has determined key management personnel to include cabinet ministers and senior officers of the Tribunal. The Tribunal does not incur expenditures to compensate Ministers and those disclosures may be found in the *Annual Report on State Finances*.

The total fees, salaries, superannuation, non-monetary benefits and other benefits for members and senior officers of the Tribunal for the reporting period are presented within the following bands:

Compensation band of members of the Tribunal

	2022	2021
Compensation band (\$)		
0 – 10,000	8	8
	\$	\$
	<u>22,098</u>	<u>13,947</u>
Total compensation of members of the Tribunal	<u>22,098</u>	<u>13,947</u>

Compensation band of senior officers

	2022	2021
Compensation band (\$)		
0 – 10,000	1	1
	\$	\$
	<u>-</u>	<u>-</u>
Total compensation of senior officers	<u>-</u>	<u>-</u>

Total compensation includes the superannuation expense incurred by the Tribunal in respect of members and senior officers.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the Financial Statements
For the year ended 30 June 2022

7.3 Related party disclosures

The Tribunal is a wholly owned public sector entity that is controlled by the State of Western Australia.

Related parties of the Tribunal include:

- all cabinet ministers and their close family members, and their controlled or jointly controlled entities;
- all senior officers and their close family members, and their controlled or jointly controlled entities;
- other agencies and statutory authorities, including related bodies, that are included in the whole of government consolidated financial statements (i.e. wholly-owned public sector entities);
- associates and joint ventures, of a wholly-owned public sector entity; and
- the Government Employees Superannuation Board (GESB).

Significant transactions with Government-related entities

In conducting its activities, the Tribunal is required to transact with the State and entities related to the State. These transactions are generally based on the standard terms and conditions that apply to all agencies. Such transactions include:

- annual services fees payments to the Department of Local Government, Sport and Cultural Industries for services received (Note 2.2); and
- contribution received from Racing and Wagering Western Australia (Note 3.1); and
- audit fee payments to the Office of the Auditor General (Note 7.6).

Significant transactions with other related entities

- superannuation payments to GESB (Note 2.1).

Material transactions with other related parties

Outside of normal citizen type transactions with the Tribunal, there were no other related party transactions that involved key management personnel and/or their close family members and/or their controlled (or jointly controlled) entities.

7.4 Related bodies

The Tribunal had no related bodies during the financial year.

7.5 Affiliated bodies

The Tribunal had no affiliated bodies during the financial year.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the Financial Statements
For the year ended 30 June 2022

7.6 Remuneration of auditors

Remuneration paid or payable to the Auditor General in respect of the audit for the current financial year is as follows:

	2022	2021
	\$	\$
Auditing the accounts, controls, financial statements and key performance indicators	<u>23,300</u>	<u>22,700</u>
	<u>23,300</u>	<u>22,700</u>

Key performance indicator information

Key Performance Indicator Information

Certification of Key Performance Indicators

We hereby certify that the key performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the performance of the Racing Penalties Appeal Tribunal of Western Australia, and fairly represent the performance of the Racing Penalties Appeal Tribunal of Western Australia for the financial year ended 30 June 2022.



Robert Nash
Chairperson
Racing Penalties Appeal Tribunal of
Western Australia

12 October 2022



Andrew Monisse
Member
Racing Penalties Appeal Tribunal of
Western Australia

12 October 2022

Detailed Information in Support of Key Performance Indicators

Government Goal: Sustainable Finances: Responsible financial management and better service delivery

Desired Outcome: To provide an appeal tribunal in relation to determinations made by racing industry stewards and controlling authorities.

Stays of Proceedings

Under the *Racing Penalties (Appeals) Act 1990* (the Act), an appellant may apply for a suspension of the operation of a penalty at the time of lodging the appeal (a stay). It is essential to the racing codes, trainers, owners and the general public that these stay applications are dealt with expeditiously. These determinations impact directly on the eligibility of riders, drivers and runners to fulfil prior engagements.

The aim and the key performance indicator of the Racing Penalties Appeal Tribunal (the Tribunal) is to determine the applications for stays on the same day as the full and final submissions are received from the parties.

The number of stay applications lodged is lower than the forecast target due to the lower number of appeals lodged for the reporting period.

Key Effectiveness Indicator	2018-19 Actual	2019-20 Actual	2020-21 Actual	2021-22 Target	2021-22 Actual
Total number of stay applications received	2	5	2	4	2
Number of stay applications determined within one day of receipt of all submissions	2	4	2	4	2
Indicator¹	100%	80%	100%	100%	100%

¹ The effectiveness indicator for this activity is derived by dividing the number of stay applications determined within one day of receipt of all submissions by the total number of stay applications received, then multiplying by 100.

Service: To perform functions for the racing industry.

Service Description: To process appeals/stay applications in accordance with statutory obligations.

The Tribunal was established to maintain industry confidence in the enforcement of the various racing rules by providing the industry with an impartial quasi-judicial forum for the hearing of appeals against a determination, or a finding comprised in or related to a determination, of an appropriate controlling authority, of a racing club, or of any committee or stewards.

The Tribunal is responsible for hearing and determining appeals and stay applications against penalties imposed in disciplinary proceedings arising from, or in relation to, the conduct of greyhound racing, horse racing and harness racing.

A person who is aggrieved by a RWWA decision, or a determination made by a steward/stewards or a committee of a racing club, may make an appeal to the Tribunal within 14 days of the decision being handed down.

The Registrar of the Tribunal must ensure that appeals and stay applications are processed in accordance with the *Racing Penalties (Appeals) Act 1990* and the *Racing Penalties (Appeals) Regulations 1991*, whilst providing an effective and efficient service to the racing industry at minimal cost.

The average cost for hearing appeals can change for each reporting year as a result of increases or reductions in the number of matters heard before the Tribunal, combined with annual increases to the total cost of providing services to the Tribunal to conduct its operations.

The reason for the discrepancy between the estimated average cost of processing appeals during the financial year 2021-22 versus the actual cost incurred in processing the appeals is due to the lower number of appeals lodged and heard during the year.

Key Efficiency Indicator	2018-19 Actual	2019-20 Actual	2020-21 Actual	2021-22 Target	2021-22 Actual
Average cost of processing an appeal ²	\$23,710	\$23,425	\$34,417	\$15,471 ³	\$20,605 ⁴

² The average processing cost for each financial year is derived by dividing the total cost of services to the Tribunal by the number of appeals heard.

³ This is based on 2021-22 budgeted cost of services of \$247,536 divided by 16 appeals targeted to be heard.

⁴ This is based on 2021-22 actual cost of services of \$226,652 divided by 11 appeals heard.

Audit opinion



Auditor General

INDEPENDENT AUDITOR'S REPORT

2022

Racing Penalties Appeal Tribunal of Western Australia

To the Parliament of Western Australia

Report on the audit of the financial statements

Opinion

I have audited the financial statements of the Racing Penalties Appeal Tribunal of Western Australia (Tribunal) which comprise:

- the Statement of Financial Position at 30 June 2022, and the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows for the year then ended
- Notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion, the financial statements are:

- based on proper accounts and present fairly, in all material respects, the operating results and cash flows of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 30 June 2022 and the financial position at the end of that period
- in accordance with Australian Accounting Standards (applicable to Tier 2 Entities), the *Financial Management Act 2006* and the Treasurer's Instructions.

Basis for opinion

I conducted my audit in accordance with the Australian Auditing Standards. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my report.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Responsibilities of the Tribunal for the financial statements

The Tribunal is responsible for:

- keeping proper accounts
- preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (applicable to Tier 2 Entities), the *Financial Management Act 2006* and the Treasurer's Instructions
- such internal control as it determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Tribunal is responsible for:

- assessing the entity's ability to continue as a going concern
- disclosing, as applicable, matters related to going concern
- using the going concern basis of accounting unless the Western Australian Government has made policy or funding decisions affecting the continued existence of the Tribunal.

Auditor's responsibilities for the audit of the financial statements

As required by the *Auditor General Act 2006*, my responsibility is to express an opinion on the financial statements. The objectives of my audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.

A further description of my responsibilities for the audit of the financial statements is located on the Auditing and Assurance Standards Board website. This description forms part of my auditor's report and can be found at https://www.auasb.gov.au/auditors_responsibilities/ar4.pdf.

Report on the audit of controls

Opinion

I have undertaken a reasonable assurance engagement on the design and implementation of controls exercised by the Racing Penalties Appeal Tribunal of Western Australia. The controls exercised by the Tribunal are those policies and procedures established to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions (the overall control objectives).

In my opinion, in all material respects, the controls exercised by the Racing Penalties Appeal Tribunal of Western Australia are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities have been in accordance with legislative provisions during the year ended 30 June 2022.

The Tribunal's responsibilities

The Tribunal is responsible for designing, implementing and maintaining controls to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities are in accordance with the *Financial Management Act 2006*, the Treasurer's Instructions and other relevant written law.

Auditor General's responsibilities

As required by the *Auditor General Act 2006*, my responsibility as an assurance practitioner is to express an opinion on the suitability of the design of the controls to achieve the overall control objectives and the implementation of the controls as designed. I conducted my engagement in accordance with Standard on Assurance Engagements ASAE 3150 *Assurance Engagements on Controls* issued by the Australian Auditing and Assurance Standards Board. That standard requires that I comply with relevant ethical requirements and plan and perform my procedures to obtain reasonable assurance about whether, in all material respects, the controls are suitably designed to achieve the overall control objectives and were implemented as designed.

An assurance engagement involves performing procedures to obtain evidence about the suitability of the controls design to achieve the overall control objectives and the implementation of those controls. The procedures selected depend on my judgement, including an assessment of the risks that controls are not suitably designed or implemented as designed. My procedures included testing the implementation of those controls that I consider necessary to achieve the overall control objectives.

I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Limitations of controls

Because of the inherent limitations of any internal control structure, it is possible that, even if the controls are suitably designed and implemented as designed, once in operation, the overall control objectives may not be achieved so that fraud, error or non-compliance with laws and regulations may occur and not be detected. Any projection of the outcome of the evaluation of the suitability of the design of controls to future periods is subject to the risk that the controls may become unsuitable because of changes in conditions.

Report on the audit of the key performance indicators

Opinion

I have undertaken a reasonable assurance engagement on the key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 30 June 2022. The key performance indicators are the Under Treasurer-approved key effectiveness indicators and key efficiency indicators that provide performance information about achieving outcomes and delivering services.

In my opinion, in all material respects, the key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia are relevant and appropriate to assist users to assess the Tribunal's performance and fairly represent indicated performance for the year ended 30 June 2022.

The Tribunal's responsibilities for the key performance indicators

The Tribunal is responsible for the preparation and fair presentation of the key performance indicators in accordance with the Financial Management Act 2006 and the Treasurer's Instructions and for such internal control as the Tribunal determines necessary to enable the preparation of key performance indicators that are free from material misstatement, whether due to fraud or error.

In preparing the key performance indicators, the Tribunal is responsible for identifying key performance indicators that are relevant and appropriate, having regard to their purpose in accordance with Treasurer's Instruction 904 Key Performance *Indicators*.

Auditor General's responsibilities

As required by the *Auditor General Act 2006*, my responsibility as an assurance practitioner is to express an opinion on the key performance indicators. The objectives of my engagement are to obtain reasonable assurance about whether the key performance indicators are relevant and appropriate to assist users to assess the entity's performance and whether the key performance indicators are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. I conducted my engagement in accordance with Standard on Assurance Engagements ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* issued by the Australian Auditing and Assurance Standards Board. That standard requires that I comply with relevant ethical requirements relating to assurance engagements.

An assurance engagement involves performing procedures to obtain evidence about the amounts and disclosures in the key performance indicators. It also involves evaluating the relevance and appropriateness of the key performance indicators against the criteria and guidance in Treasurer's Instruction 904 for measuring the extent of outcome achievement and the efficiency of service delivery. The procedures selected depend on my judgement, including the assessment of the risks of material misstatement of the key performance indicators. In making these risk assessments I obtain an understanding of internal control relevant to the engagement in order to design procedures that are appropriate in the circumstances.

I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

My independence and quality control relating to the reports on controls and key performance indicators

I have complied with the independence requirements of the *Auditor General Act 2006* and the relevant ethical requirements relating to assurance engagements. In accordance with ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements*, the Office of the Auditor General maintains a comprehensive system of quality control including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

Other information

The Tribunal is responsible for the other information. The other information is the information in the entity's annual report for the year ended 30 June 2022, but not the financial statements, key performance indicators and my auditor's report.

My opinions on the financial statements, controls and key performance indicators do not cover the other information and, accordingly, I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, controls and key performance indicators, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and key performance indicators or my knowledge obtained in the audit or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I did not receive the other information prior to the date of this auditor's report. When I do receive it, I will read it and if I conclude that there is a material misstatement in this information, I am required to communicate the matter to those charged with governance and request them to correct the misstated information. If the misstated information is not corrected, I may need to retract this auditor's report and re-issue an amended report.

Matters relating to the electronic publication of the audited financial statements and key performance indicators

This auditor's report relates to the financial statements, and key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 30 June 2022 included in the annual report on the Tribunal's website. The Tribunal's management is responsible for the integrity of the Tribunal's website. This audit does not provide assurance on the integrity of the Tribunal's website. The auditor's report refers only to the financial statements, controls and key performance indicators described above. It does not provide an opinion on any other information which may have been hyperlinked to/from the annual report. If users of the financial statements and key performance indicators are concerned with the inherent risks arising from publication on a website, they are advised to contact the entity to confirm the information contained in the website version.



Nayna Raniga
Director Financial Audit
Delegate of the Auditor General for Western Australia
Perth, Western Australia
13 October 2022

2022-23 Annual budget estimates



Department of
Local Government, Sport
and Cultural Industries

RECEIVED

By Minister Buti at 3:39 pm, Jun 29, 2022

Agency Ref : M22001929
Min Ref : 80-05369
Author : Liam Carren

BRIEFING NOTE FOR THE MINISTER FOR RACING AND GAMING

RACING PENALTIES APPEAL TRIBUNAL – ANNUAL BUDGET ESTIMATES FOR THE 2022-23 FINANCIAL YEAR

Issue

Recommend that the Minister approve the attached annual budget estimates for the Racing Penalties Appeal Tribunal (Tribunal) for the 2022-23 financial year and return to the Department of Local Government, Sport and Cultural Industries (DLGSC).

Background

In accordance with Sections 24(2) of *Racing Penalties (Appeals) Act 1990*, the Racing Penalties Appeal Tribunal (Tribunal) is to submit the estimates of income and expenditure and annual budget estimates for the 2022-23 financial year are submitted for your approval.

This budget is published on the Department of Local Government, Sport and Cultural Industries (DLGSC) website following your approval.

On 14 April 2022, Treasury advised of the requirement for the section 40 Estimates to be provided to Ministers by 29 April 2022. Based on **Attachment 5** of the Treasurer's Direction Under Section 40(1) of the *Financial Management Act 2006*, the Tribunal is exempt from preparing the draft annual estimates for the 2022-23 financial year as the Total Cost of Services is less than ten million dollars for the two most recent consecutive comparative periods as reported in the tabled annual reports.

However, the annual funding from Racing and Wagering Western Australia (RWVA) is to be submitted to the Minister for approval.

Current situation

In 2022-23, the Tribunal is projected to record an estimated total operating income and interest of \$4,100 requiring \$226,788 to be funded by RWVA. Their obligation to fund the operations of the Tribunal is in accordance with Section 106 of the *Racing and Wagering Western Australia Act 2003*.

RWVA has advised that they have no objection to the 2022-23 annual budget estimates.

Key points in relation to the Tribunal's 2022-23 budget estimates are as follows:

Statement of Comprehensive Income (Attachment 1)

Operating expenses

Fees paid to Tribunal members and superannuation expenses of \$47,944 from the 2022-23 Annual Budget is based on 12 appeals and 6 stay on applications as compared with 16 appeals and 4 stay applications in the 2021-22 budget.

The annual fee for services provided by DLGSC remains at \$180,027 for 2022-23.

Other operating expenses of \$26,271 in 2022-23 is mainly due to the budget allocation of \$23,000 for the annual financial audit undertaken by the Office of the Auditor General.

Operating revenues

Funding from RWWA has been budgeted at \$226,788 for the 2022-23 financial year, a decrease of \$8,342 as compared with 2021-22 budget. This is due to the estimated cash balance carried forward from the 2021-22 financial year.

The projected operating incomes from fees and charges is estimated at \$2,900 for 2022-23 based on the appeals application fee of 6 stay of proceedings, 4 Greyhound appeals and 8 Thoroughbred/ Harness appeals.

Statement of Financial Position (Attachment 2)

The estimated cash resources of \$12,712 for the 2022-23 financial year is the 5% working cash limit of the total cost of services.

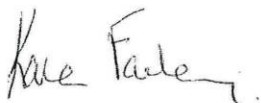
Recommendation/Action

That you approve the Racing Penalties Appeal Tribunal's 2022-23 annual budget estimates and return the signed copy to the Department of Local Government, Sport and Cultural Industries.

Noted

Approved

Not Approved



Karen Farley
Chairperson
28 Oct/2022



Dr Tony Buti MLA
MINISTER FOR RACING AND GAMING
3/7/2022

Attachments

1. Statement of Comprehensive Income 2022-23
2. Statement of Financial Position 2022-23
3. Statement of Cash Flows 2022-23
4. Annual Cash Estimates 2022-23
5. Treasurer s Direction - Annual Estimates
6. Section 24(2) of the *Racing Penalties (Appeals) Act 1990*
7. Section 40 of the *Financial Management Act 2006*

Racing Penalties Appeal Tribunal
Statement of Comprehensive Income
Estimates for the year ending 30 June 2023

	ANNUAL BUDGET 2021-22 \$	ESTIMATED ACTUAL 2021-22 \$	ANNUAL BUDGET 2022-23 \$
COST OF SERVICES			
Operating expenses			
Fee expenses to tribunal members	46,563	19,628	43,388
Superannuation	4,423	1,952	4,556
Services & contracts expense (professional services)	180,027	180,027	180,027
Other operating expenses	16,523	25,560	26,271
Total cost of services	<u>247,536</u>	<u>227,166</u>	<u>254,242</u>
Operating revenues			
Funding from Racing & Wagering WA	235,130	235,130	226,788
Operating income	3,852	2,800	2,900
Interest	1,200	699	1,200
Total operating revenue	<u>240,182</u>	<u>238,629</u>	<u>230,888</u>
Net cost of services	<u>7,354</u>	<u>(11,463)</u>	<u>23,354</u>
CHANGE IN NET ASSETS RESULTING FROM OPERATIONS	(7,354)	11,463	(23,354)
Add Opening balance of accumulated surplus/(deficit)	18,030	27,791	39,254
Closing balance of accumulated surplus/(deficit)	<u>10,676</u>	<u>39,254</u>	<u>15,900</u>

Racing Penalties Appeal Tribunal

Statement of Financial Position

Estimates as at 30 June 2023

	ANNUAL BUDGET 2021-22 \$	ESTIMATED ACTUAL 2021-22 \$	ANNUAL BUDGET 2022-23 \$
CURRENT ASSETS			
Cash resources	12,377	36,066	12,712
GST receivable	1,503	3,003	3,003
Interest receivable	81	185	185
Total current assets	<u>13,961</u>	<u>39,254</u>	<u>15,900</u>
Total assets	<u>13,961</u>	<u>39,254</u>	<u>15,900</u>
CURRENT LIABILITIES			
Accrued tribunal members fees	3,000	0	0
Accrued superannuation	285	0	0
Total current liabilities	<u>3,285</u>	<u>0</u>	<u>0</u>
Total liabilities	<u>3,285</u>	<u>0</u>	<u>0</u>
Net assets	<u>10,676</u>	<u>39,254</u>	<u>15,900</u>
EQUITY			
Accumulated surplus/(deficit)	<u>10,676</u>	<u>39,254</u>	<u>15,900</u>
Total equity/(equity deficit)	<u>10,676</u>	<u>39,254</u>	<u>15,900</u>

Racing Penalties Appeal Tribunal

Statement of Cash Flows


Estimates for the year ending 30 June 2023

	ANNUAL BUDGET 2021-22 \$	ESTIMATED ACTUAL 2021-22 \$	ANNUAL BUDGET 2022-23 \$
	Inflows (Outflows)	Inflows (Outflows)	Inflows (Outflows)
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Payments to tribunal members	(46,563)	(21,765)	(43,388)
Superannuation payments to GESB	(4,423)	(2,176)	(4,556)
Payments to DLGSC	(180,027)	(180,027)	(180,027)
Other payments	(16,523)	(25,811)	(26,271)
GST paid on purchases	0	(15,929)	0
GST paid to Taxation Authority	0	(23,544)	0
Receipts			
Receipts from customers	3,852	2,550	2,900
Funding from RWWA	235,130	235,130	226,788
Interest received	1,200	556	1,200
GST receipts on sales	0	23,523	0
GST received from Tax Authority	0	14,452	0
Net cash provided by/(used in) operating activities	<u>(7,354)</u>	<u>6,959</u>	<u>(23,354)</u>
Cash at the beginning of the reporting period	<u>19,731</u>	<u>29,106</u>	<u>36,066</u>
Cash at the end of the reporting period	<u><u>12,377</u></u>	<u><u>36,066</u></u>	<u><u>12,712</u></u>

RACING PENALTIES APPEAL TRIBUNAL**CASH ESTIMATES 2022/2023**

DESCRIPTION	2021/2022 ANNUAL BUDGET	2021/2022 ESTIMATED ACTUAL	2022/2023 ANNUAL BUDGET
COSTS INCURRED BY TRIBUNAL DIRECTLY			
Members' Fees	\$46,563	\$21,765	\$43,388
Members' Superannuation	\$4,423	\$2,176	\$4,556
Members' Travel Costs	\$2,000	\$0	\$400
Audit Fees	\$11,673	\$22,700	\$23,000
Other Expenses (Web Development, Security, Library Acquisitions, Transcription Costs, Bank Charges)	\$2,850	\$3,111	\$2,871
TOTAL COSTS INCURRED BY TRIBUNAL DIRECTLY	\$67,509	\$49,752	\$74,215
COSTS INCURRED DIRECT TO DLGSC			
Services Provided by DLGSC	\$180,027	\$180,027	\$180,027
TOTAL COSTS INCURRED DIRECT TO DLGSC	\$180,027	\$180,027	\$180,027
ANNUAL COST FOR TRIBUNAL	\$247,536	\$229,779	\$254,242
LESS TRIBUNAL REVENUE			
Opening Balance	\$19,731	\$29,106	\$36,066
Funding from RWVA	\$235,130	\$235,130	\$226,788
Appeal Fees	\$3,652	\$2,350	\$2,600
Stay of Proceedings Fees	\$200	\$200	\$300
GST Payment to ATO	\$0	(\$1,498)	\$0
Interest	\$1,200	\$556	\$1,200
Transcription Fees	\$0	\$0	\$0
Other Revenue	\$0	\$0	\$0
TOTAL TRIBUNAL REVENUE	\$259,913	\$265,844	\$266,954
BALANCE OF TRIBUNAL	\$12,377	\$36,066	\$12,712

APPROVED:



 CHAIRPERSON

28/6/22

 DATE

ATTACHMENT 1

FINANCIAL MANAGEMENT ACT 2006 (FMA)
TREASURER'S DIRECTION UNDER SECTION 40(1) OF THE FMA

I hereby direct that the accountable authority of an agency described in any of the paragraphs below is not required to prepare draft annual estimates of the financial operations of the agency under section 40 of the FMA with respect to the 2022-23 financial year or any subsequent financial year.

- (a) An agency that is separately identifiable in a single Division of Budget Paper No 2 'Agency Information in Support of the Estimates'.
- (b) A statutory authority that is required to prepare and table in Parliament a statement of corporate intent under its enabling legislation.
- (c) An agency whose Total Cost of Services is less than ten million dollars for the two most recent consecutive comparative periods as reported in its tabled annual report.
- (d) An agency whose audit has been dispensed with under section 14(2) of the *Auditor General Act 2006*.
- (e) A statutory authority that is not consolidated into the financial statements of the Government of Western Australia for the purposes of whole-of-government reporting.



Mark McGowan MLA
TREASURER

Date: 16 MAR 2022

Racing Penalties (Appeals) Act 1990
Miscellaneous **Part 3**

s. 24

admitted as a true copy of the record of that determination; and

- (b) judicial notice shall be taken of the signature of the Registrar on such a document.
- (2) Where a determination of the Tribunal requires the payment of any money, the Registrar shall, upon application by a party to the proceedings in which the determination was made or a person claiming through or under such a party, issue a certified copy of the record of that determination.
- (3) The certified copy of the record of the determination may be lodged with the Magistrates Court in accordance with the court's rules of court (which may provide for the payment of a lodging fee), for registration and when registered by the court may be enforced as if it were a judgment of the court.

[Section 23 amended by No. 59 of 2004 s. 142.]

24. Finance and audit

- (1) The funds available to the Tribunal to enable it to perform its functions are —
 - (a) moneys from time to time appropriated by Parliament; and
 - (b) moneys derived from the performance of its functions; and
 - (c) moneys payable in accordance with subsection (4); and
 - (d) other moneys made available to the Tribunal or to which it becomes entitled.
- (2) The Registrar, before the end of each financial year, shall —
 - (a) make an estimate of the total anticipated cost of the operations of the Tribunal for the ensuing financial year of the Tribunal; and
 - (b) submit that estimate, adjusted in accordance with subsection (3), to the Minister for approval.

Racing Penalties (Appeals) Act 1990**Part 3** Miscellaneous**s. 24**

- (3) The estimate submitted under subsection (2)(b) shall be adjusted —
- (a) to include the amount, if any, by which the amount paid by RWWA under subsection (4) in respect of the previous financial year, fell short of the actual total cost of the operations of the Tribunal for that financial year; or
 - (b) to exclude the amount, if any, by which the amount paid by RWWA under subsection (4) in respect of the previous financial year, exceeded the actual total cost of the operations of the Tribunal for that financial year,

as the case requires.

- (4) The amount representing the estimate approved by the Minister under subsection (2) shall be —
- (a) deducted by RWWA from the moneys that, but for section 105(1)(h) or 106(1)(h) of the RWWA Act, would otherwise be available to be paid or credited to racing clubs by RWWA under section 105 or 106 of the RWWA Act; and
 - (b) paid by RWWA to the Tribunal.

[(5)-(7) deleted]

- (8) One or more accounts are to be established in respect of the funds of the Tribunal —
- (a) as agency special purpose accounts under section 16 of the *Financial Management Act 2006*; or
 - (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act,

to which all amounts received by the Tribunal are to be credited and all expenditure charged.

- (9) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial

Financial Management Act 2006
Funds management **Part 3**
Annual estimates of statutory authorities **Division 4**
s. 40

- (a) subject to another written law concerning the investment of particular money; but
- (b) despite another written law requiring money to be held in a particular bank account.

Division 4 — Annual estimates of statutory authorities

40. Accountable authorities of statutory authorities to prepare and submit annual estimates

- (1) Unless otherwise directed in writing by the Treasurer, the accountable authority of a statutory authority is to prepare annual estimates of the financial operations of the statutory authority (the **annual estimates**) in the manner prescribed by **the Treasurer's instructions**.
- (2) The accountable authority is to submit the annual estimates to the Minister for approval at the time determined by the **Treasurer and in the manner prescribed by the Treasurer's instructions**.
- (3) The Minister may —
 - (a) approve the annual estimates; or
 - (b) reject them and require the accountable authority to prepare and submit for approval amended annual estimates within the period that the Minister directs.
- (4) Subsection (3) also applies to amended annual estimates submitted under that subsection.

Division 5 — Resource agreements

41. Accountable authorities to submit draft resource agreements

- (1) If directed in writing by the Treasurer to do so in respect of a financial year of the agency, the accountable authority of an agency is to submit a draft resource agreement for the agency to the Treasurer for his or her agreement.

Significant Issues and Trends Impacting the Tribunal

Changes in written law

There were no amendments to the Act during the reporting period.

Likely developments and forecast results of operations

It is expected that the workload of the Racing Penalties Appeal Tribunal for 2022-23 will remain steady.

Statutory, governance and legal requirements

Unauthorised use of credit cards

There have been no identified instances of unauthorised use of corporate credit cards.

Advertising, market research, polling and direct mail

Section 175ZE of the *Electoral Act 1907* requires public agencies to report details of expenditure to organisations providing services in relation to advertising, market research, polling, direct mail and media advertising.

The Tribunal incurred the following expenditure in 2021-22:

Expenditure	Organisation	Amount (\$)	Total (\$)
Advertising	Government Gazette	\$363.60	\$363.60
Grand total			\$363.60

Other legal, statutory and governance requirements

The Tribunal meets its requirements through arrangements with the DLGSC. The DLGSC's annual report contains information on how the following requirements are met:

- Disability access and inclusion plan outcomes.
- Compliance with public sector standards and ethical codes.
- Recordkeeping plans.
- Employment and industrial relations.
- Staff development.
- Workers' compensation.
- Occupational safety, health and injury management.
- WA multicultural policy framework.
- Substantive equality.

Remuneration of members

Chairperson

The Chairperson is entitled to a remuneration of \$225.75 per hour for hearings/meetings.

Plus:

\$126 per hour for preparation time (i.e., 1 hour per day of hearing).

\$126 per hour for decision writing time (i.e., 2 hours for up to 1 day of hearing).

Members

The members are entitled to payment of:

\$494 per half day for hearings/meetings (under 4 hours); or

\$756 per day for hearings/meetings (for over 4 hours).

Plus:

\$105 per hour for preparation time (i.e., 1 hour per day of hearing).

\$105 per hour for decision writing time (i.e., 2 hours for up to 1 day of hearing).

During the reporting period, the following remuneration figures applied to Tribunal members.

Position title	Member name	Type of remuneration	Period of membership		Base salary/ sitting fees	Gross/actual remuneration for 2021-22
Chairperson	Karen Farley SC	Sitting fees plus preparation and decision writing time	1/7/2021	30/6/2022	\$225.75 per hour, plus preparation and decision writing time	\$5,163
Member	Patrick Hogan	Sitting fees plus preparation and decision writing time	1/7/2021	12/5/2022	\$494 per half day, or \$756 per day, plus preparation and decision writing time	\$4,381
Member	Andrew Monisse	Sitting fees plus preparation and decision writing time	1/7/2021	30/6/2022	\$494 per half day, or \$756 per day, plus preparation and decision writing time	\$2,763
Member	Robert Nash	Sitting fees plus preparation and decision writing time	1/7/2021	30/6/2022	\$494 per half day, or \$756 per day, plus preparation and decision writing time	\$599
Member	Johanna Overmars	Sitting fees plus preparation and decision writing time	1/7/2021	30/6/2022	\$494 per half day, or \$756 per day, plus preparation and decision writing time	\$5,932
Member	Brenda Robbins	Sitting fees plus preparation and decision writing time	1/7/2021	30/6/2022	\$494 per half day, or \$756 per day, plus preparation and decision writing time	\$2,606
Member	Emma Power	Sitting fees plus preparation and decision writing time	1/7/2021	30/9/2021	\$494 per half day, or \$756 per day, plus preparation and decision writing time	Nil
Member	Zoe Gilders	Sitting fees plus preparation and decision writing time	1/7/2021	31/12/2021	\$494 per half day, or \$756 per day, plus preparation and decision writing time	Nil
					Total	\$21,444

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Availability in other formats

This publication can be made available in alternative formats. The report is available in PDF format at [Racing Penalties Appeal Tribunal](#).

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