



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

Racing Penalties Appeal Tribunal

2019-20 Annual Report



Table of Contents

Contacts.....	3
Statement of Compliance.....	4
Overview of Tribunal.....	5
Executive Summary.....	5
Operational Structure	6
Performance Management Framework.....	11
Report on Operations.....	12
Examples of Appeals Before the Tribunal.....	17
Disclosures and Legal Compliance.....	19
Financial Statements	19
Key Performance Indicator Information	30
Other Legal and Government Policy Requirements.....	43
Significant Issues and Trends Impacting the Tribunal	44
Governance Disclosures.....	44

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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 www.rpat.wa.gov.au.

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Statement of Compliance

Hon. Paul Papalia CSC, 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 2020.

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



Karen Farley SC
Chairperson

17 September 2020

Overview of Tribunal

Executive Summary

It is with pleasure that I present the Annual Report of the Racing Penalties Appeal Tribunal for the year ended 30 June 2020.

During the year, one appeal was carried over from the previous reporting period, and 12 new appeals were lodged with the Tribunal. Of these, 10 were determined and three were carried over into the next financial year. All appeal determinations can be viewed at www.rpat.wa.gov.au

The Tribunal was not immune to the effects of the COVID-19 and the restrictions in place across Western Australia. Hearings were conducted via teleconference during this period.

I take this opportunity to thank Tribunal 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, in particular for our competent registrars, and the Supreme Court of Western Australia for permitting the Tribunal to use its facilities. It would not be possible for the Tribunal to conduct its activities without this invaluable support.



Karen Farley SC
Chairperson

Operational Structure

Enabling Legislation

The Racing Penalties Appeal Tribunal is established under the *Racing Penalties (Appeals) Act 1990*. 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.

Purpose of the Tribunal

The aim of the *Racing Penalties (Appeals) Act 1990* 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. The Department recoups the cost of providing these services from the Tribunal. The Tribunal is funded from the profits of Racing and Wagering Western Australia (RWWA).

Responsible Minister

As at 30 June 2020, the Minister responsible for the Racing and Gaming Portfolio was the Honourable Paul Papalia CSC, MLA, Minister for Racing and Gaming.

Appeals Which may be Heard by the Tribunal

A person who is aggrieved by a determination of RWWA, 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 RWWA.

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.

Administered Legislation

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

Other Key Legislation Impacting on the Tribunal's 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.*

Administrative Structure

Sections 5 and 6 of the *Racing Penalties (Appeals) Act 1990* 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 2020, the Racing Penalties Appeal Tribunal consisted of eight members, namely:

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 WA. 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 Hildas ASG 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.

Patrick Hogan

Mr Patrick Hogan is a barrister admitted to the Supreme Court of Western Australia and the High Court of Australia in June 1982. Mr Hogan worked as a barrister and solicitor with the Legal Aid Commission of Western Australia, practising in civil and criminal law, then in private practice as a barrister with Howard Chambers. Mr Hogan was appointed as a part-time Magistrate of the Children's Court of Western Australia in September 1999 and President of the Gender Reassignment Board of Western Australia in 2007.

Robert Nash

Mr Robert Nash is a barrister admitted as a Practitioner of the Supreme Court of WA and the High Court of Australia, and also is 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 and Director of Bauxite Resources Ltd, Director of North West Property Holdings Pty Ltd, Director of The Mandalay Projects Limited, Chairman of the WA Soccer Disciplinary Tribunal, Council

Member of the Law Society of WA, Convenor Education Committee of Law Society, Counsel Assisting the Royal Commission into the City of Wanneroo, Member of the Professional Conduct Committee and Ethics Committee of the Law Society, Head of the WA Legal Panel of the Royal Australian Navy, resident tutor in law at St George's College, Council Member of WA Bar Association Council, and Director WA Bar Chambers Ltd.

Andrew Monisse

Mr Andrew Monisse has served as member of the Racing Penalties Appeal Tribunal of Western Australia since February 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 April 1997 he commenced serving in the ADF as a member of the Perth Legal Panel of the RAAF Specialist Reserve, and since September 2006 has held the rank of Squadron Leader. In July 2000 Mr Monisse commenced his practice as a barrister, where he has since October 2000 been a member of the WA Bar Association. Mr Monisse practises predominantly in Criminal Law at Quarry Chambers.

Brenda Robbins

Ms Brenda Robbins practices as a Barrister and mediator at Sir Clifford Grant Chambers in a variety of areas of law. Prior to her legal career she held a number of senior executive positions, including as CEO 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 and a Trustee of the Scholarships Trust of Graduate Women WA Inc. She 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 Fellow of the Australian Institute of Management and a Fellow of the AICD.

Emma Power

Ms Emma Power graduated with a Law degree from Murdoch University in 2004 and has been working predominately in property, development, corporate and commercial law since that time. Prior to studying law, she was a secondary school teacher teaching visual arts. In 2017, Ms Power became the principal of the private law practice Power Commercial Law. She is also a member of the Local Government Standards Panel and the Liquor Commission.

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. Ms Overmars is a horse owner, who has studied horsemanship for many years. She previously undertook volunteer work with a horse rescue organisation.

Zoe Gilders

Ms Zoe Gilders was appointed to the Tribunal in July 2019. She graduated with a Bachelor of Laws from Victoria University in 2005 and has a Graduate Diploma of Professional Legal Practice from the College of Law. She was admitted to the Supreme Court of Victoria in 2010 and the Supreme Court of Western Australia in 2016.

Ms Gilders is currently a sole legal practitioner practising in the area of criminal law. Her previous legal experience includes working at the Aboriginal Legal Service of WA, Her Majesty's Revenue and Customs in the United Kingdom, Victoria Legal Aid and Isabelle Harrison Barrister & Solicitor

Performance 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 goal 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 2019-20.

Shared Responsibilities with Other Agencies

The Tribunal did not share any responsibilities with other agencies in 2019-20.

Report on Operations

Actual Results versus Budget Targets

Financial Targets	Target (\$)	Actual (\$)	Variation (\$)
Total cost of services (expense limit) (sourced from Statement of Comprehensive Income)	258,330	210,824	(47,506)
Net cost of services (sourced from Statement of Comprehensive Income)	226,700	190,474	(36,226)
Total equity (sourced from Statement of Financial Position)	10,943	76,694	65,751
Net increase (decrease) in cash held (sourced from Statement of Cash Flows)	(226,700)	(172,483)	(54,217)
Approved salary expense level*	0	0	0

* Executive support for the Tribunal is provided by the Department of Local Government, Sport and Cultural Industries.

The table below provides a summary of key performance indicators for 2019-20. A detailed explanation is provided later in the report.

Summary of Key Performance Indicators	Target	Actual	Variation
Total number of stay applications received	7	5	2
Number of stay applications determined as per KPI	7	4	3
Average cost of processing an appeal	\$18,452	\$23,425	\$4,973

Performance Summary for 2019-20

During the year, one appeal was carried over from 2018-19 and 12 new appeals were lodged with the Tribunal. As at 30 June 2020, the Tribunal had determined 10 appeals, including one from the previous year, with only three appeals being carried over to 2020-21. These appeals, together with appeals from the previous year, are summarised by racing code:

Racing Code	Appeals carried over from 2018-19	Appeals Lodged	Appeals Determined	Appeals carried over to 2020-21
Thoroughbred	1	2	3	0
Harness	0	6	4	2
Greyhound	0	4	3	1
TOTAL	1	12	10	3

The results of the determinations in respect of the racing codes for the year 2019-20 are summarised below.

Results	Thoroughbred	Harness	Greyhound
Allowed in Full	0	0	0
Allowed in Part (Penalty Reduced)	2	1	0
Referred Back to Stewards (RWWA)	0	1	0
Dismissed	0	0	2
Withdrawn/not progressed	1	1	0
Leave to Appeal Refused	0	1	1
Total	3	4	3

Appeals Carried Over to 2020-21	Thoroughbred	Harness	Greyhound
Reserved Decision	0	2	1
Reserved Decision on penalty only	0	0	0
Reasons to be published	0	0	0
Yet to be heard	0	0	0
Total	0	2	1

Stays of Proceedings

In 2019-20, there were four applications for stays of proceedings. The Chairperson or the presiding member made the determinations as follows:

Stays of Proceedings 2019-20			
Results	Thoroughbred	Harness	Greyhound
Stays Granted	1	2	0
Stays Refused	0	0	1
Withdrawn	0	1	0
Total	1	3	1

The following table provides a summary of the number, nature and outcome of matters before the Tribunal during 2019-20. Full determinations are available on the Tribunal's website at www.rpat.wa.gov.au

Applications Lodged, Heard and Determined in 2019-20					
Case No.	Name	Nature of Appeal	Hearing Date	Determination Date	Outcome
823	Frank Maynard	Appeal against a disqualification period of 18 months for breach of Rule 178 of the Rules of Thoroughbred Racing	8/3/2019 and 10/4/2019	6/9/2019	Appeal allowed; penalty varied
826	Christopher Parnham	Appeal against a 23 days suspension for breach of Rule 137A of the Australian Rules of Thoroughbred Racing; and award of costs and refund of lodgement fee	10/9/2019	23/9/2019 for the appeal; 18/10/2020 for award of costs	Appeal allowed; penalty varied; appeal fee refunded
828	Mark Reed	Appeal against a three weeks suspension for breach of Rule 149(2) of the Australian Rules of Harness Racing	19/9/2019	19/9/2019	Matter referred back to RWWA Stewards
829	Julie Clements	Appeal against the imposition of a total of \$4,300 in fines and the disqualification of MODERN NEWS for breaches of AR140 and AR240(2) of the Australian Rules of Harness Racing	Not Applicable	Not Applicable	Application withdrawn; application fee forfeited
830	Sytka Pty Ltd, KJ Jeavons and HS King	Application for leave to appeal the decision to relegate SHOCKWAVE from first to second place in the Race 5 meeting at Gloucester Park pursuant to Rule 153 of the RWWA Rules of Harness Racing	13/2/2020	12/3/2020	Appeal dismissed

Applications Lodged, Heard and Determined in 2019-20					
Case No.	Name	Nature of Appeal	Hearing Date	Determination Date	Outcome
831	Cosi Dagostino	Appeal against a total disqualification period of 16 months for breaches of Rule 83(2)(a) and 86(d) of the Rules of Greyhound Racing	20/2/2020	4/5/2020	Appeal against conviction dismissed; by majority decision, appeal against penalty dismissed
832	Robert Westworth	Appeal against a disqualification period of two years for breach of Rule 83(2)(c) of the Rules of Greyhound Racing	12/3/2020	15/5/2020	Appeal against conviction dismissed; by majority decision, appeal against penalty dismissed
834	David Hobby	Application for leave to appeal against a determination to place SPRITE MONELLI on a satisfactory field trial for breach of Rule 71 of the Rules of Greyhound Racing	12/3/2020	12/3/2020	Appeal dismissed
835	Jocelyn Young	Appeal against a 21 days suspension for breach of Rule 149(2) of the Rules of Harness Racing	14/5/2020	14/5/2020	Appeal against determination dismissed; appeal against penalty allowed and penalty varied
836	Gary Hall Jnr	Appeal against a two weeks suspension for breach of Rule 168(1)(e) of the Rules of Harness Racing	Not Applicable	Not Applicable	Application withdrawn; application fee refunded

Examples of Appeals Before the Tribunal

The Tribunal heard a number of appeals throughout the course of the reporting period. Below are some examples of the types of matters which come before the Tribunal.

APPEAL NO 826 – CHRISTOPHER JAMES PARNHAM

This was an appeal against penalty. It was the second appeal arising out of an incident that occurred during race 7 of the Bull and Bush Tavern Cup at Bunbury on 24 March 2019, when at the 400 metre mark BURGER TIME, ridden by jockey Clinton Johnston-Porter, fell, dislodging him in the process.

On 3 April 2019, the Appellant was found guilty of an offence of careless riding, contrary to Rule AR 131(a) of the Rules of Thoroughbred Racing.

The Stewards determined that the fall was caused by the actions of the Appellant and imposed a 23 days suspension.

The Appellant appealed against the finding of guilty, and against the penalty.

On 26 June 19, the Tribunal dismissed the appeal against the finding of guilty and allowed the appeal against penalty (see Appeal No 825). The Tribunal determined that the level of interference was low and therefore the Appellant was not to be punished for the consequences of his riding. The Tribunal remitted the matter of penalty to the Stewards for reconsideration.

The Stewards convened again on 16 July 2019 in order to reconsider the penalty. The Stewards' decision was notified to the Appellant by reasons attached to a letter dated 6 August 2019. The Stewards again imposed a penalty of 23 days suspension from riding.

The grounds of this appeal were:

- The Stewards erred by failing to conduct a rehearing in accordance with the findings of fact made by the Tribunal.
- The Stewards erred by imposing a penalty was based on findings of fact contrary of those made by the Tribunal in allowing the appeal.

Imposing a penalty involves exercising a discretion. In this case, part of the discretion was taken away from the Stewards by the direction of the Tribunal to the Stewards to take into account that the level of interference was not high. Contrary to that direction, the Stewards found that the level was high. That finding was a significant part of the Stewards' consideration in assessing the penalty again at 23 days.

Having found that the sentencing discretion miscarried, the Tribunal ordered that the penalty of 23 days suspension be set aside and, in lieu thereof, imposed a penalty of 7 days suspension.

APPEAL NO 827 – APPLICATION FOR LEAVE TO APPEAL - SYTKA PTY LTD, KJ JEAVONS AND HS KING

Following the running of Race 5 at Gloucester Park on Friday 29 November 2019 (the Simmonds Steel 4YO Classic), the trainer of the second finisher SANGUE REALE, Mr Michael Brennan, lodged a protest against the winner, SHOCKWAVE. The official margin between first and second place getters was half a head. The race was a major race as the difference in prizemoney between first and second was \$60,000.

The protest hearing was held in the Stewards Room at Gloucester Park after the running of the race. At the conclusion of the hearing and having heard from Mr Voak and Mr De Campo (the reinsmen of SANGUE REALE and SHOCKWAVE respectively), Mr Brennan and Mr Jeavons (part owner of SHOCKWAVE), Stewards adjourned the hearing to consider the matter.

Upon resumption, the protest was upheld with the effect that SANGUE REALE was declared the winner of the race.

On 13 December 2019, the Applicants lodged a Notice of Application for Leave to Appeal in relation to the Stewards decision to uphold the protest of 29 November and to relegate SHOCKWAVE from first to second place in the fifth race of that meeting, pursuant to Rule 153 of the RWWA Rules of Harness Racing.

The application for leave was heard by the chairperson on 13 February 2020.

Counsel for the Applicants played video footage of the race from various angles to suggest that there was no evidence of any interference of SANGUE REALE in the home straight, or any interference caused to that horse by SHOCKWAVE. The video did not show that SANGUE REALE was obviously pulled up, that there was any collision or contact between the two pacers or their sulkies, or that Mr Voak was forced to restrain his horse. In fact, both horses appear to be being driven vigorously. There was however clear vision of both horses drifting out across the track, with SHOCKWAVE on the inside of that drift.

He argued that the decision of the Stewards in this matter was clearly vitiated by error of fact and that in those circumstances the public interest would indicate that the Tribunal should interfere and not allow the error to stand.

The Stewards tendered two still photos at the hearing which show Mr Voak leaning to the right in his sulky and pulling on his right rein. In his evidence to the Stewards, Mr Voak states:

“...see I’ve had to take my horse just on the right rein otherwise I’d risk locking stays with Mr De Campo. Now if Mr De Campo had of corrected his horse here that results in a momentum loss of his horse. No momentum loss of my horse. It could’ve been us by a neck, you know?”

Protest must be decided on quickly and urgently for the sake of all parties involved, and for those betting on the outcome of the race. The finishing order and therefore the dividends payable need to be finished as soon as possible following a protest being lodged at the end of the race.

The application for leave to appeal was refused.

APPEAL NO 832 - ROBERT ALAN WESTWORTH

An appeal was lodged against conviction and penalty by Mr Westworth, a registered greyhound trainer and owner of MISS BONDI which competed in Race 10 at Mandurah Greyhounds on 23 April 2019. A post-race urine sample was taken and amphetamine was detected in the sample. Mr Westworth was disqualified for two years for a breach of Rule 83(2)(c) of the Rules of Greyhound Racing.

At the hearing of the appeal, the counsel for the Appellant informed the Tribunal that the Appellant wished to advance the argument that the penalty imposed by the Stewards of two years disqualification was in all the circumstances manifestly excessive.

The Appellant's position was to concede that amphetamine had been found in the urine sample. He conceded as well that the urine sample came from the greyhound. However, he argued that did not mean that amphetamine had been in the greyhound's urine before it excreted the urine. On the Appellant's case, the only time the amphetamine could have got into the sample was the time after the urine was excreted into the collection pan, and before it was put into the sample bottle.

The Appellant argued that because there was no testing for metabolites, then there was no ability for him to prove that none were found and therefore there was no opportunity for him to demonstrate that the amphetamine had not passed through the greyhound and therefore no opportunity for him to prove that he was not guilty.

The Stewards concluded that the Appellant's suggestion of environmental contamination was unlikely. Further, the Rules do not require metabolites to be found in order to establish an offence. Even if they were specifically tested for but not detected, that did not prove that the offending substance must have entered the urine after it had been excreted.

By a unanimous decision of the members of the Tribunal, the appeal against conviction was dismissed. By a majority decision of the Tribunal, the appeal against penalty was dismissed.

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.

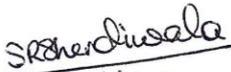
Racing Penalties Appeal Tribunal

Certification of financial statements

For the reporting period ended 30 June 2020

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 2020 and the financial position as at 30 June 2020.

At the date of signing, we are not aware of any circumstances which would render the particulars included in the Financial Statements misleading or inaccurate.



Shanaeya Sherdiwala
Director and Portfolio Chief Financial
Officer

7 September 2020



Karen Farley SC
Chairperson

Racing Penalties Appeal Tribunal of
Western Australia

7 September 2020



Patrick Hogan
Member

Racing Penalties Appeal Tribunal of
Western Australia

7 September 2020



Racing Penalties Appeal Tribunal

Statement of comprehensive income

For the year ended 30 June 2020

	Notes	2020 \$	2019 \$
COST OF SERVICES			
Expenses			
Tribunal members' expenses	2.1	17,228	20,481
Supplies and services	2.2	<u>193,596</u>	<u>192,913</u>
Total cost of services		<u>210,824</u>	<u>213,394</u>
Revenue and Income			
User charges and fees	3.1	18,680	1,928
Interest revenue	3.2	<u>1,670</u>	<u>8,612</u>
Total revenue		<u>20,350</u>	<u>10,540</u>
NET COST OF SERVICES		<u>190,474</u>	<u>202,854</u>
SURPLUS/(DEFICIT) FOR THE PERIOD		<u>(190,474)</u>	<u>(202,854)</u>
TOTAL COMPREHENSIVE INCOME FOR THE PERIOD		<u>(190,474)</u>	<u>(202,854)</u>

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



Racing Penalties Appeal Tribunal

Statement of financial position

As at 30 June 2020

	Notes	2020 \$	2019 \$
ASSETS			
Current Assets			
Cash and cash equivalents	5.1	75,842	248,325
Receivables	4.1	1,640	21,789
Total Current Assets		77,482	270,114
TOTAL ASSETS		77,482	270,114
LIABILITIES			
Current Liabilities			
Payables	4.2	-	2,558
Contract liabilities	4.3	788	-
Total Current Liabilities		788	2,558
TOTAL LIABILITIES		788	2,558
NET ASSETS		76,694	267,556
EQUITY			
Accumulated surplus/(deficit)	7.8	76,694	267,556
TOTAL EQUITY		76,694	267,556

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



Racing Penalties Appeal Tribunal

Statement of changes in equity

For the year ended 30 June 2020

	Notes	Accumulated surplus/ (deficit) \$	Total equity \$
Balance at 1 July 2018	7.8	470,410	470,410
Surplus/(deficit)	7.8	(202,854)	(202,854)
Total comprehensive income for the period		<u>(202,854)</u>	<u>(202,854)</u>
Balance at 30 June 2019		<u>267,556</u>	<u>267,556</u>
Balance at 1 July 2019		267,556	267,556
Initial application of AASB 15	7.8	(388)	(388)
Restated balance at 1 July 2019		<u>267,168</u>	<u>267,168</u>
Surplus/(deficit)	7.8	(190,474)	(190,474)
Total comprehensive income for the period		<u>(190,474)</u>	<u>(190,474)</u>
Balance at 30 June 2020	7.8	<u>76,694</u>	<u>76,694</u>

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

Racing Penalties Appeal Tribunal

Statement of cash flows

For the year ended 30 June 2020

	Notes	2020 \$	2019 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Tribunal members' expenses		(19,786)	(27,081)
Supplies and services		(193,596)	(211,601)
GST paid on purchases		(19,332)	(19,278)
GST payments to taxation authority		(1,556)	(1)
Receipts			
User charges and fees		19,463	1,545
Interest received		2,778	9,984
GST receipts on sales		19,338	-
GST receipts from taxation authority		1,554	19,352
Other receipts		18,654	-
Net cash provided by/(used in) operating activities		(172,483)	(227,080)
Net increase/(decrease) in cash and cash equivalents		(172,483)	(227,080)
Cash and cash equivalents at the beginning of the period		248,325	475,405
CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD	5.1	75,842	248,325

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

Racing Penalties Appeal Tribunal

Notes to the financial statements

For the year ended 30 June 2020

1. Basis of preparation

The Racing Penalties Appeal Tribunal (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 7 September 2020.

Statement of compliance

These general purpose financial statements have been prepared in accordance with:

- 1) The *Financial Management Act 2006 (FMA)*
- 2) The Treasurer's Instructions (TIs)
- 3) Australian Accounting Standards (AASs) - Reduced Disclosure Requirements
- 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.

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 by the Department of Local Government, Sports and Cultural Industries

The Department of Local Government, Sports and Cultural Industries ("DLGSC") provides support to the Racing Penalties Appeal Tribunal to enable 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.

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	2020	2019
		\$	\$
Tribunal members' expenses	2.1	17,228	20,481
Supplies and services	2.2	193,596	192,913

2.1 Tribunal members' expenses

	2020	2019
	\$	\$
Board fees	15,733	18,708
Superannuation - defined contribution plans	1,495	1,773
Total Tribunal members' expenses	17,228	20,481

Superannuation: 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 GESBs, or other superannuation funds.

2.2 Supplies and services

	2020	2019
	\$	\$
Professional Services	180,027	180,027
External Audit Fees	12,973	11,500
Other	596	1,386
Total supplies and services expenses	193,596	192,913

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.

Other operating expenses generally represent the day-to-day running costs incurred in normal operations.

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	2020 \$	2019 \$
User charges and fees	3.1	18,680	1,928
Interest revenue	3.2	1,670	8,612

3.1 User charges and fees

	2020 \$	2019 \$
User charges and fees		
- Stay of Proceedings	302	76
- Appeal Fees	2,648	1,852
- Contribution from RWWA	15,730	-
	18,680	1,928

Until 30 June 2019, revenue was recognised and measured at the fair value of consideration received or receivable.

From 1 July 2019, 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. Stay Applications are typically determined within one working day of receiving the submission.

Revenue is recognised for appeal fees (appeal against penalties imposed in disciplinary proceedings) in relation to greyhound and harness racing at a point-in-time. The Tribunal satisfies their obligation when the appeal is determined and revenue is then recognised.

Revenue is recognised at a point-in-time for contributions from RWWA. The agreement between the Tribunal and RWWA contains no obligation to provide any service to RWWA 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 Interest Revenue

	2020 \$	2019 \$
Interest revenue from Commonwealth Bank of Australia	1,670	8,612
	1,670	8,612

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	2020 \$	2019 \$
Receivables	4.1	1,640	21,789
Payables	4.2	-	2,558
Contract liabilities	4.3	788	-

4.1 Receivables

	2020 \$	2019 \$
<u>Current</u>		
Interest receivable	134	1,243
Other receivable	-	19,037
GST receivable	1,506	1,509
Total current	1,640	21,789
Total receivables	1,640	21,789

Receivables are recognised at original invoice amount less any allowances for uncollectible amounts (i.e. impairment). The carrying amount of net trade receivables is equivalent to fair value as it is due for settlement within 30 days.

4.2 Payables

	2020 \$	2019 \$
<u>Current</u>		
Other payables	-	2,558
Total current	-	2,558
Balance at end of period	-	2,558

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 is generally within 30 days.

4.3 Contract liabilities

	2020	2019
	\$	\$
Opening balance at the beginning of the period	388	-
Additions	788	-
Revenue recognised in the reporting period	(388)	-
Closing balance at the end of period	788	-
Current	788	-
Non-current	-	-

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.

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

	Notes	2020	2019
		\$	\$
Cash and cash equivalents	5.1	75,842	248,325
Balance at end of period		75,842	248,325

For the purpose of the statement of cash flows, cash and cash equivalent (and restricted cash and cash equivalent) assets comprise cash on hand and short-term deposits with original maturities of three months or less that are readily convertible to a known amount of cash and which are subject to insignificant risk of changes in value.

6. Financial instruments and Contingencies

	Note
Financial instruments	6.1
Contingent assets and 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:

	2020	2019
	\$	\$
Financial assets		
Cash and cash equivalents	75,842	248,325
Financial assets at amortised cost ^(a)	134	20,280
Total financial assets	75,976	268,605
Financial liabilities		
Financial liabilities at amortised cost	-	2,558
Total financial liability	-	2,558

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

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.

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.

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
Initial application of Australian Accounting Standards	7.2
Key management personnel	7.3
Related party transactions	7.4
Related bodies	7.5
Affiliated bodies	7.6
Remuneration of auditors	7.7
Equity	7.8

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 Initial application of Australian Accounting Standards

(a) AASB 15 Revenue from Contract with Customers and AASB 1058 Income of Not-for-Profit Entities

AASB 15 Revenue from Contracts with Customers replaces AASB 118 Revenue and AASB 111 Construction Contracts for annual reporting periods on or after 1 July 2019. Under the new model, an entity shall recognise revenue when (or as) the entity satisfies a performance obligation by transferring a promised good or service and is based upon the transfer of control rather than transfer of risks and rewards.

AASB 15 focuses on providing sufficient information to the users of financial statements about the nature, amount, timing and uncertainty of revenue and cash flows arising from the contracts with customers. Revenue is recognised by applying the following five steps:

- Identifying contracts with customers
- Identifying separate performance obligations
- Determining the transaction price of the contract
- Allocating the transaction price to each of the performance obligations
- Recognising revenue as each performance obligation is satisfied.

Revenue is recognised either over time or at a point in time. Any distinct goods or services are separately identified and any discounts or rebates in the contract price are allocated to the separate elements.

In addition, income other than from contracts with customers are subject to AASB 1058 *Income of Not-for-Profit Entities*. Income recognition under AASB 1058 depends on whether such a transaction gives rise to liabilities or a contribution by owners related to an asset (such as cash or another asset) recognised by the Tribunal.

The Tribunal adopts the modified retrospective approach on transition to AASB 15 and AASB 1058. No comparative information will be restated under this approach, and the Tribunal recognises the cumulative effect of initially applying the Standards as an adjustment to the opening balance of accumulated surplus/(deficit) at the date of initial application (1 July 2019).

Under this transition method, the Tribunal elects to not to apply the standards retrospectively to non-completed contracts at the date of initial application.

Refer to Note 3.1 for the revenue and income accounting policies adopted from 1 July 2019.

The effect of adopting AASB 15 and AASB 1058 as at 1 July 2019 was as follows:

	30 June 2020	Adjustments	30 June 2020 under AASB 118 and 1004
User charges and fees	18,680	400	19,080
Interest revenue	1,670	-	1,670
Net result	20,350	400	20,750

7.3 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 (\$)	2020	2019
0 - 10,000	8	7
10,001 - 20,000	-	-
	2020	2019
	\$	\$
Total compensation of members of the Tribunal	17,228	20,481
Compensation band (\$)	2020	2019
0 - 10,000	1	1
	2020	2019
	\$	\$
Total compensation of senior officers	-	-

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

7.4 Related party transactions

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, that are included in the whole of government consolidated financial statements; 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 7.7).

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.

7.5 Related bodies

The Tribunal had no related bodies during the financial year.

7.6 Affiliated bodies

The Tribunal had no affiliated bodies during the financial year.

7.7 Remuneration of auditors

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

	2020	2019
	\$	\$
Auditing the accounts, financial statements controls, and key performance indicators	11,673	12,973

7.8 Equity

	2020	2019
	\$	\$
<u>Accumulated surplus/(deficit)</u>		
Balance at start of period	267,556	470,410
Initial application of AASB 15	(388)	-
Result for the period	(190,474)	(202,854)
Balance at end of period	<u>76,694</u>	<u>267,556</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, and fairly represent the performance of the Racing Penalties Appeal Tribunal for the financial year ended 30 June 2020.



Karen Farley SC
Chairperson
Racing Penalties Appeal Tribunal

7 September 2020



Patrick Hogan
Member
Racing Penalties Appeal Tribunal

7 September 2020



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 following table shows that in 2019-20 the stay applications were determined within one working day of receipt of all submissions. The reason for the discrepancy between the target and the actual indicator is because one stay application was withdrawn by the applicant before it could be referred to the Chairperson for determination (Appeal No 835 Jocelyn Young refers).

Key Effectiveness Indicator	2017-18 Actual	2018-19 Actual	2019-20 Target	2019-20 Actual
Total number of stay applications received	6	2	7	5
Number of stay applications determined within one day of receipt of all submissions	5	2	7	4
Indicator ¹	83%	100%	100%	80%

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 2019-20 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	2016-17 Actual	2017-18 Actual	2018-19 Actual	2019-20 Target	2019-20 Actual
Average cost of processing an appeal ²	\$26,037	\$13,881	\$23,710	\$18,452 ³	\$23,425 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 2019-20 budgeted cost of services of \$258,330 divided by a target of 14 appeals heard.

⁴ This is based on 2019-20 actual cost of services of \$210,824 divided by 9 appeals heard.



Auditor General

INDEPENDENT AUDITOR'S REPORT

To the Parliament of Western Australia

RACING PENALTIES APPEAL TRIBUNAL OF WESTERN AUSTRALIA

Report on the financial statements

Opinion

I have audited the financial statements of the Racing Penalties Appeal Tribunal of Western Australia which comprise the Statement of Financial Position as at 30 June 2020, the Statement of Comprehensive Income, Statement of Changes in Equity, Statement of Cash Flows for the year then ended, and 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 2020 and the financial position at the end of that period. They are in accordance with Australian Accounting Standards, 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 Responsibility for the Audit of the Financial Statements section of my report. I am independent of the Tribunal. In accordance with the *Auditor General Act 2006* and the relevant ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (the Code) that are relevant to my audit of the financial statements. I have also fulfilled my other ethical responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Responsibility of the Tribunal for the financial statements

The Tribunal is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the *Financial Management Act 2006* and the Treasurer's Instructions, and for such internal control as the Tribunal 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 and 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 responsibility 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.

Page 1 of 4

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

Report on 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 by the Tribunal 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).

My opinion has been formed on the basis of the matters outlined in this report.

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 2020.

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 to report on the design and implementation of controls involves performing procedures to obtain evidence about the suitability of the design of controls to achieve the overall control objectives and the implementation of those controls. The procedures selected depend on my judgement, including the 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 the controls are 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 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 2020. The key performance indicators are the key effectiveness indicators and the 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 agency's performance and fairly represent indicated performance for the year ended 30 June 2020.

The Tribunal's responsibility 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 responsibility

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.

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 2020 included 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 and key performance indicators described above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements or key performance indicators. 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 of the financial statements and key performance indicators.



KELLIE TONICH
SENIOR DIRECTOR FINANCIAL AUDIT
Delegate of the Auditor General for Western Australia
Perth, Western Australia
8 September 2020

2020-21 Annual Estimates



Department of Local Government, Sport and Cultural Industries
 Racing Penalties Appeal Tribunal

TO:	HON PAUL PAPALIA CSC, MLA	MIN REF:	N/A
FROM:	KAREN FARLEY SC, CHAIRPERSON	FILE NO:	19-1323
SUBJECT:	RACING PENALTIES APPEAL TRIBUNAL BUDGET ESTIMATES 2020-21	DATE:	17 August 2020

RECOMMENDATION

I recommend you approve the 2020-21 financial year:

- (i) Annual cash estimates under the *Racing Penalties (Appeals) Act 1990*; and
- (ii) Annual accrual estimates under the *Financial Management Act 2006*.

2020-21 BUDGET ESTIMATES

In accordance with Section 24(2) of *Racing Penalties (Appeals) Act 1990*, the attached estimates of income and expenditure for the 2020-21 financial year for the Racing Penalties Appeal Tribunal (RPAT) are submitted for your approval.

The estimates for 2020-21 have projected 12 appeals with 6 stay applications. In 2019-20, there were 9 appeals heard and 5 stay applications received.

In 2020-21 the estimated income is \$7,505 requiring \$154,925 to be funded by Racing and Wagering Western Australia (RWWA). Their obligation to fund the operations of RPAT is in accordance with Section 106 of the *Racing and Wagering Western Australia Act 2003*.

RWWA has advised that they have no objection to the 2020-21 budget estimates.

Explanations of significant variations between 2020-21 estimates and 2019-20 actuals are detailed below. Please note that the figures presented as actuals for 2019-20 are based on unaudited financial statements.

1. Statement of Comprehensive Income

1.1 Operating Expenses

There is an increase of \$7,589 in Fee expenses to tribunal members and Superannuation in 2020-21 as compared to 2019-20 as more appeals are expected to be heard.

Other operating expenses are higher in 2020-21 mainly due to the provision for travel.

1.2 Operating Revenues

Funding from RWWA has increased by \$139,195 as the Tribunal was mainly funded from the trust fund balance in 2019-20.

2. Statement of Financial Position

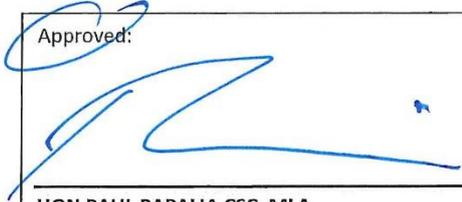
The cash resources for the 2020-21 financial year are expected to decrease as only a working cash limit of 5% of total cost of services will be held.



KAREN FARLEY SC
CHAIRPERSON

Enc.

Approved:



HON PAUL PAPALIA CSC, MLA
MINISTER FOR RACING AND GAMING

29/2020

RACING PENALTIES APPEAL TRIBUNAL**CASH ESTIMATES 2020/2021**

DESCRIPTION	2019/2020 BUDGET	2019/2020 ACTUAL	2020/2021 BUDGET
COSTS INCURRED BY TRIBUNAL DIRECTLY			
Members' Fees	\$54,000	\$18,069	\$25,000
Members' Superannuation	\$5,130	\$1,717	\$2,375
Members' Travel Costs	\$5,000	\$73	\$5,000
Audit Fees	\$11,673	\$12,973	\$12,973
Other Expenses (Web Development, Security, Library Acquisitions, Transcription Costs, Bank Charges)	\$2,500	\$523	\$1,550
TOTAL COSTS INCURRED BY TRIBUNAL DIRECTLY	\$78,303	\$33,355	\$46,898
<u>COSTS INCURRED DIRECT TO DLGSC</u>			
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	\$258,330	\$213,382	\$226,925
<u>LESS TRIBUNAL REVENUE</u>			
Opening Balance	\$239,616	\$248,326	\$75,843
Funding from RWVA	\$15,730	\$15,730	\$154,925
Appeal Fees	\$4,675	\$3,431	\$3,705
Stay of Proceedings Fees	\$525	\$302	\$300
GST Refund from ATO	\$0	\$3	\$0
Interest	\$10,500	\$2,778	\$3,500
Transcription Fees	\$200	\$0	\$0
Other Revenue	\$0	\$18,654	\$0
TOTAL TRIBUNAL REVENUE	\$271,246	\$289,225	\$238,272
BALANCE OF TRIBUNAL	\$12,916	\$75,843	\$11,347

APPROVED:



 CHAIRPERSON

2018/20

 DATE

Racing Penalties Appeal Tribunal
Statement of Comprehensive Income
Estimates for the year ending 30 June 2021

	BUDGET 2019-20 \$	ACTUAL 2019-20 \$	BUDGET 2020-21 \$
COST OF SERVICES			
Operating expenses			
Fee expenses to tribunal members	54,000	15,733	25,000
Superannuation	5,130	1,495	2,375
Services & contracts expense (professional services)	180,027	180,027	180,027
Other operating expenses	19,173	13,569	19,523
Total cost of services	<u>258,330</u>	<u>210,824</u>	<u>226,925</u>
Operating revenues			
Funding from Racing & Wagering WA	15,730	15,730	154,925
Operating income	5,400	3,350	4,005
Interest	10,500	1,670	3,500
Total operating revenue	<u>31,630</u>	<u>20,750</u>	<u>162,430</u>
Net cost of services	<u>226,700</u>	<u>190,074</u>	<u>64,495</u>
CHANGE IN NET ASSETS RESULTING FROM OPERATIONS	(226,700)	(190,074)	(64,495)
Add Opening balance of accumulated surplus/(deficit)	237,643	267,557	77,482
Closing balance of accumulated surplus/(deficit)	<u>10,943</u>	<u>77,482</u>	<u>12,987</u>

Racing Penalties Appeal Tribunal

Statement of Financial Position

Estimates as at 30 June 2021

	BUDGET 2019-20 \$	ACTUAL 2019-20 \$	BUDGET 2020-21 \$
CURRENT ASSETS			
Cash resources	12,916	75,843	11,347
GST receivable	1,502	1,506	1,506
Interest receivable	2,000	134	250
Total current assets	<u>16,418</u>	<u>77,482</u>	<u>13,103</u>
Total assets	<u>16,418</u>	<u>77,482</u>	<u>13,103</u>
CURRENT LIABILITIES			
Accounts payable	0	0	0
Accrued tribunal members fees	5,000	0	0
Accrued superannuation	475	0	0
Total current liabilities	<u>5,475</u>	<u>0</u>	<u>0</u>
Total liabilities	<u>5,475</u>	<u>0</u>	<u>0</u>
Net assets	<u>10,943</u>	<u>77,482</u>	<u>13,103</u>
EQUITY			
Accumulated surplus/(deficit)	<u>10,943</u>	<u>77,482</u>	<u>12,987</u>
Total equity/(equity deficit)	<u>10,943</u>	<u>77,482</u>	<u>12,987</u>

Racing Penalties Appeal Tribunal

Statement of Cash Flows

Estimates for the year ending 30 June 2021

	BUDGET 2019-20 \$ Inflows (Outflows)	ACTUAL 2019-20 \$ Inflows (Outflows)	BUDGET 2020-21 \$ Inflows (Outflows)
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Payments to tribunal members	(54,000)	(18,069)	(25,000)
Superannuation payments to GESB	(5,130)	(1,717)	(2,375)
Payments to DLGSC	(180,027)	(180,027)	(180,027)
Other payments	(19,173)	(13,569)	(19,523)
GST paid on purchases	0	(19,332)	0
GST paid to Taxation Authority	0	(1,556)	0
Receipts			
Receipts from customers	5,400	3,733	4,005
Funding from RWWA	15,730	15,730	154,925
Interest received	10,500	2,778	3,500
Other receipts	0	18,654	0
GST receipts on sales	0	19,338	0
GST received from Tax Authority	0	1,554	0
Net cash provided by/(used in) operating activities	<u>(226,700)</u>	<u>(172,483)</u>	<u>(64,495)</u>
Cash at the beginning of the reporting period	<u>239,616</u>	<u>248,326</u>	<u>75,843</u>
Cash at the end of the reporting period	<u><u>12,916</u></u>	<u><u>75,843</u></u>	<u><u>11,347</u></u>

Other Legal and Government Policy Requirements

Remuneration of Members

The Chairperson of the Tribunal is entitled to a remuneration of \$126 per hour.

The members of the Racing Penalties Appeal Tribunal are entitled to payment of:

\$494 per half day (under 4 hours)

\$756 per day (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	Name	Type of remuneration	Period of membership	Gross/actual remuneration 2019/20 financial year
Chairperson	Karen Farley SC	Attendance / Decision Writing	12 months	\$6,132
Member	Patrick Hogan	Attendance / Decision Writing	12 months	\$4,119
Member	Andrew Monisse	Attendance / Decision Writing	12 months	\$3,205
Member	Robert Nash	Attendance / Decision Writing	12 months	\$1,692
Member	Johanna Overmars	Attendance / Decision Writing	12 months	\$886
Member	Brenda Robbins	Attendance / Decision Writing	12 months	\$1,303
Member	Emma Power	Attendance / Decision Writing	12 months	Nil
Member	Zoe Gilders	Attendance / Decision Writing	12 months	\$809
			Total	\$12,014

Significant Issues and Trends Impacting the Tribunal

Changes to Acts

There were no amendments to the *Racing Penalties (Appeals) Act 1990* for the year under review.

Likely Developments and Forecast Results of Operations

It is expected that the workload of the Racing Penalties Appeal Tribunal for 2020-21 will remain steady.

Governance Disclosures

Unauthorised Use of Credit Cards

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

Advertising and Sponsorship

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 did not incur expenditure of this nature in 2019-20.

Other Government Policy Requirements

The Tribunal meets its requirements through arrangements with the Department of Local Government, Sport and Cultural Industries. The Department'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.
- Substantive Equality.
- Occupational Safety, Health and Injury Management.
- Government Building Training Policy.