

**Implementing the recommendations arising from  
the Review of Integrity Assurance in the  
Victorian Racing Industry  
by Judge Gordon Lewis AM**

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# Abbreviations

<b>ACC</b>	Australian Crime Commission
<b>Gambling Regulation Act</b>	<i>Gambling Regulation Act 2003 (Vic)</i>
<b>GRV</b>	Greyhound Racing Victoria
<b>HRV</b>	Harness Racing Victoria
<b>IWP</b>	Implementation Working Party
<b>OGR</b>	Office of Gaming and Racing (Victoria)
<b>Racing Act</b>	<i>Racing Act 1958 (Vic)</i>
<b>RADB</b>	Racing Appeals Disciplinary Board (Victoria)
<b>RASL</b>	Racing Analytical Services Ltd
<b>RAT</b>	Racing Appeals Tribunal (Victoria)
<b>RIC</b>	Racing Integrity Commissioner
<b>RVL</b>	Racing Victoria Limited
<b>TVN</b>	ThoroughVision
<b>VCAT</b>	Victorian Civil and Administrative Tribunal
<b>VCGR</b>	Victorian Commission for Gambling Regulation
<b>VRI</b>	Victorian Racing Industry

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## Introduction

In March 2008, the Government commissioned Judge Gordon Lewis to review integrity assurance services in the Victorian racing industry and identify recommendations to strengthen their provision.

Following the release of Judge Lewis' *Report on Integrity Assurance in the Victorian Racing Industry* (the Report) the Minister for Racing, the Honourable Rob Hulls MP, established a joint Government/racing industry Implementation Working Party (IWP) to analyse the Report's recommendations and advise on their implementation. The IWP has been convened by the Department of Justice, with senior representatives from each of the racing codes and Victoria Police. The IWP was tasked with preparing an Interim Report on the progress of its work by October 2008, with a Final Report to be completed by December.

A copy of these reports can be found at [www.justice.vic.gov.au](http://www.justice.vic.gov.au).

Since the release of its Interim Report in early October, the IWP has continued to meet and discuss the recommendations that it identified as requiring more complex administrative change or legislative amendment in line with the objectives of this Final Report.

The IWP, having already agreed in-principle to implement the Report's recommendations, focused on how the remaining recommendations could be implemented so as to establish the highest possible standards of integrity assurance services for the benefit of all racing industry participants.

The IWP has identified and provided structural advice on the implementation of the following recommendations that require legislative amendment:

- the establishment of a Racing Integrity Commissioner to oversee integrity procedures within all three codes and act in a quasi- ombudsman role for the racing industry
- options to implement a new appeals and disciplinary process for all three codes based on the current model in place for thoroughbred racing.

This Report also details the responses from the respective racing codes, Victoria Police and other appropriate bodies on the progress of implementation of those recommendations that do not require legislative amendment. Since the release of the Interim Report, extensive work has been undertaken to implement the recommendations relevant to the internal integrity structures and processes of the racing codes.

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## Terms of reference

The scope of Judge Lewis' review included, but was not limited to:

- determining whether integrity services and systems should remain a function alongside the commercial and developmental roles of the Controlling Bodies or be separately provided independent of those roles
- if a case can be made for a separation of function, whether the services and systems should be delivered individually for each code or across all three codes
- ensuring integrity issues are pursued to the appropriate levels of governance regardless of the seniority or influence of any individuals concerned
- developing an integrity assurance structure and culture that is fully transparent, accountable and incapable of undue influence by external interests
- any other aspects of the provision of integrity services and systems that the Reviewer deems to be appropriate.

Definition: For the purposes of the Review, “integrity services and systems” were deemed to include:

- overall stewardship and associated investigations
- race-day operations
- betting compliance and regulation
- veterinary services
- drug control
- licensing and registration.

Through his investigations Judge Lewis identified key integrity issues and best practice recommendations, and highlighted a number of significant issues arising from police intelligence on criminal activity in the racing industry. The Report, which was publicly released on 14 August 2008, contains 63 individual recommendations separated under the following seven key recommendations:

- Recommendation 1 – Criminal activity in the racing industry
- Recommendation 2 – Internal integrity structures of the Victorian codes
- Recommendation 3 – Co-operation on integrity issues – Racing Integrity Commissioner
- Recommendation 4 – Disciplinary and appeals processes
- Recommendation 5 – Swabbing and drug testing

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- Recommendation 6 – Stewards
  - Recommendation 7 – Other integrity matters

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## The Implementation Working Party

The Implementation Working Party (IWP) included the following representatives:

**Ross Kennedy:** Executive Director, Gaming and Racing, Department of Justice (DOJ) – Chair

**Bernard Saundry:** Chief Operating Officer, RVL

**John Anderson:** Chief Executive Officer, HRV

**Brant Dunshea:** General Manager, Racing and Integrity, HRV

**John Stephens:** Chief Executive Officer, GRV

**Robert Shaw:** Industry Finance Manager, GRV

**Brian Williams:** Chief Steward, GRV

**Alan Byrnes:** Superintendent, Victoria Police Corporate Performance

**Ged Prescott:** Manager, Office of Racing, DOJ

Supported by:

**Sarah Newport:** Senior Policy Officer, Office of Racing, DOJ

**Justin Flanagan:** Policy Officer, Office of Racing, DOJ

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## Proceedings of the Implementation Working Party

The IWP has met on seven occasions. The IWP representatives provided individual feedback from their respective organisations and agreed in-principle to implement the recommendations in Judge Lewis' Report. Racing Analytical Services Ltd (RASL) and Judge Gordon Lewis were invited to attend IWP meetings 3 and 4 respectively to provide their input and to further clarify some aspects of the recommendations.

### ***Meeting 1 – Discussion of Recommendations 1 – 3***

The IWP reached preliminary agreement on the status of Recommendations 1-3.

### ***Meeting 2 – Discussion of Recommendations 4 – 7***

The IWP reached preliminary agreement on the status of Recommendations 4-7.

### ***Meeting 3 – Discussion with RASL representatives***

The IWP sought input from RASL, particularly in relation to *Recommendation 5 – Swabbing and Drug Testing* which has implications for the structure and service capacity of the organisation. RASL's comments, including but not limited to the following, indicated that it:

- currently has the capacity to 'scale up' its swabbing service capacity;
- currently provides services to all of Victoria, South Australia and Tasmania, as well as some overseas jurisdictions
- would benefit from more certainty in its business, whether this is in the form of a Service Contract with the Victorian Racing Industry at the level of the VRI/Tabcorp Joint Venture or another business model
- has the option to expand into human testing
- believes that employing a process with referral labs is the best way to counter claims of cross-contamination.

Ultimately, the recommendations pertaining to RASL in the Report are matters for the RASL board. The IWP will continue to consult with RASL as to Judge Lewis' recommendations for the future corporate structure of RASL.

### ***Meeting 4 - Discussion with Judge Gordon Lewis***

The IWP, having already established in-principle positions on the recommendations, met with Judge Lewis to discuss particular issues that

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required further clarification, in particular Recommendations 3, 4 and 5.

### ***Recommendation 3 – Co-operation on Integrity Issues***

It was noted that the primary intended roles of the proposed Racing Integrity Commissioner are to facilitate information sharing and referrals between Stewards and enforcement agencies, monitor the standards of integrity services and act as a quasi ombudsman for complaints in relation to integrity. Judge Lewis confirmed that the Commissioner should have referral powers for that purpose.

### ***Recommendation 4 – Appeals and Disciplinary Processes***

It was acknowledged that Recommendation 4 presents the biggest structural change to the racing industry. The discussion centred on the adequacy of the current systems; the proposed model; and the opportunity to capture the best aspects of the current systems in the new structure. Judge Lewis reinforced that the intention of the Recommendation is to provide the most robust process for natural justice within the racing industry's appellate and disciplinary procedures, noting that the Racing Appeals and Disciplinary Board established by RVL provided a sound model for adoption across the three racing codes.

The IWP resolved to seek legal advice on the appropriate framework for a new racing appeals and disciplinary body common to all three codes.

### ***Recommendation 5 – Swabbing and Drug Testing***

The IWP provided in-principle support for the rationale behind recommendation 5, and acknowledged the importance of an effective drug deterrent program to the integrity of the industry.

Judge Lewis agreed with the IWP's observations that random drug testing should be retained, the deterrent value of which is analogous to police 'booze buses', and acknowledged the practical limitations regarding the recommendation to swab every winner and beaten favourite due to the time that this would take, the implication for physical resources, and the availability of appropriately trained personnel.

The IWP and Judge Lewis agreed that an appropriate balance should be sought between maintaining current random sampling procedures and adopting Judge Lewis' recommendations pertaining to swabbing all winners and beaten favourites.

### ***Meeting 5 – Feedback on discussion papers concerning the Racing Integrity Commissioner and Swabbing and Drug Testing***

The IWP considered the role that will be played by the RIC. There was overwhelming support to establish the position and appoint the RIC as soon as possible. Victoria Police submitted that the RIC had the potential to not only provide a conduit role between the Stewards and Victoria Police but also to perform a central processing function that could determine the appropriate regulatory bodies to which matters should be referred.

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The IWP acknowledged that the establishment of the RIC should be underpinned by legislation, and non-compliance with a direction of the RIC by any industry participants should be reported in the RIC's Annual Report.

***Meeting 6 – Finalising discussion of the Racing Integrity Commissioner and the new appeals and disciplinary board***

The IWP evaluated the proposal to establish an alternative appeals and disciplinary framework, with discussion focusing on the benefits of implementing an alternative model to that suggested by Judge Lewis. The IWP agreed that any alternative model should still address the concerns that Judge Lewis outlined in his Report concerning procedural consistency across the codes and independence of the appeals process.

It was also agreed that the new Racing Integrity Commissioner should be requested to undertake a review of the new appeals and disciplinary framework after 12 months operation.

***Meeting 7- Considering the Final Report***

The IWP considered the Final Report and its response to each recommendation that Judge Lewis proposed. The racing codes reiterated their position that they considered the RAT to be an excellent part of the current appeals and disciplinary process and the need for this expertise to be transferred to, and emulated in, VCAT in the future.

The IWP acknowledged at this meeting that any change to create the RIC and the new appeals and disciplinary structure requires legislative amendment whether the reform is by way of the alternative model or as expressly proposed by Judge Lewis. These reforms, therefore, cannot be fully implemented until the second part of next year given the legislative process.

The IWP, therefore, resolved to meet again next year to monitor and guide the progress of implementation through the legislative process.

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## Recommendation 1 – Criminal Activity in the Racing Industry

Members of the IWP are strongly of the view that criminal activity within the racing industry at any level is prejudicial to the fundamental integrity of the industry and cannot be tolerated.

The IWP is confident that the national licensing of commission agents and the introduction of a RIC will improve the investigation and enforcement capacities of both racing Stewards and Victoria Police.

The IWP also notes that a great deal of the information relating to criminal activity within the racing industry, as described in the report by Judge Lewis, resulted from Victoria Police investigations, particularly the Purana Task Force.

### Implementation response to Recommendation 1

- (a) **The Chief Commissioner of Victoria Police review the existing arrangements in relation to the racing industry with a view to replacing the existing “Theme Desk” with a squad of detectives, under the direction of a senior police officer, dedicated to addressing criminal activity in or associated with the racing industry in Victoria.**
- Victoria Police will enhance its relationship with the racing industry to improve both the tactical and strategic levels of cooperation.
  - Victoria Police is intelligence-driven and has implemented a flexible investigative structure that is able to move across crime themes in order to provide a dynamic response to issues as they emerge
  - The Victoria Police and the racing industry management have determined to establish better networks within the appropriate levels and functions of the industry, together with the integrity services and the Racing Integrity Commissioner to improve a cooperative approach in respect to crime prevention and detection.
  - The response to Recommendation 1 (a) should also be read in conjunction with the response to Recommendation 3. In this regard the IWP noted that Victoria Police has undertaken to work with the new Racing Integrity Commissioner to improve the co-operative approach with respect to crime prevention and detection in the racing industry. This will provide a structural framework for the free exchange of information and intelligence on integrity related matters between the Police, racing controlling bodies, gambling regulators and other State and national enforcement agencies.

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- (b) The Chief Commissioner of Victoria Police invoke her powers to make application pursuant to section 5 of the Major Crimes (Investigative Powers) Act 2004 (Vic) for coercive orders to have persons suspected to be involved in organised crime and associated with the racing industry, examined by the Chief Examiner.**
- Victoria Police has confirmed that the Office of the Chief Examiner will continue to be used for investigating organised crime within the racing industry and elsewhere when the required criteria are met.
- (c) Commission agents be required to obtain a licence and that the Rules of Racing be extended to apply to commission agents.**
- The IWP agreed that the licensing of commission agents is an important part of ensuring the ongoing integrity of the racing industry; however, to proceed without a national approach may prove futile. The IWP supports the Minister for Racing's view expressed at the Racing Ministers Conference that a national approach for the licensing of commission agents should be progressed as a priority.
  - The IWP notes that at the Racing Ministers Conference, on 5 December 2008, the ministers agreed:
    - in-principle that the operation of Commission Agents in Australia should be subject to appropriate licensing and supervision
    - that as a matter of priority a joint Government and Industry Working Party be established to investigate the development of national rules and supporting national legislation for the licensing of commission agents and to create offence provisions for unregistered commission agents
    - That the Working Party report back to the Racing Ministers Conference in April 2009.
- (d) The Rules of Racing governing the use of electronic devices in the betting ring, including laptops, be strictly enforced.**
- All three racing codes have undertaken to ensure that this rule is widely communicated and strictly enforced, where appropriate.
- (e) RVL should immediately review the adequacy of the existing software used by bookmakers, to ensure safeguard against illicit manipulation and ensure proper auditing.**

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- RVL, with agreement from the IWP, is driving this process and has established a steering committee to implement changes to bookmaking rules and systems as a result of the pending introduction of 24/7 betting via the phone and internet. This process will lead to the creation of a set of auditing standards for bookmaker betting systems that will address the concerns identified by Judge Lewis.

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## Recommendation 2 – Internal Integrity Structures of the Victorian Codes

All three codes expressed concern that the establishment of a fully independent integrity committee would represent an abrogation of the respective Board's responsibilities with regard to integrity assurance.

Alternatively it was proposed that the Integrity Sub-committee would be chaired by a Board member (other than the chairperson) and comprise a number of Board members and at least one independent member being a former judicial officer or person of similar high standing and expertise.

Judge Lewis was consulted about the variation and reiterated that it is important for the integrity Sub-committees to have an independent voice. RVL and GRV are now in the process of engaging an independent member for their integrity committees. HRV already has an independent member.

### Implementation response to Recommendation 2

**(a) An Integrity Committee be established with an independent Chairman, and with a majority of members independent of the Board, to provide advice to the Board, Stewards and Integrity Officers on integrity matters.**

- RVL has advised that it has commenced the selection process to identify a suitably qualified independent member of the Integrity Sub-committee with a view to finalising an appointment by February 2009
- HRV has advised that it currently has an Integrity Sub-committee of the Board, whose composition includes independent representation
- GRV has agreed to engage an independent person on its Integrity Sub-committee whose skills may be either legal or industry-specific, depending on the competencies of the board.

**(b) The Integrity Manager and Chief Steward should report directly to the Board and Integrity Sub-Committee in relation to integrity matters.**

- All three codes support this Recommendation and are working towards implementing it as part of the restructured integrity Sub-committee process.

**(c) A betting accounts register be established for Directors and Senior Personnel, with the requirement that Directors and Senior Personnel use only their betting accounts on the register, when betting.**

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- This Recommendation concerning account betting has been implemented by RVL and is in the process of being implemented by HRV and GRV.
- (d) **All directors and senior managers of RVL, HRV, GRV, and any person nominated by the head of integrity services in each code, be required to make an annual declaration setting out their private interest in any matter related to racing, in respect of that code. Private interest for the purpose of this recommendation includes, but is not limited to:**
- **Any interest of the declarant or immediate family member in any property used for stud purposes, agistment, breeding, training or other purpose associated with the thoroughbred, standardbred or greyhound industry;**
  - **Any involvement of the declarant or immediate family member in the ownership, breeding, leasing, training, racing or management of thoroughbreds, standardbreds or greyhounds;**
  - **Any contractual relationships of the declarant or immediate family member with any other licensed person in the thoroughbred, standardbred or greyhound industry;**
  - **Any contractual relationship of the declarant or immediate family member with any person providing services or facilities to the thoroughbred, standardbred or greyhound industry;**
  - **Any other significant financial or other interest of the declarant or immediate family member which could reasonably raise an expectation of a conflict of interest with the declarant’s role as director.**
- RVL confirms that its directors already complete declarations and are subject to Corporations Law obligations in relation to declaring conflicts of interest.
  - They are separately required to declare interests prior to appointment and to update their declarations when circumstances change. However, the format recommended by Judge Lewis will be reviewed and adapted for completion by RVL directors and senior management.
  - HRV and GRV advise that they have their own procedures, including legislative requirements, in place.
  - All three codes have commenced work to progress the standardisation of declaration requirements across the three codes.
- (e) **Completed forms be provided to the Racing Integrity Commissioner.**

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- All three codes have agreed to this recommendation and have advised that they will implement this Recommendation upon the appointment of the RIC.

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## Recommendation 3 – Co-operation on Integrity Issues

Members of the IWP unanimously support the introduction of the RIC to enhance integrity assurance systems and procedures and to improve the public perception of integrity in the racing industry.

The IWP agreed with each recommendation concerning the RIC. The controlling bodies submitted that the cost of establishing and operating the RIC should be met by State Government appropriation to reinforce its independence.

### Implementation response to Recommendation 3

- (a) **The position of an independent Racing Integrity Commissioner be created, with stand-alone and independent statutory powers.**
- Members of the IWP unanimously support the introduction of a RIC.
  - The establishment of an independent RIC with stand-alone and statutory powers requires an amendment to the Racing Act. The RIC's powers will be constituted by legislation with a view to having the legislation proclaimed by the middle of next year and the RIC appointed in the second half of 2009. The RIC will require appropriate resources to oversee integrity procedures within all three codes and act as a quasi ombudsman for the racing industry.
- (b) **The Racing Integrity Commissioner be appointed by and answerable to the Minister for Racing and table an annual report on his/her activities.**
- The IWP considers that the Minister for Racing should make a recommendation to the Governor-in-Council for the appointment of the RIC. Similar to other statutory entities the RIC should submit an annual report to the Minister for Racing.
- (c) **The Racing Integrity Commissioner be separate from the controlling bodies, and monitor and advise those bodies about a number of issues including, but not restricted to:**
- Policies relating to the integrity of racing.**
- Performance of functions and exercise of the powers of those persons in the controlling bodies responsible for the enforcement of integrity.**
- Quality and range of services for drug control and analysis.**
- Other matters which the controlling bodies or the Minister refer to the Commissioner or the Commissioner considers appropriate.**

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- This Recommendation has been agreed to by the IWP and it should be noted that the controlling bodies would like to work with the RIC to implement Judge Lewis' recommendations concerning drug testing and swabbing.
- (d) **The Racing Integrity Commissioner annually audit the performance of the internal integrity systems of the controlling bodies. Where required an audit should be undertaken of a particular code or a particular issue across the three codes.**
- The IWP supports this Recommendation and notes that having an independent RIC with auditing powers will be a valuable tool in maintaining the public's confidence regarding the policies and procedures that underpin integrity in the racing industry.
  - The IWP specifically requested that the following aspects be accommodated:
    - RIC will work closely with the codes to identify processes and practices for auditing. That will further assist public confidence in the integrity of the racing industry. For example, barrier and box draws and swabbing processes and practices
    - Controlling bodies should be able to request specific audits in the interest of working towards continuous improvement in integrity systems.
- (e) **The Racing Integrity Commissioner receive reports from the appellate bodies on a quarterly basis, allowing trend reporting of offences and provision of analysis of these reports, to the respective codes and the Minister.**
- The IWP supports this Recommendation and notes that records are already publicly available and that formal discussions between the RIC and the chairperson(s) of the appellate bodies would assist to provide consistency in penalties where the offences are comparable.
- (f) **The Racing Integrity Commissioner also fill a position that equates to a quasi ombudsman role, so that he/she can respond to complaints in relation to integrity across the three codes.**
- The IWP supports this recommendation and recommends the following:
    - Initially the RIC should intake and assess complaints that he or she may receive. Many complaints may require onward referral by the RIC. For example, it would be inappropriate for the RIC to be handling criminal matters or breaches of the Gambling Regulation

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Act. Matters that have the capacity to affect the outcome of an event should be referred to the integrity Sub-committees of the respective code for investigation by the relevant code

- The RIC in its quasi ombudsman capacity will require powers to investigate matters that are inappropriate for internal investigation by the racing bodies. For example, if the RIC receives a complaint against a director or senior manager of one of the codes, then it may be inappropriate to refer the matter for internal investigation
- The RIC should also be able to choose to conduct an enquiry either on his or her own motion based on his or her own analysis of an integrity matter. For example, the RIC may undertake an inquiry or investigation into a matter or systemic issue without receiving a specific complaint
- Ultimately, the RIC should not be able to change a decision or force compliance with a recommendation. If a recommendation, however, is not accepted, the RIC may decide to report the matter to the Minister for Racing and, if there is one, the report must include a response from the controlling body

**(g) The Racing Integrity Commissioner have power to refer matters to Victoria Police or any other law enforcement agency, for investigation of possible criminal activity.**

- The IWP supports this Recommendation and the Victoria Police representative confirmed that the RIC would provide a conduit between Stewards and police and could make a positive contribution to information sharing arrangements between the racing industry and Victoria Police.

**(h) The Racing Integrity Commissioner have power to refer matters to integrity departments of controlling bodies for investigation of breaches of relevant Rules of Racing.**

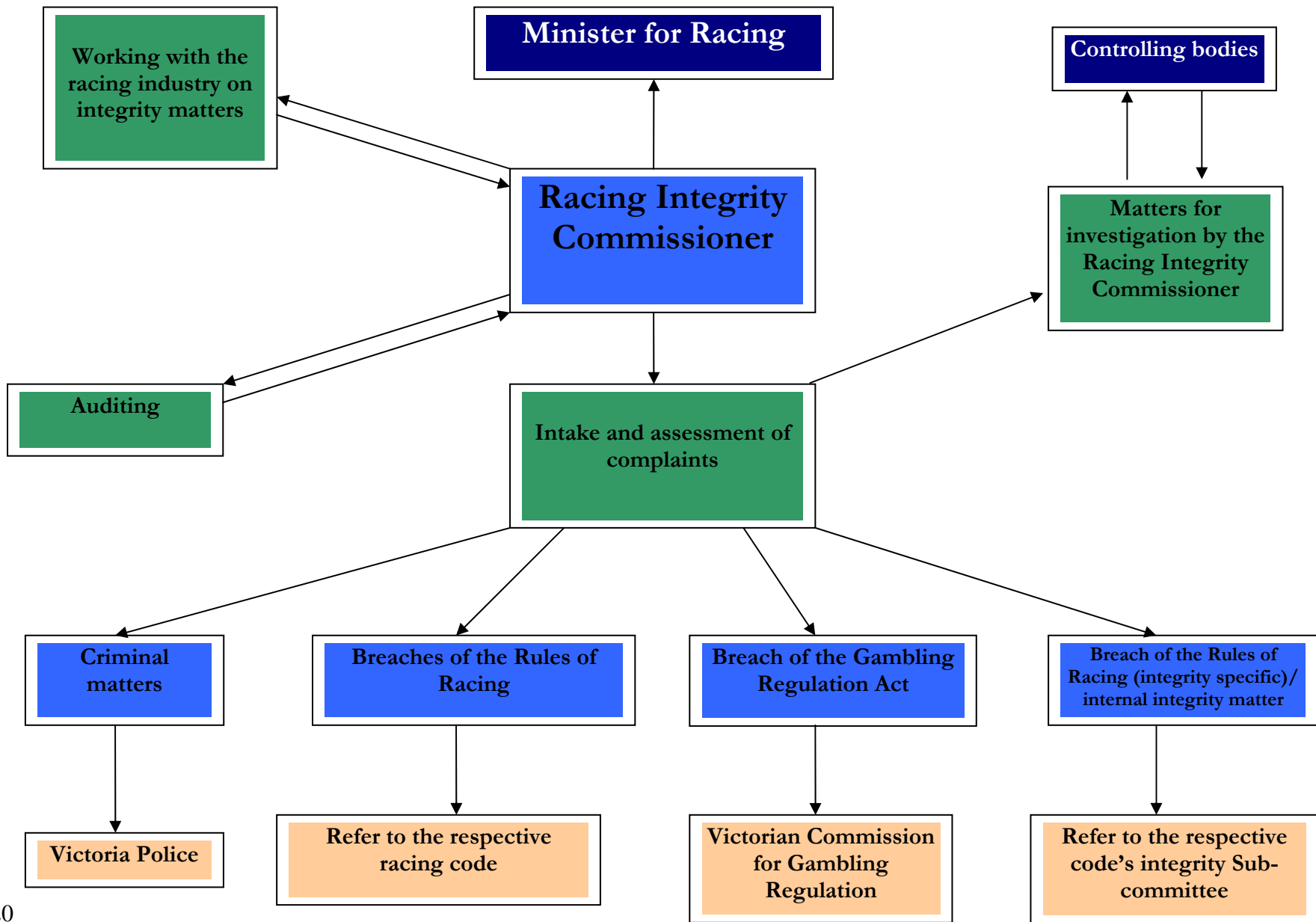
- The IWP supports this Recommendation. The IWP notes that there may be some matters the integrity departments may wish to seek assistance or refer back to the RIC for further advice.

**(i) The Racing Integrity Commissioner have power to refer breaches of the *Gambling Regulation Act 2003 (Vic)* to the Victorian Commission for Gambling Regulation, for investigation.**

- The IWP supports this Recommendation. The IWP also noted that there may be other government bodies or organisations, for example the Small Business Commissioner, that the RIC may refer a matter to for consideration.

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- (j) **The Racing Integrity Commissioner work with the controlling bodies to create one code of practice in relation to integrity for all codes.**
- The IWP supports this Recommendation and the racing codes have agreed to work with the RIC to create one code of practice in relation to integrity.
- (k) **The three codes work with the Racing Integrity Commissioner to develop and implement common Victorian rules, practices and procedures for dealing with integrity matters that are common across the codes.**
- The IWP supports this Recommendation and notes that this recommendation should take precedence over recommendation 3(1) as developing common rules across the codes in Victoria should be established before seeking national consistency.
- (l) **The Racing Integrity Commissioner and controlling bodies sponsor both a common approach and a revision of rules nationally (and in the case of greyhounds across Australasia) to achieve uniformity.**
- The IWP supports this Recommendation and will commence work immediately upon the appointment of the RIC. It has been noted by the codes that the Rules of Racing are private sporting rules made in each State and Territory by bodies that are not controlled by the three Victorian bodies.
  - However, the racing codes supports the idea of a uniform code of practice and will work, in conjunction with the RIC, to liaise with other states and territories to work together on this matter. The item would be an appropriate matter for discussion at the annual Australian Racing Ministers Conference.
- (m) **The three codes work with the Racing Integrity Commissioner to review the current Rules of Racing relating to integrity, with the objective of ensuring they are enforceable, up to date and relevant to emerging technologies and threats to fair racing.**

The IWP supports this Recommendation. The RIC would be encouraged and expected to work together with codes to identify areas where improvement and consistency is required.



## Recommendation 4 –Appeals and Disciplinary Processes

Judge Lewis found that there are major discrepancies between the disciplinary and appeal processes across the three codes and recommended that a single appellate and disciplinary body be established to replace the existing structure.

Under the current appeals and disciplinary procedure, a licensed person who is penalised by Stewards would appeal to the internal appeal body established by the relevant controlling body. Depending on the outcome of an appeal, either the penalised person or the Stewards may further appeal to the RAT. Since its inception in 1984, the RAT has been constituted by County Court Judges, even though this is not a prerequisite to be a member of the RAT.

Judge Lewis raised two issues with the current process. The first issue is that RAT hearings draw the Judges away from their judicial duties and this affects the work capacity of the County Court. The second issue is that the court commitments of the Judges should always take priority. Judge Lewis noted that on occasions there have been delays in fixing a time for the hearings of racing appeals. Judge Lewis noted that the average time in the past three years between an appeal being lodged and heard by RAT has been approximately 40 days. In the case of the suspension of a rider or licensed person, a stay was usually granted during this time.

Judge Lewis reiterated that the intention of the recommendation is to provide the most robust process for natural justice within the racing industry's appellate and disciplinary procedures, noting that the RADB established by RVL provides a sound model for adoption across the three racing codes.

As the following table demonstrates there are differences within the three codes concerning the cost of an appeal, the timelines for lodging an appeal, thresholds to appeal and the thresholds that trigger an appeal straight to the RAT.

<b>Provisions in the Racing Act and Rules of Racing</b>	<b>GRV</b>	<b>HRV</b>	<b>RVL</b>
<b>Appeals</b>	Club or the owner or trainer of a greyhound may appeal against a penalty within seven days of a steward's decision.	An appeal must be lodged within 2 days of the decision being lodged with the CEO.	An applicant must appeal to the RADB within two days.
<b>Right to appeal</b>	There are no rights of appeal where the penalty is: a fine of \$500 or less; a reprimand, including a severe reprimand; or a suspension of less than one month.	There are no rights of appeal where the penalty imposed does not exceed \$250.	There is no right of appeal where the penalty is a fine of less than \$250.
<b>Appeal fees</b>	The application fee for an appeal (including an application for leave to appeal) is \$150. The appeal fee is non-refundable unless otherwise determined by the Board.	The application fee for an appeal is \$600 to appeal decision and penalty and \$400 to appeal just severity of penalty. Part of this amount may be refunded by the appeal hearer.	No fees.
<b>Appeals to the RAT</b>	<p>Direct appeals to the RAT for suspension of 12 months or more.</p> <p>Where the penalty is a suspension or a fine of less than \$250, the RAT will only hear an appeal if it determines that it is in the public interest to do so and the appellant has first unsuccessfully appealed to the appropriate controlling body.</p>	<p>Direct appeals to the RAT for suspension of 3 months or more or fines of \$1000 or more or for penalties imposed for matters involving prohibited substances within the meaning of section 49 of the Racing Act.</p> <p>Where the penalty is a suspension or a fine of less than \$250, the RAT will only hear an appeal if it determines that it is in the public interest to do so and the appellant has first unsuccessfully appealed to the appropriate controlling body.</p>	<p>Direct appeals to the RAT for suspension of 12 months or more.</p> <p>Where the penalty is a suspension or a fine of less than \$250, the RAT will only hear an appeal if it determines that it is in the public interest to do so and the appellant has first unsuccessfully appealed to the appropriate controlling body.</p>

## Implementation response to Recommendation 4

### (i) Alternative Model

Judge Lewis recommended that a single appellate and disciplinary body for the three codes be constituted. The IWP gave extensive consideration to this recommendation as it presents the biggest structural change for the racing industry of any of the recommendations. The discussion centred on the adequacy of the current systems; the proposed model; and the opportunity to capture the best aspects of the current systems in the new framework.

The IWP carefully considered the recommendation of Judge Lewis that the existing RVL RADB should be expanded to include GRV and HRV racing matters in addition to its current responsibilities in thoroughbred racing. The IWP also received legal advice that it would be preferable for the proposed combined appeals and disciplinary structure to be constituted by legislation, whereas the current RADB has been established by RVL through the Rules of Racing since its inception in 2004. HRV and GRV are both constituted by legislation, while RVL is established under Corporation law.

In support of his recommendations, Judge Lewis points to a number of inconsistencies in terms of process and outcome across the three codes of racing. RVL argues that, while the desire for consistency has merit, it should be considered in the context of the significant differences between the three codes of racing, the profile of their participant groups and the potentially conflicting penalties between the Victorian codes because they are consistent with those prevailing within each code on a national level. RVL strongly believes that Judge Lewis' concerns do not warrant wholesale changes, but targeted remedies to the particular deficiencies he identified.

RVL argues that the RADB as it currently exists is a critical component in RVL's integrity systems. RVL believes that the current RADB has earned wide respect within the thoroughbred racing industry, as was demonstrated by a written submission from the Victorian Jockeys Association arguing for its retention. It is RVL's position that the proposal to establish a three code Board will seriously erode the RVL Board's capacity to provide governance and accountability and will ultimately be detrimental to the integrity of thoroughbred racing. GRV and HRV have expressed their support for an alternative model, to that proposed by Judge Lewis.

The alternate proposal to address the issues Judge Lewis outlined in his report is to establish three separate RADB style boards for the respective codes, which could have a common Registrar, to oversee the appeals and disciplinary processes. The adoption of a common Registrar would ensure procedural consistency across the codes and is fully supported by each controlling body. This alternate proposal is racing codes' preferred approach to implement change that will address Judge Lewis' concerns.

To implement this model, RVL's RADB would remain unchanged, except that RVL's Registrar for the RADB would service all three codes' appeals and disciplinary processes.

To implement the alternative model response all provisions in the Racing Act which empower HRV and GRV to hear appeals from the decisions of the Stewards need to be repealed and replaced with provisions creating appeals and disciplinary processes similar to RVL's RADB.

It should be noted that GRV only supports an appeals and disciplinary model subject to the GRV integrity committee hearing matters involving penalties of less than \$1,000 and or 3 months suspension or disqualification.

Provisions for appointment to the proposed RAD boards as Chairperson or Deputy Chairperson should include the prerequisite that the appointee must not, while holding office, own or have any interest in any racehorse or greyhound, nor shall they hold office in, HRV or GRV, any race club or organisations and if, at any stage during their appointment, their circumstances change with regards to these restrictions, then it should be a requirement that they surrender their appointment to the Board.

This requirement will not be prescribed in legislation for RVL's RADB but it will be an expectation that RVL will maintain its rules relating to the RADB to reflect similar prerequisites that will apply to GRV and HRV in the Racing Act.

The following matters should also be prescribed by legislation for the GRV and HRV RAD boards:

- Independent deputy chairpersons
- Independent board members
- Terms of appointment of board Members
- Remuneration and allowances which would apply to board members
- Board vacancies and acting appointments
- Procedures for the resignation, removal and suspension of board members
- Board procedures, including a provision as to the required quorum of Board members at meetings
- Conflict of interest
- Transitional provisions.

It is proposed that the existing rules concerning the RADB be replicated in the new appeals and disciplinary framework for GRV and HRV, including but not limited to:

- No costs associated with initiating an appeal
- An appeal of a decision of a Steward must be lodged within two days (note: two days includes weekends)
- An originating jurisdiction established for serious offences
- Must give reasons for any decision made in relation to a matter before it, and whether oral or written, such reasons form part of the record of the proceeding in which the decision was made
- If oral reasons given, a party may within 28 days of the decision, request a written reasons in which case the Board must comply with the request within 28 days after the request was made
- May make any interim orders it thinks fit in any proceedings before the Board

- Can dismiss a proceeding if it is satisfied that the proceeding is frivolous, vexatious, misconceived or lacking in substance.

The IWP recommends that if this alternative proposal is adopted that its operations be reviewed 12 months after its establishment by the RIC to determine its effectiveness and whether a single appellate body, as proposed by Judge Lewis, should be further considered.

Each code currently has a penalty threshold as a prerequisite to appeal. The IWP supports the introduction of threshold uniformity for all three codes across the appeals and disciplinary framework. However, it is proposed that if a penalty does not meet the prerequisite then the prospective appellant can apply to the Racing Integrity Commissioner who can make a recommendation to the relevant appeals body as to whether it is in the public interest for the appeal to be heard.

The alternative model, is not dependent on whether the Racing Appeals Tribunal is retained or whether it is abolished and the appeal function is transferred to the Victorian Civil and Administrative Tribunal, although whichever occurs will need to be reflected in the legislation and in RVL's rules.

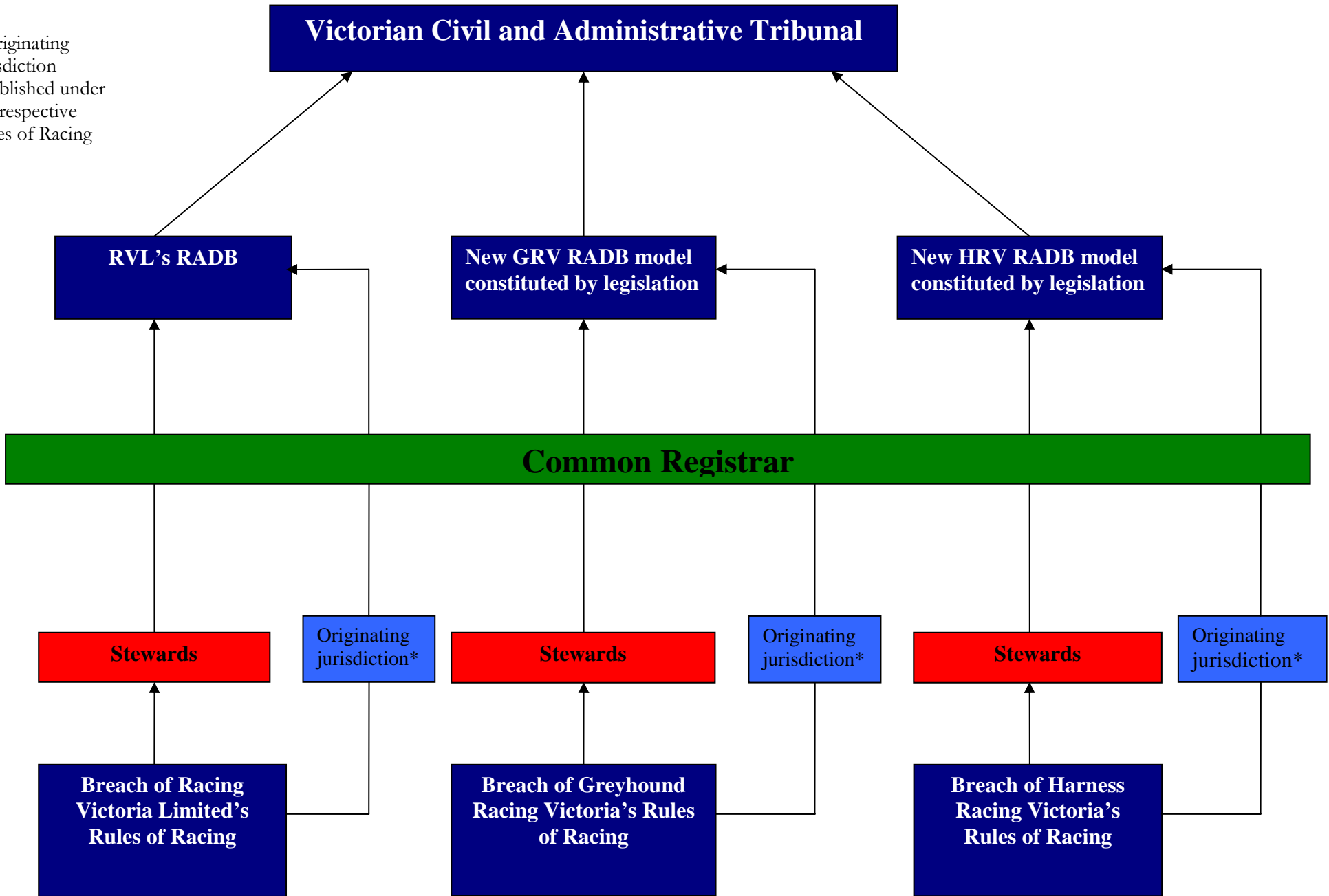
The VRI has a high respect for the strong record of the RAT and has serious reservations about the impact of its abolition and absorption within VCAT. If that change was to occur, it would be essential that VCAT acquire the same level of expertise as built up by the RAT since its inception in 1984.

RVL has expressed the view that in reviewing the operation of the State's racing appeals system, consideration should also be given to limiting VCAT's jurisdiction to only hearing appeals in respect to matters of law and to introducing more substantive fees to be paid by unsuccessful appellants.

More details in relation to the transfer of the appeals function to VCAT is set out in the next section.

# IWP'S PREFERRED APPEALS AND DISCIPLINARY STRUCTURE

\*Originating jurisdiction established under the respective Rules of Racing



## Single Appeal and Disciplinary Body Model

As noted above, the VRI is not supportive of a single appeal and disciplinary model as proposed by Judge Lewis. However, should the Government determine to adopt this model, the IWP has identified the associated implementation action which is outlined below.

- (a) **That a single appellate and disciplinary body for the three codes be constituted, based on the RAD Board model.**
- The IWP sought legal advice on the appropriate framework for the proposed single RADB model, specifically whether it is necessary for the framework to be constituted by legislation or whether the board model could be put into effect administratively by the three codes.
  - The advice stated that it was preferable for the composition of the new appeals and disciplinary boards to be prescribed by legislation.
  - Further, the IWP noted that the purpose of the recommendation is to ensure integrity in the Victorian racing industry and it would therefore be preferable for the processes and decisions of the proposed RAD Board model to be transparent and justifiable, by way of merits and judicial review.
  - Therefore, if this model was to be implemented, it would be most appropriately achieved by legislation.
- (b) **The disciplinary and appeal process across the three codes be the same.**
- The IWP advises that to implement this Recommendation, all provisions in the Racing Act which empower HRV and GRV to hear appeals from the decisions of the Stewards need to be repealed and the new board be constituted by legislation.
- (c) **The RAD Board, HRV Domestic Appeal Panel and the Board member appeal panel for GRV cease to exist.**
- The IWP advises to implement this Recommendation all provisions in the Racing Act which empower HRV and GRV to hear appeals from the decisions of the Stewards need to be repealed.
- (d) **The new appellate and disciplinary body consist of an independent Chairman and three Deputy Chairmen, one nominated by each of the codes. All should be experienced lawyers of not less than seven years standing in order to ensure procedural fairness.**

- In line with Recommendation 4 (a), the following issues would need to be addressed in legislation:
  - Terms of appointment of board members
  - Remuneration and allowances which would apply to board members
  - Board vacancies and acting appointments
  - Procedures for the resignation, removal and suspension of board members
  - Board procedures, including a provision as to the required quorum of board members at meetings
  - Costs to participants
  - Conflict of interest
  - Transitional provisions.

**(e) The independent Chairman be appointed by the Minister. The Chairman and Deputy Chairmen must not, while holding office, own or have an interest in any racehorse or greyhound, nor shall they hold office in RVL, HRV, GRV, any race club or any racing organisation.**

- The requirement for the chairperson to be appointed by the Minister would need to be prescribed in legislation. There should be a prerequisite established by the legislation that the chairperson and deputy chairpersons must not, while holding office, own or have any interest in any racehorse or greyhound, nor shall they hold office in RVL, HRV, GRV any race club or organisations.
- Further, if their circumstances with regards to these restrictions change at any stage during their appointment, then it should be a requirement that they surrender their appointment to the board.

**(f) The Chairman, Deputy Chairmen and the representatives be appropriately remunerated.**

- The IWP advises that to implement this Recommendation the right to remuneration should be established by legislation and the actual amount prescribed by Order in Council.

**(g) The Boards of RVL, HRV and GRV each nominate three representatives with experience in their codes, to sit with the Chairman or Deputy Chairman.**

- The IWP notes that a larger pool of representatives would be required to ensure that the new body can be reliably constituted at short notice.

**(h) For hearings, the new appellate and disciplinary body be constituted by the independent Chairman or a Deputy Chairman, plus two of the representatives from the relevant code.**

- As discussed in recommendation 4(a) above the board procedures, including a provision as to the required quorum of board members at meetings, should be prescribed in legislation.
- (i) **All hearings conducted by the new appellate and disciplinary body, be open to the public, except in exceptional circumstances, at the discretion of the Chairman.**
- The IWP advises that this Recommendation would need to be prescribed in legislation noting that current appeal processes are already open to the public and this represents no change to the current systems.
- (j) **All appeals from a decision of the new appellate and disciplinary body be to VCAT, constituted by at least a Vice President, which will be the ultimate appellate body, subject only to referrals to the Supreme Court, on questions of law.**
- The IWP advises that to implement this Recommendation jurisdiction will have to be conferred on VCAT to hear matters. Consultation with VCAT has confirmed that it is prepared to assume the role of the RAT.
- (k) **The appellate jurisdiction of VCAT be common to all codes.**
- The IWP advises that to implement this Recommendation jurisdiction will have to be conferred on VCAT to hear matters.
- (l) **The Racing Appeals Tribunal be abolished.**
- The IWP advises that to implement this Recommendation the provision in the Racing Act which refer to the RAT will need to be repealed and jurisdiction to hear matters conferred on VCAT.
- (m) **The Board members of the new appellate and disciplinary body meet quarterly to discuss problems encountered and for the exchange of information.**
- To implement this Recommendation it would not be necessary to prescribe in legislation the requirement that the board members of the new appellate and disciplinary body meet quarterly; establishing this recommendation as a convention will be sufficient. The RIC could coordinate and be a party to these meetings.
- (n) **The new appellate and disciplinary body use its quarterly meetings to discuss penalties imposed, with a view to achieving consistency across the codes. I make the following recommendations in response to the third and fourth terms of reference: “ensuring integrity issues are pursued to the appropriate levels of governance regardless of the seniority or influence of any individuals concerned” and “developing an integrity assurance**

**structure and culture that is fully transparent, accountable and incapable of undue influence by external interests”.**

- To implement this Recommendation it would not be necessary to prescribe in legislation the requirement that the board members of the new appellate and disciplinary body meet quarterly; establishing this recommendation as a convention will be sufficient. Again, the RIC could coordinate and be a party to these meetings.

## Recommendation 5 – Swabbing and Drug Testing

The IWP acknowledges that current industry resources are unable to support the implementation of Recommendations 5 (a), (e) and (f) in full. However, retaining the status quo, particularly in relation to Recommendation 5 (a), is not an option as it may not provide the industry with full confidence that the best possible integrity assurance services in relation to drug deterrence are in place in Victoria.

All parties, including Judge Lewis, acknowledge that it is ultimately a matter for the codes to determine the extent of industry funding for drug testing. This determination should aim to achieve an outcome that provides an appropriate balance between the levels of drug testing services recommended in the Report and those that are currently in place – one that includes the retention of a random sampling element.

Some of the options for the implementation of these recommendations considered by the IWP includes:

### **Recommendation 5 (a)**

- Implementation in full, on top of current testing practices
- Standardised percentages of animals tested across the codes (winners/beaten favourites/total starters, ideally an increase on current percentages)
- Standardised annual budget for testing across the codes (ideally an increase on current percentage of total budget).

### **Recommendation 5 (e) and (f)**

- Implementation in full
- Delaying agreement on a course of action until discussions with the RIC take place.

While there were constraints identified with the implementation of a number of these options, the IWP determined that in relation to Recommendation 5 (a) there was in-principle agreement to consider and pursue a cooperative approach based on the percentage of funding that each code allocates to drug testing from its annual budget.

In relation to Recommendations 5 (e) and (f), the IWP notes that elements of these recommendations have previously been employed in the drug testing methodology used in Victorian racing, but were discontinued due to difficulties encountered in their application.

In determining the way forward with these recommendations, the IWP acknowledges that in Recommendation 3 of his report, Judge Lewis proposes the establishment of a Racing Integrity Commissioner (the Commissioner) with which the three codes can work to “develop and implement common Victorian rules, practices and procedures for dealing with integrity matters that are common across the codes.”

The IWP therefore resolved that the issues in relation to Recommendations 5 (a), (e) and (f) be considered by the Commissioner, once the position has been established, in order to

involve the Commissioner in finalising an appropriate industry response that ensures the highest possible integrity standards in relation to drug testing in Victorian racing.

## Implementation response to Recommendation 5

- a) **The codes adopt a consistent approach to swabbing and testing, and at the very least, the winner of every race should be swabbed, as well as any beaten favourite.**
- The three codes have indicated that they do not currently have the necessary resources to commit to the implementation of this Recommendation in full. The codes also indicated their belief that retaining the random sampling element to drug testing is the most effective way to detect drug usage in the industry.
  - The codes have resolved to explore a future approach to drug testing using a combination of winners, beaten favourites and random sampling. This would be based on the percentage of funding that each code allocates to drug testing from its annual budget, however, it was agreed that the future approach would be determined in consultation with the RIC.
  - The Racing Analytical Services Laboratory (RASL) has indicated that it is in a position to accommodate the extra workload associated with the recommendation should it be implemented in full, subject to the acquisition of additional staff and equipment resources.
- b) **Consideration be given to amending the constitution of RASL to remove the requirement that it be a non profit-making company.**
- The RASL Board is of the view that there is no in-principle reason why RASL should not relinquish its not-for-profit status if it is in the best commercial interests of RASL and the Victorian racing industry to do so. The IWP resolved that the implementation of this recommendation be for determination by the Board of RASL.
- c) **RASL negotiate a Service Contract with the Victorian Racing Industry at the level of the VRI/Tabcorp Joint Venture (see Appendix Three). This contract should cover areas such as recurrent funding, pre and post race testing, purchase and maintenance of equipment, and research and development. The contract should be developed in consultation with the three codes, and reflect their relative income from wagering.**
- RASL has advised that the recent outbreak of equine influenza emphasised how vulnerable it is to such events under the current fee-for-service arrangement. This recommendation would provide RASL with greater long-term income security, and would have the support of the Board. The codes agreed to consult with RASL in the near future about establishing such a contract

- The codes will develop a set contract value for the testing of a minimum number of swabs to guarantee funding certainty for RASL, with any surplus testing to be paid by the codes on top of this minimum guaranteed level.
- d) RASL publicise research on issues relevant to the racing industry for inclusion in industry publications.**
- RASL has advised that it would be pleased to submit articles on issues relevant to its operations and research for inclusion in industry publications. The codes support greater future communication with RASL, particularly concerning current or emerging issues related to drug testing.
- e) In the event of a positive ‘A’ sample, the connections of the racing animal in question, be advised where and when the ‘B’ sample will be analysed, and be allowed to be represented by an analyst at that time.**
- The IWP has indicated its in-principle support for this recommendation.
  - RASL advises that the proposal as recommended by Judge Lewis is similar to the operation of drug testing that was in place prior to the current system. This system was changed a number of years ago to incorporate the use of referral labs to test the ‘B’ samples rather than ‘independent analysts’. This system was amended to reflect the following practical issues:
    - The lack of appropriately qualified analysts
    - Incidents of analysts deliberately attempting to undermine the testing process
    - A lack of personnel/resources required to chaperone analysts during the testing period (for safety/security reasons)
    - Evidence of some analysts interfering with samples, or giving misleading evidence
    - The reluctance of some referral labs to accept a ‘B’ sample for testing if it requires witnessing by a trainer’s analyst.
  - In support of referral labs without the presence of analysts at the ‘B’ sample analysis, RASL cites the following:
    - The two labs are separate independent organisations with no ties to each other, ensuring impartiality
    - The testing process in the absence of analysts is much more efficient;
    - There is no instance where it can be shown that integrity of testing has been jeopardised – the use of referral labs virtually eliminates the possibility for cross-contamination of samples
    - The current system is adopted in the UK, France, Belgium, Switzerland, the UAE, Singapore, Hong Kong and New Zealand.
  - The codes agree to consult with the Racing Integrity Commissioner on this matter before a final outcome is determined.

**f) In the event of degradable substances such as TCO<sub>2</sub>, where the 'B' sample must be analysed quickly, the connections of the animal be told where and when the analysis will take place, and be invited to have an analyst present. However, in that case, because of the time factor, the analysis will proceed whether or not it is convenient for the connections to have an analyst present.**

- The IWP strongly supports this position in the event that Recommendation 5 (e) is implemented.

## Recommendation 6 – Stewards

The IWP notes that the Stewards provide substantial additional support to participants and that their core focus should be race-day activities. GRV noted that an important role of the Stewards is also devoted to the welfare of animals. For example, kennel inspections are becoming increasingly important.

The IWP also discussed the role that the Stewards play in mediating disputes between owners and trainers and notes that, although this was often an effective dispute resolution process, the time of the Stewards should be devoted to their core functions. RVL is currently going through a recruitment process to employ a new mediation officer with the intention that it can service all three codes. The IWP also discussed the possibility of the RIC providing information resources to participants on the availability of mediation services. The IWP recommends that the RIC liaise directly with the new mediation officer to establish a relationship and direct participants to appropriate mediation services, alleviating the expectation that Stewards provide this service.

### Implementation response to Recommendation 6

- (a) **The responsibilities and activities of stewards be devoted primarily to race-day activities.**
- This Recommendation has been agreed upon and implemented by all three racing codes. Noting that kennel inspections are also an important aspect of the activities of GRV Stewards.
- (b) **In the case of disputes as to ownership of racehorses and alleged indebtedness between owners and trainers, responsibility for mediation be transferred from the stewards.**
- RVL is in the process of establishing a new position of mediation officer with the further possibility that it could service all three codes. The position is expected to be filled by the end of December.
- (c) **The relationship between the Stewards and Investigators and their respective roles, be clarified with a view to promoting full cooperation between them.**
- RVL has advised that it has undertaken structural change to ensure there is an effective and cooperative relationship between Stewards and investigators. The issue does not arise in respect of HRV and GRV.
- (d) **Senior stewards be assigned to regional race meetings on a regular basis, and be given responsibility for designated areas for a specific period.**

- This Recommendation has been fully implemented and RVL has implemented a new rostering system that provides for an appropriate rotation of Stewards across the regions.
- (e) **RVL, HRV and GRV jointly develop a training program for all integrity officers, across the three codes, based on the training program developed by RVL for its stewards.**
- This Recommendation has been fully implemented. Integrity officers across the three codes are currently participating in a combined internal training program facilitated by RVL.
- (f) **Stewards should ensure that legal advice be obtained as to the likelihood of success, prior to charges being formally laid, or appeals lodged.**
- This Recommendation has been fully implemented and all three codes have this policy in place.
- (g) **Nominated stewards from RVL, HRV and GRV participate in regular quarterly meetings, for the purpose of discussing problems being encountered in their particular code, including drug usage and other potential threats to integrity.**
- This Recommendation has been fully implemented with the first meeting scheduled for early in the new year.
- (h) **Stewards of all controlling bodies be provided with access to real time information on betting transactions on thoroughbred, harness and greyhound races.**
- RVL has advised that it is preparing a business case to implement a national bet monitoring system. The final business case will be submitted to the RVL Board in February 2009.
  - HRV has advised that it is negotiating with RVL to immediately implement real time access to bookmaker phone account transactions.
  - GRV has advised that it is exploring opportunities to monitor unusual betting transactions, particularly exotics.

## Recommendation 7 – Other Integrity Matters

The IWP endorsed all of Recommendation 7 in-principle. The IWP agrees with Judge Lewis' rationale concerning the recommendations for independent veterinary and farrier services. The racing codes have advised that it would not be practicable to implement these particular recommendations given the limited veterinary and farrier services available in regional Victoria. To ensure that Judge Lewis' concerns are addressed, the three codes are working towards an oversight process requiring veterinarians and farrier services to declare interests and potential conflicts.

The IWP discussed the possibility of the Racing Integrity Commissioner providing assistance in ensuring there are no conflicts or perceived conflicts of interest in veterinary or farrier services.

### Implementation response to Recommendation 7

- (a) **RVL should review the rule regarding the announcement of changed riding tactics, with the objective of ensuring that punters are notified as early as is practicable, to allow them to make informed decisions about betting.**
- RVL has advised that this Recommendation has been fully implemented.
- (b) **In light of technological advances, the ban on the transmission of betting odds from racecourses be reviewed.**
- The IWP recommends that a legislative amendment be progressed to implement this change.
- (c) **The operation and accuracy of timing equipment and the accuracy of race distances be checked routinely, at all thoroughbred, harness and greyhound racetracks.**
- RVL and TVN have advised that they will introduce new technology in the 2009/10 season.
- (d) **Sectional times for races be recorded and made publicly available for all thoroughbred, harness and greyhound races.**
- RVL and TVN have advised that they will introduce new technology in the 2009/10 season.
- (e) **Racehorses not be permitted to start in a race for the first time unless they have participated in an official public trial.**
- RVL has advised that it has introduced a new rule that requires horses being entered to start in the Melbourne metropolitan area for the first

time to have previously participated in an official public trial or at a registered race meeting in country Victoria, interstate or internationally.

- Subject to the effectiveness of the new rule, consideration will then be given to the feasibility of its introduction in relation to first starts in country races.

**(f) Owners of horses involved in a protest hearing only be permitted to address the hearing at the discretion of the stewards.**

- This recommendation has been fully implemented.

**(g) GRV continue to investigate alternative methods of grading.**

- This Recommendation has been fully implemented. GRV has advised that it has a Grading Review Panel and is looking at mechanisms and simplification of grading methodologies.

**(h) GRV audit the computer program used for the allocation of boxes on a biennial basis and the result of that audit continue to be published in a magazine or periodical likely to be read by greyhound racing enthusiasts.**

- GRV will liaise with the Racing Integrity Commissioner to establish annual audits to be conducted by the Racing Integrity Commissioner with the outcomes tabled in his or her annual report.
- The yearly audit of the box draw will also be published in GRV's magazine for greyhound enthusiasts.

**(i) Consistent methods of identification be pursued at a national level and support be given by Government for research into technological advances in methods of identification.**

- RVL has advised that it supports this recommendation noting that the system operates on a national basis and HRV has a national ID system which it confirms is working well.

**(j) RVL ensure that each inspection under AR 141A (3), be conducted by a qualified farrier who is independent of any connection with the horse being inspected.**

- RVL has advised that independence is not practicable particularly in regional Victoria. Issue can be managed through an oversight process requiring farriers to declare interests and potential conflicts.

**(k) Race-day farriers check the shoeing of each horse in each race.**

- RVL has advised that it has implemented this recommendation (this recommendation is not applicable to HRV, as horses are not re-plated for racing).

**(l) On race-day, the controlling bodies ensure that veterinary services be provided by veterinarians who are independent of any connection with the horses or greyhounds racing.**

- The racing codes have advised that this recommendation is not practicable to implement, particularly in regional Victoria where there are skill shortage issues in veterinary services and costs would be prohibitive. The IWP proposes that independence issues be managed through an oversight process requiring veterinarians to declare interests and potential conflicts. The racing codes have agreed to discuss this matter with the RIC.

## Conclusion

In summary, the IWP can report that the majority of Judge Lewis' recommendations have been implemented and work is going on within the industry to implement the other recommendations. The IWP recommends that the following matters be addressed in the Government's legislative program for 2009:

- an independent integrity commissioner be established for the racing industry
- changes be made to the current appeals and disciplinary framework and processes
- the ban on the transmission of betting odds from racecourses be repealed.

A summary of all recommendations appears at Attachment 1, together with an indication as to where:

- the recommendation has been implemented
- the recommendation is in the progress of being implemented
- a legislative amendment required to implement
- an alternative has been implemented.

The IWP would also like to record appreciation for the work of Judge Lewis in identifying integrity improvements in the racing industry and his assistance in developing strategies for their practical implementation.

**Report on Integrity Assurance in the Victorian Racing Industry: summary of implementation plan**

<p><b>Key</b></p> <p><b>Implemented:</b> ✓</p> <p><b>In the progress of being implemented:</b> ☑</p> <p><b>Legislative amendment required to implement:</b> ⊙</p> <p><b>Alternative implemented:</b> ◊</p>	<p><b>Recommendation 1 – Criminal Activity in the Racing Industry</b></p> <p>I recommend that:</p> <p>(a) The Chief Commissioner of Victoria Police review the existing arrangements in relation to the racing industry with a view to replacing the existing “Theme Desk” with a squad of detectives, under the direction of a senior police officer, dedicated to addressing criminal activity in or associated with the racing industry in Victoria. ◊</p> <p>(b) The Chief Commissioner of Victoria Police invoke her powers to make application pursuant to section 5 of the <i>Major Crimes (Investigative Powers) Act 2004 (Vic)</i> for coercive orders to have persons suspected to be involved in organised crime and associated with the racing industry, examined by the Chief Examiner. ✓</p> <p>(c) Commission agents be required to obtain a licence and that the Rules of Racing be extended to apply to commission agents. ☑</p> <p>(d) The Rules of Racing governing the use of electronic devices in the betting ring, including laptops, be strictly enforced. ✓</p> <p>(e) RVL should immediately review the adequacy of the existing software used by bookmakers, to ensure safeguard against illicit manipulation and ensure proper auditing. ✓</p>	<p><b>Recommendation 2 – Internal Integrity Structures of the Victorian Codes</b></p> <p>I recommend that for each code:</p> <p>(a) An Integrity Committee be established with an independent Chairman, and with a majority of members independent of the Board, to provide advice to the Board, Stewards and Integrity Officers on integrity matters. ◊</p> <p>(b) The Integrity Manager and Chief Steward should report directly to the Board and Integrity Sub-Committee in relation to integrity matters. ☑</p> <p>(c) A betting accounts register be established for Directors and Senior Personnel, with the requirement that Directors and Senior Personnel use only their betting accounts on the register, when betting. ✓</p> <p>(d) All directors and senior managers of RVL, HRV, GRV, and any person nominated by the head of integrity services in each code, be required to make an annual declaration setting out their private interest in any matter related to racing, in respect of that code. Private interest for the purpose of this recommendation includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Any interest of the declarant or immediate family member in any property used for stud purposes, agistment, breeding, training or other purpose associated with the thoroughbred, standardbred or greyhound industry;</li> <li>• Any involvement of the declarant or immediate family member in the ownership, breeding, leasing, training, racing or management of thoroughbreds, standardbreds or greyhounds;</li> <li>• Any contractual relationships of the declarant or immediate family member with any other licensed person in the thoroughbred, standardbred or greyhound industry;</li> <li>• Any contractual relationship of the declarant or immediate family member with any person providing services or facilities to the thoroughbred, standardbred or greyhound industry;</li> </ul> <p>Any other significant financial or other interest of the declarant or immediate family member which could reasonably raise an expectation of a conflict of interest with the declarant’s role as director. ✓</p> <p>(e) Completed forms be provided to the Racing Integrity Commissioner. ☑</p>
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## Report on Integrity Assurance in the Victorian Racing Industry: summary of implementation plan

### Recommendation 3 – Co-operation on Integrity Issues

I recommend that :

- (a) The position of an independent Racing Integrity Commissioner be created, with stand-alone and independent statutory powers.
- (b) The Racing Integrity Commissioner be appointed by and answerable to the Minister for Racing and table an annual report on his/her activities.
- (c) The Racing Integrity Commissioner be separate from the controlling bodies, and monitor and advise those bodies about a number of issues including, but not restricted to:
  - Policies relating to the integrity of racing.
  - Performance of functions and exercise of the powers of those persons in the controlling bodies responsible for the enforcement of integrity.
  - Quality and range of services for drug control and analysis.

Other matters which the controlling bodies or the Minister refer to the Commissioner or the Commissioner considers appropriate.

- (d) The Racing Integrity Commissioner annually audit the performance of the internal integrity systems of the controlling bodies. Where required an audit should be undertaken of a particular code or a particular issue across the three codes.
- (e) The Racing Integrity Commissioner receive reports from the appellate bodies on a quarterly basis, allowing trend reporting of offences and provision of analysis of these reports, to the respective codes and the Minister.
- (f) The Racing Integrity Commissioner also fill a position that equates to a quasi ombudsman role, so that he/she can respond to complaints in relation to integrity across the three codes.
- (g) The Racing Integrity Commissioner have power to refer matters to Victoria Police or any other law enforcement agency, for investigation of possible criminal activity.
- (h) The Racing Integrity Commissioner have power to refer matters to integrity departments of controlling bodies for investigation of breaches of relevant Rules of Racing.
- (i) The Racing Integrity Commissioner have power to refer breaches of the *Gambling Regulation Act 2003 (Vic)* to the Victorian Commission for Gambling Regulation, for investigation.
- (j) The Racing Integrity Commissioner work with the controlling bodies to create one code of practice in relation to integrity for all codes.
- (k) The three codes work with the Racing Integrity Commissioner to develop and implement common Victorian rules, practices and procedures for dealing with integrity matters that are common across the codes.
- (l) The Racing Integrity Commissioner and controlling bodies sponsor both a common approach and a revision of rules nationally (and in the case of greyhounds across Australasia) to achieve uniformity.
- (m) The three codes work with the Racing Integrity Commissioner to review the current Rules of Racing relating to integrity, with the objective of ensuring they are enforceable, up to date and relevant to emerging technologies and threats to fair racing.

### Recommendation 4 – Appeals and Disciplinary Processes

I recommend that all necessary organisational, legislative and regulatory amendments be made to achieve the following:

- (a) That a single appellate and disciplinary body for the three codes be constituted, based on the RAD Board model.
- (b) The disciplinary and appeal process across the three codes be the same.
- (c) The RAD Board, HRV Domestic Appeal Panel and the Board member appeal panel for GRV cease to exist.
- (d) The new appellate and disciplinary body consist of an independent Chairman and three Deputy Chairmen, one nominated by each of the codes. All should be experienced lawyers of not less than seven years standing in order to ensure procedural fairness.
- (e) The independent Chairman be appointed by the Minister. The Chairman and Deputy Chairmen must not, while holding office, own or have an interest in any racehorse or greyhound, nor shall they hold office in RVL, HRV, GRV, any race club or any racing organisation.
- (f) The Chairman, Deputy Chairmen and the representatives be appropriately remunerated.
- (g) The Boards of RVL, HRV and GRV each nominate three representatives with experience in their codes, to sit with the Chairman or Deputy Chairman.
- (h) For hearings, the new appellate and disciplinary body be constituted by the independent Chairman or a Deputy Chairman, plus two of the representatives from the relevant code.
- (i) All hearings conducted by the new appellate and disciplinary body, be open to the public, except in exceptional circumstances, at the discretion of the Chairman.
- (j) All appeals from a decision of the new appellate and disciplinary body be to VCAT, constituted by at least a Vice President, which will be the ultimate appellate body, subject only to referrals to the Supreme Court, on questions of law.
- (k) The appellate jurisdiction of VCAT be common to all codes.
- (l) The Racing Appeals Tribunal be abolished.
- (m) The Board members of the new appellate and disciplinary body meet quarterly to discuss problems encountered and for the exchange of information.
- (n) The new appellate and disciplinary body use its quarterly meetings to discuss penalties imposed, with a view to achieving consistency across the codes.

### Recommendation 5 – Swabbing and Drug Testing

I recommend that:

- (a) The codes adopt a consistent approach to swabbing and testing, and at the very least, the winner of every race should be swabbed, as well as any beaten favourite.
- (b) Consideration be given to amending the constitution of RASL to remove the requirement that it be a non profit-making company.
- (c) RASL negotiate a Service Contract with the Victorian Racing Industry at the level of the VRI/Tabcorp Joint Venture (see Appendix Three). This contract should cover areas such as recurrent funding, pre and post race testing, purchase and maintenance of equipment, and research and development. The contract should be developed in consultation with the three codes, and reflect their relative income from wagering.
- (d) RASL publicise research on issues relevant to the racing industry for inclusion in industry publications.
- (e) In the event of a positive 'A' sample, the connections of the racing animal in question, be advised where and when the 'B' sample will be analysed, and be allowed to be represented by an analyst at that time.
- (f) In the event of degradable substances such as TCO2, where the 'B' sample must be analysed quickly, the connections of the animal be told where and when the analysis will take place, and be invited to have an analyst present. However, in that case, because of the time factor, the analysis will proceed whether or not it is convenient for the connections to have an analyst present.

**Report on Integrity Assurance in the Victorian Racing Industry: summary of implementation plan**

<b>Recommendation 6 – Stewards</b>	<b>Recommendation 7 – Other Integrity Matters</b>	
<p>I recommend that:</p> <ul style="list-style-type: none"> <li>(a) The responsibilities and activities of stewards be devoted primarily to race-day activities. ✓</li> <li>(b) In the case of disputes as to ownership of racehorses and alleged indebtedness between owners and trainers, responsibility for mediation be transferred from the stewards. ✓</li> <li>(c) The relationship between the Stewards and Investigators and their respective roles, be clarified with a view to promoting full cooperation between them. ✓</li> <li>(d) Senior stewards be assigned to regional race meetings on a regular basis, and be given responsibility for designated areas for a specific period. ✓</li> <li>(e) RVL, HRV and GRV jointly develop a training program for all integrity officers, across the three codes, based on the training program developed by RVL for its stewards. ✓</li> <li>(f) Stewards should ensure that legal advice be obtained as to the likelihood of success, prior to charges being formally laid, or appeals lodged. ✓</li> <li>(g) Nominated stewards from RVL, HRV and GRV participate in regular quarterly meetings, for the purpose of discussing problems being encountered in their particular code, including drug usage and other potential threats to integrity. ✓</li> <li>(h) Stewards of all controlling bodies be provided with access to real time information on betting transactions on thoroughbred, harness and greyhound races. ✓</li> </ul>	<p>I recommend that:</p> <ul style="list-style-type: none"> <li>(a) RVL should review the rule regarding the announcement of changed riding tactics, with the objective of ensuring that punters are notified as early as is practicable, to allow them to make informed decisions about betting. ✓</li> <li>(b) In light of technological advances, the ban on the transmission of betting odds from racecourses be reviewed. ⦿</li> <li>(c) The operation and accuracy of timing equipment and the accuracy of race distances be checked routinely, at all thoroughbred, harness and greyhound racetracks. ✓</li> <li>(d) Sectional times for races be recorded and made publicly available for all thoroughbred, harness and greyhound races. ✓</li> <li>(e) Racehorses not be permitted to start in a race for the first time unless they have participated in an official public trial. ✓</li> <li>(f) Owners of horses involved in a protest hearing only be permitted to address the hearing at the discretion of the stewards. ✓</li> <li>(g) GRV continue to investigate alternative methods of grading.</li> <li>(h) GRV audit the computer program used for the allocation of boxes on a biennial basis and the result of that audit continue to be published in a magazine or periodical likely to be read by greyhound racing enthusiasts. ✓</li> <li>(i) Consistent methods of identification be pursued at a national level and support be given by Government for research into technological advances in methods of identification. ✓</li> <li>(j) RVL ensure that each inspection under AR 141A (3), be conducted by a qualified farrier who is independent of any connection with the horse being inspected. ◆</li> <li>(k) Race-day farriers check the shoeing of each horse in each race. ✓</li> <li>(l) On race-day, the controlling bodies ensure that veterinary services be provided by veterinarians who are independent of any connection with the horses or greyhounds racing. ◆</li> </ul>	