Special Review of the Structure and Efficacy of the Racing Integrity Unit (RIU) and Allied Integrity Bodies

(Recommendation Six of the Messara Report into Racing in New Zealand)

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1 Introduction
The Messara report into racing in New Zealand recommended (recommendation 6) a special review of the structure and efficacy of the Racing Integrity Unit (RIU) and allied Integrity bodies. The review therefore considers the RIU, the Judicial Control Authority (JCA) and the New Zealand Racing Laboratory Services (NZRLS).

The Ministerial Advisory Committee provided a Terms of Reference to guide the review. The conduct of the review is described below.

While the motivation for doing so was varied, there was an impressive level of engagement from the people spoken to, all of whom gave freely of their time to provide information, advice and opinions to the review. The three racing codes, the RIU, JCA and Racing Laboratory have all promptly and helpfully provided information, advice and assistance to the review.

1.1 Terms of Reference
The scope of the special review included but was not limited to:

1. A review of the current structure of the RIU and related integrity bodies; with particular consideration of independence, effectiveness, efficiency, cost and accountability;

2. Consider whether, and the extent to which, enhancements should be made to the current integrity structure and whether legislative changes may be required;

3. Take account of the views of those knowledgeable about stewarding policies and procedures as input into the evaluation of the current integrity model structure;

4. The Review will have regard to relevant integrity structures in Australian racing jurisdictions and other relevant sporting bodies;

5. The review will also consider issues associated with animal welfare and how animal welfare issues need to be included within the integrity system;

6. The Review should engage with the New Zealand integrity bodies, laboratory services, the three Codes and key stakeholders on the strengths, weaknesses and opportunities for improvement of the current integrity structure;

7. The Special Review report should present options for possible future integrity structures, their processes, systems and funding mechanisms within New Zealand racing; and consider the advantages and disadvantages of alternative models; and

8. As a result of the above, the SR report will include a project plan (including resources) and timetable outlining how changes could be implemented.

1.2 Acknowledgement
The review was significantly assisted by the professional expertise of Mr Paul Bittar. Mr Bittar has extensive experience in New Zealand, Australian and British racing industries. His knowledge of and expertise in the racing industry and the delivery of integrity services was invaluable. The assistance and advice of other industry experts, both here and in Australia is also acknowledged.
2 Executive Summary
The review considered the structure, efficacy, accountability and independence of the Racing Integrity Unit and associated bodies, namely the JCA and the NZRLS. The original reason for the review was a concern about cross coding across the three racing codes. That has not emerged as a significant issue in the course of the review.

The RIU is a limited liability company “owned” by the codes and the Racing Board. The Board of the RIU reflects that ownership. It consequently lacks independence and could be susceptible to conflict of interest. Representation on the RIU board has lacked effective engagement at board level in the equine racing codes.

The JCA is established under statute to provide an independent decision making function. It provides reports on that activity to the Minister of Racing and the codes. It has a board structure that provides independence balanced with industry knowledge. The Authority structure appears both suitably independent and properly accountable.

NZRLS is a private company. It is independent of the racing codes. It provides services to the Racing Board pursuant to a contract. It appears to be competitive on price and quality with overseas laboratories.

The RIU stewards are primarily focussed on the delivery of race day operations. The RIU investigators complete inquiries into breaches of the rules of racing. Both they and the stewards are responsible for completing activities such as stables and kennel visits and completing racing and out of competition drug testing. The unit has met their targets for these activities. It is difficult to determine the quality of these activities.

The JCA panels attend Thoroughbred and Harness race days. Their activity there is primarily driven by charges brought by the RIU. The JCA also determine race day protests and rulings. Most race day charges are acknowledged (92%) with the JCA deciding on penalty. The JCA also hear non-race day hearings. Appeals from these hearings are heard through the Appeals Tribunal. When compared to the process in overseas jurisdictions where charges are determined by the stewards, the JCA race day function is considered inefficient.

The review identified varying views from stakeholders, both positive and negative, about the operational independence, effectiveness and efficiency of the RIU and JCA. Several stakeholders questioned the capability and consistency of stewards to oversee racing and of the JCA to deliver consistent decisions and sanctions. There were some very strong negative views about the way the investigative functions were delivered, especially by people in harness racing. Conversely, there were also positive views about the value of independent investigative and decision making functions.

To improve independence and provide effective accountability the review proposes an amended integrity framework, with the establishment of one independent integrity board to provide governance of the stewarding, investigation and judicial functions. While that entity should have independence in operational decision making, a strong connection to the racing codes through an effective engagement strategy is important. Funding for integrity services should continue to be met through Class 4 gambling money with a simplified
budget approval process. The entity should also assume responsibility for managing the contract with the NZRLS, including the funding and acquisition of capital equipment.

The review concludes there is potential for most of the race day functions of the JCA to be conducted by the stewards. This change will require additional training and upskilling for stewards and amendment of the Racing Act and the respective rules of racing. The JCA should retain responsibility for hearing all charges that are not admitted by way of a non-race day hearing\(^1\) and for the current appeals functions.

A recent Racing Board survey identified concerns among participants about fairness, consistency and integrity of decision making, the willingness and ability to manage allegations of poor behaviour and a lack of visibility of women in the RIU and JCA. Those concerns have led to a recommendation that a specialist position be established in the RIU to address those complaints.

The review of the animal welfare monitoring and enforcement concluded that significant activity is underway in this area with the codes developing and implementing strategies to improve industry standards. While there are opportunities to improve welfare monitoring systems and capability it is not considered necessary for further legislation or regulation to be developed.

Concerns were raised by some participants about the effectiveness of RIU leadership. These are rejected by the RIU. The review did identify issues of concern regarding the RIU business planning and reporting and the current organisational model. These matters were previously addressed in the Stokes report in 2013, which was only partially implemented. It is recommended the RIU internal structure, business practices and business reporting and training and development be further reviewed to give effect to the Stokes report.

The full review recommendations are set out below.

\(^1\) About 50 hearings per annum based on JCA data published for the last 3 years.
3 Recommendations

3.1 Amend the Racing Act 2003 to establish a single statutory Racing Integrity Board (RIB) to oversee the functions of the RIU and the JCA.

3.2 In consultation with the Racing Board and Racing Codes dissolve the RIU limited liability company and transfer the delivery and oversight of RIU functions to the Racing Integrity Board.

3.3 Establish a funding approval mechanism which enables the Racing Integrity Board to set and Racing Board (or its Wagering successor) to approve integrity budgets from Class 4 Gambling money.

3.4 Transfer responsibility for the management of the contract with the NZRLS, including the provision of capital funds for laboratory equipment, to the Racing Integrity Board.

3.5 Amend the Racing Act 2003 and rules of racing to allow race day admitted charges to be determined by the stewards.

3.6 Have all defended charges heard by a centralised JCA panel in scheduled, centralised non-race day hearings.

3.7 Establish specialist animal welfare positions in the RIU to take the lead role in monitoring animal welfare.

3.8 Have the RIU review the relationships with MPI and RNZSPCA and develop formal mechanism (by way of MOU) for appropriate triage of animal welfare investigations.

3.9 Have the racing codes develop an online facility for recording non-race day injuries and veterinary treatment.

3.10 Establish a specialist position within RIU to monitor, investigate and review participant welfare.

3.11 Have the RIU review their confidential hotline and work with the codes to establish whistle blower provisions.

3.12 Have the RIB review the current RIU business processes against the recommendations made in the Stokes review.

3.13 Have the RIB review staff training and development models to ensure appropriate training is delivered and milestones established for career progression.

3.14 Have the RIB review RIU organisational structure and staff distribution for optimal effectiveness and efficiency.
4 Programme of Work

4.1 Racing Industry NZ

The review started with research into published reports and organisational documents relevant to the three racing codes. These included prior reviews about integrity and welfare issues and examination of reports from other jurisdictions about integrity structures and processes. The original submissions to the Messara report on this recommendation were reviewed.

Interviews were completed with the Chair, CEO, senior staff and participants of Harness Racing (HRNZ), Thoroughbred Racing (NZTR) and Greyhound Racing (GRNZ). Interviews were completed with the Chair, CEO and staff of the NZ Racing Board (NZRB), the RIU and the JCA. Race meetings were attended at Avondale, Invercargill and Alexandra Park and the actions of the RIU and (where relevant) the JCA observed. The CEO of the Racing Laboratory was interviewed, and the facility visited. Representatives of the industry organisations were interviewed. An offer to make confidential submissions to the review was posted on the websites of the three codes with 14 submissions received.

4.2 NZRB Surveys

The views expressed in recent surveys and associated interviews about Women in Racing, which were completed for the NZRB, were considered. Those views included concern about fairness, consistency and integrity of decision making, the willingness and ability to manage allegations of poor behaviour and a lack of visibility of women in the RIU and JCA.

4.3 Racing Industry Australia

A visit to Australia enabled interviews with experienced current and former stewards and integrity managers in NSW and Victoria. Attendance at Sandown races provided the opportunity to observe the Victorian model for thoroughbred racing. A video call was completed with the Queensland Racing Integrity Commissioner. A meeting was held with the Racing Victoria animal welfare and veterinarian staff.

4.4 Sporting Bodies - NZ

NZ Rugby and Cricket NZ were both contacted and relevant integrity managers interviewed regarding the integrity structures in their codes. The disciplinary functions of both organisations were considered. Relevant resources describing these processes were obtained and reviewed.

4.5 Animal Welfare Oversight and Monitoring

Research was done into the existing Animal Welfare legislation and welfare codes. Information on strategies, policies and rules relevant to welfare were gathered from the codes. External organisations associated with animal welfare were contacted and interviews completed. The Chief Veterinarian contracted to the RIU was interviewed as were industry participants. The report of the Hansen review of Greyhound Welfare and the industry reports on progress towards implementation were reviewed.

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2 The Chair of the Racing Board is also the chair of the RIU Board.
5 Racing Integrity Unit
5.1 Introduction

The Racing Integrity Unit (RIU) was established in 2011. The proposed benefits for doing so were to create independence from the codes and transparency in integrity decision making. It also proposed better career prospects for stewards, better use of resources, economies of scale and consistency around the application of the rules of racing. The RIU was established as a limited liability company with the three codes and the NZRB as equal shareholders. Each of the shareholders appoints a board member to the RIU board, with the NZRB representative as the chair.

The RIU strategic objectives, operational objectives and functions are defined in a constitution to give effect to the benefits identified above. These are supplemented with integrity service agreements, or as they are now known service level agreements (SLA), between the RIU and each of the codes.

The functions of the RIU are defined in clause 2.3 of the company’s constitution. They can be broadly described as contributing to the management of racing activities through the employment and training of stewards and investigators; liaison and advice to the codes and NZRB on rule and betting changes, oversight of veterinary and drug testing services and liaison and communication both within the racing industry and with external partners. The RIU derives its powers to act from the rules provided by each code.

The RIU employs 34 fulltime staff, with the majority in steward and investigator roles. The General Manager, Manager: Integrity Services, Betting Analyst and the Administration Manager are based at the RIU office at Ellerslie Racecourse. The General Manager: Stewards and 10 staff (including the three Chief Stipendiary Stewards) are based in Christchurch. The remaining staff are based in Auckland (5), Waikato (4), Central Districts (6), Dunedin (2) and Southland (2). Corporate services (HR, Payroll, IT) are provided by the Racing Board for an annual fee.

In the 2017/18 year stewards attended 1033 race meetings and 300 trials meetings. Stewards reports are completed for each race at race meetings. A total of 646 race day charges arose out of those meetings with 588 charges (91%) being admitted. Of the remaining charges 47 were proved and 11 were dismissed. 355 Minor Infringement Notices (MIN) were issued across the three codes. The unit completed 942 stable and kennel visits. The RIU oversaw the taking and processing of 13,028 samples from animals for drug testing. The RIU investigators completed 173 investigations for the year, with about a quarter of those (42) resulting in non-race day charges before the JCA.

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3 The rationale for establishing the unit is discussed in some detail in the 2013 independent review of the RIU by Neville Stokes.

4 The RIU also employ 85 part time staff, mainly in swabbing activities

5 The RIU and JCA reporting data is structured slightly differently with 688 charges recorded by the JCA with a 92% admission rate.
5.2 Accountability

The RIU is accountable through its constitution to a board comprising equal representation of the three racing codes and the Racing Board. This governance structure lacks independence and provides the potential for conflicts of interest over operational activity. Greater independence at board level was a recommendation of several stakeholders, including the chair of the RIU. That said, there was a strong view from within the codes that there needs to be industry knowledge and involvement available to the integrity bodies to ensure they addresses the priorities of the codes for whom they act.

The board meets up to seven times per year. The RIU provides annual business plans and budgets for RIU board approval and subsequent approval by the Racing Board in consultation with the racing codes. The board receives reports about operational activity of the RIU, financial performance and some specific initiatives. The RIU provides an annual report to the four shareholders and to the Minister of Racing. The RIU reports monthly to the codes on operational activity.

It is not clear that the shareholders have any significant role in setting the RIU priorities, nor that they have until now expressed any wish to do so. It is not apparent that the equine boards are informed about the governance activities of the RIU in any meaningful way by their representatives on the RIU board. The service level agreements between the RIU and the codes were last reviewed in 2015\(^6\). Beyond the budget there appears to be little interest by the codes in the unit’s performance until a crisis or controversy emerges. Almost the only mention of the RIU in the equine codes 2017/18 annual reports is in relation to the financial statements\(^7\).

The business plan objectives were updated following the Stokes review in 2013. It was intended that these be supplemented by detailed operational plans, but these were apparently abandoned due to cost. Reporting to the board on the key performance indicators is variable. Many of the KPI are not expressed in a way that enables effective measurement. Monthly and annual reporting is predominantly focussed on activities rather than outcomes with an emphasis on managerial issues and the budget.

5.3 Independence

The RIU was set up to provide independence in operational decision making and transparency of process for integrity matters. These operational functions fall into two broad categories, stewarding and investigations. The stewards, nominally independent of the codes, adjudicate on races. The investigators carry out investigations for the codes under their respective rules of racing. Both are involved in kennel and stable visits and oversight of drug testing and veterinary inspections\(^8\).

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\(^6\) The SLA were initially set up for three years with subsequent five yearly reviews

\(^7\) The NZTR also included the RIU amongst the organisations acknowledged on the final page of their report.

\(^8\) The stable and kennel visits are the overt activity designed to monitor animal welfare.
On the face of it the RIU provides the independent service agreed to with the codes. However, the review identified concerns that this independence is perceived to be either compromised or conversely, taken too far by the RIU.

Some within the racing codes believe the RIU acts, or chooses not to act, on matters where it should consult more closely with the codes. The board and management of the equine codes suggested there had been a breakdown in communication between the RIU and the codes in terms of setting priorities. Most of this sentiment appears to emerge from the activities undertaken by the investigators. There is a view that the investigators have become too prosecution focussed, rather than working in a collaborative fashion with the codes to proactively address integrity issues in a way that improves the overall integrity of the racing industry. The RIU reject this criticism.

This issue is a difficult one to address. While prevention should always be foremost in any integrity strategy there is a risk that at some point collaboration and prevention is perceived as collusion and preference. Most of the issues referred to as examples of this concern related to operational decision making which should not be influenced by the codes.

There certainly does appear to be a need for better engagement between the codes and the RIU at board level in determining priorities and having these properly reflected in the SLA. Effective engagement with the codes was identified as an issue in the Stokes report in 2013.

The greyhound code welcomes the independence provided by the RIU. They see it as a positive in any discussion about integrity and welfare. Participants had little concern about operational independence. One of the submissions received through GRNZ identified an issue with a lack of independence at board level. GRNZ would support greater independence for the RIU board.

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9 The equine codes acknowledge this was equally a failure by them to engage effectively with the RIU.
10 Most of the issues of concern regarding RIU performance identified in this review were previously identified in the Stokes report.
In terms of operational independence on race day, the JCA representatives suggested that some stewards’ decisions to charge and penalty indications appeared to favour individual participants. This theme was also picked up in discussions with jockey and driver representatives who suggested some participants appear to be more leniently treated than others. They suggest that there is a lack of consistency in charging decisions, and for that matter in JCA decisions. Most jockeys and drivers drew little distinction between the JCA and the RIU and considered the JCA as the organisation that rubber stamped RIU decisions; a view strongly refuted by both bodies.

The RIU management contest the concerns about a lack of independence on the one hand and too much autonomous, prosecution focussed action on the other. They point to their process which doesn’t allow a single steward to make a judgement to charge or warn. They note that penalty regimes are quite tightly prescribed and that recommendations to panels follow those guidelines. They acknowledge the inevitable tension that arises between a prosecution body such as the RIU and the people impacted by those decisions. They state that they do work with the codes to educate and promote integrity, to the extent that time and budget allow. They have staff engaged with various code committees but accept that better engagement at board level might be useful. They acknowledge, as do the codes, that there has been inadequate effective communication about business plans and priorities.

The review has been unable to reconcile these divergent views, particularly those relating to the way the RIU service is delivered. It does appear that better engagement with the codes would address some of the negative perceptions about RIU operations.

5.4 Cost and Efficiency

The RIU prepares its annual budget for approval by its board and then by the NZRB in consultation with the codes. Funding for the RIU is provided from Class 4 gambling money as an “authorised purpose” under the Gambling Act 2003. The budget for the RIU in the last financial year was $6,280,000. Staff costs, travel and accommodation and drug testing account for $5.75 million. Financial reporting confirms the unit remains within budget. The unit claims to have kept cost increases to less than the level of inflation since its inception, whilst taking on more activities. It has reduced costs to the industry by centrally managing some activities such as the veterinarian and swabbing contracts. Staff are distributed across the country to broadly align with race meeting workload.

A feature of the RIU model is that staff should be mobile and able to use technology to work remotely. The disaggregated model has staff positioned across the country to provide national coverage and reduce travel costs, but it comes at some cost in establishing a team identity. There are only two office locations, one in Auckland and the other in Christchurch. Much of the activity associated with the Auckland office is administrative rather than operational. Despite the use of mobile technology, there is a very real risk of an organisational disconnect in the current model. The GM: Stewards and three Chief Stewards operating out of one location, as will shortly be the case, reinforces that risk. A model with staff based in three hubs located in the Northern, Central and Southern regions would provide a more cohesive structure.
It is difficult to draw efficiency comparisons with other jurisdictions as the functions undertaken and the operating models vary. However, on the face of it RIU appears to provide a service that competes on cost with counterpart organisations in Australia. The chart below indicates the ratio of staff costs compared to the number of race meetings per jurisdiction\textsuperscript{11}. The RIU staff cost is estimated at $3365 per meeting, the next nearest is the Greyhounds Victoria at $4356 per meeting.

The unit costs and expenditure against budget feature large in board discussions. Much of the RIU reporting seems designed to convince shareholders that it is providing value for money. The RIU submissions to the Messara report argued that core costs in 2018 were below the costs incurred by the codes when they owned these activities.

Despite the significant level of financial reporting, the value of the RIU to the industry seems difficult for participants to assess. There appears to be limited stakeholder knowledge or understanding of the funding arrangements around the RIU or the costs incurred for similar activities in other jurisdictions. There are suggestions that the service could be delivered for less, without any specifics on how that might be achieved.

It is apparent from a review of the RIU strategic plans that several initiatives that might have enhanced their capability have been constrained by cost. While funding appears to have been sought for these initiatives it has not necessarily been provided. An alternative funding mechanism is discussed in further detail in section 14.1 below.

\textsuperscript{11} The data for Australian jurisdictions was obtained through their respective annual reports. Queensland’s costs include several functions not covered by other jurisdictions. On a cost per FTE the RIU is still less costly than the Queensland model.
5.5 Effectiveness

Given a lack of precision around the business planning and reporting it is difficult to objectively judge the effectiveness of the RIU performance. The unit appears to be well administered. It completes the activities it identifies as targets in the annual planning process but there are no quality measures to determine how well these are done.

Stakeholder views on the effectiveness of the RIU vary. As already indicated the Harness Racing community have very negative views of the investigative functions. It is apparent that much of this ill feeling stems from Operation Inca. It is not generally suggested that the investigations are ineffective, although examples of apparently flawed inquiries have gained currency in harness racing circles. Rather it is suggested that investigations are conducted in a manner which lacks empathy, is heavy handed and prosecution focussed and suggests a “them and us” mindset. This is considered by critics as symptomatic of a lack of leadership within the RIU.

The view from Thoroughbred participants is mixed, with some supporting the harness racing view and others quite positive with this aspect of the RIU performance. GRNZ appreciate the work done by the investigators but would welcome the opportunity to refine the service level agreement to provide greater clarity around code expectations and to properly define accountability.

Investigation outcomes for the last four complete years are indicated below. The data provided lacks some clarity with an unacceptable number of outcomes defined as other. About 25% of investigations find their way to the JCA.

Investigations cover a range of issues including animal drugs and welfare, misconduct by participants including assaults and drug taking, betting, financial disputes and licensing inquiries. The investigators also have an on course role on race days and oversee the swabbing process and arrange delivery of samples for drug testing.
The development of an intelligence database which enables more effective targeting of investigations and drug testing is overseen by the Manager: Integrity Services. It is considered an effective capability with potential for further development.

Stewards oversee race day activity and where necessary prepare charges for hearing before the JCA. Like other jurisdictions this entails an inquiry with the person alleged to have breached the rules and a decision made to charge. Unlike their counterparts in other jurisdictions they do not determine the charges, this is currently a function of the JCA.

The participants most impacted by the Stewards, namely the trainers, jockeys and drivers, had mixed views about the stewards’ effectiveness. Some were quite happy with the capability of the stewards. Others question the capability and consistency of the stewards across the organisation. While individual stewards were considered effective, others were thought to lack experience and the appropriate level of skill to discharge their functions. Notwithstanding those views the RIU appears to have been generally effective in managing race day activity. Their successful resolution rate suggests they are generally correct in their charging decisions\(^\text{12}\).

The issue of tri-coding, which motivated the initial recommendation for review, was not a concern for most industry stakeholders. Of the 26 stewards (including the GM Stewards), 14 are trained to adjudicate across three codes, 6 across two and 6 are specialist in only one code. Reviewing a monthly roster suggests that specialist stewards invariably take the lead in race meetings for each code. The cross coded steward is often the third or fourth steward assisting the specialists at equine meeting and the second steward at greyhound meetings\(^\text{13}\). Cross coding appears to be an effective and efficient means of delivering a nationwide integrity service across the three codes. Greater clarity around the process by which stewards are trained to qualify them to operate across codes would be useful.

Stable and kennel checks, out of competition drug testing and participant welfare activities did not draw any significant adverse comment from stakeholders. The RIU considers the visits useful as a means of engaging with participants outside of a race day setting. Some questioned the RIU ability and training to complete stable and kennel visits. The investigators have a checklist to complete for these visits but limited formal training on welfare inspections\(^\text{14}\). The skills required for these roles appear to be presumed rather than identified by any formal process. The current “we know it when we see it” approach to detection of welfare issues is considered inadequate in an environment where there is an increased focus on welfare.

The primary race day role for investigators of oversight of the animal swabbing process and the security and shipment of samples to the Racing Laboratory was considered by the Stokes review as an inefficient use of their time and skills. It was suggested this role should be managed by the stewards. The RIU has continued to manage the race day functions using investigators based on stewards’ workload.

\(^{12}\) 98% of charges brought by the RIU are proven

\(^{13}\) Horse racing has three or four stewards in attendance at race meetings, greyhounds have two.

\(^{14}\) Several of the stewards have a background in racing, whether as owners, trainers, jockeys or drivers and therefore are presumed to have some expertise in animal welfare.
The RIU has been effective in identifying the need for interventions supporting participant welfare, with a programme targeting drug and alcohol issues. It has picked up on a NZTR initiative to partner with the Salvation Army to provide this service.

What became apparent in the course of the review was the different level of structure around career development and progression for stewards in comparable Australian bodies. The Australian organisations have robust and well documented career structures with clearly defined levels of expertise needed to reach the next career milestone. Practical and academic training is clearly set out, associated with a timeframe for achievement of levels of competence. This model promotes confidence in the capability of the stewards. By comparison there is a lack of structure and clarity in the RIU processes with a significant amount of supervisor judgement determining progression. There appears to be limited focus on training and development, with a total training budget of $10,000 per year.
6 Judicial Control Authority

6.1 Introduction

The JCA is a statutory body, established under the Racing Act 2003, with an independent chair (albeit appointed by the Chairs of the Racing Board and the three codes) and two directors for each code appointed by the Authority Chair and the chairs of the codes. The independent chair is required to be or to have been a barrister and solicitor of the High Court with not less than seven years practice experience. The functions of the Authority are set out in section 37 of the Act and include the selection and appointment of Judicial Panels and Appeals Tribunals and to initiate, develop, and recommend to the industry organisations those measures that will, in the JCA opinion, be conducive to the efficient judicial control of racing in New Zealand.

The JCA panels appointed to race days, usually comprising two panellists, attend Harness and Thoroughbred race meetings. They do not attend Greyhound race meetings. The panels adjudicate on protests, rulings and race day charges. They provide written decisions for these hearings which are loaded onto the JCA website. JCA panels consider racing charges for all three codes in non-race day hearings. The Appeals Tribunal hear appeals from the panel hearings. These decisions are also posted to their website. The format of the disciplinary processes and reports are similar in style to Court processes and reports.

The Authority has 21 panellists on the JCA panel who are rostered to attend race meetings. The panellists are not employees, they are contractors. There has traditionally been some difficulty in obtaining and retaining people with the right skill set to manage this function. The Appeals Tribunal comprises a core of 6 legally qualified members\(^{15}\) who are supplemented by JCA panellists with the necessary experience and skill.

The JCA strongly supports retaining the status quo in terms of governance and operating model. The Authority does not support the proposition that the RIU and JCA could be overseen by the same governance structure.

6.2 Independence and Accountability

As indicated above the JCA was established as an independent statutory entity under the Racing Act 2003. The Authority completes an annual report with a statement of service performance and audited financial accounts. These are provided to the Minister of Racing and copied to the Racing Board and the three codes. The JCA is funded in the same way as the RIU, through Class 4 gambling money.

The JCA makes operational decisions independently of the RIU and the codes. Its ability to operate on behalf of the codes is conferred through the racing rules of each code and the Racing Act. An often used analogy is that the three racing codes who make the rules are the Parliament, the RIU who enforce the rules are the Police and the JCA is the Judiciary. The integrity system the Codes have set out in their rules, which the JCA is required to give effect to, is set up to follow judicial processes like those which might be encountered in the courts.

\(^{15}\) The Appeals Tribunal currently includes retired High Court and District Court judges
There is provision for decisions from the JCA to be challenged through judicial review to the High Court.

The Authority, like the RIU, appears to be constrained from developing different operating models through budget pressures. It is noted that technology options have been canvassed by the JCA for several years to centralise hearings, improve consistency and reduce operating costs. Those recommendations do not appear to have been taken up by the codes or the Racing Board.

6.3 Efficiency and Effectiveness

The Authority annual budget for 2018 was $1,380,000. Funding has remained relatively stable for the last several years around the $1.3 million mark. The operating costs for the judicial panels in 2018 amounted to $831,906. Comparison with other racing jurisdictions is not practicable as no other jurisdiction has a similar integrity model. The Authority provides an effective decision making service on racing charges. It also provides an effective and efficient independent appeals process, in terms of accessibility, timeliness and cost.

Most participants were unclear on the value for money of the Authority functions. Race day JCA panels were criticised by most participants in thoroughbred and some in harness racing as being an unnecessary level of bureaucracy and cost. There was a majority view, not necessarily supported by fact, that the JCA rubber stamp the steward’s recommendations and submissions and are therefore superfluous. Conversely some participants confirmed the value of the JCA as an independent check on the powers of the stewards.

Several industry participants considered there were inconsistent application of the rules and penalties by the JCA panels. There was a view that different decisions could be reached, or sanctions applied depending on geography and the skill of individual panellists. One code suggested the JCA failed to take enough notice of code priorities when dealing with behavioural offences. There was support for retaining the JCA as an independent decision maker for defended charges and appeals.

The JCA points out that as with any judicial process there will always be matters peculiar to the charge or circumstances of the defendant which may explain a variation in penalty. It also identified that there may be some geographical variation in penalty attributable to race day programmes in the Central and Southern regions compared to the North. Notwithstanding those explanations a predominant concern about the JCA process, from participants interviewed, was the issue of consistency.

The Authority has attempted to address this concern by producing guidelines for hearing processes and for penalties to try and limit the risk of inconsistency. The Authority reviews panel decisions to provide feedback to panellists on the conduct and outcome of hearings.

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16 The Authority and JCA panellists had a different view – in the absence of improved technology allowing centralised and remote adjudication they continue to advocate for race day attendance by the JCA.
The chart below indicates the JCA panel workload on race days. Most of this activity is related to charges brought by the stewards. These are predominantly penalty decisions for charges that are admitted. Each decision is recorded and posted on the JCA website. The JCA panel also decide protests and rulings and approve Minor Infringement notices (MIN) issued by the stewards.

The graph below showing charge disposition records an increase over time in the number of charges admitted and proven. In the last racing year, according to JCA data, 92% of charges were admitted and 98% proven. That has risen from 77% admitted and 96% proven in 2012. This appears to be attributable to three things; greater prescription about the offences charged, better quality race video evidence available for review and the potential for a discount on penalty for early acknowledgement of wrongdoing. The significant increase in charges in the last year (150) is attributed to amendments to the whip rules.
Race day charges are heard without the benefit of representation unless the driver or rider is an apprentice or a minor, when they can be supported by a senior license holder. These hearings are completed within the constraints of the race day programme, meaning they are either heard between races or at the conclusion of the programme.

![JCA Non-Race Day Activity Graph](image)

Non-race day hearings and Appeals Tribunal hearings are heard on scheduled dates and respondents can be legally represented. In the last year there were 87 non race day hearings and 18 Appeals Tribunal hearings\(^{17}\).

The review considered the cost benefit to participants, including the RIU and JCA, of being able to attend hearings on race day rather than in a non-race day hearing. Having all parties immediately available obviously has some benefit in having the matter dealt with expeditiously. There is the prospect of some savings in cost for the individual hearing.

However, given the relatively small number of defended hearings per year and the ability to use video technology to hear from witnesses in other locations, it is considered that a more effective and efficient model would be establishment of a scheduled, centralised hearing facility to deal with all defended matters. This model would eliminate the time constraints of race day hearings. It also increases the likelihood of greater consistency in the application of the rules.

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\(^{17}\) The data used to analyse JCA activity was sourced from the JCA Annual Reports.
7 New Zealand Racing Laboratory Service

7.1 Accountability and Independence

The Racing Laboratory (NZRLS) is an independently owned limited company which contracts with the Racing Board to deliver drug testing of samples, taken from animals registered by the codes, for the detection of prohibited substances. The NZRLS is certified to ISO/IEC 17025 standard for “general requirements for the competence of testing and calibration laboratories” and the supplementary document ILAC-G7 “Accreditation requirements and operating criteria for horse racing laboratories”.

The NZRLS is almost entirely funded by the Racing Board, again through Class 4 gambling money. The NZRB also provides funding for major capital equipment. The agreement between NZRB and NZRLS was made in 2014 with a ten year term and a right of renewal. The budgeted value of the contract in the current year is estimated to be $1,931,750. Capital expenditure for the current year is minimal however the five year capital budget proposal for 2017-22 was about $2.2 million.

NZRLS anticipates completing a minimum of 9,000 race day and out of competition samples and 2,000 TCO2 samples for the 2019 year. In the 2018 racing year 13,028 samples were tested with 23 positives returns. Testing for drugs in hair samples is currently being developed.

7.2 NZRLS – Cost, Efficiency and Effectiveness

The Laboratory is considered effective in what it does. The tables below indicate the number of drug tests completed for the five years between 2013 and 2017 and the number of positive results.

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<tbody>
<tr>
<td>TCO2 TR</td>
<td>878</td>
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<tr>
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<td>2356</td>
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<tr>
<td>Swab GR</td>
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<td>3440</td>
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<tr>
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<td></td>
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<tr>
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<td>72</td>
<td>383</td>
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<tr>
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<tr>
<td>OCT GR</td>
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<td>0</td>
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<tr>
<td>Total</td>
<td>11361</td>
<td>12359</td>
<td>11448</td>
<td>12175</td>
<td>12683</td>
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<tr>
<td>Positives</td>
<td>20</td>
<td>11</td>
<td>31</td>
<td>13</td>
<td>23</td>
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</table>

18 The 23 drug positives across the three codes were; 9 TR, 13 HR, 1 GR.
19 The data is sourced from RIU records.
The ratio of runners to animals tested is similar to the Australian jurisdictions. The ratio of positive drug tests is slightly higher than NSW and Victoria but lower than Queensland.

There were some individual views expressed about the efficacy of drug testing generally and the ability to stay ahead of the chemists in detecting new substances. That is an issue for all testing laboratories. The NZRLS appears to be well connected to international organisations that allows it to remain aware of current developments in drug testing. The NZRLS meets the accreditation standards required in the NZRB contract for service.

A very rudimentary comparison with similar laboratory services in Australia suggest NZRLS is competitive on price. The budgeted value of the contract in the current year is estimated to be slightly more per sample than NSW racing and less than Victorian and Queensland counterparts.\footnote{As with the earlier comparisons between NZ and Australian racing, there are differences in ownership and contracting models between codes and laboratories that make the comparisons indicative at best.}

The manager of the laboratory pointed out that testing offshore, the current alternative option, would still incur costs for the forensic packaging and shipment of samples. It was suggested that were this to be routinely done it would delay the process for receiving results. Some samples are currently sent offshore to either authenticate NZRLS testing or to provide a specialist service not available through the NZRLS.
8 Welfare

The Terms of Reference specifically sought advice on the adequacy of animal welfare monitoring and oversight. A subsequent request was made to consider the need and value of additional regulation in this area.

Code participants were strongly of the view that most animals were very well treated during their racing life. This is not surprising, given the ill treatment of an animal during racing is unlikely to lead to success on the track. It was conceded that there were concerns about the traceability of animals before they were registered and the disposal of animals after their racing careers.

Legislation covering animal welfare is found in the Animal Welfare Act 1999 and associated regulations. Section 183 of the Act provides for regulations to be developed. By an amendment to the Act in 2015, provision was made under the regulations for “prescribing the offences created by or under this Act that constitute infringement offences for the purposes of this Act, and prescribing infringement fees not exceeding $1,000 for each infringement offence...”.

The development of offences and infringements are incorporated into a programme of work overseen by the National Animal Welfare Advisory Committee (NAWAC). It is given effect through the Animal Welfare (Care and Procedure) Regulations, the first tranche of which came into effect in 2018. These are quite specific regulations designed to deal with issues of standards compliance where regulation would help change behaviour. The first tranche included some regulations addressing the welfare of dogs and horses.

Section 75 of the Animal Welfare Act provides for the publication of codes of welfare. There are codes of welfare for dogs and for horses and donkeys. These might best be described as the minimum standard required for treatment of animals.

Further regulation at this point was not considered necessary by the people spoken to in the racing codes or the animal welfare bodies. Those involved with the development of regulations were confident that should specific issues arise the Care and Procedure regulations provided adequate scope to deal with them. MPI representatives observed that the potential for significant penalties already existed under Animal Welfare Act, if the welfare breach was significant, and under the regulations or rules of racing for other matters.

Sitting beneath the legislation are the strategies and the racing rules developed by the codes. These need to be continually monitored and updated by the three racing codes to meet the scrutiny and expectations of their industry, animal welfare proponents and the wider New Zealand public.

GRNZ has established a welfare code and incorporated welfare into its racing rules. NZTR has a comprehensive animal welfare strategy and is currently consulting on changes to its racing rules regarding welfare. Those rules are due to be considered at its next AGM later this year. HRNZ advise that their rules and strategy on welfare are under review, with a focus on animal traceability from birth to leaving the industry. HRNZ currently has a somewhat dated welfare policy and has limited reference to welfare in their rules.
Much of the current welfare policy development for all three sectors of the industry is focussed on traceability of animals from birth until they are rehomed or otherwise leave the industry\(^\text{21}\). The Hansen review of greyhound welfare has motivated a significant programme of work in that code to address welfare issues. Because of that review, and others, GRNZ are arguably better placed at this point to address welfare issues than the two horse racing codes\(^\text{22}\).

Both equine codes are developing or have developed welfare strategies in conjunction with animal welfare organisations and veterinary specialists. They are reviewing their rules to give greater effect to welfare monitoring and compliance. The introduction of initiatives such as the horse ambulances are part of a programme to improve the treatment (and the perception of treatment) of injured animals.

The three codes have racing incident databases where injuries recorded on race day or veterinary examinations pre or post racing can be recorded. Originally paper based, the equine database was recently updated to an application that updates electronically. There are still gaps in gathering training injury data and veterinary treatment in any database. There is no compulsion to retain treatment or injury records for horses outside of race day events. There would appear to be opportunities for the race day injury application to be extended to cover any veterinary treatment for an injury. It was considered by animal welfare experts that improvements in data recording by the codes, away from race day events, would enable better analysis of welfare issues.

The development of a centralised database to record all veterinary treatment for greyhounds was one of the recommendations for GRNZ in the Hansen report. The database is still under development. Recording of veterinary treatment in greyhound racing is required under the welfare rules. Thoroughbred Racing is consulting on new rules to require, among other things, earlier registration of foals, notification of fatalities in training and the introduction of treatment and medication logbooks.

The RIU is empowered by the racing rules to monitor animal welfare, mainly through stable and kennel visits. It has access through race day reports to veterinarian reports of injured animals. It follows up on any complaints of neglect or mistreatment to the extent they are able under the rules. The RIU has working relationship with the RNZSPCA for the investigation of welfare issues. The RIU has a memorandum of understanding (MOU) with Ministry of Primary Industries. In discussion with the MPI compliance staff it was suggested that greater formality about who investigates these issues would be helpful in ensuring the appropriate response for any given event. It is understood that MPI and RNZSPCA have recently developed a MOU to create greater certainty between them on investigation roles and responsibilities.

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\(^{21}\) At the point the animals are no longer owned by licensed participants the continuing welfare of the animals becomes an issue beyond the scope and authority of the respective codes.

\(^{22}\) Details of the Hansen recommendations and the GRNZ progress in implementation are included in their annual report. The attached link goes to the 2018 annual report. [https://www.grnz.co.nz/Files/Documents/GRY0035%20AR2018_web_FA.pdf](https://www.grnz.co.nz/Files/Documents/GRY0035%20AR2018_web_FA.pdf)
The RIU staff have limited training in welfare issues and this aspect of their work is seen by some as an unnecessary adjunct to their core roles. In the past five years only two out of 70 animal welfare cases investigated by the RIU (excluding those for the administration of drugs and whip charges on race day) have led to charges before the JCA. Some participants questioned the worth of the RIU visits, with one describing them as a social event rather than a compliance visit. While it may come at some cost, training and greater expertise in animal welfare is seen as necessary if these visits are going to be of real value.

It is worth noting that use of the whip in the last racing year was responsible for 296 race day charges against drivers and riders. The elimination of the whip would be welcomed by animal welfare groups, would significantly reduce the charges brought by the race day stewards and reduce the penalties imposed on riders and drivers\(^2\). The horse racing codes can get ahead of public opinion by removing the whip. It is a moot point whether they have the will or the courage to do so.

\(^2\) Analysis of the fines and suspensions suggest drivers and riders are being fined a minimum of $300 per charge. At that rate the whip rule is costing jockeys and drivers almost $90,000 per year.
9 Australian Racing Integrity Bodies - Comparisons

The review considered racing integrity bodies in three Australian states; Queensland, NSW and Victoria. All carry out essentially the same core functions as their New Zealand counterparts, but each is structured in a different way.

9.1 Queensland Racing Integrity Commission

The Queensland Racing Integrity Commission (QRIC) is an independent statutory body which oversees the integrity and welfare standards of racing animals and participants in Queensland. The QRIC was established in 2016. It conducts a wide range of activities including stewarding, investigations, licensing and registration, veterinary and welfare services and intelligence. It also oversees the Racing Science Centre. It employs 153 FTE and has an annual budget in the last year of $A29.7 million. The QRIC is jointly funded by the Queensland Government and Racing Queensland.

The QRIC carries out a much wider range of functions than the RIU, JCA and NZRLS. The licensing and registration functions and some welfare activity would be completed by the racing codes in NZ. QRIC manage their own corporate services. The operational model is considered by QRIC to be successful.

The QRIC oversees a first level appeal process (at no cost to the appellant) and any subsequent appeal goes to the Queensland Civil Administrative Tribunal (QCAT). In discussion with the Commissioner, Ross Barnett, he indicated that the appeal function was the one part of the process that he saw failing. The first step was taken by many participants because it was at no cost, the subsequent appeals to QCAT became mired in the court system and took an inordinately long time to progress and finalise.

The QRIC has well developed HR processes, including career training and development. Like the RIU it operates a tri-code model for stewards. The career progression model is like many other careers, with entrants being trained as generalists for a period before they are qualified to specialise. This model has a certainty, clarity and structure to it that is missing from RIU career planning.

9.2 NSW Racing

NSW Racing is responsible for the delivery of thoroughbred racing in that state. The organisation is widely considered one of the better off racing organisations, returning a profit of $A15.8 million in the last financial year.

NSWR manages its integrity functions in house, with a specialist team of stewards and investigators. It carries out all the functions of the RIU and of the JCA panels. It has a structured training programme with all trainee stewards required to complete a Certificate in Racing Administration (Stewards) in conjunction with on the job training. The Australian Racing Forensic Laboratory is part of NSW Racing.

Appeals from stewards’ decisions can be made to an Appeals Panel established under the Thoroughbred Racing Act. Appeal from that body can be made, in relevant circumstances, to the NSW Racing Appeals Tribunal. The Racing Appeals Tribunal deals with appeals from the three racing codes.
NSW Racing has an Integrity Assurance Committee which can investigate complaints against racing officials.

The integrity functions are embedded as part of NSW Racing, with extensive reporting in the organisations annual report. The code appears to be well invested in managing the integrity function.

9.3 Racing Victoria

Racing Victoria is responsible for Thoroughbred racing in Victoria. The Integrity services are based at Flemington and carry out a similar range of functions to their NSW counterparts. A race meeting at Sandown was observed, in which the stewards essentially carried out the same functions as would occur at a NZ meeting, except for hearings into race day riding charges which were determined by the stewards. The integrity functions include an investigative unit, betting and intelligence analysts, and veterinary and welfare services. A recent innovation has been the establishment of a position for participant welfare.

Laboratory services are provided by Racing Analytical Services Laboratory, an independent company co-located at Flemington with the equine codes. The laboratory provides services across the three Victorian racing codes and to other international clients.

Appeal functions in Victorian Racing are about to change with the passing of the Racing Amendment (Integrity and Disciplinary Structures) Act 2018. This act will create the Victoria Racing Tribunal which will take the place of the existing Racing Appeals and Disciplinary Boards. The Tribunal is empowered to hear serious offences against the rules of racing across all three codes and appeals against decisions made under the racing rules. It can also hear certain matters referred to it by the Victoria Racing Integrity Commissioner.

The Act also creates the Victoria Racing Integrity Board which has a broad range of functions across the three codes in relation to integrity planning, policy, resources and complaints. It is required to maintain effective relationships with the codes and the Racing Commissioner. The board has the power to direct the codes on integrity matters.

The Racing Integrity Commissioner was appointed in 2010 as an outcome of the Lewis report into racing integrity. The Commissioner is empowered to conduct audits of the integrity functions of the three racing codes, investigate complaints about the codes and conduct selected integrity related inquiries.

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24 A comprehensive description of Victorian racing legislation and practice across all three codes is included in Paul Bittar’s 2016 report
New Zealand Sports Bodies

New Zealand sporting bodies consulted were the New Zealand Rugby Union and New Zealand Cricket. Both organisations are subject to rules created by their respective international bodies and any local rules must align with the international codes. The review focussed on activity at a national level, rather than at club or provincial.

A key point of difference between racing and other sports is the ability of the referee or umpire to intervene during the event, as opposed to racing where any intervention takes place after the event is complete. If the incident is then referred for further review or sanction in other sports, it takes place in a structured process away from the field of play.

Given those differences the main area of interest in consulting these codes was to identify the degree of independence maintained between the integrity and commercial functions of the organisations. In short, there is minimal independence.

Both organisations manage their own integrity and disciplinary functions. While they ensure independence of decision makers and eliminate conflicts of interest, disciplinary matters are heard by judicial officers or panels appointed by the codes. On some occasions an independent external investigator will be used to carry out an inquiry into allegations of misconduct but the decision on sanction remains with the sport. There are appeal provisions within the disciplinary process for matters to be further considered. On field misdemeanours and off field misconduct go through similar disciplinary processes.

Integrity programmes are run in both sports with a focus on preventing misconduct and integrity breaches. NZ Cricket emphasised the need for player education and the use of partnerships with the Cricket Players Association. Rugby also identified the benefits of education and developing a relationship with the participants which encourages compliance.

The codes of conduct and rules for both organisations are significantly less complex than those in the racing codes.
11 Supplementary Matters

Although not specifically addressed in the terms of reference, some additional matters arose during the review that warrant comment.

11.1 Participant Welfare

The racing industry has many participants who are young or who may otherwise be vulnerable to exploitation. There have been several recent examples of poor behaviour directed at some of these people. The recent NZRB survey of women in racing identified concerns about harassment and bullying, a lack of safe reporting mechanisms and poor follow up within the industry of poor behaviour. It also identified a lack of women in leadership roles, including as stewards and investigators.

Racing Victoria has recently employed a Participant Wellbeing Investigator in their integrity unit who is the contact point for people wanting to raise concerns about behaviour that effects their welfare. While only a recent appointment, there have apparently already been several contacts from men and women in the Thoroughbred racing industry with issues of concern.

In an environment in which people are being encouraged to speak up when they are harassed or bullied, whether physically or through social media, the establishment of a similar position in the NZ environment is considered necessary.

11.2 Complaint Process

Several participants observed that there was no facility in the integrity system to have complaints about the integrity services recorded and where necessary investigated. The current option is to make a complaint to the RIU or JCA management. There was little faith by those making this observation in that option providing satisfactory results.

There are mechanisms in the Australian states for complaints to be dealt with through referral to a Racing Integrity Commissioner or through an Integrity Assurance Committee. It is considered this could be one of the functions of the proposed Racing Integrity Board. The Board should be formally empowered to receive and investigate serious complaints against integrity staff in their exercise of functions under the racing rules. Any such inquiry should be completed using independent investigators. What constitutes a serious complaint would need to be identified. It is not considered necessary for minor complaints be dealt with in this way; they should be dealt with as employment issues.

11.3 Employment of Race Day Staff

The RIU is currently trialling the employment of judges in the northern region. A few stakeholders suggested that the RIU should also employ starters, lure drivers, clerk of the course, clerk of scales and any other people involved in running the activities on race day. This model is used in the Australian states. Further consideration of the merits of this approach, including its impact on RIU operating capability and cost and the consequent transfer of funds from racing clubs should be considered at the conclusion of the trial.
12 Alternative Options

There are only so many ways the integrity services can be structured to deliver a service for the racing codes. Three alternative options were considered; to remain largely with the status quo, to return the RIU functions to the racing codes or to provide a new model that integrates the RIU and JCA functions into one entity. In all three options JCA attendance at race days was considered unnecessary.

12.1 Status Quo

The status quo delivers an adequate service for the industry today. Participants have become accustomed to the model and are familiar with the processes. It is a relatively low-cost option providing economies of scale. It provides an independent service which is valued, to a greater or lesser extent, by administrators of the racing codes.

Removal of the JCA function from race days would further streamline the process. Enhanced use of technology to provide a centralised judicial function at a lower cost is an option available to provide a more efficient service for non-race day hearings.

However, for reasons already outlined there are concerns about the adequacy of the current model. The stakeholder dissatisfaction which was evident in many of the discussions held with participants will not be addressed by retention of the current model. The governance model for the RIU does not appear to deliver the required degree of independent oversight. The governance structure should be replaced with a model that ensures appropriate independence, with engagement and collaboration with the codes as equals. Funding arrangements need amendment to enable the RIU and JCA functions to operate in an effective, responsive but independent way without unnecessary financial constraint.

12.2 Return to the Codes

Some stakeholders suggested there might be a benefit in returning the RIU functions to the codes whilst retaining the JCA in a reduced role. This would have the benefit of improving cohesion within the individual codes and have the codes setting the agenda for the delivery of integrity services.

The flaws in that model are the lack of independence and the cost. The RIU and JCA currently deliver services which could not be replicated by the codes individually for the same cost. Some of the JCA functions would need to be retained. The integrity function in the codes would be directly competing with the commercial for funds to carry out their role. The lack of independence would be considered a backward step and one that goes against the trend developing in other jurisdictions. The quality issues raised by some participants around the performance of the RIU are unlikely to be any different under code ownership.

Greyhound Racing is adamant it does not want the integrity functions. GRNZ value the independence of the current structure.

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25 It is worth noting that at least half of the stewards were employed by the codes prior to the establishment of the RIU.
12.3  Racing Integrity Board

The preferred option is the establishment of an independent statutory entity known as the Racing Integrity Board (RIB) which oversees two integrity subgroups; the RIU functions of race day operations, integrity investigations and welfare monitoring, and a separate and independent function responsible for contested disciplinary hearings and appeals. The Board would also be responsible for managing the relationship and contract with the NZRLS. This entity would therefore provide independent oversight of all integrity functions. It is described in greater detail below.
13 Conclusions

The review of the RIU and associated bodies has established that the existing model generally provides outcomes that maintain and enhance the integrity of racing in New Zealand. However, the review has identified opportunities for improvement to the system which are set out below.

13.1 RIU/JCA Governance

The current governance structure of the RIU is provided by the racing codes and the Racing Board as the shareholders of the unit. This has been adequate but there are concerns about independence on the one hand and effective engagement with the racing codes on the other. Governance of the JCA is provided by a board that has greater independence but still maintains industry knowledge. The separate boards were established at different times when the two separate entities were created.

Historically it was considered necessary to have separate rule making, prosecution and judicial functions within the industry, in the same way that we have a separation of powers between Parliament, Police and the Judiciary. The rationale for this approach has been the concern about maintaining independent integrity functions in a code set up for the purpose of betting. That has led to the separate functions of the RIU and JCA remaining under different governance structures. The perception of independence between the two functions appears to be one that is held by the entities themselves and not by those who are impacted by their activities. There is a widely held view by industry participants that there is little difference between the RIU and JCA.

The separate investigation and decision making functions attributed to this model are not followed in other sports organisations, where the commercial and integrity functions are managed within the same corporate structure. The charging decisions and judgement on the individual cases are dealt with in house. Many of these organisations are subject of sports betting and face similar integrity issues as racing. Some might argue that this should lead to the conclusion that the respective codes should manage their own integrity functions as was the case before the establishment of the RIU. In terms of engagement that might make sense. In terms of efficiency, capturing economies of scale and providing the level of independence which the codes seem to value, it does not.

An alternative and recommended option is the creation of an independent statutory entity, like the Victorian Racing Integrity Board, with oversight of the RIU and JCA functions. The Board functions are set out in the Victorian Racing Amendment (Integrity and Disciplinary Structures) Act 2018.

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26 This option is not supported by the JCA
Those functions in Victoria include oversight of the relationship between the codes and their integrity staff, recommendations about resourcing and budgets, advice and recommendation to the controlling bodies on rules and policies, and the provision of a complaint process for complaints against integrity staff. While the Victorian situation is not directly comparable to the NZ environment, many of the functions of the Board can usefully be adopted. Included in the board mandate should be a facility to investigate serious complaints against members of the RIU and JCA.

Under this model the ownership of the RIU shifts to the independent board which also oversees the judicial functions retained by the JCA. The board is empowered through legislation to deal with the codes as equals. The RIB should provide advice to the codes on the rules and integrity issues.

13.2 JCA Race Day Panels

Race day attendance by the JCA panel at Thoroughbred and Harness racing is considered unnecessary. The practice adopted in other countries is for the stewards to make these decisions. Most of the JCA workload on race days is providing decisions on penalties. Penalties for charges are prescribed within a defined range. There is an existing right of appeal from these decisions which should be retained.

It is therefore recommended that race day JCA functions devolve to the RIU stewards. The stewards should adjudicate on protests, rulings and decide what penalties should be imposed in any case where a breach of the rules is admitted. Decisions should record brief facts about the charge, aggravating or mitigating features, and the record of penalty. Any appeal from penalty decisions made by the stewards would be heard by the JCA. Development of the capability in the RIU to carry out this function will require additional training. A transitional period will be required before the RIU takes over this function.

Where it is proposed to contest the charge, the matter should be heard by a centralised, scheduled non-race day JCA panel. For the past four years contested hearings from race day charges have numbered about 500 hearings per year. This panel should be established with the ability to hear evidence in person or by video. A smaller centralised panel is likely to reduce costs and provide greater quality and consistency in decision making. Appeals from JCA decisions can be heard, as is the case now, by the Appeals Tribunal.

Having uncontested matters dealt with by stewards is effective and with appropriate appeal provisions will provide a fair process while reducing bureaucracy and cost on race day. It will address an issue raised by some participants about their ability to defend a charge adequately in a race day hearing. Finally, it may eliminate some of the misconception about the JCA being an entity that rubber stamps RIU decisions on race day.
13.3 Welfare Monitoring

The current efforts to monitor animal welfare have been constrained by RIU capacity and capability. The RIU is empowered to carry out these functions through the racing rules developed by the codes. While increased levels of activity have seen more visits to stables and kennels, the quality of those visits is hard to determine. Investigations of complaints and following up positive drug testing are the other areas of activity. The RIU activity will be enhanced when updated welfare rules for the equine codes are developed.

The RIU has the benefit of veterinarian expertise on race days and advice through the Chief veterinary adviser outside of race days. It gathers information for itself and the codes on race day injuries. It does not however have any staff dedicated to monitoring welfare on a fulltime basis. As indicated earlier in this report some RIU staff see these checks as an adjunct to their core roles. It is recommended that RIU capability to monitor welfare issues be enhanced with the employment of specialist staff to manage these functions. The number and location of those staff would be a matter for the RIU to assess with the codes and the Integrity Board but a minimum of two such staff is recommended.

The RIU has a memorandum of understanding with the Ministry of Primary Industry and a working relationship with RNZSPCA. It is recommended those relationships be reviewed to provide clarity of role around oversight and investigations of welfare issues by the three organisations.

Adequate monitoring of animal welfare would be enhanced through better data capture of training injuries and veterinary records. This capability is required for the Greyhound code as a result of the Hansen recommendation. It is still in development. It is recommended a similar facility, building on the existing race day injury application, be considered by the equine codes.

13.4 Participant Welfare

The RIU and the codes have taken steps recently to provide more support for participants in racing. This has most recently taken the form of a programme run by the Salvation Army, funded through the RIU, to provide a confidential counselling service to participants with alcohol and drug issues.

As indicated above the Racing Board survey of women in racing and associated interviews raised concerns about the ability of participants to report inappropriate behaviour in a way that would see it addressed. There was a lack of confidence that reports would be properly investigated, and complainants kept safe. There were also some negative comments about a lack of visibility of women in leadership roles in the JCA and RIU.

It is recommended that a position within the RIU to be developed, like the role identified in Racing Victoria, that acts as a specialist resource for complaints of this sort. The codes and the integrity bodies should investigate further development of their confidential information line and the provision of whistle blower protections in appropriate cases.
13.5 RIU Business Model

The review has identified several internal RIU management issues which should be addressed. The current model delivers an adequate service, but with improvements in key areas it could be operating more effectively.

There is a perception in the industry that the RIU lacks leadership and effective direction. Some participants have suggested this is reflected in the way the RIU services are delivered. This view is rejected by the RIU management. They suggest this perception is a product of a reporting structure that sees them accountable to the RIU Board rather than the codes. They also suggest that some within the codes have not adapted well to a different culture around integrity investigations. The delegation of engagement with the codes to respective Chief Stewards is advanced as another potential reason for the criticism about a lack of leadership.

Whatever the cause, it remains a concern that the negative perception persists. It certainly appears to be exacerbated by inadequate visibility and engagement between the RIU and the racing codes at board level. It appears that the disaggregated organisational model, whilst it might assist in delivering regional services, also contributes to a view that parts of the organisation operate independently of effective central direction.

Business planning and reporting is delivered in accordance with the requirements of the RIU constitution and the SLA. The business planning is dated and lacks hard edged measures of performance. Reporting on business plan outcomes is inadequate and not considered particularly helpful to the codes.

Staff training and development appears ad hoc and lacking in structure. While it is accepted that much of the training is done “on the job” there is no process that identifies how this is done in a way that addresses issues of competence and confidence. In a tri-coded model it is considered necessary to have a well-documented process that provides confidence that stewarding staff are trained and developed to deliver effective service across all codes. This will especially be the case if stewards become responsible for deciding race day protests, rulings and admitted charges.

The recommendations of the Stokes review, which would have addressed most of these concerns, have been partially implemented. Further implementation has apparently been constrained by cost. It is considered that the internal organisation structure, distribution of staff, business planning and reporting, and staff training and development are all matters that need to be further reviewed by the proposed Racing Integrity Board and where appropriate implemented.
14 Implementation

Implementation of these recommendations will involve amendment to the Racing Act. The RIU is a company three quarters owned by the codes so the dissolution of the company and the transfer of assets to another entity will require code agreement. Implementation will also need changes to the rules of racing for the three codes.

14.1 NZ Racing Integrity Board

A Racing Integrity Board should be established through proposed amendments to the Racing Act. The legislation establishing the Victoria Racing Integrity Board, with appropriate amendments to recognise the independent functions of the RIB, RIU and the JCA, is a model worth considering.

It is envisaged that the Board will be made up of seven members, comprising an independent chair and three independent members appointed by the Minister with one member appointed from each of the racing codes. One of the independent members would ideally come with a background in animal welfare. This board structure provides for appropriate levels of independence whilst acknowledging the need for industry knowledge. It would be comparable in cost to the existing structure, would provide greater coherence between the integrity functions and create an independent and accountable entity responsible for all aspects of integrity services.

The amended legislation needs to empower the board to operate as an equal partner to the racing codes. Development of an integrity strategy, prepared with the codes, will be an imperative to guide the boards activities. The Racing Integrity Board should be required to consult with the codes on priorities before setting their budget and business plans. The Board would then develop the budget and submit it for approval. The source of funds would continue to be from Class 4 gambling money. The NZ Racing Board or its Wagering successor would formally sign off the RIB budget\(^{28}\). Approval of the budget could only be withheld in exceptional circumstances. If that were to occur, then subject to any statutory resolution mechanism, the budget would be referred to the Minister.

It is considered this model strikes the right balance between investing in integrity and remaining cognisant of funding constraints. It replaces the current approval process which appears to have constrained investment in the integrity services. The administrative functions currently managed by the Racing Board would devolve to the NZRIB. This would include the oversight and management of the contract for services with the NZRLS.

Reporting on the business plan must address the key performance objectives. Annual reporting should be through a statement of service performance, provided to the Ministers office and to the three racing codes.

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\(^{28}\) Budget approval should rest with Wagering on the basis that it is source of funds and it has a vested interest in a robust integrity system.
Costs of the proposed model are considered unlikely to differ significantly from the current arrangements. Savings made with the consolidation of two boards into one and the reduction in cost for JCA race day activity should offset any increase in costs to establish and staff the NZRIB and the recommended additional welfare functions.

14.2 Race Day Decision Making

Implementation of the recommendation to have stewards determine penalty on the admitted charges and for contested charges to be heard by the JCA requires amendment to the Racing Act 2003. A legal opinion provided by Michael Hodge of Meredith Connell, when this matter was considered in 2014, concluded that changing the race day decision making would require changes to legislation or risk legal challenge.

While there is a facility for stewards to act in lieu of a race day JCA panellist under the Thoroughbred rules, changes in the Act will also require amendment to the rules of racing for them and Harness Racing codes. Given the process the codes need to follow to amend their rules, normally through an annual meeting, this might take some time to achieve.

There will be a requirement for training and familiarisation of the stewards with their new responsibilities, including how their decisions might be recorded and published. The RIU will need to develop processes for reporting on penalty decisions for admitted charges.

It is proposed that there be a transition period to enable the required amendments to the Act and the rules to be made, and to provide for the necessary upskilling of stewards to undertake these tasks. It is suggested this might be managed through retaining JCA panellists at race meetings in a reduced capacity, acting under their current mandate, while training and mentoring stewards to develop these capabilities. Timing of any transition will be dependent on the ability of the Ministerial Advisory Committee to advance the recommendation to set up the NZRIB.

14.3 Welfare Staffing / Business reviews

The remaining recommendations for employment of staff in welfare roles, both animal and human, will be matters for the RIB to determine once established. The recommendation for a review of the RIU business processes is likewise one for the new organisation to progress. Much of the work associated with improving business processes has already been done, courtesy of the Stokes report. While some aspects will need updating, much of what it provides is a blueprint for delivery of an effective integrity and investigative function.
Appendix One

The following organisations and individuals were consulted, interviewed and/or provided information to the review, either in person or by way of a telephone or video interview. In addition, fourteen organisations or individuals made submissions to the review. The names of the submitters, some of whom provided their information in confidence, have been withheld.

**New Zealand Racing Board**

Glenda Hughes, Chair NZRB*

John Allen, CEO NZRB

Stephen Henry, GM Services

**Greyhound Racing New Zealand**

Sean Hannan, Chair GRNZ

Mauro Barsi, CEO GRNZ

**NZ Thoroughbred Racing**

Alan Jackson, Chair NZTR*

Bernard Saundry, CEO NZTR

James Dunne, General Counsel and Secretary, NZTR

Marty Burns, GM Racing and Equine Welfare

Tim Aldridge, Racing Operations Manager

Noel Harris, Riding Master, NZTR

David Walsh, Riding Master NZTR

**Harness Racing NZ**

Ken Spicer, Chair HRNZ*

Peter Jensen, CEO HRNZ

Liz Bishop, GM Operations

**NZ Standardbred Breeders Association**

John Mooney, Chair NZSBA

**New Zealand Harness Trainers and Drivers Association**
Rob Lawson, Chair NZHTDA

**NZ Thoroughbred Breeders Association**

Rodney Shick, NZTBA Council Member

Justine Sclater, Business and Operations Development Manager

**NZ Trainers Association**

Wendy Cooper, Executive Officer NZTA

Tony Pike, National President NZTA

Nigel Tiley, National Vice President, North Island, NZTA

**Racing Integrity Unit**

Mike Godber, GM RIU

Neil Grimstone, Manager Integrity Assurance

Nigel McIntyre, GM Stewards

Andrew Grierson, Chief Veterinary Adviser

John Oatham, Chief Steward, Thoroughbreds Racing

Nick Ydgren, Chief Steward, Harness Racing

Scott Wallis, Chief Steward, Greyhound Racing

**New Zealand Racing Laboratory Service**

Rob Howitt, Owner, General Manager NZRLS

**Judicial Control Authority**

Lyn Stevens, JCA Chair

Neville Harris, JCA (Thoroughbreds)

Kevin Brady JCA (Greyhounds)

Brent Williams, JCA (Harness)

**JCA Panel Members**

Noel McCutcheon (Avondale and Alexandra Park)

Adrian Dooley (Avondale)
Bryan Scott (Alexandra Park)
Gavin Jones (Telephone interview)

**NZ Jockeys Association**
Dave Taylor, National President

**Ministry of Primary Industry (MPI)**
Jen Jamieson, Senior Adviser, Animal Welfare Service, MPI
Peter Hyde, Compliance Manager, MPI

**National Animal Welfare Advisory Committee**
Gwyneth Verkerk, Chair NAWAC

**Industry Participants**
Ken Barron, Trainer/Driver Harness Racing
Mark Purdon, Trainer/Driver Harness Racing
Colin De Filippi, Trainer/Driver Harness Racing
Sam Ottley, Driver, Harness Racing
Michael Coleman, Jockey NZTR
Dave Fahey, Licensed Public Trainer, GRNZ
John McInerney, Licensed Public Trainer, GRNZ
Bronwyn Eade, Licensed Public Trainer and Secretary/Manager, Southland GRC
Leo Molloy, Advocate, Ex jockey, Thoroughbred trainer
Edward Renall, Ex CEO, HRNZ
Cameron George, CEO NZ Warriors, Ex Chief Stipendiary Steward RIU
Paul Dale, Counsel for NZTA

**NZ Cricket**
Chris Smith, General Counsel NZC
Nick Kingston, Head of Strategy, NZC
NZ Rugby

Fiona Martin, Integrity Manager NZRU
Keith Binnie, General Counsel NZRU

Australian Consultations / Interviews

John Messara, Chairman, Arrowfield Group, author of the Messara report
Ray Murrihy, Integrity Consultant, ex Chief Stipendiary Steward NSW
Marc Van Gestel, GM Integrity, Chairman of Stewards, NSW Racing
Ross Barnett, Racing Integrity Commissioner, Queensland
Tim Robinson, GM - Intelligence & Integrity Services, Racing Victoria
Jennifer Hughes, Manager Equine Welfare, Racing Victoria
Grace Forbes, Manager Veterinary Services, Racing Victoria.

* Glenda Hughes is also the Chair of the Racing Integrity Board. Ken Spicer and Alan Jackson are or have been members of the RIU Board.

** In addition to speaking with the staff indicated above, the following RIU staff were spoken with or observed in action while attending race meetings: Matthew Williamson, Alan Coles, Philippa Kinsey, Steve Mulcay, Brady Jones, Ben van Kan, Vinny Munro (stewards) and Oscar Westerlund (Racing Investigator).

The review was also helped in no small measure by the willingness of participants to provide their thoughts, knowledge and opinions during the interviews. It is fair to say that there is no shortage of enthusiastic views on how racing integrity services might be provided.