

# PUBLIC

**THE HOUSE OF ASSEMBLY GOVERNMENT ADMINISTRATION COMMITTEE B  
MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART ON MONDAY,  
17 FEBRUARY 2025**

## **SHORT INQUIRY INTO THE TASMANIAN GOVERNMENT'S RESPONSE TO SERIOUS ALLEGATIONS WITHIN HARNESS RACING**

**The Committee met at 10.01 a.m.**

**CHAIR** (Ms Haddad) - Welcome to today's hearing of the short inquiry into the Tasmanian Government's response to serious allegations within harness racing. Thank you for your submission. If I could ask you, Mr Thompson, to state your name and the capacity in which you are appearing before the committee.

**Mr THOMPSON** - Sam Thompson, I'm the Acting Executive Director, WorkSafe Tasmania and the Work Health and Safety regulator.

**CHAIR** - Thank you. Can I confirm that you have received and read the guide sent to you by the Committee Secretary?

**Mr THOMPSON** - Yes, I have.

**CHAIR** - The hearing is covered by parliamentary privilege, which means that you are free to speak freely without fear of being sued or questioned in any court or place outside of parliament. This protection is not accorded to you if statements that you make are defamatory and if you repeat those statements that you referred to outside the parliamentary proceedings.

This hearing is public. We've just started the public broadcast. That means that there may be members of the public either here in person or watching online, and media may also be present or watching online. Should you wish aspects of your evidence to be heard in private, you must make this request to the committee at the time. We'll have a short deliberative meeting about moving into *in camera* and then we'll proceed in a private hearing.

Mr Thompson, could I ask you to make the statutory declaration that's in front of you, please?

**Mr SAMUEL THOMPSON**, ACTING EXECUTIVE DIRECTOR, WORKSAFE TASMANIA, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - Mr Davidson, because you're online, I need to read something out to you that I'll need you to consent to. Could I ask you first to introduce yourself, stating your name and the title of the organisation, the capacity in which you're appearing before the committee. He might be on mute.

**Mr THOMPSON** - I think, Chair, Mr Davidson may have been indicating that he couldn't hear the committee. He was pointing to his ear before.

**CHAIR** - Can you hear us, Mr Davidson? No.

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**Mr THOMPSON** - Are you content if I send him a message?

**CHAIR** - Yes, sure.

**Mr THOMPSON** - Yes, he can't hear us.

**CHAIR** - Okay, we'll have a look into that. Could we suspend the broadcast, please?

**The public hearing was suspended from 10.04 a.m. to 10.05 a.m.**

**CHAIR** - Thanks, Mr Davidson, for your patience. Sorry about the technical difficulties. We'll make do with the combination of phone and video.

**Mr DAMIAN DAVIDSON**, DIRECTOR COMPENSATION SCHEMES, WORKSAFE TASMANIA, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - I'll introduce members of the committee: Ms Johnston, member for Clark; Mr Winter, member for Franklin; and Mr Wood, member for Bass. There are a few apologies for this morning's hearing: Ms Rosol, member for Bass; and Mr Behrakis, member for Clark. My name is Ella Haddad, member for Clark.

Mr Thompson, would you like to start with an opening statement?

**Mr THOMPSON** - I don't have anything to add, other than what we've put in our written submission. We've endeavoured not to repeat the evidence that Ms Pearce gave to the previous inquiry, albeit at the Legislative Council some time ago. Mr Davidson, our Director Compensation Schemes, regulates the workers compensation scheme and is able to provide information about the statistics.

The Committee will note, and I discussed with the Committee Secretary, that the statistics fall into two separate attachments. One attachment relates to all employers other than Tasracing, and we don't regard that as being confidential. The other attachment relates to statistics particular to Tasracing. Our respectful request is that that be regarded as confidential and any questions be asked and answered *in camera*. The reason for that, as I said in the written submission, is that we are required by legislation to keep certain information confidential and were it not for parliamentary privilege, it would be an offence for us to release that information. They're the only matters I wish to raise. Thank you.

**Mr WINTER** - Thanks for being here. You're right, I have the Legislative Council report that you contributed to and I was reading it through in preparation for this. Have there been any changes in procedure from WorkSafe's point of view following that work that happened?

**Mr THOMPSON** - Yes, there are and I've listed two of them in our written submission. The first change in procedure is that, as part of any workplace inspection that we do, our Work Health and Safety inspectors automatically now check the workers compensation records for that business. The way that that's done is insurers and self-insurers are required by the legislation and by their licence and permits to remit information to us; then we are able to interrogate that information to check, say, whether a particular employer holds a workers compensation policy of insurance. That's the first change in procedure.

The second change, which is at an earlier stage, is that we've recently signed an agreement with the State Revenue Office to do data matching. The purpose of that is to better identify which employers do or don't hold workers compensation insurance. Now, one problem - well, that's not going to fix everything because not all employers pay payroll tax, but from my perspective, it's a step in the right direction and we've had some discussions internally about what are the data-matching opportunities there might be with other regulators to better capture information about who's employing workers. This allows us to better identify who's required to hold a workers compensation policy of insurance and whether that's been complied with.

**Mr WINTER** - Have those changes, to your knowledge, captured any harness-racing trainers at all over the last 12 months or so?

**Mr THOMPSON** - I might be misunderstanding the question, so I'll answer it this way. We have a number of investigations relating to racing participants not complying with their Work Health and Safety or workers compensation obligations. To my knowledge, those investigations and prosecutions didn't arise expressly from these two changes.

**Mr WINTER** - We should say for the record as well that the Committee is well aware that there is an ongoing court proceeding - that's just for the public, not for you - the reason why we won't be asking specific questions, particularly publicly, about the ongoing legal action around Ben Yole Racing is because we don't want to prejudice the findings. We won't be asking about that specifically.

There's an RTI that we found early last year through Tasracing and to paraphrase it, on the finalisation of Ben Yole Racing's former arrangement with a labour-hire company, Tasracing asked the Office of Racing Integrity if they were aware of whether Ben Yole Racing - and later Wayne Yole - held workers compensation insurance - and the Office of Racing Integrity asked and the response back from Wayne Yole was that he didn't have any employees and therefore he didn't need it. To my knowledge, Wayne Yole currently trains more than 60 horses. My knowledge of the industry says you cannot possibly do that without insurance. Is WorkSafe investigating at all Wayne Yole Racing in regards to whether or not he should have a current workers compensation scheme?

**Mr THOMPSON** - If you just give me a moment to consider what might or might not be appropriate for me to comment on - there are some investigations relating to Mr Yole's associates, whether that extends to Mr Wayne Yole, I'm not - I don't have that information to hand.

**Mr WINTER** - I understand that. I guess I'm quite content, really - Wayne Yole last night trained runners at the races, so he is participating and he has workers working right now. His evidence to Tasracing about 12 months ago, from memory, was that he didn't require workers compensation because he had no employees, which is completely implausible; it cannot possibly be true that he's not paying anyone.

How satisfied, assuming that he - sorry, are you aware of whether Wayne Yole currently holds a valid workers compensation insurance policy?

**Mr THOMPSON** - I'm not personally aware, but I'm happy to take that question on notice because we'd need to search our records for that.

Can I also just make another point, which is that, often it's unclear who the legal employer is and that's something that we've particularly seen, but not exclusively, in the racing industry, where say a worker might think that their employer is a particular natural person, but actually it's not that natural person who's the legal employer. It might be a business or a related family member or something like that. So the legal obligation and our task relates to the legal employer, not necessarily the practical employer, if I can put it that way, or the legal employer is not necessarily the same person or entity who's actually giving those practical kind of de facto instructions to workers.

**Ms JOHNSTON** - Elaborating on that, in terms of who the legal employer is - I imagine in the racing industry for instance, there might be a company that holds the workers compensation insurance, but in effect it's operated by a single trainer. It might be a single-director structure and that single director might be the one who applies for a training licence, so all the business is conducted through that particular person. How does that work in terms of compliance, when you're monitoring whether someone's covered? If an employee comes and says, 'I've been injured at work,' how do you determine who that person is that's going to have the policy to be covered?

**Mr THOMPSON** - There are probably a few elements to that and if it's convenient, I'll start by giving the workers compensation answer and then happy to answer in respect of work health and safety because that's different.

The approach that the legislation requires is that the worker provides a claim form to their employer and the employer is required to provide that to the insurer and the employer's required to, sorry, an insurer's required to remit information to us. We - our compliance is focused on making sure that the employers that are obliged to hold a workers compensation policy of insurance hold that policy of insurance. We can't control, if I can put it that way, who the actual employer is.

I take your point about, often the legal employer is not the same as, say, the person giving practical instruction. In fact, often the person who owes duties under the *Work Health and Safety Act* may not be perfectly coextensive with the person who owes duties under the *Workers Rehabilitation and Compensation Act*, and that's something that our inspectors are acutely aware of. To use that example, the legal employer would owe, and when I say the legal employer, the person who under industrial relations legislation like the *Fair Work Act* is taken to be the employer, that person or entity owes obligations under the *Workers Rehabilitation and Compensation Act* to hold a workers compensation policy of insurance. Undoubtedly, that entity would also hold obligations under the *Work Health and Safety Act*. Those obligations exist to, amongst other things, protect the workers, but also that non-legal employer or other persons, whether it's, say, a more senior employer or employee or colleague, or, to use Mr Winter's example, the person who's actually doing the training, would also hold obligations under the *Work Health and Safety Act*, so they exist quite separately to the workers rehabilitation and compensation obligations.

We have an investigation underway in relation to work health and safety compliance by a harness racing participant and there's also a prosecution on foot at the moment in relation to that.

**Ms JOHNSTON** - Do you have data in relation to the different entities that hold workers compensation insurance as an employer and whether they are companies, whether they're sole traders? Do you have that kind of data about who they are within the harness racing industry?

**Mr THOMPSON** - I'll invite Mr Davidson to answer that in a minute. I'll just preface it with the information we get comes from the insurers, not from the employers directly. It is possible to interrogate the data that insurers and self-insurers remit. I'll invite Mr Davidson to add anything to that answer.

**Mr DAVIDSON** - Yes, thank you and good morning. The information we are supplied from insurers includes the business name, their trading name, their ABN - if they have an ABN - the industry they work in, the number of employees and their wages bill. We don't actually collect information that would provide us with a description of what their organisational setup is, whether it's a company or a sole trader.

**Ms JOHNSTON** - Okay. You mentioned in response to the inquiry last year, you've made a couple of changes in the way you're collecting data. You're doing some data matching with our other agencies and also, upon inspections, checking against insurance records. Has there been any work done with the then-former Office of Racing Integrity of data matching with registrations or applications for licencing in terms of checking to see who's applying for a licence and what that entity or person, because I'm assuming it's only a natural person who can apply for a licence, not entity, whether they have insurance or not? Are you doing any sort of attempts at trying to data match or a memorandum of understanding between- I appreciate the Office of Racing Integrity doesn't exist anymore as of 1 February - but is that the work that's been done?

**Mr THOMPSON** - Not to my knowledge. However, we have recently written to the Racing Integrity Commissioner offering to meet to discuss our respective roles and what steps could be put in place to further both of our statutory obligations and objectives.

**Ms JOHNSTON** - Moving forward, that's something you hope you can be able to do so you can be able to data match people who are applying for a trainer's licence, for instance, and then to be able to data match whether that might flag that they are an employer conducting a business, in which case they are required to have.

**Mr THOMPSON** - Yes, that's right. Data matching is a key future area of activity for us; it's not practical for us to, say, personally inspect every employer in the state. I think a lot of the improvements we will be able to make in the coming years will relate to data matching and entering into agreements with other regulators like the Racing Integrity Commissioner and so on.

**Mr WINTER** - Looking at your submission, you talk about the program of compliance that commenced in the middle of last year particularly on the racing industry, which I think is very good. It says the program's focus was to ensure that workplaces were complying with their obligations, but took an educative approach amongst others. It goes on to say that 100 proactive inspections were conducted across the three sectors and it's now complete and it didn't identify any contraventions of the WRC Act's requirement to hold workers compensation.

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In the part of the initial stages, can you tell us how many, if any, organisations within the racing industry had to take on a policy as part of it, or didn't hold a policy and did because of the approach you took through the education component?

**Mr THOMPSON** - I don't have the information to answer that at the moment. I'm not sure if Mr Davidson has any information relating to a spike in the number of workers compensation policies held by racing industry participants.

**Mr DAVIDSON** - I do not have that information to hand.

**Mr WINTER** - Take it on notice. I'm interested in the exact numbers, but also whether it happened at all. When you read it, it sort of sounds like everyone had their insurance policies and everything was fine. I find that a bit difficult to believe. Is it because you took on the educating approach, which is a fair enough one? Did that result in people taking on policies? Are there at least a couple of examples of that?

**Mr THOMPSON** - That's our expectation. What I think is likely is the publicity relating to misconduct in the racing industry as well as the advanced notice of our compliance program, I suspect, led some employers to check to make sure at least they had a policy. That's something that we see, not too infrequently.

With these sorts of proactive compliance programs, we normally do some kind of communications piece before we start it. That's also important in actually getting an outcome from a program because if we were to rock up at an employer and say, 'Do you have your workers compensation policy there?' a lot of them are not going to have it in the back of their pockets and so on.

**Mr WINTER** - Well, the outcome we want is for the employer to have the policy, so I'm pleased they are.

It's a similar question I asked earlier, but in case it's not, is WorkSafe confident that Wayne Yole or the racing organisation, whatever business is up, currently has adequate workers compensation insurance?

**Mr THOMPSON** - That's something that we'd need to look into because it would need to take into account his status or otherwise as an employer, but that's something we're happy to take on notice.

**Mr WINTER** - I'm sure there're other questions, but in terms of the new relationship you have, I'm sure you had some kind of relationship with the Office of Racing Integrity, which no longer exists, but a new racing framework.

How much engagement has there been with the new Tasmania Racing Integrity body on having it very clear who is responsible for administering this? Are you able to tell us the role that you believe Tasracing needs to play in terms of compliance for trainers having the required insurance policy?

**Mr THOMPSON** - I'll answer it this way, and please let me know if this doesn't provide a direct answer. There have been a number of meetings between Tasracing and our inspectorate,

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including a feedback meeting in December last year that was held after those information sessions and towards the end of the compliance program.

The intention was that we would - in fact what did happen, is we provided feedback to Tasracing about what we saw during the compliance programs and what we saw and heard during the information sessions.

From our perspective we've communicated our expectations as a regulator to Tasracing. Our understanding is that Tasracing understands those obligations and we look forward to having an ongoing relationship with them like we have with many other industry bodies and industry groups.

**Mr WINTER** - Chair, I've got a different line of questioning, so I'm happy if -

**Ms JOHNSTON** - I don't have any on that particular line so you keep going.

**Mr WINTER** - My question was going to be on a related but separate matter.

There was some media around a gentleman named Jaron Urquhart, who was working for Ben Yole Racing at the end of 2023 and suffered a horrific workplace incident: a fractured pelvis, needed skin grafts, broken ribs; a horrendous incident. Are you able to tell us whether there's an active investigation or has that investigation been completed?

**Mr THOMPSON** - If it's the matter I'm thinking of, yes, there's an active investigation underway.

**Mr WINTER** - Okay. I might ask further about that *in camera* then, if I can.

**Ms JOHNSTON** - I understand that attachment B is okay to discuss in public.

**Mr THOMPSON** - Yes, please.

**Ms JOHNSTON** - Fantastic. In the data there you talked about that 35 employers held a workers compensation policy in 2023 covering 116 workers. Do you have information about how that split across the three racing codes in terms of how many harness race employers, how many greyhound and - not particularly into those, but harness racing in particular?

**Mr THOMPSON** - I'll need to invite Mr Davidson to provide any information that he can.

**Mr DAVIDSON** - Yes, I would need to look into that because sometimes we are able to go down into a more granular level. It depends on - we classify everything under the Australian and New Zealand Standard Industrial Classification. I'll have to see to what level of granularity we could get to. I am able to provide you with the most granular level that we have.

**Ms JOHNSTON** - Thank you. That would be great if you can track down those. It might be a question for you, it might be a question for insurers, but the risk profile - does that change in terms of the code that they're operating in? The risk profile for harness racing - is that greater or lesser in terms of their obligations around compensation insurance?

**Mr DAVIDSON** - My view would be that that is aggregated up to the highest level of the industry.

**Ms JOHNSTON** - To the industry - so, the risk profile would be just for the industry of racing rather than necessarily the nuances between harness, thoroughbred or greyhound, in terms of the kind of activities that they conduct?

**Mr DAVIDSON** - That would be my understanding, that they're kind of rated all the same. However, employers do have discretion to charge a premium depending on - they look at factors that include the risk of the industry and then also the various risks of individual employers.

**Mr THOMPSON** - I might just add to that that we do sometimes look at the codes and sometimes split them into different codes. A recent example relates to - and I apologise, I won't have the language quite right - but one of the recreation industries where you have quite different activities occurring within the same code, it can result in some inequities because you have, say, a relatively safe industry paying the same premium as a relatively risky industry because they fall within the same code. It is something that we do look at in conjunction with our actuaries - what the appropriate coding is.

**Ms JOHNSTON** - Sure. Then, by extension, do you have data in relation to the types of injuries and the frequency of reporting of injuries or incidents by code? I think you have the aggregate data here in terms of the racing industry as a total, but do you have that in terms of the code? Do you get a sense that there are far more incidents occurring in the harness racing industry as opposed to thoroughbred or greyhound? Do you have that information?

**Mr DAVIDSON** - Yes. Again, if we are able to go down to those more granular levels, yes, we collect information about the types of injuries and the causes of injuries.

**Ms JOHNSTON** - Thank you.

**Mr WINTER** - Just before we go, I have one more line of questioning publicly. In your submission you talk about fatigue being identified as a serious risk for workers in the harness and thoroughbred racing sector, primarily due to travel times to attend events - I'd add greyhounds to that. Whilst no enforcement notices were issued in relation to fatigue management, inspectors look closely at what systems employers in the industry have to mitigate against the risks. Are you able to talk us through what systems employers were found to have to mitigate this risk?

**Mr THOMPSON** - I can answer that in a general sense, and I'll also add that there's one prosecution on foot at the moment that relates, in part, to the failure to have a fatigue management policy that's adequate. The policies that are in place would vary according to the size and complexity of the business. As a regulator, it's not our expectation that every single employer has a very lengthy, documented complex policy. In fact, as a regulator, often that's not the most helpful thing. Often the factors that we look more at relate to what induction and training and ongoing discussions are there, what are the - if I can call them - cultural factors and expectations that might be in place that would take into account, say, the particular vulnerabilities, including in relation to age of the particular workers.



There's not a one-size-fits-all approach, and there's not a one-size-fits-all obligation. The legal obligation isn't to have a policy in a particular form or anything like that. The obligation relates to having a control.

**Mr WINTER** - From my perspective - and we're not going into the specifics of any case because this happens every weekend - but particularly around harness racing you have, for example, meets happening in Hobart that we've seen finish at 11 p.m. at night. You have staff who are starting work at 5 or 6 in the morning working horses, they're working through to 11 at night in Hobart and then they're driving themselves back - almost a 24-hour day. That is a result of - and I'm sorry to say - Tasracing's scheduling of the races so late, which they do for their own reasons. Has WorkSafe considered, or has it provided any advice to Tasracing about scheduling, and the difficulties for workers in keeping safe, given the scheduling so late?

**Mr THOMPSON** - Yes, there have been discussions between WorkSafe and Tasracing about the scheduling and about the cascading duties, if I can put it that way, because there are a number of businesses involved in it - Tasracing, the trainers and so on. There have been discussions with Tasracing about that particular point.

**Mr WINTER** - Do you have any powers or influence to have Tasracing finish their program earlier?

**Mr THOMPSON** - I have powers, as the regulator, to issue notices where, for example, there's a breach of the legislation. At this stage, no notices have been issued - well, there is no further activity at the moment in relation to issuing of notices, having regard to discussions that have been had and other activities, if I can put it that way.

In putting it maybe a little bit more plainly, as a regulator it is not really feasible for us to determine, say, what is the appropriate start or finish time of the race. However, our very strong expectation is that all duty holders provide, so far as is reasonably practicable, safe systems of work, that the obligation under the *Work Health and Safety Act 2012* to consult between duty holders is complied with and so on.

**Mr WINTER** - Do you think Tasracing has complied with that, as a duty holder?

**Mr THOMPSON** - It's probably not something, I believe, that's appropriate for me to comment on. I'm confident with the regulatory approach that we are taking at the moment. We have a productive relationship with Tasracing. There are ongoing discussions with Tasracing. The scheduling of races is something that we're interested in and it is something that was, and I'm sure in the future, will continue to be looked at.

**Mr WINTER** - Have you advised them to finish their races by a certain time? Have you given them a time of day that they should be completing their races?

**Mr THOMPSON** - Not to my knowledge, and because there are so many factors that bear upon it, it's not something that is probably conducive to that kind of regulation. We are focused on regulating systems or requiring systems and controls and so on, rather than saying races have to be finished by this particular time and this time. Whether a particular finish time is safe or isn't safe depends on so many different circumstances, like, say, how many people are involved in it. We've had very productive discussions with Tasracing, and the things we're

concerned about, for example, are where you have the same workers working very, very long shifts.

**Mr WINTER** - Exactly.

**Mr THOMPSON** - Whereas, say, you have different workers from the same business and you had a shift change, that same concern wouldn't be there. That's part of the reason why it's very difficult for us to, almost by *fiat*, say, 'Well, this should be the start time', or 'This should be the finish time', because it depends on so many different circumstances.

**CHAIR** - Reasonable hours for individual workers wouldn't be outside your remit?

**Mr THOMPSON** - Our expectation is that individual workers are not working excessive hours. Our expectation is that businesses have appropriate systems in place to manage fatigue, but what those particular systems are will really depend on the circumstances.

**Mr WINTER** - Is that something that you or Tasracing could specifically regulate against? For example, shouldn't there be a rule that says that a worker cannot start work at 6 a.m. and still be driving home some 20 hours later?

**Mr THOMPSON** - It's probably not a matter for me to comment on what the particular rule should be. What I can say is that we expect - and the law requires - that there be systems in place to manage fatigue. There will be a whole host of factors that go into that mix like the scheduling of racing, like how many workers are involved, like the opportunity for rest breaks and so on.

**Ms JOHNSTON** - Can I ask then, does Tasracing have a duty, under legislation then, to ensure that anyone who is working on their property meets fatigue management policies or any employer conducting a business on their property is meeting their requirements under work health and safety?

**Mr THOMPSON** - The duties are couched in the language of 'so far as is reasonably practicable'. What Tasracing is required to do will really depend on the particular circumstances. What the legislation does require, and what we expect, is that there's consultation between duty holders. That's something that we are looking at more closely, not just in relation to harness racing or even racing generally. We are looking very closely now at the consultation that occurs between duty holders. So, that's something that we encourage businesses, duty holders, to be alert to.

**Ms JOHNSTON** - It's been a couple of years now since some significantly high-profile incidents have occurred, yet it appears that Tasracing's scheduling has remained unchanged. I appreciate that you've taken an educative approach to try to ensure compliance with obligations. To put it bluntly, could, or should, Tasracing require any participant entering into its property to participate in racing to provide details that their employees have had the appropriate rest breaks, have not worked 20 hours, to sign something to assure Tasracing that those who are conducting a business on its property have complied with legislation?

Should Tasracing be doing something as simple as that to ensure that, if it continues to schedule late races, it has some kind of proof that it has been given some assurances that those conducting a business on its property have put the appropriate mechanisms into place?

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**Mr THOMPSON** - That's the sort of control that we would expect and like to see many businesses have in place. It extends to the construction sector and others as well. So, yes, that that is a very useful control.

**Ms JOHNSTON** - Does it concern you, then, that a simple step like that has not been put in place by Tasracing, given the fact that this has had significant, high-profile public interest for a number of years now?

**Mr THOMPSON** - It concerns me whenever there's a failure to consult between duty holders. It concerns me whenever reasonably practicable steps aren't put in place. At risk of repeating myself, a lot of it comes down to consultation because racing, like construction and other industries, has cascading duty holders. It's not a simple employer-employee relationship. You have multiple duty holders under the *Work Health and Safety Act* all at the same workplace, all travelling between multiple workplaces. The act requires consultation between duty holders; the act also requires consultation with workers. That's something that we look very closely at, as a regulator, and we're very keen for businesses to do their utmost to comply with those obligations.

**Mr WINTER** - One final one. To your knowledge, does Tasracing have a fatigue management policy for its participants?

**Mr THOMPSON** - I'd need to take that on notice. We have a plethora of information. There have been very extensive discussions with Tasracing. I don't have all that information to hand but I'm happy to take that on notice.

**Mr WINTER** - Should they?

**Mr THOMPSON** - As a regulator - I think that businesses - well, actually, I'll answer that more simply. Yes, I would expect that a business in that situation should have a fatigue management policy.

**Mr WINTER** - Thank you.

**CHAIR** - There's been a suggestion that we move into *in camera* to be able to discuss parts of your written submission and questions from members. There's a procedural motion we need to move with you out of the room. We'll deal with that as quickly as possible to make up the time as well that we missed at the beginning. Could we stop the broadcast please?

**The public hearing suspended from 10.44 a.m. to 10.46 a.m.**

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**The public hearing resumed at 11.02 a.m.**

**CHAIR** - Welcome to today's hearing of the inquiry into the Tasmanian Government's response to serious allegations in the harness racing industry. My name is Ella Haddad and I'm chair of the Committee. At the table you have Kristie Johnston, member for Clark; Dean Winter, member for Franklin; and Mr Wood, member for Bass, is joining us online.

Could I please ask you to state your name and the capacity in which you are appearing before the Committee?

**Mr JENKINS** - Certainly. My name is Andrew Jenkins and I'm the CEO of Tasracing.

**CHAIR** - Thank you. Can I confirm that you have received and read the guide sent to you by the Committee Secretary?

**Mr JENKINS** - Thank you. I have.

**CHAIR** - Okay. I just need to remind you that this hearing is covered by parliamentary privilege, which allows you to speak with freedom without fear of being sued or questioned in any court or place outside of parliament. The protection does not extend to you if statements that you make are defamatory and you repeat those statements or refer to them outside of these parliamentary proceedings. This hearing is public, which means members of the public may be present today or watching online, and, similarly, the media may be present or watching online. Should you wish any aspects of your evidence to be heard in private, please make that request to the Committee. We'll have a short deliberative meeting about going *in camera*. That's an option available to you as the hearing continues.

Could I ask you to make the statutory declaration that's on the card in front of you?

**Mr ANDREW JENKINS**, CHIEF EXECUTIVE OFFICER, TASRACING, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - Thank you very much. I'll invite you to make an opening statement if you'd like to do that.

**Mr JENKINS** - Thank you. I don't have any opening statement. I'm happy to move through. Thank you very much.

**Mr WINTER** - Thanks, Mr Jenkins for being here with us today. I wanted to ask, in particular, a part of this inquiry is about the Murrihy review and the work that went into that - I wanted to start there. Obviously, we have the ABC reporting, which leads to an independent investigation, the appointment of Mr Murrihy, then his findings are given to the Minister in late 2023 and they're released publicly some two months later.

The way this was rolled out, did Tasracing raise concerns with the then-Minister, Mr Ellis, that you had not seen the report until it was publicly available? What was the nature of those discussions, if there were any?

**Mr JENKINS** - Thank you for the question, Mr Winter. No, we did not have specific discussions with the Minister in terms of requesting Mr Murrihy's report to be made available.

We understood that it was quite a complex investigation. We were in the hands of Mr Murrihy, ultimately, and those preparing the report. To answer your question, we did not specifically request or pressure for timing. We felt that it was appropriate for, as I say, quite a complex and serious investigation to run its course. It was entirely separate, as you would appreciate, from Tasracing. We had no role to play or influence.

**Mr WINTER** - Given that Mr Murrihy in his report identified animal welfare breaches, race fixing, team driving by participants who were current participants at that time, do you think it was appropriate that the Office of Racing Integrity sat on the report for two months, allowing them to continue to participate even though they had one of Australia's most eminent stewards having found that this had actually happened?

**Mr JENKINS** - It's not for me necessarily to comment, Mr Winter, about the appropriateness of the Office of Racing Integrity.

At the time, I was responsible for Tasracing and we did take quite strong action as a result of receipt of the interim report from Mr Murrihy. But I can't comment as to the actions for ORI. That's a question for the former director.

**Mr WINTER** - I publicly congratulated Tasracing for the action that you took because the reputation of Tasmanian racing really took a hit, unfortunately, due to what happened in 2023 with the reporting of the Murrihy review. The concern I have is that we have the independent review, we have no charges laid, and we have those same participants continuing to participate, even though they'd been identified as having team driven, fixed races and beaten animals. Tasracing took its own actions by issuing warning off notices.

**Mr JENKINS** - Yes.

**Mr WINTER** - Was there any pressure put by the Minister or the Minister's office or the Government for you not to do that?

**Mr JENKINS** - No, categorically no. That was a decision that was taken by Tasracing as a recommendation of management and executive, including myself. It was ultimately considered at a full meeting of the Tasracing board and unanimously supported. But no, I can state that there was certainly no indication, pressure or otherwise from the Minister or the Minister's office to not take the steps that ultimately the board approved be taken.

**Mr WINTER** - Is it true to say that Tasracing was disappointed that the Office of Racing Integrity did not act to take any action that would have prohibited those participants from participating, given the findings?

**Mr JENKINS** - Not so much disappointment, Mr Winter. All I can simply say that we as Tasracing felt that it was appropriate that strong action was taken. Decisions by the Office of Racing Integrity and the director are decisions for that body and that officer. Again, I won't make any comment or critique. I reiterate that Tasracing felt that it was important that strong action was taken and hence we did.

**Mr WINTER** - At that time we had the extension of Mr Helmich's appointment or reappointment. Then we had him standing down following the Murrihy review. Then we had the appointment of a new Director of Racing, who I don't think even made it to his desk before

he resigned. And then we had another Director of Racing come in, who I think was the ninth in only a few years. Was the Office of Racing Integrity functional as a regulator at that stage, in your view?

**Mr JENKINS** - It's difficult for me to comment, Mr Winter. I didn't have, at the time, any access really to information within that organisation, the Office of Racing Integrity. What I can say, is that racing did continue and obligations, to the best of my understanding, and powers were acquitted by the then-Director of Racing. But I really can't make any further subjective comment.

**Mr WINTER** - How much damage was inflicted on Tasmanian racing's national reputation by having people who'd race fixed, team driven, and beaten animals participating in our industry, following that report?

**Mr JENKINS** - Subjective question. I can't quantify that. What I would say, however, is that we welcome the implementation of the new *Racing Regulation and Integrity Act 2024* that's now come into effect from 1 February. We further welcome the appointment of Mr Carroll as the inaugural Tasmanian Racing Integrity Commissioner, the set-up of the new Racing Integrity Committee being chaired by Ms Weiss, and we also welcome, indeed today, Ms Heidi Lester commencing in the new role under the Act of Chief Racing Integrity Officer. We're very confident that with the powers across, or afforded, to those relevant officers and bodies under the new Act that it will herald an appropriate standard of integrity in racing, which is critical.

To your question, Mr Winter, yes, there will be damage to reputation, there will be impacts to wagering and ownership and participation. This is why it's so important that the new Act has been put in place and that our organisation gets behind it and does everything we can.

**Mr WINTER** - Did you ever express a view that Mr Murrihy should have laid charges?

**Mr JENKINS** - I did not.

**Mr WINTER** - Do you think he should have laid charges or been empowered to lay charges?

**Mr JENKINS** - I don't know. I can't really answer that question. That investigation, and ultimately the report, was entirely and appropriately separate from myself and Tasracing.

**Mr WINTER** - What's your understanding of the reason why we had to have one independent report from Mr Murrihy, and then we had to have another independent report doing an independent report of the independent report, to reach the point where we finally now - we can't go too far into the legal issues of what happened - but what's your understanding of why it needed to take so long and have two separate independent inquiries?

**Mr JENKINS** - I really can't comment. Again, they weren't my inquiries. It's a question for the Minister's office or for the Minister. I assume that you're referring to Mr Murrihy's report and then subsequent investigations by the Independent Stewards Panel.

**Mr WINTER** - Yes, we had an independent review of the independent review, investigating an independent Office of Racing Integrity. It took a long time to get us to this

point. The damage that's been done to the racing industry while this has continued to hang over it has been extraordinary. You see it, as you said, through wagering, you see it through the conversations that we keep having in the community about our industry, the industry. I say 'our industry' because I'm a participant in it.

What do you think could be learned from the way this - if you were advising someone in another state that had a similar - what do you think could have changed in terms of getting a better outcome, a quicker outcome, and protecting the reputation of the industry? What would be your advice?

**Mr JENKINS** - I'm not sure that I'm qualified, Mr Winter, to provide such advice. The report and the investigation I had zero involvement in, quite appropriately. If Mr Murrihy and others involved, and subsequently the Independent Stewards Panel, took some time to prosecute their investigations, I don't know; request additional witness statements and seek additional evidence, I can't make any comment in that regard. I don't know. I wasn't a party to it.

**Ms JOHNSTON** - Following on from Mr Winter's questions, Mr Jenkins, it put Tasracing in a really difficult position in that the interim period between the Murrihy report being finalised and the Independent Stewards Panel commencing its work and undertaking its work, Tasracing, quite clearly, acted to try to protect the interests of Tasracing and issued warning-off notices that were subsequently challenged in court. Did Tasracing make any representations to the Minister or the Minister's office about the difficult position that Tasracing found itself in in trying to inject some integrity back into the industry and trying to protect the industry, and certainly in terms of public relations, to the Minister, and make any representations to the office about that?

**Mr JENKINS** - We didn't make representations per se, Ms Johnston, but as a courtesy, we provided advice to the Minister through her office once the board had made and supported management's recommendation to proceed with the warning-off notices. However, it was simply a courtesy, being that 'this is a decision of the board, this is what's going to happen as a result'.

**Ms JOHNSTON** - What was the Minister's office response to that, that courtesy notice?

**Mr JENKINS** - I really couldn't recall, but I certainly don't remember receiving any correspondence one way or the other. I daresay it was something that was noted, and given that there wasn't any objection, I can only assume that the Minister and her office were supportive of the action that Tasracing was taking.

**Mr WINTER** - Just to clarify, you said 'The Minister and her office'. I think at this stage that was Mr Ellis.

**Mr JENKINS** - I'm sorry.

**Ms JOHNSTON** - We've had a number of ministers. I get confused too.

**Mr JENKINS** - You're quite right. Thank you. It was Minister Ellis. I apologise.

**Ms JOHNSTON** - There was a lot of discussion about licensing and renewals of licensing and the Office of Racing Integrity's role in either revoking that licence or suspension of that licence. That relies on a fit and proper person test, obviously, in relation to that. Has Tasracing made any representations, either then or subsequent to then, to the Minister's office about their views around fit and proper person for Yole Racing?

**Mr JENKINS** - We have not. No.

**Ms JOHNSTON** - Even when the warning-off notices were issued - in providing that courtesy notice to the Minister's office you obviously provided some information or background information as to why you took that quite unusual step of issuing a warning-off notice. That didn't include your concerns that Mr Yole wasn't a fit and proper person?

**Mr JENKINS** - No, not specifically. The action that was taken by Tasracing was related specifically to the matters that were considered in the Murrihy report, and the term 'fit and proper person' is extracted from the rules themselves. But Mr Murrihy's report didn't reference that terminology, hence it wasn't part of our briefing.

**Ms JOHNSTON** - I appreciate that. I wondered whether you had maybe extrapolated from what Mr Murrihy had found to subsequently reflect on where you're moving forward to. It seemed to be a clear intention from Tasracing's perspective to the public that you didn't want this person participating in the industry whilst these investigations were ongoing. I wondered whether you had extrapolated the Murrihy report to then the consequence of what that might mean for racing regulations - but that wasn't made?

**Mr JENKINS** - No, that's right.

**Mr WINTER** - Is it fair to say that Tasracing had a view that the Office of Racing Integrity was not functional during periods of the last two years?

**Mr JENKINS** - No.

**Mr WINTER** - Is it fair to say that Tasracing raised concerns about the performance of the Office of Racing Integrity over the course of the last two years?

**Mr JENKINS** - Not specifically, Mr Winter. There may have been occurrences where I, or management, may have had an alternative view, perhaps, to decisions that were made within the Office of Racing Integrity by the Director, or potentially a steward. We might discuss those as a matter of course as a management team or, indeed, with the Minister's office. I would need to take that on notice and check my records as to whether there was a specific concern or item that was referred for consideration. I can't recall specifically.

**Mr WINTER** - We'll take that on notice, if that's okay, about the specifics.

**Mr JENKINS** - Sure.

**Mr WINTER** - Understanding that you are going to come back to us with any formal specifics, is it fair to say that one of those instances was the decision from the Office of Racing Integrity to allow those four named participants to continue to operate in Tasmanian racing after the handing down of the Murrihy review?



**Mr JENKINS** - As I say, I'd need to check the correspondence. As I've indicated to Ms Johnston, we certainly did advise the Minister's office of the action that Tasracing was intending to take, but I daresay - and will take on notice, if I may - I daresay that wasn't an opinion or any reference to the Office of Racing Integrity. It was simply a courtesy that 'Tasracing is going to do this and we are letting you know'.

**Mr WINTER** - Isn't it true that you took those actions because the Office of Racing Integrity had failed to do its job? I mean, it wasn't actually your job to stand them down, in my view. Looking at the way it was set up, integrity should have been operated by the Office of Racing Integrity. It's in their name. Yet because they didn't stand the participants down, despite all the evidence - they had evidence from actual drivers, they had evidence from their own steward, and yet they still didn't stand them down. Then you had to act. Surely, you and Tasracing raised these concerns about the Office of Racing Integrity with the Minister, or with other bodies?

**Mr JENKINS** - Again, not specifically. It's not for me to make comment or critique actions that are taken or not taken by the Office of Racing Integrity. What I would say is simply that Tasracing, as an executive and as a board, felt that strong action needed to be taken. I take your point, and you're quite correct that the Office of Racing Integrity determined not to stand the four individuals down who are adversely named in the report. We have no control or influence over that, and nor should we. Be that as it may, again, that's where Tasracing felt it was important that we took the step to issue the notices.

**Mr WINTER** - What reason did the Director of Racing or the Office of Racing Integrity give to you that they weren't standing them down?

**Mr JENKINS** - I don't recall receiving a specific correspondence. The Director and I would typically not have engaged in that type of direct conversation. I don't know. Nothing was said to me. The Director didn't, for example, ring me and say, 'Hey, we're doing this or not doing this because' - I can only surmise.

**Mr WINTER** - When you issued the warning-off notice, for me, seeing that it was a clear demonstration that you were willing to take a harder stance on these participants than the regulator was, when you took that move to issue the warning-off notices, did you receive representation from anyone in the Office of Racing Integrity or NRE raising concerns with you doing that?

**Mr JENKINS** - No.

**Ms JOHNSTON** - Did you have anything further on that particular line of question? I have another topic, but I'm happy for you to keep going on that one.

**Mr WINTER** - No.

**Ms JOHNSTON** - One of the issues that has been regularly raised over the last few years and, again, I'm mindful of matters that are currently before courts in relation to fatigue management and the responsibility around ensuring some safe workplaces - does Tasracing have a fatigue management policy?

**Mr JENKINS** - As it stands, we do not, Ms Johnston. We're in the process of developing one. We've engaged an external safety expert organisation, Sentry Safety Systems. In fact, only over recent days we've received a draft report and some suggestions for inclusion in a fatigue management policy, which I understand would apply not only to Tasracing staff but also to industry participants. As I say, we've only recently received that and we look forward to ingesting it and creating an appropriate policy.

**Ms JOHNSTON** - There have been some very serious incidents, one in particular in early-2023 really rocked the industry and raised a lot of community concern, that relate directly to fatigue management policies. Why has it taken so long to only now get a draft fatigue management policy? Surely that would be a high priority to ensure the safe participation of participants in the industry? Why has it taken two years to get a draft policy?

**Mr JENKINS** - Thank you. You're quite right, it is important and it is a priority. The safety audit that we engaged the external vendor to conduct for us was comprehensive and extensive, and not only included matters of fatigue management, but audits of every one of our racing and training facilities. If we were only looking at fatigue management, I would agree with you and say that ideally it would have happened faster but, as I've indicated, fatigue management is one element of what is an extensive report that has taken quite some time.

**Ms JOHNSTON** - When were those consultants engaged to commence that work?

**Mr JENKINS** - I would need to, if I may, take that on notice. It's been - I'm sorry, I would need to take it on notice, Ms Johnston, if that's okay.

**Ms JOHNSTON** - What is your understanding of Tasracing's duty of care to those who either Tasracing employs directly or who enter Tasracing's facilities to race, in terms of work health and safety?

**Mr JENKINS** - Firstly, in terms of Tasracing employees, I should add that we do have guidelines in place on things like, length of shift, maximum travel times and, potentially, staying overnight rather than jumping in a car after a race meeting, for example. They're the type of considerations that I imagine we will look to suggest as guidelines and educate our participants to try to maximise the safety of those people travelling.

In terms of our obligation, ultimately - well, there are a number of obligations, but we are ultimately responsible for the racing and training venues, for example, making sure that the facilities themselves, whether it be tracks, treadmills, pools, access roads, and so forth, are safe in terms of infrastructure and personal protective and high-vis equipment. That is something we take very seriously day-in and day-out because we do operate in an industry that is potentially very dangerous.

**Ms JOHNSTON** - Has Tasracing given any consideration to making a requirement for any participant entering in a race to provide appropriate work health and safety plans for their participation on that particular day? I'm thinking about hours of employment and work that particular day where you have people potentially starting very early and finishing very late. Have you given consideration as a requirement for entry for races that that particular employer can demonstrate to Tasracing that they conduct themselves safely on your property?

**Mr JENKINS** - We have not at this point in time. And we're mindful, as you quite correctly point out, it's a difficult one for Tasracing to regulate because the participants are not our direct employees. Ultimately, it's the responsibility of the employer to ensure that their staff are performing their work in a safe manner - that they've had appropriate rest and so forth.

**Ms JOHNSTON** - The employer, in this particular instance, is entering in a race that Tasracing controls and selects the participants in that particular race and allows them to participate. Does Tasracing have a responsibility to ensure that the employer who's participating in their races meets those requirements?

**Mr JENKINS** - I don't know. I would need to consider the legal aspects of that Ms Johnston, but I understand the nature of the question, which is why, again, we have undertaken a rather significant body of work to develop exactly the type of fatigue management policy and guidelines that we're talking about here.

In terms of regulation and enforcement, I dare say that would be a matter that would be considered by the new Chief Racing Integrity Officer and, potentially, the Commissioner for Racing who may wish to make a recommendation to us in that regard.

**Ms JOHNSTON** - Is that draft policy, or the work that you've just received, something you can share with the Committee? In confidence, if that is required, but is that something you can share with the Committee, the draft?

**Mr JENKINS** - I don't see an issue with that. If I may take it on notice, but I don't foresee that would be a concern.

**CHAIR** - Can you indicate if that work will look at things like travel time required by people working in the industry when Tasracing sets race times. A race might finish at a particular time, but would a fatigue management policy anticipate travel required by workers after that time of a race finishing?

**Mr JENKINS** - I imagine that would be the case. I physically haven't viewed the draft report, yet, but I would think that such matters would be considered, yes.

**Mr WINTER** - Around race times. Anecdotally, I'm looking at Sunday 2 February at Hobart, the last race was at 9.36 p.m. and I think I found one from Launceston where the last race was at 10.30 p.m. Anecdotally, it doesn't look like there's been any adjustment. Has there been any adjustment or change in view from Tasracing over the last two years about race times?

**Mr JENKINS** - Thank you, Mr Winter. Race times are a challenging one, in the sense that, ultimately, broadcast programming is controlled by Sky Channel and that drives the majority of our wagering income. It is always our intention to try to get the best balance we can between income generation for the industry and the safety and wellbeing of our participants. We will endeavour to finish as early as we possibly can, as a rule, subject to availability with Sky.

We've also undertaken some specific actions to try to reduce travel time, particularly for our participants coming and going from the north-west coast. For example, greyhound trials we have moved before the race meetings of a Thursday night in Hobart, meaning that participants can jump in the car straight after their last race or the last race, as opposed to them

needing to hang around for another half an hour or an hour after a 10 p.m. race. It is something that we watch very carefully and we put a lot of time into our working relationship with Sky to make sure that we're able to maximise - to get our meetings as early as we possibly can.

The other consideration there, Mr Winter, is that clubs that are staffing a number of these race meetings for hospitality and so forth have normally casual or part-time type employees who work full-time. It's not always possible to start, say, at 4 o'clock because people are still working. It's quite a complex one but, as I say, it's something we do endeavour to bring our meetings forward as far as we feasibly can.

**Mr WINTER** - Sorry if you said it already, but do you have a date in which you believe you will have a fatigue management policy in place?

**Mr JENKINS** - I don't yet, no, without having seen the report.

**Mr WINTER** - What's your intention or what's your goal here of having a policy in place?

**Mr JENKINS** - By the end of the financial year.

**Mr WINTER** - Okay, middle of this year.

**CHAIR** - You mentioned the challenge of negotiating with Sky in terms of income for the industry, broadcasting, people's work commitments, balancing that with work health and safety for workers. Can you just talk us through how those negotiations or decisions are made? It just feels to me like there might be a bit of a power imbalance between a large broadcaster like Sky and a workforce that is potentially working very long hours, and we've seen instances of very long hours indeed.

How do those negotiations - do they happen race by race? Do they happen once a year in setting those expectations between the broadcaster and workforce?

**Mr JENKINS** - Yes, it tends to be an annual planning process. As you would appreciate, it's an incredibly complex programming exercise for Sky. They're doing it nationally, not just for Tasmania.

We set out a preferred program on an annual basis. Then, typically, as I understand it, quarterly, and in some cases monthly, actual race times are populated. That being the case if there are schedules we think we may be able to negotiate with Sky and change, bring forward as the case may be, then it's a matter of the Tasracing racing team contacting Sky and simply requesting, 'Look, can we come forward a race?' for example.

In fairness we have a very good working relationship with Sky, but you're quite right in what you're saying in that, ultimately, they determine which states are running when.

**CHAIR** - How feasible would it be for a large workforce like the Tasmanian racing industry to come forward and say, we're not going to have these late-night finishes anymore? Would your hands be tied setting race times by those broadcasting rights and income potential?

## PUBLIC

**Mr JENKINS** - Potentially that - yes, that would be problematic because Sky is not obliged to ultimately move forward or change programming. Whilst we have a formal contract in place, above and beyond that it's based on some give and take.

**Mr WINTER** - Chair, I just wanted to move off-topic onto some contemporary issues, but steering away from issues in the court.

We've now commenced with the new integrity unit. My understanding is that Wayne Yole was unable to train and that's why he didn't have runners this weekend just gone. Last night he did have runners. Can you give us an update? Was a stay granted by the Tasmanian Racing Appeals Board? How was it that he was operating on the weekend?

**Mr JENKINS** - That's right, Mr Winter, there was a hearing last week. It was a second stay hearing where the appeals board granted a subsequent stay through until 5 March where the substantive hearing will be heard. Yes, there is a stay at present in place.

**Mr WINTER** - I've just been on the Tasmanian Racing Appeals Board - which isn't in your purview, I understand - in terms of communication with the industry, participants don't seem to be clear on what the current situation is.

Particularly, given you've just taken over this new integrity role - understanding there's, of course, the barrier between what you do and integrity - how can we communicate better with the industry about, firstly, what the original decision was and, secondly, about the granting of a stay? Do you have a view on that?

**Mr JENKINS** - I do, thank you. Mindful that the granting of the stay was only late last week and we've yet to receive written reasons. Without the fullness of that information it would potentially be getting ahead to make a formal communication to industry without the reasons for the decision, but that's something we will consider with the new Chief Racing Integrity Officer. The Commissioner may have a view on such matters also and discuss same with the appeals board chair.

**Mr WINTER** - The original issue for Wayne Yole is the transfer of horses from a suspended trainer. Is that correct? That he's not able to train out of the Sidmouth property or he wasn't able to until the stay occurred?

**Mr JENKINS** - The original consideration, as I understand it and mindful this is under signature of the acting Chief Racing Integrity Officer, but my understanding is that with Mr Ben Yole disqualified for a three-year period, that occupying a residence on the training facility where Mr Wayne Yole is running his operation is in breach of a specific Harness Racing Australia rule. That was the original intention of the letter from the acting Chief Racing Integrity Officer. It's that determination under the rule that has been stayed by the appeal board.

**Mr WINTER** - That's the situation we've seen before because when Tasracing took its steps to warn off the participants, at some point during all that Ben Yole Racing simply transferred its horses to Wayne Yole and he took up business again. Can you explain why Tasracing or the integrity unit has taken the steps that it has now, but the Office of Racing Integrity refused to do the same? Have the rules changed, or is it the interpretation that's different?

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**Mr JENKINS** - Once again, Mr Winter, I can't comment as to the thinking or the decision making of the former Office of Racing Integrity or indeed the Director of Racing, but it's simply to say that as the current and acting Chief Racing Integrity Officer interpreted the rule, his view was that it was clear.

**Mr WINTER** - And I agree, it is clear and the right decision's been made. But I go back to this situation and we've seen in other states. For example, Emma Stewart in Victoria, when disqualified, was not allowed by the authorities there to simply transfer to her partner at the time. And the recent decision by the new unit is in line with the rules. Did you raise any concerns, or has Tasracing raised any concerns, about the transfer of Ben Yole Racing's animals simply to a new trainer on the same location being in clear breach of the harness racing rules?

**Mr JENKINS** - I recollect we did raise concerns with the Office of Racing Integrity and the Director of Racing at the time. For some of the reasons that you've outlined we felt that there were perhaps questions that should be asked in terms of care of the horses, the actuality of the transfer and so forth. Yes, I do recall we did query that with the Director at the time.

**Mr WINTER** - What was the Director's response to those concerns you raised?

**Mr JENKINS** - Ultimately, they were heard, but the transfers were facilitated.

**Mr WINTER** - In terms of the transfer from Ben Yole to Wayne Yole, it was actually in breach of the harness raising rules, wasn't it?

**Mr JENKINS** - I can't comment.

**Mr WINTER** - That was your opinion at the time.

**Mr JENKINS** - Not necessarily. I'm simply saying that we had concerns around the horses being transferred. As to whether that was in reference to a specific rule or a range of other questions that perhaps ordinarily ought to be asked of a gaining trainer, particularly at that volume of 80 plus horses. It would be fair to say that we had a number of concerns around that transfer taking place.

**Mr WINTER** - And then, under the RTI received, we had your COO, Mr Manshanden, quite rightly asking the Director of Racing about Wayne Yole's current workers compensation policy and saying, 'He needs workers compensation, are you going to check this?' And the Director of Racing at the time asked Mr Yole and Mr Yole said, 'I don't have any employees, I don't need it' - that's paraphrasing. Is it possible in your view that a trainer of some 80 horses could do it without any employees?

**Mr JENKINS** - As to - two parts of that question, if I may. If we take out the workers comp aspects for a moment, is it possible to physically train 80 horses as a one-person show? No, that's certainly not my observation, having observed many, many stable operations over the years at that scale and indeed larger. No, I would think that it's just physically not possible to do that.

**Mr WINTER** - So, the Director of Racing, having received that information and advice from Tasracing - here's a guy who has 80 horses, saying he doesn't have any employees - simply accepts that. Do you think the response from the Director of Racing was adequate?

**Mr JENKINS** - It's a difficult one to answer, Mr Winter, given that I didn't have, or we didn't have access to all the information, given that the Office of Racing Integrity was entirely separate at that point in time. So, on face value, as I've said, we felt, and as per Mr Manshanden's correspondence, that there were some concerns and there were some questions that should be considered before the transfer proceeded.

**Ms JOHNSTON** - So, is it your understanding and, given that Wayne Yole entered races this weekend, I understand?

**Mr WINTER** - He had a winner last night. His 200th winner.

**Ms JOHNSTON** - Is it your understanding that Mr Wayne Yole currently has workers compensation?

**Mr JENKINS** - It's not a matter that Tasracing is specifically regulating at this point in time. Our expectation would simply be that if any person, as a participant operating a stable or a kennel, who has employees is simply required to have workers compensation under the law. There are alternative employment models, such as agency, agency and staff, people may wish to volunteer, but we are, ultimately, not the regulator of, as are WorkSafe, for matters of workers compensation insurance.

**Ms JOHNSTON** - I appreciate that you're not the regulator in that particular space, but given the fact that it's on the public record that Mr Yole has previously admitted he doesn't have workers compensation, what steps does Tasracing do to ensure that participants in their races are appropriately licensed and have the appropriate workers compensation coverage to ensure the safety of those participants? So if a tragic accident or an incident should occur, the workers who are participating in your industry are protected. Did you have an obligation last night when Mr Yole raced, to ensure that participants in your races are complying with the legislation, either legally or morally?

**Mr JENKINS** - We have an obligation, as I mentioned, to provide a safe workplace and we prioritise and endeavour to always do so. Again, in terms of the requirement to have workers compensation, it's not a matter for Tasracing to regulate. It's a matter for the person operating the business to work with an appropriately licensed insurer or broker and determine the level of workers if there's appropriate level of cover, whether it be workers compensation or otherwise. We're not obliged to give or it's not appropriate for Tasracing to provide legal or financial advice as opposed to an appropriate level of cover, with -

**Ms JOHNSTON** - I appreciate that, I suppose my questioning, and excuse my ignorance of how you - the physics - the physical process or the practical process of registering for a race on a race day. I assume that Tasracing is aware of not only the participants in terms of the riders or drivers or who it might be, but who is on the course, who's employed by whom, where that responsibility lies, whether they're Tasracing employees, whether they're ORI, or the new structure employees or whether they're an employee of a participant.

Surely you know who's on your property engaged in the racing aspects of that and, when that occurs, is there any check or balance that that person, an employer needs to provide to Tasracing to say, 'Yes, my employees who have come onto your property to engage in racing,

have the appropriate insurance coverage or have the appropriate work health and safety standards'? I would assume so.

If it was a contractor entering any other business, they would normally be required to tick a box to say, 'Yes, we have the appropriate onsite protections in place to protect workers.'

**Mr JENKINS** - Yes.

**Ms JOHNSTON** - I'm assuming Tasracing has the same, possibly? Does that occur every race or annually or monthly - how does that occur?

**Mr JENKINS** – Historically, Ms Johnston, that has been managed via the licencing process and that's an annual cycle. A horse trainer applies to have their licence reissued on an annual basis and one of the requirements that is listed as a disclosure and acknowledgement is having appropriate workers compensation insurance. That's an annual process. No, it's not checked on race meeting to race meeting. It's akin to assuming that it - it's just the law, it's an expectation and if it were brought credibly to Tasracing's attention that a given participant, trainer, didn't have appropriate workers compensation insurance, then we may take steps to investigate that ourselves or refer directly to WorkSafe.

**CHAIR** - Online, we've been joined by member for Bass, Cecily Rosol, who has some questions as well. Thank you.

**Ms ROSOL** - Thank you, Chair, and my apologies that I wasn't able to join earlier. If this has already been covered, I apologise. We've been contacted by a constituent who's querying what happens to Ben Yole's prizemoney in light of the ban, which I understand has been stayed now - I think I heard that said earlier. But, the constituent would like to know what happens to the prizemoney for the races he won during the time from July through to the sentencing date. Did he receive prizemoney? Was it withheld due to the investigation? If he did receive the money, will he be required to repay it if the ruling is upheld?

**Mr JENKINS** - Thank you for the question. My understanding is that during that period of time, Mr Ben Yole was not training horses. They had already been transferred into Mr Wayne Yole's name. So the training element of prizemoney doesn't come into play.

At a more in-principle level, that is a matter to be determined by the Independent Stewards Panel. Whilst they have handed down their decision and initial penalties of disqualifications and a fine in the case of Mr Ben Yole, any implications for prizemoney would need to be considered by that same Independent Stewards Panel. We have not received advice in that regard.

**Mr WINTER** - What are the current restrictions on Nathan Ford's participation in Tasmanian racing?

**Mr JENKINS** - I would need to take that on notice, Mr Winter.

**Mr WINTER** - Is it not true that he's unable to drive at Hobart and Launceston race tracks at the moment? Is that correct?



## PUBLIC

**Mr JENKINS** - I would need to take it on notice. I recall there was a suspension of licence some weeks ago, but I can't recall which - the actual start and finish dates. I'm sorry, so if I can take that.

**Mr WINTER** - My understanding is, I'm just looking at the race fields over the last few weeks and potentially a bit longer that Mr Ford hasn't been able to participate in Hobart and Launceston, but he was able to participate in Burnie when it wasn't cancelled; Carrick, - I think Carrick, certainly Scottsdale. Are you able to provide information to the Committee about the reason why he's been unable to participate, either now or on notice?

**Mr JENKINS** - Firstly, in the distinction between some of those venues, Tasracing in issuing notices of non-attendance or exclusion from venues, we're only able to do so for venues that we actively lease and control. For example, Elwick, Mowbray, Devonport - though irrelevant for harness. Some of the smaller regional tracks are not leased by Tasracing as an entity; they're often leased or sublet from a council, footy club or a cricket club, as is the case in Burnie.

**Mr WINTER** - What's the reason for him being excluded from your venues?

**Mr JENKINS** - There was an allegation of abusive language and intimidation at one of our shared training facilities involving two Tasracing staff members. We have in place an industry code of conduct which sets out very clearly the standards of expectation for all involved in the industry, to ensure we are providing a workplace where people feel safe, respected and can turn up and do their job without that type of bullying, abuse, and intimidation.

**Mr WINTER** - How long does that go for?

**Mr JENKINS** - I beg your pardon?

**Mr WINTER** - How long does the notice of exclusion go for?

**Mr JENKINS** - I would need to confirm, Mr Winter. It was some weeks ago that it was issued.

**Mr WINTER** - Take that on notice?

**Mr JENKINS** - Yes, please. I believe it was 30 days.

**Mr WINTER** - Presumably that happened during ORI's time at the helm of integrity - was ORI made aware? Why wasn't this dealt with through the rules of racing, harness racing rules, rather than you having to do it as an organisation?

**Mr JENKINS** - Thank you. Yes, we did make the Office of Racing Integrity aware. As to such matters being dealt with under the rules, that can certainly occur. However, Tasracing has for a couple of years now taken a view that whilst the rules of racing are important in a racing context, they're well and truly trumped by our obligation under various items of legislation to provide a safe and respectful workplace. In a circumstance such as this where, having received statements from the individuals involved, it was determined the behaviour was so serious and so inappropriate, we acted immediately at that legislative responsibility level, as opposed to waiting for an inquiry or an investigation by the Office of Racing Integrity -

**Mr WINTER** - I'm not questioning your actions at all. In fact, they sound more than appropriate. Once again, my concern is that the Office of Racing Integrity - it was always Tasracing that had to come in and act. In this case, if the allegations which you've acted on still require that your staff, Tasracing staff, need to be around them presumably, at Carrick or at Burnie or Scottsdale, what was ORI's reason for not acting on this?

**Mr JENKINS** - I can't comment to that, Mr Winter. We, as in Tasracing, simply forwarded an email to the Office of Racing Integrity as a courtesy to say we are doing this for your consideration.

**Mr WINTER** - There's another instance I'm aware of at Longford where two thoroughbred participants got involved in an altercation that was either physical or about to become physical, and it led to you needing to put security guards or guard on. In that case was ORI made aware, and did ORI do anything to enforce the rules as available to it to actually provide some protection to participants?

**Mr JENKINS** - I understand yes, that the Office of Racing Integrity was certainly aware. I recall that there, at the very least, were discussions between the stewards and the relevant participants. I can't recall whether an inquiry was opened or not, but that is another example of Tasracing deciding to act, rather than - and no critique of the Office of Racing Integrity - but we decided to act under that responsibility and the rules can be determined as they may be.

**Mr WINTER** - I want to give others a turn before we finish up, so my last question. How many of the stewards from the Office of Racing Integrity have transferred over to Tasracing and how many have not and, thirdly, and you might want to take it on notice, how many have transferred to Tasracing and then already left the role?

**Mr JENKINS** - All stewards bar one have transferred over and remain employed under their current instruments of employment, whether that be on a permanent basis or we operate quite a large casual pool of stewards. We've also supplemented our existing pool of stewards with some highly qualified and experienced interstate stewards over the summer racing festival. We thought it was prudent to signal it's a new era in racing integrity come the establishment of the enacting of the Act on 1 February. We also think it's positive to have fresh sets of experienced eyes coming into the cohort of stewards and providing some observation, advice and coaching.

**Mr WINTER** - Who's the steward that didn't transfer over? Was it Janet Ainscow?

**Mr JENKINS** - Yes.

**Mr WINTER** - And none have left since you took over integrity?

**Mr JENKINS** - Not that I can recall.

**Ms ROSOL** - Thank you, Chair. I have some questions on the harness racing industry. How many horses are born into the Tasmanian harness racing industry each year?

## PUBLIC

**Mr JENKINS** - I would need to take that on notice if I can, Ms Rosol. It's published in our annual report and I've left it over there. If I may take that on notice, Chair, we'll certainly provide you with the information of number of foals.

**Ms ROSOL** - Thank you. On average, how many would arrive from interstate to race in Tasmania each year?

**Mr JENKINS** - Thank you and I'd kindly request to provide that information to you on notice.

**Ms ROSOL** - What happens to harness racing horses after they're formally retired from the industry?

**Mr JENKINS** - Thank you for the question. It depends on the horse. Ideally, horses can be retrained towards another post-racing environment, whether that be eventing, jumping, a pleasure horse, or a companion horse. But the reality is that some horses, due to temperament or injury are not appropriate or indeed not safe to be re-homed into that type of environment - working with programs such as Tasracing's own Off the Track program plus a number of private re-trainers and re-homers. Yes, the best outcome is always to try to find another vocation or home for all our equine athletes, whether it be thoroughbred or harnessed, but there are circumstances where, due to illness or temperament, it's not appropriate or safe.

**Ms ROSOL** - Could you confirm if you gather data on that or is there any data collected on what happens?

**Mr JENKINS** - Thank you, Ms Rosol. Yes, that's right. Again, such figures are included in our annual report. We're continuing to invest quite significantly through Dr Martin Lenz, our Chief Veterinary and Animal Welfare Officer, toward lifetime traceability, new re-homing and re-training accreditations in Tasmania, to ensure that we give as many horses as possible the opportunity to move into a post-racing environment that's safe and suitable for them.

**Ms JOHNSTON** - I'm not going to put words into your mouth, Mr Jenkins, but from what I'm hearing from the evidence you've given today, Tasracing has had to take action a number of times where the Office of Racing Integrity has failed to either act or to act in a complete way, whether that be through warning-off notices, notices of exclusion, those kinds of issues. It seems to me the Office of Racing Integrity has had some communication issues between itself and Tasracing perhaps in those discussions about why it has chosen not to act or why it's acted in a particular way, looking historically over what's happened over the last few years.

Recognising the Office of Racing Integrity doesn't exist anymore, we're in a new era post-1 February. I recognise that the Integrity Unit now comes under Tasracing. What are your hopes regarding communication between the integrity body and Tasracing's board, management of the corporate services and the racing itself - the communication between the two - that will hopefully overcome or alleviate some of the issues that have existed between ORI and Tasracing regarding responsibilities for particular actions and why things haven't occurred?

**Mr JENKINS** - Thank you very much for the question. I'm hopeful, if not confident - and we're seeing it already post-1 February - that it is literally a different environment and different

organisation now that the Tasmania Racing Integrity Unit has been established. It is important to note that there are appropriate separations of information and physically for the Tasracing Integrity Unit.

Already we're having conversations with the Acting Chief Racing Integrity Officer in relation to the structure of the team, culture of the organisation, setting KPIs, training and development and mentoring for stewards. It was difficult in the past for that to occur, because we were two totally separate organisations and very different organisations.

**Ms JOHNSTON** - Tasracing's having, as you say, active conversations about KPI settings for stewards. That level of operational involvement, I suppose, in the operation of the Integrity Unit in terms of communications and all those kinds of things, that's a very different approach to what the Office of Racing Integrity was?

**Mr JENKINS** - Yes, simply because we were two separate organisations. Now the Chief Racing Integrity Officer has a dual reporting line through to me for matters of administration as per the Act, and also an accountability through to the new Racing Integrity Committee, ultimately through to the Minister. On a day-in day-out basis, setting aside, as I refer to, matters of pure integrity, inquiries and charges and things like that, as the commercial CEO and commercial executive group, we have zero involvement in such matters, as you would expect. In terms of how we structure the team, how we run the organisation, how we develop our culture, we're one group now.

**Ms JOHNSTON** - In terms of integrity matters, it seems to me that one of the issues we've had previously with the Office of Racing Integrity is a delay in communicating outcomes, whether that be stewards' decisions, what their intended actions might be resulting from an investigation. Do you see, under this new model, that will be improved in terms of timeliness? When you referred to earlier, I believe you hadn't received the reasons for the stay that's been recently provided. That's a number of days now. Surely, that's a material issue and concern to Tasracing if they haven't received detailed reasons for why a stay has been granted, and quite a significant matter of public interest. Do you see that timeliness and communication of reasons for decisions/actions taken by the Integrity Unit to be better and more transparent and timelier?

**Mr JENKINS** - I would think so. To clarify, the written decisions that we are referring to will be provided by the Appeals Board, which is an entirely separate body. I understand the point of the question and -

**Ms JOHNSTON** - It takes a long time, for instance, for stewards' reports to come up on the website like they used to.

**Mr JENKINS** - Yes - which is something that's already been addressed post-1 February, with using a stenographer and getting our decisions up as soon as we possibly can. I would only think that with Ms Lester starting today as the appointed Chief Racing Integrity Officer that such matters will be addressed by her putting together her 90- and 100-day plan. To answer your question, yes, absolutely.

**CHAIR** - We have gone a little overtime. Is there anything else, Mr Jenkins, that you wanted to share with the Committee that hasn't come up through questioning?

## **PUBLIC**

**Mr JENKINS** - No. Thank you, Chair. I appreciate the opportunity to be invited and represent. Thank you for having me.

**CHAIR** - We're grateful for your time too. I'll thank you again for your appearance and time and remind you that what you've said to us here today is protected by parliamentary privilege, but once you leave the table, you need to be aware that privilege doesn't attach to comments that might be defamatory if you repeat them to anyone, including the media. Do you understand that obligation?

**Mr JENKINS** - I do.

**THE WITNESS WITHDREW.**

**The Committee suspended from 12.05 p.m. to 12.10 p.m.**

## PUBLIC

**Acting CHAIR** (Mr Winter) - Thank you everybody for being here. My name is Dean Winter. I'm now the Acting Chair of this Committee, although there is a very big word I was told before that I am now. What is it? The pro tempore chair of this Committee and the Committee will now hear from NRE/the former Office of Racing Integrity.

Welcome to the hearing today of Committee B's Inquiry into Racing. Thank you for your presence here today. If you could please start with your name and the capacity in which you are appearing before the Committee.

**Ms WILSON** - Deidre Wilson. I'm Acting Secretary of the Department of Natural Resources and Environment Tasmania.

**Acting CHAIR** - If we can just go through.

**Mr THOMPSON** - Mr Robin Thompson, the former Director of Racing under the old legislation.

**Ms YAN** - Anita Yan, Acting Chief Operations Officer.

**Acting CHAIR** - Thank you very much. Can I confirm you've received and read the guide sent to you by the Committee Secretary?

**WITNESSES** - Yes.

**Acting CHAIR** - Excellent. This hearing's covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place out of parliament. This protection is not accorded to you if statements that may be defamatory are repeated or referred to you outside parliamentary proceedings.

This hearing is public. The public and media may be present. Should you wish aspects of your evidence to be heard in private, you must make this request to the Committee at the time and we'll consider whether to go *in camera*.

Could you please take the statutory declaration?

**Ms DEIDRE WILSON**, ACTING SECRETARY, **Ms ANITA YAN**, ACTING CHIEF OPERATIONS OFFICER AND **Mr ROBIN PHILLIP THOMPSON**, DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT TASMANIA, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**Acting CHAIR** - Thank you. Would you like to make an opening statement?

**Ms WILSON** - I'd like to thank you for the opportunity to present today. Obviously, NRE Tas has undertaken significant work to progress legislative reforms within the racing portfolio over the recent years, stemming from the Government's announcement in 2021.

The review acknowledged the need to ensure a contemporary racing integrity framework. The last three years have seen major reforms to the industry. These reforms, based on evidence of best practice, culminated in the implementation of the *Racing Regulation and Integrity Act*

2024, which took effect from 1 February and provides a modernised, effective and fit-for-purpose model for regulation and integrity in the racing industry.

It would be remiss of me not to acknowledge that while there has been a lot of positive work to deliver the reforms, there has been equally increased scrutiny on the industry and particularly the Office of Racing Integrity.

While I'm, of course, happy to answer questions the Committee has, the Department's written submission outlines its response to the Committee's terms of reference. I recognise there are also matters within the Committee's terms of reference which may be subject to current criminal proceedings or appeals to the Tasmanian Racing Appeal Tribunal. I'm restricted in my ability provide any additional commentary on matters subject to current proceedings beyond what has been provided for in the written submissions.

In closing, I note that it's not uncommon in hearings such as these for employment matters to be raised. It's important for the Committee to be aware that employment matters are appropriately dealt with by the Department in accordance with appropriate policies and procedures.

**Acting CHAIR** - Thank you. I'd like to start by going through your former steward, Janet Ainscow's submission to this inquiry. Have you read that submission?

**Ms WILSON** - Yes.

**Acting CHAIR** - In the submission she says the Director of ORI at the time was Tony Latham, with Laura Lord as the Chief Investigative Steward. It was - redacted - had personally viewed the ORI CCTV footage that showed Steven Shinn tampering with a swab. Is that correct?

**Ms WILSON** - I'm not able to comment on particular and individual employment matters. What I can assure the Committee is that the agency deals with any matters that are raised with it in accordance with applicable policies and procedures.

**Acting CHAIR** - Was there an allegation that a steward had tampered with a swab?

**Ms WILSON** - I believe that Ms Ainscow indicates an allegation, but as I've said, it's not appropriate for me to comment on the details of individual employment matters relating to former departmental employees.

**Acting CHAIR** - This goes to the operation and integrity of the Office of Racing Integrity. This has been, you'd probably be aware, something that has been widely speculated about. In fact, for the last two years I've asked questions of the Department about whether this actually happened or not. It's really important we get to the bottom of what's happened within the Office of Racing Integrity.

The circumstances in which Mr Shinn left the Office of Racing Integrity were never outlined. We understood from answers given in this place, actually in this room, there was an investigation, but there was no comment as to why. Can you confirm he was investigated for tampering with a swab?

**Ms WILSON** - I'm not able to comment on individual employment matters.

**Acting CHAIR** - Will you comment if we go *in camera*?

**Ms WILSON** - I would remind the Committee that allegations, unless proven, are not fact.

**Acting CHAIR** - Perhaps we can go into *in camera* and further go through this at a later time. Ms Johnston, would you like to ask some questions?

**Ms JOHNSTON** - No, you continue.

**Acting CHAIR** - The concerns particularly around the operations of the Office of Racing Integrity - we've just heard from Tasracing, who said that they raised particular concerns about the ongoing use of Ben Yole's property at Sidmouth, and transfer of horses by Ben Yole, whilst he was warned off, directly to Wayne Yole. They raised those, according to the evidence, with the Minister. Did Tasracing raise those concerns with the Director of Racing? What were the Director of Racing's responses to why those horses were able to transfer and be trained out at a property owned and lived in by Ben Yole?

**Mr THOMPSON** - It's not uncommon. It's in fact standard practice for horses to be transferred between trainers and between owners depending upon a number of circumstances at a time. One of which is that the current owner or trainer may no longer be operating in industry, whether that be through choice or through an indiscretion against the rules of racing. Nothing unusual happened that wouldn't have happened to anyone else regarding the transfer of horses from Ben Yole to another person, who just happened at this time to be Wayne Yole.

Your second part of your question was the ability of Ben Yole to reside on the training premises. Is that my understanding? Yes.

**Acting CHAIR** - It's actually more reverse - why the horses were able to be trained out of a property lived in by Ben Yole.

**Mr THOMPSON** - Yes, I'll get to that. Okay. At the training facility at Sidmouth, there are two very separate parts to the property. There's the domestic part of the property, which is a house and general surrounds, garden, where Ben Yole and his family reside. Then there is a separate, totally fenced off training facility which could be operated by anybody. Under, I think, Australian Harness Racing Rules for a disqualified person - which is exactly the same as a warned-off person - 259.6, there is discretion for stewards, director, to allow disqualified person to do such things.

In the instances you refer to, Ben Yole was allowed to live in the domestic premises of the whole property, not to enter the training facility unless there was an emergency situation. The latter discretion that I enacted was that any entrance to the property was to be documented and provided to the controlling body, with some photographic evidence to support the reasoning for entering. When that was imposed in the first incident, Mr Yole was routinely inspected, by unannounced inspections which never found him in any part of the property other than the domestic property component of the property for which he was allowed to reside. Of course there's an issue here of compassion and I suppose social responsibility to his wife and



family. It is their home and they are not part - his children, certainly, are not part of the racing industry.

So I felt that there was a fair balance between allowing them and him to live as a family unit at the residential component of the property, but not to enter the training property.

**Acting CHAIR** - I'm not sure anyone was suggesting that they should be kicked out of their home. They were suggesting that Wayne Yole shouldn't be allowed to train on the property. I've never heard anybody suggest that you should kick a family out.

The concern here is that you have somebody who's been barred from participating in the racing industry, which is a huge punishment, and what the Murrihy findings found were pretty extraordinary, but the punishment ended up being alleviated by allowing the horses to simply transfer from the training of Ben Yole to Wayne Yole and to continue to be trained out of the same property.

**Ms JOHNSTON** - In the same conditions.

**Acting CHAIR** - In the same conditions. Do you understand that the decision to allow him to simply transfer the horses and to train out of the same place ended up leading to an almost identical situation with the industry, where we still had the same stable and the same horses participating?

**Mr THOMPSON** - But Ben Yole wasn't participating. That's the important difference.

**Acting CHAIR** - So, in examples - I've already used it this morning - in Victoria, for example, when Emma Stewart tried to transfer horses to a partner, authorities there did not allow that to happen. In recent times, only in recent weeks, with the decision finally handed down by the Independent Stewards Panel, the new integrity unit has made the decision that he cannot train those horses out of Ben Yole's property. It appears as though you're the only one that's provided this discretion. I don't understand why you've done that.

**Mr THOMPSON** - It's not unique. That discretion has been applied to other trainers in the past, in this jurisdiction. And, of course, the decision of CRIO is subject to appeal and it will be determined by the TRAB as to what conditions are imposed or not.

**Acting CHAIR** - Speaking of conditions, one of the other issues we have is that the conditions were just the same. We have an Equine Code of Practice, which is finally in place, that outlines various things, including that there must be suitable living conditions, including appropriate shelter - there is not appropriate shelter on that site - the horses must have accessible food and water, and the Murrihy review itself raised concerns about the ability for horses to get to food. Why was that new Equine Code of Practice not held up? How is it that that stable is complying with the new code of practice?

**Mr THOMPSON** - Okay, let's go back to Mr Murrihy. He identified a number of issues and they were then subject to investigation by the Independent Stewards Panel and we've seen the outcome from those. Now, the Equine Code of Practice was implemented through a lot of industry consultation, a lot of work done by ORI, in collaboration with Tasracing that came in around 1 November, last year.

Now, since that time, the Yole training facility has been subjected to numerous inspections, unannounced inspections, by a regulatory vet and accompanying steward. We have never found anything that is non-compliant with the Code of Practice - other than, perhaps, the level of fibre being fed in the diet. That has been subject to some recommendations and they are addressing that; the recommendations provided by the regulatory vet in discussion with the trainer.

**Acting CHAIR** - Okay. What shelter is available to the horses there?

**Mr THOMPSON** - Rugs are considered a seasonally appropriate -

**Acting CHAIR** - A rug?

**Mr THOMPSON** - Rugs are considered adequate to provide shelter to meet the requirements of the Code. The requirement is not specific with respect to what will be provided.

**Acting CHAIR** - Well, you wrote the Code.

**Mr THOMPSON** - It says that it is outcome focused, i.e., the horse has warmth of the rug.

**Ms WILSON** - And if there are issues with the Equine Code of Conduct, there are two pathways. First of all, it's only been in place since November. There is now a new Tasracing Integrity Commissioner who can set standards. So, we did indicate in previous hearings that if the Equine Code of Conduct was in play, but the Commissioner felt that higher standards or different standards need to apply, the Commissioner can now do that under the new act and Tasracing can also review the Equine Code of Conduct. The Office of Racing Integrity could only implement the Equine Code of Conduct as written.

**Acting CHAIR** - I'm not a horse trainer. I don't look after horses, so I'm not an expert. On this matter, I thought, 'Look, a lot of people in the harness racing industry are on one side or the other.' I went to thoroughbred trainers and I showed them the photos and said, 'Do you think this is an appropriate place to house your animals? Would you house your animals here?' They all said no, in fact, passionately, 'No, we should not be keeping horses in these conditions.' I've never seen anything like it. I don't understand how we've written a new welfare policy, then gone to the place that was the inspiration for the welfare policy and found that despite not making any changes, it adhered to the policy. How's that happened?

**Mr THOMPSON** - Well remember, ORI is the regulator with respect to the policy. It is not ORI's policies, it's the industry's policy, and remember that the policy was created with significant opportunity for industry to have input and to be very, very specific if they so wished as to the contents of the policy. It could have specified, for example, that the minimum area is x-square metres per horse; that horses must be in hotel-room-type accommodation at all times, et cetera. But remember, with any policy as such, it must be able to be implemented, it must be practical, and it must, more and most importantly, deliver the outcomes that the intention is and in this circumstance the outcome is for the animals involved to not experience a negative animal welfare.

**Ms WILSON** - As I've indicated, the Office of Racing Integrity can only implement the policy that has been delivered, but I believe that Tasracing, I can't speak for Tasracing, but it

was a significant step forward for Tasracing to bring the Equine Code of Conduct into place. The Murrihy report indicated that action could not be taken without standards being set. Tasracing have done that in consultation with industry.

Going forward, if anyone thinks that it is not sufficient, including those people you've spoken to in industry who would have had an opportunity to comment on the policy, I would urge them to talk to the Commissioner. The Commissioner has an animal welfare and integrity arm and has the capacity to set standards. We often will put in place regulations, will start to implement, and then we'll go, 'Is that still at the standard required or does it need review?' So I would urge those people who have any concerns to raise that with the Commissioner.

**Ms JOHNSTON** – Just so I'm really clear about this, and I think Mr Winter is clear about this.

**Acting CHAIR** - I doubt it.

**Ms JOHNSTON** - I think you hit the nail on the head, Mr Winter, that, despite the fact that there have been significant questions from the public, at this table, and in both Estimates and GBE hearings regarding the development of the equine policy, and we've been given assurances from the Minister and from the Department and from ORI that there will be robust equine guidelines, welfare guidelines, and the expectation that we would see a change in circumstances, particularly for those horses at Yole's property, nothing has changed. We have delivered an equine policy and guideline that effectively maintains a status of quo for those horses on that property, including the fact that we're going through quite a hot summer, and those horses don't have any shelter other than a rug, which is not appropriate in heat.

**Ms WILSON** - That will be a matter for Tasracing now, in terms of the Integrity Unit, as indicated. The Office of Racing Integrity had a regulatory vet to inspect the property from December to January, so it's two months. The Equine Code of Conduct is a significant step forward. It does set standards -

**Ms JOHNSTON** - I'm not sure how it is a significant step forward. Can you explain to me what the difference is?

**Acting CHAIR** - It achieved nothing.

**Ms JOHNSTON** - What's the step forward? What have we achieved that's better than what we had before?

**Ms WILSON** - Because if it's not complied with, then action can be taken by stewards.

**Ms JOHNSTON** - But the bar is so low, though.

**Ms WILSON** - Mr Murrihy in his report said that in the absence of welfare standards, action was unable to be taken. Now if any trainer/owner that has a horse on its property now does not meet a particular standard, doesn't meet the objectives, stewards can take action. In the absence of those standards Mr Murrihy identified a significant gap. As I say, Tasracing has taken the step to put an Equine Code of Conduct in place. That is a step forward. If people consider that it needs to be - that the standards need to be more prescriptive or need some

change, there is that capacity now for those matters to be taken to the Tasmanian Racing Integrity Commissioner who can set animal welfare standards.

**Ms JOHNSTON** - It seems to me the step forward we've taken, then, is to set a standard that Yole's property is acceptable, and we have an incredibly low bar and standard that we've normalised and in fact provided sanction to Mr Yole's property in the way he treats his horses as the industry-now guideline and standard.

**Ms WILSON** - I'm not an expert on the interpretation of the Equine Code of Conduct. All I can say is that Mr Murrihy indicated that there needed to be standards, industry standards, which the stewards can assess against, and regulatory vets. That's now in place. If anyone thinks that that is not sufficient or there needs to be more prescription, there is a pathway. That pathway was not there before 1 February 2025.

**Ms JOHNSTON** - In my reading of Mr Murrihy's report, I don't believe he found the standards at Mr Yole's property acceptable animal welfare standards. When he strongly recommended that there be standards in place, that he did not view that those standards ought to be the standards at Yole's property. In implementing the recommendations for the Murrihy report, how have we met those, if the standard that we've implemented is the standard of Mr Yole's property?

**Mr THOMPSON** - Remember that the Office of Racing Integrity didn't write the Equine Code of Practice. It was written by Tasracing in collaboration with the industry. The then-ORI provided input as the regulator, and that input was focused on the ability of the standards to be assessed and determined to be carried out or not, to be met or not. It's the industry, really, that determines that if the standards are not what it wants, then there's a pathway to change the Equine Code of Practice to be more robust.

Remember, it is not just about Yole's. It's about the whole industry, and that the standards would apply across the whole industry, and that the aim of the standards is to get outcomes, and the outcomes are animal welfare. As I've said on many occasions, the regulatory vet has never once found a horse stabled at the Yole training complex that has had adverse animal welfare outcomes that weren't being addressed appropriately by another vet.

**Acting CHAIR** - I'll read to you from the Murrihy review:

However, in brief, the following deficiencies were identified:

This in relation to the Yole property:

The property is clearly overstocked with the number of horses for its size and facilities, and accordingly it exhibits barren paddocks completely devoid of pasture.

**Ground conditions.** Drainage is deficient, with substantial areas being waterlogged and muddy in wet conditions, and subject to high level of dust in dry and windy summer conditions.

It goes on to say:

**Feeding regime.** The feed was of good quality and there are sufficient feed and water receptacles, however the feeding system does not satisfactorily address the inevitable horse behaviour pattern of bullying by dominant horses.

It goes on to talk about protection from weather extremes - shelter and shade provisions. It talks about veterinary treatment records, again, not being adequate.

When you say that your stewards found that it met the requirements of the new Code of Practice, I don't understand what you mean. We've had the independent steward come and say it doesn't meet animal welfare standards.

**Mr THOMPSON** - Remember when Mr Murrihy made those comments, there was no standard, there was no Equine Code of Practice. He was making those comments against maybe his own perceptions, his own beliefs, or whatever. That has since been formalised into the Code of -

**Acting CHAIR** - So he was wrong, was he?

**Mr THOMPSON** - I'm not suggesting he's wrong, but I'm suggesting that they have now been formalised in this document called the Equine Code of Practice, and that is what the regulator has been assessing - the Yole and all other training complexes - against.

**Ms WILSON** - I can quote from Mr Murrihy:

TasRIC will have mandatory oversight of Tasracing's animal welfare responsibilities and will have the power to implement welfare standards. The proposals include a Tasracing Integrity Unit, bringing together stewards, investigators and animal welfare functions to provide an effective welfare enforcement entity. Tasracing's Chief Veterinary and Animal Welfare Officer will work alongside the new Racing Integrity Unit, providing a cohesive management of animal welfare within that entity.

Consequently, the review fully supports the Monteith recommendations as they apply to horse welfare with the proposed transfer of enforcement to Tasracing and the creation of TasRIC as an oversight body. This matches industry-best practice and the models that are in place in other jurisdictions in Australia, whereby both policy and enforcement are housed in the one structure, as proposed in this jurisdiction to be within Tasracing.

Mr Murrihy was very clear that it wasn't just around an Equine Code of Conduct. It was about the fact that the new model presented real opportunities for ensuring the implementation of welfare standards were integrated.

**Ms JOHNSTON** - To be clear, can you articulate for me what are the changes in the welfare conditions of the horses on Yole's property, from the observations that Mr Murrihy made to post-1 November, when the Equine Code came in? What has changed for those horses?

**Mr THOMPSON** - Voluntarily, Mr Yole has made some changes. If you have witnessed the property of late, the stocking rate of horses is certainly less, because the current trainer

operating from there is training less horses. That's not to say that the horses had an adverse welfare outcome for having the previous stocking rate. In fact, the horses were grouped in, if you like, groups that allow dominance to be expressed and social order in the horses to be expressed. There were always more feeding troughs than there were horses, so eliminating dominance. Horses were paired according to their social order, which cannot be observed from looking over the fence. It's a management observation.

The quality of feed that was provided to the horses was (a) good quality - it is all proprietary brands, and (b) sufficient quantity to meet the nutritional demands of the horses according to the level of work that they were engaged in and the energy that they were expending. There have been some conversations and some changes made with respect to the amount of fibre in the diet.

The water receptacles were always found to contain clean, available water in sufficient quantities to allow access to the horses. The water troughs were always clean and efficient for delivery of water.

Despite, perhaps, people's perception, there were no animal welfare issues there associated with the living conditions of the horses that were predisposing the horses to any adverse animal welfare outcomes.

**Ms JOHNSTON** - The stocking level, so there's less horses being subjected to the conditions, they have decreased. Management, I assume, have advised inspectors that they've been able to determine behaviour with horses and so they know the appropriate homing of them in terms of yarding of them. You've relied on Yole's property management to tell you that?

**Mr THOMPSON** - No. We've inspected the horses. I've been there in person with the regulatory vet. Every horse has been caught and examined, the rug is taken off, and if you go to that property, the horses are very friendly. The majority, I'd say 95 per cent-plus will voluntarily come up to you. A horse that voluntarily comes up to you, firstly, hasn't been mistreated and, secondly, has no fear of humans. That sends a very distinct message.

Our vet has been there at feeding time and has observed the lack of bullying and appropriate aggregation of horses so that the bullying and the dominance is not adversely expressed in favour or disfavour of any one particular animal. In some instances, there are horses that are in groups of one or two, and remember, horses are herd animals. They want to be together. That's what the conditions there and in many other places allow. This is very much in contrast to the person who has a single horse in a backyard, totally away from any other social contact with horses.

**Acting CHAIR** - I am conscious of time; we've a lot to get through.

I wanted to go on to the Murrihy report itself and the establishment of the report. We initially had the ABC report, and then we had the establishment of the Murrihy review. Was the intention from the Office of Racing Integrity and the NRE (Department of Natural Resources and Environment) - probably the NRE - that Mr Murrihy would lay charges, and was he asked to lay charges?

**Ms WILSON** - The Murrihy report was asked to look at what was in the terms of reference. The Murrihy review was a deliberately broad review because the ABC report aired

information. Information and allegations are not evidence. The determination was made that there would be a broad-ranging inquiry that looked back three years to see if there were trends. That is an important step and that is how many other inquiries are undertaken in other jurisdictions. If you narrow the inquiry early, you may actually miss matters of importance to industry.

**Acting CHAIR** - Was Mr Murrihy asked to lay charges?

**Ms WILSON** - If this was a broad-ranging inquiry which he undertook in accordance with his terms of reference - I would note that under the new *Racing Regulation and Integrity Act*, if the Commissioner undertakes an investigation or inquiry, then the same steps would be taken. They would undertake the investigation and inquire and then refer any matters to the appropriate authority to determine, either stewards or Tasmania Police, to undertake an investigation.

**Acting CHAIR** - A really simple answer, so I understand, if it's possible - was Mr Murrihy asked to lay charges?

**Ms WILSON** - He did what he was asked to do in terms of his terms of reference.

**Acting CHAIR** - So he wasn't asked to lay charges?

**Ms WILSON** - He was asked to undertake an inquiry, which was entirely appropriate because it was broad-ranging.

**Acting CHAIR** - But it's a really simple question. Was he asked to lay charges?

**Ms WILSON** - He was asked to undertake an inquiry because there was only information and evidence. As has been demonstrated through the Murrihy inquiry, he said 'Look at 15 races', so there was - in-defence - stewards panel looked at 15 races, and there was one which had sufficient evidence for charges.

**Acting CHAIR** - But was he asked to lay charges?

**Ms WILSON** - He was asked to undertake an inquiry in accordance with his terms of reference -

**Acting CHAIR** - That's a quite -

**Ms JOHNSTON** - Was he restricted from laying charges? Did the terms of reference restrict him from laying charges, prevent him from laying charges?

**Ms WILSON** - I actually - this was what he was asked to do. He was asked to undertake an inquiry. Inquiries then lead to recommendations and those recommendations can lead to referrals to the appropriate regulatory body. This is not an unusual proceeding. It happens in other jurisdictions.

**Acting CHAIR** - Did NRE expect that he would lay charges?

**Ms WILSON** - We expected him to undertake his hearings and inquiries in accordance with his terms of reference. And, you know - that's alright, I'll come to that - that's what we expected him to do. I think that it's important to note that some of the issues that came out of the Murrihy inquiry were not in the ABC report, so the broad-ranging inquiry actually led to new information coming forward. That is what can happen in inquiries across other jurisdictions. This is not an unusual process.

**Acting CHAIR** - You're still not answering my question. Was Ray Murrihy asked to lay charges?

**Ms WILSON** - I don't understand. I have answered the question. He was asked to undertake the inquiry in accordance with his terms of reference.

**Acting CHAIR** - So are you saying he wasn't asked to lay charges?

**Ms WILSON** - He undertook an inquiry and he indicated in his report that to lay charges required a process by stewards.

**Acting CHAIR** - I understand he didn't want to, but I also understand that the expectation from, I felt, everyone at the time was that this was an independent review and that if he felt it was appropriate, he could lay charges at the end of it. Then at the end of it he made findings - not formal findings - he assessed whether he felt there'd been a breach of the Harness Racing Rules and he made several - in several places he said there'd been team driving and breaches of -

**Ms WILSON** - No.

**Acting CHAIR** - But he did not lay charges. My question is, was the expectation from NRE that he would lay charges?

**Ms WILSON** - The expectation was that he'd undertake his inquiry in accordance with his terms of reference. His terms of reference were really clear. I would go back to the purpose of the terms of reference. The terms of reference were broad. They allowed him to undertake a very extensive inquiry. He had 45 submissions. He interviewed 50 people. Then he made some findings. As part of those findings he indicated where some matters needed further consideration by the regulatory authority. As noted, that is not an unusual way for these matters to be dealt with in other jurisdictions. It's quite standard practice.

**Ms JOHNSTON** - Was the NRE's expectation at the time of issuing the terms of reference to Mr Murrihy that there would be a two-stage process, that there would be an inquiry and then later a separate panel process for the laying of charges? Did you anticipate that at the time when Mr Murrihy was initially engaged?

**Ms WILSON** - All I would say is that I wouldn't have said we'd anticipate an outcome of inquiry. The government gave him broad ranging terms of reference that enabled him to undertake a thorough inquiry across races, both, not just those narrowed down from the ABC report; three years into the past plus animal welfare matters and matters incidental too. He was given a broad ambit to look at a range of issues across the industry and to then report to government.



**Acting CHAIR** - So he found a range of issues; let's get to the end of the Murrihy Review. He finds a bunch of issues. You and the Secretary, I assume, received the report around November 2023 or maybe October, late 2023. You received the report; Mr Helmich is in the role at the time. Who made the decision that the report wouldn't be released and that the participants who were named would be allowed to continue on -

**Ms WILSON** - The report was released, so -

**Acting CHAIR** - back in - it was released two months later.

**Ms WILSON** - Yes, it was released, and the other question?

**Acting CHAIR** - If you receive a report -

**Ms WILSON** - Apologies, I am trying to get to what you're asking me.

**Acting CHAIR** - I understand.

**Ms WILSON** - I sometimes answer a question that I think I'm answering, if you know what I mean.

**Acting CHAIR** - NRE receives a report from Ray Murrihy. It names four individuals and raises concerns about race fixing, team driving, animal welfare. Who makes the decision on what to do next?

**Ms WILSON** - The report was referred to the Director of Racing, but Mr Murrihy actually determined what came next. Mr Murrihy made it very clear in his report what came next. He said, and I'll quote:

... where this investigation expresses its determinations of non-compliance with the AHRR, it does so on the evidence which it has before it. It does not make positive findings on formal charges. Rather, it makes determinations of non-compliance with the AHRR based on the evidence before it and the inquiries it has made, noting it has afforded those who have faced allegations of non-compliance an opportunity to answer these allegations. These findings are not to be interpreted as positive findings which a steward would make upon the determination of a formal charge and to which penalties and consequences would attach.

Following this report, and noting matters in this report which are of some gravity, the Tasmanian Government may choose to refer these matters to an authorised appointee who is empowered to investigate specific matters and if deemed appropriate, proceed to lay and determine charges.

Mr Murrihy indicated to government, NRE, and to the Director what the next step would be. In this case, the Secretary appointed stewards, the Director gave directions to the Panel of Stewards, the Panel of Stewards was appointed, they have over 90 years of experience and they've undertaken the role. We now know that that's currently before the TRAB.

**Acting CHAIR** - In the case of Mr Anthony Bullock, when he had allegations made against him, he was stood down whilst the Office of Racing Integrity went through its process. That leads me to believe that the Office of Racing Integrity, at that stage, did have an option to stand him down given the determinations of non-compliance made by Mr Murrihy. Was that considered and if that was considered why was it considered not appropriate to act so?

**Ms WILSON** - Sorry, I didn't mean to talk over the top of you. I'll have to go to the Director, but my understanding was that Mr Bullock already had a charge laid against him which was a different circumstance than this, but I will confirm that with the Director if possible.

**Mr THOMPSON** - Yes, sure. I did consider that when Mr Murrihy brought down his findings. He identified these issues and, as Ms Wilson has already said, they were issues. There was a process that allowed people to present their thoughts, ideas, allegations. There was no opportunity through the Murrihy process to cross-examine witnesses. There was no process to run a - and it was no fault of Mr Murrihy. He was gathering wide-ranging issues and then allowing them and recommending that they be addressed by a more formal stewards process.

If we look at what the formal stewards process is, they will do an investigation, they will give opportunity for witnesses to be brought forward, they will give an opportunity for witnesses to be cross-examined, they will give an opportunity to determine whether the evidence supports a charge and there's opportunity for the respondent to respond to those charges and also to respond to penalty, et cetera, so it's a very rigid process.

As Ms Wilson said, I provided the directions to the Independent Stewards Panel and, really, it was to examine the issues identified by Mr Murrihy, but also that there were two very, very important components to that direction. The first is that their process must follow natural justice, and it must be legally robust. That meant that, really, it had to follow a process that wasn't slap happy; it was very rigid, it afforded everybody natural justice and the opportunity to have their say and to confront allegations made against them and to bring witnesses to support their thesis in response to allegations.

Really, until the Independent Stewards Panel had determined that - through this very robust process - there was a *prima facie* case against some people, that I took no action against these people, of allegations had been made, and, in fact, that decision has been vindicated because they were warned-off on two occasions by Tasracing and on both occasions that decision was overturned by the Tasmanian Racing Appeal Board.

**Acting CHAIR** -To be fair to Tasracing, they were trying to act to protect the integrity of the industry and its reputation because the Office of Racing Integrity would not act.

In terms of the question here, who made the decision not to tell Tasracing or show Tasracing the Murrihy review for two months, between it being received by NRE and it being made public?

**Mr THOMPSON** - That's something I can't answer. I wasn't in the role.

**Acting CHAIR** - Ms Wilson, do you know who made the decision? Is that the Minister's decision or is that the department's decision?

## PUBLIC

**Ms WILSON** - I don't know the answer to that. All I can say is that I'm not sure of the intent of the question. The person who needed to be aware of the findings would have been the Director of Racing. The Director of Racing at that stage was the person who would look at the report to determine if any actions were taken; and the Director of Racing undertook the actions that Mr Murrihy indicated needed to occur.

**Acting CHAIR** - Did anyone at Tasmania Racing ask for a copy of the report during that two-month period?

**Ms WILSON** - I really couldn't answer that.

**Acting CHAIR** - Mr Thompson, are you aware?

**Mr THOMPSON** - They never - well, I wasn't there, I didn't take up the appointment until 1 January.

**Acting CHAIR** - True, so it was about a month there, but you're not aware, it potentially happened before you arrived?

**Mr THOMPSON** - It had been made publicly available before I had arrived.

**Acting CHAIR** - Any questions, Ms Johnston?

**Ms JOHNSTON** - I'm curious as to the reasons for the two-month delay in releasing it publicly into Tasracing. You received the report. I assume, at some point in that two months, there was a decision to instigate an Independent Stewards Panel, but why did it take two months to do that, given the fact that the Murrihy report was quite a lengthy process and the concern that the industry and animal welfare advocates at the time were making very publicly about the need to bring this matter to a close? Why did it take two months before anything was released publicly before an Independent Stewards Panel was announced?

**Ms WILSON** - I wasn't managing that process, but what I can say is what I believe would have occurred, and I'm aware would have occurred, was that we would have needed to understand whether the whole report could be released or whether there was anything that could prejudice an investigation. That's actually really important to understand with these kinds of reports, just in first principles, and obviously getting the Independent Stewards Panel in place would have been important to ensure that the matters could be progressed as quickly as possible, but I think that's all I can say.

**Acting CHAIR** - The Murrihy review goes through a large number of races and Roger Brown was a steward on all of them, I think. Have there been any police referrals out of this, or any referrals to any other integrity bodies from the review?

**Mr THOMPSON** - No.

**Acting CHAIR** - In terms of the allegations, I mean, one of the allegations that's come from the race clubs in particular is that they begged ORI to investigate races. In fact, in one case at Burnie, we've heard, although we'll hear from you later, we've heard publicly from Mr Bullock that he personally went and sat down with the Director and showed vision - not this Director, the former Director - 'Please look at this,' and nothing was done. In fact, no

questions were asked by stewards repeatedly in races where Mr Murrihy found non-compliance.

Given that happened, what has happened around the performance of the stewards, and has any work been done around betting records, or what sort of checks and balances have you made following these findings around the integrity of the Office itself?

**Mr THOMPSON** - Remember the Mr Murrihy suggested there were 15 races that required more intense scrutiny by an Independent Stewards Panel. That was undertaken by the Independent Stewards Panel, which only found that there was one race that there was a questionable driving tactic employed by the driver. That ultimately was investigated. They determined that there was a charge to be answered. That process proceeded right through to a penalty, which is now subject to appeal to the TRAB.

I think you know that, certainly appropriately, Mr Murrihy identified some races. Appropriately, the Independent Stewards Panel did the detailed investigation and analysis of those races, including betting records from an independent betting analyst and concluded the conclusion that I made that there was one race, which was a questionable drive. It did not conclude that there was team driving and it did not conclude that there was some sort of conspiracy or betting collusion.

**Ms WILSON** - What I would say is that throughout this process, the Murrihy inquiry indicated some areas for improvements around information sharing from stewards, as did the Independent Stewards Panel, and they have been taken on board and the Secretary of NRE Tas, who's on leave so couldn't attend today, has put regular reports out which are available on our website that indicate both the Murrihy inquiry's recommendations and the actions taken.

**Mr THOMPSON** - And remember, professional development in any organisation or any profession is really important. ORI has had a strong presence in facilitating professional development with the stewards, particularly with cadets. It's no secret, I guess, that it is very, very difficult to get experienced stewards to be available in any racing precinct in Tasmania, so the homegrown ones through the cadet program are really important. Those cadets are being afforded training opportunities with other state organisations - Queensland, Victoria, South Australia.

We've brought experienced stewards here to, if you like, train and mentor and update some of our stewards. Our Chairman of Stewards goes to the regular conferences, so there has been a government investment in this training - I think around \$100,000 over two years to continue this training process and process of professional development. So, ORI isn't living in a bubble. The stewards -

**Ms WILSON** - Wasn't. Let's get the terminology right.

**Mr THOMPSON** - Wasn't, that's right. It's past tense. It wasn't living in a bubble. It was affording great training opportunities.

**Ms JOHNSTON** - I am conscious of time and I know that Cecily has a concern. I've got one more.

**Acting CHAIR** - We will go to Ms Rosol first.

**Ms ROSOL** - Thank you, Chair. We've been talking a little bit about charges and the possibility of charges. I wanted to ask, given that the Independent Stewards Panel has confirmed that Ben and Tim Yole systematically mistreated horses, so they were cruel to defenceless animals, and we know section 8 of the *Animal Welfare Act* makes it an offence to torment or terrify an animal, among other things, and razzing kind of fits into that category, will consideration now be given to pursuing charges or the laying of cruelty charges in this case? What processes and investigations will commence to explore whether this constitutes an offence under the act?

**Ms WILSON** - These matters were referred to the RSPCA for investigation and that would be a matter for them.

**Mr THOMPSON** - Investigation under the *Animal Welfare Act*.

**Ms WILSON** - Sorry, under the *Animal Welfare Act*, yes.

**Ms JOHNSTON** - The Murrihy report, so the department received the Murrihy report either late October or early November, then subsequently two months later released it publicly into Tasracing. Did any of the participants named in the Murrihy report receive the report in the intervening time between the Department receiving it and being released publicly?

**Ms WILSON** - I wasn't managing that process because - can I check?

**Ms JOHNSTON** - Would you mind taking that on notice?

**Ms WILSON** - I take it on notice.

**Mr THOMPSON** - Certainly not from me.

**Ms WILSON** - I do not believe so, but because I wasn't managing that process, I will double -

**Ms JOHNSTON** - Could we take that on notice please?

**Ms WILSON** - Yes, but I'm quite comfortable, but I want to triple check.

**Acting CHAIR** - Unless there's anything to go in public, I might just see if we can go *in camera*. We started nine minutes late, so we might just have a few minutes. To do that, I need to ask you, weirdly and awkwardly, to leave briefly for 30 seconds while we do that.

**The public hearing was suspended from 1.01 pm to 1.19 pm.**

## PUBLIC

**The Committee resumed at 1.47 p.m.**

**Acting CHAIR** (Mr Winter) - Thank you, everyone. Welcome back to the to the hearing today. Thank you for your submissions to the Committee, we appreciate it. Could you start with your name and the capacity in which you are appearing before the Committee. Chester, you could start.

**Mr BULLOCK** - Chester Bullock, I am the Chairman of the Launceston Pacing Club and a longtime supporter of harness racing.

**Mr SALTER** - Noel Salter, Chairman of the Tasmanian Trotting Club.

**Mr DEVEREUX** - Steve Devereux, I am the CEO of the Tasmanian Trotting Club.

**Acting CHAIR** - Can you confirm that you've received and read the guide sent to you by the Committee Secretary?

**WITNESSES** - Yes.

**Acting CHAIR** - This hearing is covered by parliamentary privilege, allowing individuals to speak with freedom and without fear of being sued or questioned in any court or place out of parliament. The protection is not accorded to you if your statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings. This hearing is public. The public and the media may be present. Should you wish aspects of your evidence to be heard in private you must make this request to the Committee at the time.

Could you each make the statutory declaration just one at time.

**Mr STEPHEN DEVEREUX**, CHIEF EXECUTIVE OFFICER, TASMANIAN TROTTING CLUB, **Mr NOEL DENNIS SALTER**, CHAIRMAN, TASMANIAN TROTTING CLUB AND **Mr CHESTER BULLOCK**, CHAIRMAN, LAUNCESTION PACING CLUB WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**Acting CHAIR** - Before we start, would anyone like to make a short opening statement?

**Mr SALTER** - On behalf of us three, I would like to take this to the opportunity to come here and give this evidence and discussion. Clearly, we are very pleased as an industry that the new structure which has been adopted has gone through. While we are supportive of what Tasracing has done in recent times, I think we all agreed that we are quite unhappy with what's happened with Office of Racing Integrity. That has been our main concern and that is the concern we'd like to talk with you people here today in relation to quite a few different aspects of what's happened in recent times.

**Acting CHAIR** - Perhaps it might be best to start there. Do you want to take us through the concerns you've had on the Office of Racing Integrity's functions over the course of the last few years?

**Mr SALTER** - I'll start, but obviously Stephen and Chester have different views and that sort of thing. I'll start and if they want to come in on what I've said, is that okay?

One of the problems that we see is that quite a few years ago we started off in ORI with a Chairman of ORI called Tony Murray. He was moved on for whatever reason and that's in the past, so we don't need to deal with that. Since then, there has been something like six Directors of Racing. To be honest they've all been an abject failure and I say that without any worries whatsoever. The performance of them has been very ordinary. I suppose in their defence they weren't racing people. They've probably been parachuted into the position as public servants, I guess, but they basically have had no background in racing or anything like that. I know some of them had a background in policing and that sort of thing. However, that wasn't much good as integrity into racing and it certainly didn't do any good.

Consequently, because of these Directors of Racing, what's happened is the rules of racing have not been put in place or have not been followed. There's a rule book there and the rule book has not been followed. It's as simple as that. And that has been the crux of most of the problems over the period of time.

**Acting CHAIR** - I will go to others, but on that do you have specific examples of where rules were not followed.

**Mr SALTER** - Just off the top of my head, Stephen.

**Mr DEVEREUX** - There are probably 100 of them.

**Mr SALTER** - Well, I'll give you a classic example of one of the things that happened is that I approached one of the Directors after a HIF (Harness Industry Forum) meeting in relation to a rule in the book which is to do with relegation of horses that happens if there is an infringement, a reasonably serious infringement I might say, in a race. The stewards do have the ability to relegate that horse from wherever it finished, be it first, second, third to the back of the field or whatever. I asked the Director of Racing at this particular meeting why this rule wasn't being implemented because in recent times there have been a couple of incidents that a lot of the people in the industry believed that maybe the relegation rule should have been used. In actual fact, what happened in a couple of them was that all there was was a fine or they might have been suspended for a couple of race meetings or something like that. That's just one example. When I approached the Director of Racing about it, to be honest, he looked at me blank looking and said 'What's that?'

**Acting CHAIR** - You've made public statements, or at least your club has, that the Director of Racing should have some experience in racing. I think you did that publicly about 12 months ago. What was the response from the Government to that request or did you get any feedback from Government, from ministers or Tasracing or ORI whether they would do that or the reasons why they wouldn't?

**Mr SALTER** - Not to my knowledge, no.

**Mr BULLOCK** - I think it's fairly evident that wasn't listened to because of the six cases that we've had. I'll support Noel. Tony Murray was very good at his job, but he had some interest in the game. I don't think he was recruited from Tasmania anyway - he wasn't just a shift sideways of another experienced public servant who had no idea of what was going on.

I was saying to Noel before we came in, every business is what the leader is. If the leader is not directing what should happen or interested in what happens and has the experience to

make that happen, people below don't operate in the manner in which the business is expected to operate and definitely not the case here. The Directors - nice people in the wrong place. They're not the correct driver of the industry.

**Acting CHAIR** - Mr Bullock, you were instrumental in starting the Murrehy review because you were one of the people, along with Kent Rattray from industry, who spoke to the ABC on the record as part of its reporting that sparked all of this.

Can you take us through what steps you took internally with the Office of Racing Integrity or other bodies to try to get some action on the integrity issues you were raising before you went to the media? I assume you did that after you tried other avenues. Can you talk about some of the other ways that you tried to get some action on these issues?

**Mr BULLOCK** - It's very hard to remember all those. It came as, I think, a frustration in the finish. They all build up. You see what's going on. I mean, the race in Burnie was an absolute no brainer as far as a dummy steward like me. I think it took a fair amount of guts, if you like, to actually go before the media. It's not the sort of thing that I would like to do. I can generally resolve something by talking to someone, but, absolutely, no interest by the stewards - and on that particular day, the facts that Kent told me about suggesting there was something going wrong and the stewards took no interest. I think it's just a culmination of six years of wanting to see the industry improve and it was just going backwards.

**Acting CHAIR** - Did you raise this at a political level with the Racing Minister at the time or the Minister's office?

**Mr BULLOCK** - Most probably did. Specific ones. It would have been at a race meeting somewhere. I try not to make life so difficult for them at a race meeting because they're there to enjoy it, but it had been mentioned a number of times.

**Acting CHAIR** - Again, to blow the whistle like you did and go on television, that's a last resort from presumably other avenues. Did you ever sit down with the Director of Racing or Minister and raise the concerns directly about specific races?

**Mr BULLOCK** - I would have done along the way. I found that since the Tony Murray day, there wasn't an avenue, really, to discuss that sort of thing openly with the - well, in fact, yes, going back, Barrie and I sat down with Mr Helmich and explained what we thought. That was well before we went on. The reaction that we got at that particular time was, 'So what?', almost. It was making no ground. As I said, to go to the media wasn't my choice, really.

**Mr SALTER** - Just on that, if I can; I do recall at a meeting I was at with Felix Ellis when he was the Racing Minister and this subject was talked about in general. Wasn't any specifics, but we did have a conversation. I wasn't the only one in the room. It was at a Clubs Tasmania meeting and this particular subject was talked about with Felix. He showed concerns at the time. To be honest, we never got too much response, I've got to say, but it was raised.

If I could just go back to what I was saying about the administration of the rules. The way the rules and that have been put in place or effected is that - if I can just give you an example of how the rules are being administered, are being basically laughed at.



If, for argument's sake, and I know that this is actually happening, say, for argument's sake, a driver has, on average, say 10 race drives per week, and, on average, some of them, probably have quite a few more, but let's just use on average 10 race drives a week. That means that particular driver is getting \$700 in race driving fees. He's also getting place money percentages, five per cent of place money percentages, whether he wins a race or runs place. That particular driver may earn anywhere between maybe \$1000 to \$1200 per weekend for that. Now, he gets fined \$100 or he gets fined \$200. Some drivers, I know a couple of particular drivers, this is going on every week and all they're doing is just thumbing their nose at it.

That's why I'm saying that the penalties and the administration of the rules and the penalties are just not in sync. They need to be looked at very closely. If you look at the penalties in New South Wales, for example, some of the things that they're getting fined \$100 to \$200 for here, they would get three or four weeks over there. It's one area that I believe, in the future, with Sean Carroll and Heidi Lester - it's an area that we are hoping, as an industry, that they will address and clean up. Certainly, in the administration of the rules and the penalties are an area - and that's why we've gone backwards in the last four or five years, because they've not been done.

**Acting CHAIR** - Mr Devereux, you're obviously very aware what's going on in the industry. When the Murrihy review was commenced, my recollection is that the Trotting Club supported that and was enthusiastic about an independent review. Did you have an expectation that Mr Murrihy would be able to lay charges or would choose to lay charges if he found breaches?

**Mr DEVEREUX** - Yes. We thought that would be just part of the process. It was quite a shock to find at the end he handed down a report with no charges being laid. Then I spoke to the next lot of independent stewards and their problem was they had never heard any evidence. We went back through the whole cycle again and then we end up, two years down the track, with the gift that keeps giving, to be honest. It should have been wrapped up. Either way, if there are charges to be laid, lay them. Then get on with it.

**Acting CHAIR** - Did you raise these issues at a political level on behalf of the club, around the fact that charges weren't being laid? If so, what response did you get?

**Mr DEVEREUX** - We did, but that was the terms of reference it came down to, but who looks through all of them? We certainly didn't look at the whole terms of reference. Apparently it wasn't in there for Mr Murrihy to be able to lay charges, which seemed a strange way of going about it. Then the report was released and it sat for two months and then we had the big rollout in front of the media and we went down another path, which was Tasracing having to step in and try to warn people off. Then that went down another path, with - we had the Racing Appeals Board then uphold an appeal almost contrary to the Supreme Court ruling. We've got ourselves in that bigger mess with it and I don't know the way out. TRAB has been a mess for a long time and still is.

**Acting CHAIR** - Something that hasn't been touched by the new reforms, I don't think much at all, is TRAB. What's your view on TRAB's role in all of this? You've pointed to the fact they overturned the disqualifications from Tasracing. What are the issues there, and what are the issues that policymakers need to be thinking about?

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**Mr DEVEREUX** - The biggest issue is time. Today, if you reckon, there are appeals that are sitting in reserve from 12 to 18 months ago. We have stays on that seem to go forever. There's one there where the hearing's been adjourned and there's no date, and we've got the Wayne Yole appeal from last Thursday, which - nobody knows where it's sitting, it's just in limbo. If the people on the Board can't do the job, get people who can do it. There has to be some sort of timeframe that says, 'We're going to hear this in a certain amount of time and make a ruling,' not just sit there and go, 'We're going to reserve it because natural justice or procedural fairness.' I mean, the rules are there so if you break them, surely you've had natural justice because you know if you break the rules you're going to get this penalty. I would assume, given it's another change to the Act, it's probably not going to happen. They need to look at the right people on there who can do the job in a timely manner.

**Ms JOHNSTON** - Thank you for coming and presenting to us today. You spoke about the expectation that there would be consequences arising out of the Murrihy report and that he would be able to lay charges arising out of that. Did you have any engagement with the Department or Government or Minister's office in relation to that time between when the Government received the report - we think that's around late October, early November - and when it was publicly released in terms of the next steps forward and how that would impact on the industry and participants?

**WITNESSES** - No.

**Ms JOHNSTON** - No engagement.

**Mr DEVEREUX** - We continually asked about the report and were told, 'Yes we have it but we're looking over it,' and then almost out of the blue was the press conference with what happened next, which was nothing really. It was a bit of a, 'We found all these things that are wrong and all these things that have happened, but we're not laying any charges.' So, now we have -

**Ms JOHNSTON** - At the time Mr Murrihy was writing his report, and it was quite a long time, let's be frank, it was a really lengthy time and we're all waiting for this report, were you in communication with the Minister's office about updates on when to expect it to come and did they give you any kind of representations about what they expected the outcome to be? What the next steps might be during that? Were you under the assumption that they were going to lay charges?

**Mr DEVEREUX** - Well, I think everyone was under the assumption, but we did hound them a lot -

**Ms JOHNSTON** - I can imagine.

**Mr DEVEREUX** - We got an interim report, which was almost a nothing report about June/July, and then that dragged onto October/November. Yes, basically no real communication other than that it was arm's length from the Government. It was an NRE-run report. Which is probably one of the issues.

**Acting CHAIR** - We asked NRE, I think I counted eight times today, whether they asked Mr Murrihy to lay charges. Do you have any understanding of the reason why Mr Murrihy didn't lay charges?

**Mr DEVEREUX** - From what I understand it's because it wasn't in his terms of reference and some of the other feedback says that he couldn't get out of Tasmania quick enough after he'd written his report, so you can make of that what you want.

**Acting CHAIR** - Well, he hasn't provided a submission here.

**Mr SALTER** - As I understand it though, the charges have to be laid by registered Tasmanian stewards and at the time Mr Murrihy wasn't registered to lay charges against Tasmanian participants.

**Acting CHAIR** - As I understand it, he was appointed as a steward. He was a steward, yes. In order to conduct his investigations he was - and my understanding, for what it's worth, is that there was an expectation that he would lay charges, and the fact I asked eight times today and not had the question answered indicates to me that they were asking him to lay charges and he hasn't - anyway.

**Mr SALTER** - We asked that question at a lot of forums, you know, like just verbal questions at different forums and all the rest of it and even with the past Minister and we got exactly what Stephen just said, verbal replies like 'I guess the Government's looking at it, this is happening,' and all the rest of it. You know, to be honest, we knew no more than what anyone else did and the answers we were getting were pretty vague to be honest.

**Ms JOHNSTON** - Obviously, following the Murrihy report being released publicly in December, it took a very long time again for the Independent Stewards Panel to come to some conclusions and I think its work is still underway. What do you think would have been the appropriate response of ORI in that time, whilst the Independent Stewards Panel was conducting its work, in terms of allowing Mr Yole to continue participating?

**Mr DEVEREUX** - I think we made it fairly clear in some press we did. Now, if your job was to protect the industry, I wouldn't have thought how you couldn't stand someone down with those sorts of allegations in the first. And it didn't need to be warned off. I mean the Director could take your licence at any time and put conditions on or whatever, and basically they sat back and did nothing. They were quite happy to let the - I mean there's a lot that happened when Tasracing threw a few warning-off notices around and that played its part in some of it, but to be honest, it was just another bad publicity stunt that the industry didn't really need.

**Ms JOHNSTON** - Do you think ORI had the power to revoke Mr Yole's licence on the basis that he brought the industry into disrepute and that would be an indication of he's not a fit-and-proper person?

**Mr SALTER** - Absolutely they have the power. There's a rule in the book. The rule is there in the rules that says that if you apply for a licence or subject A applies for a licence and is found to be not a fit-and-proper person, they don't have to license it, and to be honest, they don't have to give a reason. All they have to do is say, 'We consider you're not a fit-and-proper person.' The rule is there and, as I've said earlier on, the rules are not being applied. It's as simple as that, but the rule is there, there is no question of that.

**Ms JOHNSTON** - I'm not sure if you heard the evidence of NRE and Mr Robin Thompson immediately before the lunch break, but there was some evidence given around the

condition of the horses and the property in which the horses are being kept and the equine standards, where they indicated that they have visited Mr Yole's property and it currently meets the equine standards. Now, that was a serious concern raised in the ABC allegations about the condition that Mr Yole keeps his horses in and there doesn't appear to be a substantial change in the conditions, but the equine code apparently is compliant with Mr Yole's property.

Do you have some concerns that what ORI was looking at late December last year and what the conditions of property were at the time the ABC allegations hasn't substantially changed and that there are horses still kept on that property in similar conditions?

**Mr BULLOCK** - The conditions haven't changed at all to my knowledge. It's still the same place, still most probably not appropriate for housing. The number of horses have dropped down too. My main concern is that I have photographs, that were also given to stewards, of horses that had scars on their legs, blood down their legs, standing in mud, and that was reported even by Janet, the ex-steward, to the stewards and no action was taken.

**Acting CHAIR** - Did you see any of the evidence given earlier today by the former ORI? Have you seen any evidence today?

**Mr BULLOCK** - No, not today, no.

**Acting CHAIR** - Just to fill you in, the former Director of Racing says that Sidmouth is fully compliant and they found no issues with any of the animals - that they are all fit and healthy on the site.

**Mr BULLOCK** - You are not going to see them if you don't go and look. That's the problem. You need to be vigilant to do that. I have Brookie Hammond, who is a lovely horse person. I was getting photos from her all the time with horses that had, not only damage to the horses but gear that was about to fall off the horses that would be brought to the notice. I can't give you specific dates and when, but I've still got them on my phone where the gear was totally inadequate, and yet the stewards allowed the horses to go on the track.

**Ms JOHNSTON** - Mr Thompson's evidence this morning was he had personally visited the property and he saw no issues with it and viewed it to be compliant with the guidelines, the Equine Code Guidelines. Would you like to see, and I recognise that ORI doesn't exist anymore, would you like to see the new Racing Integrity Unit have a stronger role to play in terms of monitoring the condition of Mr Yole's horses?

**Mr BULLOCK** - Everybody's horses, not just Mr Yole's, everybody's horses. They're working at my place, Barrie's place, everybody's place because it's something we - most of us love our horses and would not have them living in a bad condition. They should be more diligent and vigilant around all stables. What that does, of course, is makes us more aware of it as well. We lift our game. If you knew your mother was going to give you a belting, you'd do something right, wouldn't you? There is just no interest in making sure that the industry is run correctly. That should change.

**Acting CHAIR** - All of you are familiar with training facilities across different trainers, north and south, and I assume all of you have seen photos or been to or at least seen photos of Mr Yole's property. How does Mr Yole's property compare with other training facilities that you've seen around the state?

**Mr SALTER** - Ordinary. This is probably the way to describe it.

**Acting CHAIR** - Do you think it meets the standard that you'd expect?

**Mr SALTER** - It is not the standard I would keep my horses at.

**Mr DEVEREUX** - Agreed. I wouldn't keep my horses like that.

**Mr SALTER** - There's probably a lot of other people who would agree with me. Even Barrie down the back there would probably agree that it's probably not the standard you'd want to keep your horses at.

If we can just go back to your point, Kristie, in relation to condition of horses and all the rest of it. Let's not beat about the bush here. When the Murrihy report came out, the finding was that him and his brother had mistreated horses and all the rest of them. He's since been suspended or disqualified for three years.

**Ms JOHNSTON** - That's right.

**Mr SALTER** - Now, surely that has to tell you something. Now, if the people at ORI can't see that there is something going on there, when Mr Murrihy did, I think we have a problem in relation to that.

**Ms JOHNSTON** - ORI was responsible for ensuring compliance with the Equine Code of Conduct, welfare guidelines that came into effect - Code of Practice - that came into effect 1 November, I think it was, last year. Now, the new Racing Integrity Unit is taking that over as of 1 February this year. If ORI says that the conditions of Mr Yole's property are compliant according to the standards, the Code of Practice, would you hope that the new Racing Integrity Unit would lift that standard to meet what you clearly are saying is what normally happens within the industry to a higher standard of welfare than what Mr Yole? It seems to me that they've accepted Mr Yole as the lowest common denominator and that's a very low bar for animal welfare when the industry is hopefully meeting a higher bar.

**Mr SALTER** - As I said at the start, I think everyone in the industry welcomes the restructuring of the industry. Quite clearly, what's happened at ORI in the past because of the restructure, we're hoping that the standards of the industry, that will be lifted up, and we would see that Sean Carroll and those underneath him would be responsible for lifting that up. To be honest, unless that happens, well, we're not in a very good place.

The other thing that I think that we ought to be mindful of are the penalties that have been used by ORI. Obviously, this would be an area for Sean Carroll and Heidi, in relation to penalties and that sort of thing. We probably should - not probably, we should have a very close look at the guidelines for penalties from, say, for example, New South Wales that are much more strict and much more well-defined than what they are here. To be honest, some of the participants here are just manipulating the rules and penalties to suit themselves.

**Ms JOHNSTON** - Is that a finding or recommendation you'd like this inquiry to make? Is that the penalties that are imposed are more commensurate with the gravity of the offences that have been committed? Would you like us to make up a recommendation that they be lifted?

**Mr SALTER** - Yes, yes and have it, quite clearly -

**Mr BULLOCK** - and administered.

**Ms JOHNSTON** - And administered.

**Mr SALTER** - quite clearly have a look in other states. I'll use the New South Wales example because I just have a copy here with me that I've looked through. We need to have a look at what's happening in other states and lift our game in relation to that. Otherwise we're not going to go forward.

**Ms JOHNSTON** - Likewise, with a recommendation from this inquiry into lifting animal welfare standards if we're accepting Ben Yole's property as the standard, you'd like to see a recommendation that the new Integrity Unit lifts that standard?

**Mr SALTER** - Absolutely.

**Mr DEVEREUX** - I don't know if 'lift the standard' - I think that new document covers it. I'm not sure what Mr Thompson was looking at if he thinks -

**Ms JOHNSTON** - I think he was suggesting that -

**Acting CHAIR** - Mr Thompson believes that shelter means -

**Ms JOHNSTON** - a rug.

**Acting CHAIR** - having a rug on the horse.

**Ms JOHNSTON** - And nothing more.

**Acting CHAIR** - Thankfully, he's no longer in that position.

I wanted to ask you, Mr Devereux, one of the issues that came before the Murrihy review, which is the number of Yole horses being entered into races. I don't have the numbers in front of me, but when I looked at the number of runners, he was increasing every year for about five or six years until the 2021-22 season when I think he had more than 50 per cent of the runners. More than 50 per cent, a lot of the time he had all the runners. What's the impact been of that on the industry more generally? Have we lost any trainers due to that policy and what was done at the time?

**Mr DEVEREUX** - There's no doubt we've lost trainers. The consequences is that you lose owners and you lose interest and it's a snowball effect. I think we brought it to the attention of Tasracing probably three years ago; it took two years to bring it in, so four years ago with some sort of equity in participation.

**Acting CHAIR** - Was that on behalf of the whole industry or just the club?

**Mr DEVEREUX** - Yes, it was supported at HIF. It sort of got nowhere because Tasracing, at that time, was more intent on filling fields for turnover purposes. That's one of

the problems with the model when you rely on funding from turnover that you think you get bigger fields, you get better turnovers. Not necessarily true.

**Acting CHAIR** - Can you explain - I've got sort of a little bit of knowledge in this, but not as much as you. What was going on with the splitting of races? My recollection is seeing, maybe 20 or 25 horses from the Yole stable nominated for a single race and then Tasracing was splitting races so that they could get all 20 in the field. Was that the practice and has that practice stopped?

**Mr DEVEREUX** - That was the practice. It had to stop. Under the equity in participation they can only have half the runners up to a maximum of four per field. For the first three or four months we had five race cards with six and seven horses. The numbers surprisingly picked up fairly quickly. Tasracing obviously would have a loss of revenue. What that was, I'm not sure. You can't keep going and having one trainer having the whole field. Maybe if it happened once or twice every six months, you might think, that's just an anomaly, but this was Tasracing was constantly splitting races.

It was even more detrimental to the industry. We had two-year-old races that would be deleted, replaced by a field of horses who are 10 years old, who should be nearly retired, just to fill a slot on Sky 1. To me, if you go down that path, you're going to die anyway. We have to encourage young horses and better quality, not just numbers for the sake of filling up fields. It's been addressed to a point -

**Mr BULLOCK** - It's the longevity of the industry that you have to look at, and as bulk horses in the race, that was killing it. I think there's a much better racing situation these days. I think it could be evidenced by the fact that Burnie didn't go ahead the other day. We had 10 races at Launceston. It must have been the best race card that we had for a Sunday night for a long time. It was an ordinary meeting, pretty well, but it was a really well-contested meeting. Maybe we don't need the two race meetings every week if we haven't got the horses, but that was a classic example. It must have been the best night's racing we've had since our classic races, if you like.

**Acting CHAIR** - You've got two major clubs here. What's been the impact, if any, on the clubs financially from the last couple of years of controversy?

**Mr BULLOCK** - Controversy - the first night, where we had the participation rule, the horses were down, and in fact when one particular stable wasn't racing, maybe the best night I'd spent at the race meeting. It was a perfect night. Everybody, the harmony of the families at the race meeting and the generosity between trainers as well on the night. It comes back to when I was a kid where it was a nice family meeting. Getting it back to what harness racing can be, that was something that stuck in my mind. Since the participation rule, I think the race meetings have been good. The feel of the trainers - you know, they're going there with a chance of winning. They're not going there, just making up a bit of the field. Fair play, I think it's a much better field.

**Mr SALTER** - Less team driving, too, which has made a big difference.

**Acting CHAIR** - Less team driving?

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**Mr SALTER** - We had a situation where there were 9- to 10-year-old horses and two others, quite clearly they'd pick out the one they wanted to win and team drivers would - and that was happening.

**Acting CHAIR** - I've heard examples of people seeing team driving and then reading the stewards report and finding that no questions were asked. I've heard people say, 'I begged them to ask questions and they just wouldn't even ask the question'.

**Mr SALTER** - I'll answer that by - if you ask the gentleman behind me when he comes up the same question, he'll be able to answer that for you.

**Acting CHAIR** - Bit of pressure on him.

**Mr SALTER** - No, Barrie will have the answer to that, I can assure you.

**Acting CHAIR** - I thought it was Mike.

**Mr SALTER** - Surely the team driving has been reduced. There's still a bit of it goes on and all the rest of it. The problem gets back to what we've been saying all along, is administration of the rules because the people, the stewards on the day, are not asking the question about these things. They're not being told from the top down what they should be doing. That's why we're in the situation we're in.

**Acting CHAIR** - Mr Devereux, what do you think has been the impact on the industry more generally and the impact on the race club, financially or otherwise, from the last two years of controversy in the industry?

**Mr DEVEREUX** - It's disappointing that we had to go down this path. The industry had to shoot itself in the foot to try to get someone to listen to them. The ongoing publicity is never any good for anyone. I think the biggest issue we had with people not attending the races is they can't see how integrity can be there if there's 10 horses from one stable, whether it's a Yole stable or anyone else. To be honest, at the time they weren't doing anything wrong. They were allowed to fill the fields up by Tasracing and ORI didn't question it either. It took the industry to say, hang on, this is not right. I had discussions with stewards panels at the time and they said, 'Oh no, we don't see anything wrong.' Nobody else who had a fair look at it could see how you couldn't have anything wrong with a full field from one stable. It doesn't matter what sport it is, if you fill it up with one person controlling it, there can't be integrity. When we go back, the problems that we're facing now clearly go back to the Office of Racing Integrity and their stewards not doing their job for too long.

**Acting CHAIR** - We've now had all, bar one, of the stewards, and that steward that didn't transfer over was Janet Ainscow. Every other steward has transferred over to the new body. They've added some new stewards, as I understand it. I've noticed some new people, particularly in thoroughbreds. What needs to happen now, in terms of the new entity lifting the standard of stewarding?

**Mr DEVEREUX** - Administer the rules. The rules are there and they need the support of TRAB to back them up, whether that means there's penalty guidelines and all sorts of things, and sit down. I remember having a discussion with, I'm not sure if it was Robin Thompson, it might've been the Director before, that TRAB and the stewards wouldn't even talk to each



other. So they weren't asking the question of why are we taking a case to you and you're knocking it off? They just kept putting them up. Then they got to the point of saying, 'It's not worth following up because TRAB will just knock it off anyway.' I mean, if you're doing something wrong, find out what you're doing wrong, but administer the rules as they're written.

This current case now with Wayne Yole, the rule is clear - it's not grey, it's black and white - about disqualified persons. How can TRAB then give a stay on something that's black and white? If they want to take it to the Supreme Court, that's fine, but we need to follow what the rules say and then let it play out after that.

**Acting CHAIR** - You say the rules are black and white, and I agree with you, but we've also been through a period last year where the horses from Ben Yole were just transferred to Wayne Yole and they were trained on his property.

**Mr SALTER** - He wasn't disqualified.

**Acting CHAIR** - Well, he was initially warned off. He was allowed to, under a warning-off notice. Can you see any reason why he would have been allowed to operate out of that property, given that the former trainer there had been warned off racing?

**Mr DEVEREUX** - Not from my time, no. I've seen a lot of people over the years been disqualified and they had a couple of days, maybe 48 hours, to get horses off their property, but they certainly weren't allowed to keep training there. To be honest, you'd have to ask the Director of Racing, which you probably did, but I doubt he answered you.

What's the point of having the rule if you're not going to follow it? It doesn't make any sense. It makes it impossible for stewards to do their job, the Director and the people above. Hopefully we have to change and hopefully that's what happens.

**Mr SALTER** - The answer to your question, Dean, is that the rule is there in the book. All they need to do is follow it.

**Ms JOHNSTON** - So are you suggesting that it's not an ignorance of the rules; it's just a reluctance to make the rules apply because they're concerned that they're going to get overruled by TRAB. I suppose I'm wondering, TRAB is still there, under the new regime. What's going to change to give stewards a confidence that they can make a finding and that they're going to be backed up by TRAB, if TRAB is going to be conducting themselves in the same way they've conducted themselves under ORI? Is there something that needs to change there?

**Mr DEVEREUX** - I think TRAB needs to change, but I'm not sure that's so easy. It's probably Sean Carroll's role and Tasracing's as well to work out what we are doing wrong to have these things knocked off all the time. I'm sure the police force, when they charge people, if the Director of Public Prosecutions throws it out, they're going to sit down and say, what have we done wrong? We don't just keep going on, then go, 'This is too hard, we won't charge people anymore'.

**Ms JOHNSTON** - You suggested beforehand that you know of instances where people have been asked to have their horses removed from their properties within 48 hours and things. It's been put to me that Mr Yole seems to be Teflon-coated when it comes to TRAB matters.

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Do you think that there is a different set of rules or standards applied to Mr Yole, as compared to other participants in the industry who've had adverse findings against them? Is Mr Yole Teflon-coated?

**Mr DEVEREUX** - I don't know if he's Teflon-coated. It just all goes back to - the rules are there - just administer them. Everyone's going to be hard done by through a decision or not hard done by, or someone gets a better draw or something - it's part of the industry. If we know that that's what's going to happen, it's not an issue. You don't have arguments over penalties when that's what the penalty is.

**Ms JOHNSTON** - Or is it a case that he's too big to fail because he was fielding so many horses that the industry couldn't afford it? I recognise strong desire here to have a diverse field, but was it maybe the case, earlier on the piece, that he was seen as too big to fail, that if you took him out of the industry, the industry wouldn't survive?

**Mr SALTER** - There was some thinking of that in the background, maybe.

**Ms JOHNSTON** - I mean, you've proven that you can.

**Mr SALTER** - I'm not going to say it was or it wasn't, but I think there is a bit of that thought in the background.

**Mr BULLOCK** - It was definitely stated, 'Can we survive without him?' It definitely was. Which could have been a reasonable fear, from the other side, but we weren't going to survive with it as it was. It was definitely stated.

**Ms JOHNSTON** - Was that a concern of the Government, do you think, in terms of acting or ensuring that ORI did its job? You've clearly articulated that you think a diverse industry is a healthy industry. Do you think it was Government's concern that if Mr Yole was taken out of the industry that it wouldn't survive?

**Mr BULLOCK** - I wouldn't have thought there was any concern back in those days. That's why Dean and I had so many conversations. There wasn't enough concern. We didn't receive the right attention to what we think. We're biased, as well, of course. I think I've said this, six or eight years ago Barrie and I set up a meeting and said, 'If this continues, it'll ruin the industry.' It took -

**Mr SALTER** - Too long.

**Mr BULLOCK** - It took Kent and myself going on TV to actually make a change.

**Acting CHAIR** - As whistleblowers - it's always hard and I haven't been in that position that you were in. What was the personal impact on you of being the whistleblower, or one of the two whistleblowers, three, if you include Ms Ainscow.

**Mr BULLOCK** - I'm a pretty tough person. I bounce off most things, but there's a concern there.

**Acting CHAIR** - Did you have any fears for your safety?

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**Mr BULLOCK** - I actually had cameras fitted to my farm. It most probably was an overreaction, but you're never too sure when you affect someone else, what their reaction will be. Janet and Kent and I were all of that opinion. It amazes me the way Janet was treated, not by the Government, by ORI, to someone who was really trying to do the right thing. There was nothing underlying about what Janet was doing. She was absolutely genuine about it, and was treated very poorly.

**Acting CHAIR** - It's a great shame that she is the only steward that hasn't transferred over to the new ORI.

**Mr BULLOCK** - Yes, that was the wrong thing to do. That most probably comes from maybe a lack of - I mean, where does it stop? The Director of Racing, it should stop with him, but there should be someone sitting over the top of him. You know, in my company there are levels and most of it stops with me in the finish, but by gee, I try to make sure that everybody is providing the right service down the track - and that hasn't been happening.

**Mr SALTER** - You made a comment that most of the stewards and ORI people are transferring over, and okay, I accept that. Let's face it: they're public servants and they are entitled to do that. That doesn't mean that if they don't perform that they can't be moved on. We would expect, as an industry, with Sean Carroll overseeing that sort of thing, that some of these people that have moved over are moved on because they're not performing.

**Acting CHAIR** - Do you have confidence in the stewarding? Do you have confidence in our current stewards to uphold the racing rules?

**Mr SALTER** - No. Not at the moment.

**Acting CHAIR** - Is it a competency issue or an integrity issue, or both?

**Mr SALTER** - Probably both. However, I know that the ordinary trainer out there and the ordinary driver out there in the stable and that, they're not overly confident in the integrity of the industry, how it's been administered. Stewards are not looked on favourably - they haven't been forever and a day, but just at the moment they're not looked on all that favourably. As I said at the start, surely, if these stewards are not doing their job, they ought to be moved on. That's what, as an industry, we'd expect that Sean Carroll, and whoever, would do.

If I can just ask you a question in relation to TRAB. We're out of time, are we?

**Acting CHAIR** - We are now four minutes overtime.

**Mr SALTER** - Okay. I'll be quick then. There was obviously a disconnect, as Stephen said, between TRAB and ORI in the past, and maybe Tasracing now. Is it part of what you people are doing here today to make recommendations how that could be improved?

**Acting CHAIR** - We have a terms of reference, which -

**Ms JOHNSTON** - I think it fits.

**Acting CHAIR** - It does - loosely. It's got a No. 5, which is 'any matters incidental thereto,' which means anything we like, really. I think Mr Devereux was quite right earlier

when he said the legislation that's just been through, hasn't really changed - there's a few minor changes to the operation of the Tasmanian Racing Appeals Board. But we are capable of making recommendations on other matters. I think the evidence you've provided here and within the submission is worth us considering. I think all sides of this have had some concern on the operation of the Tasmanian Racing Appeals Board. I've heard Ms Johnston raise some concerns, I've heard some concerns around as well. I think it's something we can consider as part of this.

**Ms JOHNSTON** - Have you got a recommendation you'd like to make?

**Mr BULLOCK** - I have a question to ask you: how will those stewards go if they don't lift their game and it won't change? The stewards have to improve their game, have to be directed to or do it of their own volition. If you've got a bunch of horses that can't win races, you're not going to continue to train them. They have to have the want to actually improve the racing and become good stewards. They should know by now -

**Acting CHAIR** - For you is it - I'll ask you the same question: is it an integrity issue or is it a competency issue, or is it both when it comes to the stewards?

**Mr BULLOCK** - I think anyone could be competent. It's an application and a desire to do the right thing and not just live out a job. They have to have an interest in the industry to make it succeed and they're a vital part of it.

**Mr DEVEREUX** - I think you touched on it earlier with workplace standards. One of our problems with the industry is recruiting people, because who wants to work from 4 p.m. Friday afternoon to 11 p.m. or 12 a.m. Friday night, then front up again Sunday afternoon at 3 p.m. through to probably getting home at 1 a.m.? To recruit people in is not that easy. It's okay to say the stewards are this and that, but how do you get someone who wants to do it, then train them, and then they do it for a few months and go, 'I don't want to do this anymore'.

It's not only a stewarding issue. It's probably an issue for our whole industry. I was listening this morning and the fatigue stuff is - we're just lucky we didn't have deaths. We'd be having a whole different conversation, probably in a different forum, maybe a coroner's court, saying, 'What's going on?'

**Acting CHAIR** - We came as close to it as we could have.

**Mr DEVEREUX** - To be honest, there hasn't been any real change. People can say all they like about it, but trainers get up at 5.30 to 6 o'clock every morning to work horses - this is on race day as well, stables are still, they don't all race on that day. Still travelling down, leaving - we still regularly finish after 10 p.m. We're going out of daylight savings; we're going to push back in to winter. You're talking 10 or 11 p.m. leaving the track. That's not getting home. This is leaving the track to travel back to Launceston, Devonport, snow, rain, and then they're up again the next morning. The cumulative effect is just as bad as a single day. They don't just do it on race day. It's every day of the week they're getting up at 5.30 to 6 o'clock to work horses, through to lunchtime or whatever and then it starts again.

**Acting CHAIR** - It is miraculous we haven't had a death, I agree.

**Ms JOHNSTON** - I think fatigue is worse than being under the influence.

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**Acting CHAIR** - We are now at nine minutes past, so I want to thank you all for your contributions.

Thank you for your appearance. What you've said to us today is protected by parliamentary privilege. Once you leave the table, you need to be aware the privilege does not attach to the comments you may make to anyone, including the media, even if you're just repeating what you said to us. Does everyone understand? Thank you so much for your attendance.

**Mr SALTER** - We'd like to thank you people for the opportunity of coming and speaking to us and we look forward to - if ever you want to query or ask questions in the future, you know where we're at.

**Mr BULLOCK** - Most probably it reduces the amount of time you have to listen to Barrie.

**Acting CHAIR** - Stop the broadcast. I'm glad we got that in *Hansard* before we finished up.

**THE WITNESSES WITHDREW.**

**The Committee suspended from 2.39 p.m. to 2.45 p.m.**

## PUBLIC

**Acting CHAIR** (Mr Winter) - Welcome back to the hearing of Committee B. I welcome our new witnesses to the table. We can start by stating your name and the capacity in which you appear before the Committee. May we start with you, Mike?

**Mr CASTLES** - Michael Castles - I am the current president of Breeders, Owners, Trainers, Reinspersons Association (BOTRA). It is fairly all-encompassing of our participant base.

**Mr RATTRAY** - Barrie Rattray - I am a participant in harness racing for the last 45 years at least, past President of BOTRA. Current Deputy and multiple training and driving premierships.

**Acting CHAIR** - Can I confirm you've both received and read the guide sent to you by the Committee Secretary.

**Mr CASTLES** - Yes.

**Mr RATTRAY** - Yes.

**Acting CHAIR** - The hearing is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place out of parliament. The protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside of parliamentary proceedings. This hearing is public; the public and the media may be present. Should you wish aspects of your evidence to be heard in private, you must make this request to the Committee at the time. Just say, 'I'd like to make that privately,' and we'll do that separately.

Could you both make the statutory declaration - on the white piece of paper in front of you; please read that out.

**Mr MICHAEL DAMIEN CASTLES**, PRESIDENT, BOTRA TASMANIA, and **Mr BARRIE JAMES RATTRAY**, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**Acting CHAIR** - Thank you. Would either of you like to make an opening statement?

**Mr RATTRAY** - Yes. I'm jumping around here a bit, but I've made this decision to be here today due to the concerns for our industry's future and it may well not exist into the future. I have a granddaughter that starts school, but prior to starting school she spends the first hour of her day feeding the horses before she heads off to school and comes home to work the horses. She's just started high school and I've a number of others who are heading that way. I'm concerned that the industry as we see it here today may not exist for her in the future if we don't take steps.

I know that we've started. It's taken a long time. Michael and I have been involved in a number of representations over the years and as you'll see as we go forward, nothing of any substance happened until we had an ABC report.

After employing Ray Murrihy, the most reputable steward of his time over the last four or five decades, we are here with his findings being whittled away. Was it because the witnesses

felt intimidated? Legal representation at steward's inquiries, legal action threats and physical threats to their wellbeing? Is that why it's whittled away to nothing? We don't have the answers to those things, but we know some of those things may well have occurred.

This has been a terrible time for harness racing publicly, ultimately requiring the media action that we've taken. It's so important now that we take these steps and take even more steps as we go forward and that our new Office of Racing Integrity Chairman makes a significant difference to what has gone on in the past.

**Acting CHAIR** - Thanks, Mr Rattray. Do you have anything, Mr Castles? You don't have to.

**Mr CASTLES** - No, I've put through a submission to you and I assume you've read that. I'll put that through as the basis of our presentation.

**Acting CHAIR** - Mr Rattray, I might start with you. I'd like to understand, or for you to help the Committee understand, the impact that the last few years has had in context of 45 years of experience, but also the impact it's had now. Has there been anything like this in harness racing in the last 45 years of what you've seen in the last two?

**Mr RATTRAY** - Well, I'd have said the last five or six. I have a couple who have just retired from work and his wife continually asks me, 'Why should I be investing my retirement money,' which is not insignificant, I might add, 'into an industry that lacks integrity?' To be honest, I have trouble answering her. I've tried every time that she comes up with that and I try to see the positive side, but I think that she's correct. That's my problem when I go to answer her.

**Acting CHAIR** - Do you have confidence in the stewards?

**Mr RATTRAY** - At this point in time, I do not. Maybe, in the stewards' defence, that's because of the way the Appeals Board has operated in the last half a dozen years. Sadly, the whole industry has a lack of confidence in the way that the integrity has gone.

**Acting CHAIR** - We heard earlier today that every steward, bar Janet Ainscow, has transferred into the new role. What should be the next steps in terms of increasing the standard of stewarding as part of the new body?

**Mr RATTRAY** - Somebody at the head of the operation, which, hopefully, we have, to take a strong hand on these matters and to bring those things into line. I heard earlier that you spoke about the rule book. Almost everything is contained in that rule book. There is little way to squirm your way out of anything if you abide by the rule book.

**Acting CHAIR** - Has everyone been abiding by the rule book?

**Mr RATTRAY** - I would say no to that question.

**Acting CHAIR** - Is it an issue with the stewards that they don't understand the rules or they're not competent to deal with it or is it an integrity issue? Or is it both?

**Mr RATTRAY** - The relaxation of the rules over a number of years has been such that insignificant things have led to more significant things. Things like, horses in the saddle on

paddock are supposed to be in the saddle on paddock 12 minutes before the race starts and eight minutes so they get a chance to pull in. I've seen horses do less than half a lap, preliminary, and line up to start in a race. They've followed on after the horse has gone to the salon paddock.

I know it can be difficult at times. We had, only a few months ago, a significant meet and talk about just horses in the saddle and paddock and that sort of thing. It went on for about two weeks and it's gone again now.

**Acting CHAIR** - So, there was a crackdown for a couple of weeks?

**Mr RATTRAY** - There was a crackdown for a couple of weeks. For instance, on Sunday, one horse was late onto the track in the first race at Carrick. Surely, we can get the first race right?

**Acting CHAIR** - Mr Castles, what's your perception on the impact that the last, I'll use Barrie's timeline of five or six years, has had on the industry? What's been some of the real impacts that you've seen?

**Mr CASTLES** - Barrie touched on it. We've had smaller - he said relaxations, it's probably a good word. A malaise sort of set in and what wasn't acceptable once become a little bit more acceptable and a bit more. As stewards came into our system, they didn't know what standards were previously. As this turnover happens and also a turnover at the top, we touched on the Directors earlier, it's all worked up and worked up, like the snowflake pushed off the mountain. Suddenly, you get to a point where we did lack quality thinking about what was going on in our sport, on a race day, and non-race day.

We didn't have the people coming into our stewarding that had the background to really see stuff early; they had to rely on senior stewards, which - that's fair - but we didn't have the depth of senior stewards to train those. You mentioned to Barrie about the quality of stewarding and, to be fair, what's happened and what's in place are two different things, we hope. We hope that the appointment of the Commissioner, just his mere presence, will assist keeping people thinking better, I hope. The new structure coming together, so we haven't got competing bodies at the top, with ORI and Tasracing.

So, there's the past. We're well aware of it. We've copped a lot of bad press, but there are things in place currently that give us hope. We'd like to think that's going to help us a lot. We're seeing stewards sent away for training. Good. That's the sort of thing we need. I hope they do that often and well, and stewards coming in to assist in a similar way. I think the number of meetings that we run across our codes - all codes, I think, have a similar problem. Recruitment is a difficult area, so we need to make our stewarding attractive to people to come in. We have to seriously review that.

**Acting CHAIR** - Your organisation fairly famously moved no confidence in the Director of Racing; it would've been a couple of years ago now. The appointment of Directors of Racing out of departments or areas that had really nothing to do with racing - and former police officers. How much of an impact, if any, did the lack of knowledge from Directors of Racing about racing have on the stewarding quality?

**Mr CASTLES** - That's a good question because first-hand Barrie and I went and met these various directors and, on some occasions, we actually went through race films, slow-mo



by slow-mo, pointing out issues that we saw that weren't reported in the steward's report and we felt deserved some attention. That's part of this small things becoming bigger things. Generally speaking, the directors didn't have any concept of that. By and large, you might accept that, but you think that would flow down to their people, the senior stewards in their various codes. But we didn't see that. We didn't get feedback after those meetings and I thought that was disappointing.

**Acting CHAIR** - So you've raised that with multiple Directors of Racing?

**Mr CASTLES** - Yes, in person.

**Acting CHAIR** - Did any of those result in any action or review of the race meetings or did they just take the feedback on board?

**Mr CASTLES** - They took the feedback. I don't know that I saw too much change.

**Acting CHAIR** - The race didn't get reviewed? I'm thinking of the Tasmania Cup with the Bullys Delight decision and it ended up having a separate inquiry into it. Nothing like that ever came out of your concerns?

**Mr CASTLES** - No.

**Acting CHAIR** - Were some of those races looked at by Mr Murrihy?

**Mr CASTLES** - No, they weren't. We could literally go in and just pick out the last couple of weeks, couldn't we, Barrie? It wasn't difficult, you know?

**Acting CHAIR** - At the time, you could go back the last couple of weeks?

**Mr CASTLES** - Yes. Any given time we could go in there, let's look at the last couple of weeks and we'll tell you what you missed. It was that basic.

**Acting CHAIR** - Is it still happening?

**Mr CASTLES** - I'd have to say there is some of it still happening. I don't want to be too critical. I'd like to think we're in a period of change, but yes. There are things that we'd like to see at least referred to in the steward's report. I think a steward's report should be issued at the end of the race meeting. That's the way it always was. To have to go away and think about what you're reporting on means to me that you're missing the boat and it creates that period of uncertainty where, 'Why wasn't something done?' type thing. Well, very often the stewards may have addressed something. Well, let's see the report on the day.

This is something that happened in the past. It's not something that's difficult to do. It's issued; there it is. If there are carried forward items or adjourned inquiries, that's acceptable, but get the rest of it out there. That way, given we now have a Commissioner in play, if there's something really glaring that hasn't at least made that initial thing, people get the opportunity to talk to the Commissioner while it's very current. We don't want to be going over something even a week and a half later. It gets stale and people's recollection of things changes. I think one important change would be the stewards report on the day.

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**Acting CHAIR** - Mr Rattray, do you agree that there's still a little bit of team driving going on?

**Mr RATTRAY** - Yes, I do. If I can just regress for you a minute. BOTRA had a policy to go through all the correct doors and we went through all the correct doors. We went to Director of Racing, we went to Minister for Racing, we went just about everywhere.

**Acting CHAIR** - I remember, because then you came to see me.

**Mr RATTRAY** - We couldn't get anything done. We tried not to have the publicity stuff that went on, but we couldn't get any action with - and that was our policy. We did go there in the finish, culminating in our motion of no confidence, which was -

**Acting CHAIR** - A big deal.

**Mr RATTRAY** - Yes, a big deal for us. That was the last thing we wanted to do.

**Acting CHAIR** - You sat down with Directors of Racing as well, with Mike, did you ever raise these issues particularly with ministers as well?

**Mr RATTRAY** - Yes.

**Acting CHAIR** - Which minister did you raise them with?

**Mr RATTRAY** - We had a meeting at Ray Pullen's place with Jane Howlett.

**Acting CHAIR** - Is that the first time she was minister or more recently?

**Mr RATTRAY** - No, the first time she was minister. She wasn't long with us after that, I don't think. Pretty much it was handed back to the Director of Racing, which again took us nowhere.

**Mr CASTLES** - Just to interrupt, that's probably when we started to become aware of the power of the position of director of racing - that he stood alone. That was a learning curve for us.

**Acting CHAIR** - It was a different minister, but we've heard evidence previously - it was from BOTRA, actually, by Shaun, the former President - that the concerns raised by BOTRA in writing to former Minister Howlett about the Office of Racing Integrity were then sent to the Office of Racing Integrity.

**Ms JOHNSTON** - Was that Howlett or Ogilvie?

**Acting CHAIR** - That was Ogilvie, yes. Did I say Howlett?

**Ms JOHNSTON** - You said Howlett.

**Acting CHAIR** - Sorry, apologies. That was former Minister Ogilvie.

**Ms JOHNSTON** - Fair number of them.

**Acting CHAIR** - In terms of raising those complaints, obviously you've raised to the Director of Racing level, and you've run through race replays and not got any - and then you've been to the political level to Minister Howlett and sat down and raised the concerns and that's gone back to the Director of Racing. Did you take any other measures before Kent and Chester eventually went to the media? That seems to be when things changed. Were there any other steps you took?

**Mr RATTRAY** - We went to about every place that we could go to. Kent and Chester and a few others, we discussed it. I chose to stay out of the media, as I've tried to do all along. It was some of these things, incidents similar to what I've got written down, that caused them to actually go to the ABC. I'm going to Kent, and Kent alerted the Chief Steward at Burnie a couple of races after the race, when he'd had time to think about it and look at it. It's a race highlighted by Mr Murrell that he thought was untoward. I remember on the day I left early and he rang me on the way home. He said about the race, and he went to the stewards room. The steward of the day asked him, 'What do you want me to do about it?' Kent's reply was, 'Do your job.' And he said, 'Nothing to see here.' No inquiry was held. That's a race that Mr - no questions were even asked.

**Acting CHAIR** - Do you know who the steward was?

**Mr RATTRAY** - Yes, I do.

**Acting CHAIR** - Who was it?

**Mr RATTRAY** - I'll refrain from answering at the moment.

**Acting CHAIR** - Perhaps we can go *in camera* later?

**Mr RATTRAY** - I can do that later. On another occasion, and this is my own set of circumstances, I alerted the steward to something untoward. His response was, 'Tell someone who gives...'

**Acting CHAIR** - Same steward or different steward?

**Mr RATTRAY** - Different steward. I'm certain that attitude has taken us to where we have to be today.

**Acting CHAIR** - That seems like not so much incompetence, but something else and that's two separate stewards. Do you have a theory on why they're refusing to review these issues?

**Mr RATTRAY** - Do I have a theory?

**Acting CHAIR** - Well, do you have a view or an opinion?

**Mr RATTRAY** - A concern, yes, I do.

**Acting CHAIR** - What's that?

**Mr RATTRAY** - Well, I'm concerned that we're looking at some things and not looking at others, particularly the Burnie case. We're interested in some things and not others.

**Ms JOHNSTON** - Thank you. Mr Rattray, you said in your opening statement that you have no confidence in the stewards at the moment and it seems to have happened for a long time.

**Mr RATTRAY** - I think it's improving. I agree with Michael. I think that the worm has turned, hopefully, and it is improving.

**Ms JOHNSTON** - And you raise your concerns about the influence of TRAB (Tasmanian Racing Appeals Board) on stewards' behaviour. Can you expand on what your concerns are and what that influence might be?

**Mr RATTRAY** - I'm concerned that everything that the stewards do is taken to TRAB and at least tinkered with, even if it's not thrown out. There is a case and a point in time where I think the Office of Racing Integrity became less effective when an appeal was taken to them and it was thrown out because the particular victim, if you like, felt intimidated. It's an intimidating situation to go to a steward's room and it doesn't matter whether you're a young lady or a young bloke, it's an intimidating situation, but the rules have to be abided by.

And in my opinion that one statement that she felt intimidated so therefore we're going to throw the case out, doesn't do much for the safety of everybody in the industry or the compliance with the rules.

**Ms JOHNSTON** - Do you think that it's a case that TRAB is failing to give effect to the rules and have some other kind of framework for assessing appeals? If they're not applying the rules, in that case you're talking about where the participant felt intimidated, I'm assuming that it was an appeal on a breach of a racing rule that was either black and white, didn't happen. If that wasn't disputed, it was just how the person felt, then TRAB has given their own interpretation to the racing rules that go beyond a standard rule. Is that correct?

**Mr RATTRAY** - I'm inclined to agree with you. Yes.

**Ms JOHNSTON** - Do you think that filters down then to stewards perhaps being concerned or unwilling to enforce those rules in the first instance if they feel that TRAB might have a different interpretation of it?

**Mr CASTLES** - I get that feeling that perhaps they've got a bit gun-shy on it.

**Ms JOHNSTON** - Gun-shy is a good word to use.

**Mr CASTLES** - We mentioned it in our submission: does the Appeals Board need more racing knowledge on there to go with the legal knowledge? We've had some very good legal people through the Appeals Board, but from the tactics type stuff in a race, there's nuances in that you do need to have a pretty solid background in our sport. Harness racing is probably harder than the other codes to make these deliberations on. I believe that's an area that the Appeals Board should be looking to probably recruit someone in to assist them with those sorts of cases. That, in turn, may well bolster the stewards or embolden them to prosecute some of

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these cases. They do know that you're going to come under a lot of scrutiny, and they don't want to go there and lose, so perhaps something in that appeals area might help the situation.

**Ms JOHNSTON** - You might want to answer this now or maybe later if we go into an *in camera* session - do you feel that certain participants get an easier run of it through TRAB?

**Mr RATTRAY** - No, I couldn't say that. I don't think TRAB has any preference, if that's what you want.

**Mr CASTLES** - I'm certainly not questioning where they come from and everything. I'm just thinking, perhaps, to broaden the bench to bring in some more experience, particularly in our code, would help.

**Ms JOHNSTON** - In terms of the stewards' confidence in bringing matters and confidence in appearing before TRAB - I know there have been instances where the stewards have changed their evidence completely in other codes. I'm not sure if it's happened in harness racing beforehand. Would it assist if the Office of Racing Integrity and the Director, as it formerly was, or the new Commissioner now, provided greater support to the stewards in that role in appearing before TRAB, in terms of providing the confidence in their initial determinations?

**Mr CASTLES** - I wouldn't think that would be the Commissioner's role. I believe he sits apart from that.

**Ms JOHNSTON** - Who would provide that guidance, then, to stewards, or that support or encouragement for them?

**Mr CASTLES** - It's part of this learning and that they do meet their interstate counterparts. There are some very, very good stewards out there. Between them all, if they can grow together, that's what we're after.

**Acting CHAIR** - I just want to go back to the Ray Pullen meeting. I'm sorry, Mr Rattray, I should have kept asking. This happened sometime before the ABC article?

**Mr RATTRAY** - Quite a while before.

**Acting CHAIR** - The sort of issues you were raising, is this around team driving and race fixing issues?

**Mr RATTRAY** - Yes.

**Acting CHAIR** - You said that the response was to refer the matters to the Director of Racing. Can you just clarify what happened after that?

**Mr RATTRAY** - Nothing.

**Acting CHAIR** - Nothing happened? You didn't hear from the Director of Racing?

**Mr RATTRAY** - No, I don't think we - we had a policy with the Director of Racing that we would bring things to him as long as we weren't seen as dobbers, and that we wouldn't go

backwards. We can only go forwards. A bit of the problem of being here today is we're going backwards sometimes.

**Acting CHAIR** - Is this under Mr Helmich's time or before that?

**Mr RATTRAY** - No, before that. The films that we looked at on that day were stuff that we would - unless he deemed it so serious, which it probably was - but the deal was that we would bring them to them so that those things didn't happen going forward.

**Acting CHAIR** - When you say a deal, who was the deal with?

**Mr RATTRAY** - When I say a deal, we don't want you to go backwards, we want you to come forwards. We don't want you going back to the stuff we're bringing to you. We have no desire to be dobbers. We're representing the industry and we're trying to make the industry better, not worse. If we could bring those races to you, have you look at it and make sure it doesn't happen in the future.

**Acting CHAIR** - When you met at Mr Pullen's place, you showed the video evidence there as well? You just demonstrated the issue with team driving?

**Mr RATTRAY** - Yes, we did.

**Acting CHAIR** - The Minister listened and then referred the matters to the Director of Racing?

**Mr RATTRAY** - No, the Minister had to depart before we got to the films, and left the Director of Racing with us.

**Acting CHAIR** - Ah, sorry, Mr Pullen's place was with the Director of Racing and the Minister?

**Mr RATTRAY** - Yes.

**Acting CHAIR** - Okay. Are you able to provide us with the date that that occurred? Not right now but if -

**Mr RATTRAY** - No, I think I'd struggle to be accurate.

**Acting CHAIR** - Do you have your best estimate on when it was?

**Mr RATTRAY** - I reckon it was four years ago.

**Acting CHAIR** - Is this in relation to the Yole stable?

**Mr RATTRAY** - Collectively, yes.

**Acting CHAIR** - Ford drivers?

**Mr RATTRAY** - I don't actually think the Fords were there on that occasion, no.

**Acting CHAIR** - We've heard from Mr Bullock in an earlier piece about the impact that being a whistleblower had. He felt unsafe enough to put cameras on his property. How has this impacted you, Mr Rattray, in terms of your feeling of safety when you're at the track, your enjoyment, and for others around you?

**Mr RATTRAY** - Certainly, the whole thing has become less enjoyable over that period of time. I know that, speaking on those matters, Candice felt a fair bit, and carried a fair bit of the weight of the industry, she has actually done it standing up - an enormous job for the industry. In one sense, I've cowered out of it.

**Acting CHAIR** - You're here today.

**Mr RATTRAY** - Yes, I'm here today. I don't think that I'm at any risk. If I am, so be it. I'm happy to say what I have to say, but no, I don't believe I'm at any risk.

**Acting CHAIR** - Mr Castles, I'll ask you a similar question. How do you feel the last few years have impacted on the harness community? The enjoyment, the safety aspect of what you do?

**Mr CASTLES** - Prior to the equity in participation policy coming in, there was a bit of a poor atmosphere at some of those meetings. It was an us-against-them, and it was mainly them. It wasn't a good time. I think that new policy has helped enormously. Our meetings pretty much these days are far closer to the sort of experience we're used to, so we have made headway. There was a period of time - I'd never felt threatened - but it wasn't a good time for us and coping all that bad publicity almost weekly, that was very depressing for someone who loves the game.

**Acting CHAIR** - Obviously there's been a big change on 1 February. Has that given the industry a bit of confidence that things are going to get back on track?

**Mr CASTLES** - Well, I hope so, but I'm not sure that our participants fully appreciate what's going to be available to them. We've got the Commissioner coming to our meeting in early March. We're looking forward to that. I think that'll open the eyes of a few of our people. I believe it's a wonderful step. It's theory at this stage, but I certainly like the concept, so let's hope it all works.

**Acting CHAIR** - It has a lot of potential, if we get it right.

In terms of the impact of this, obviously you're here at BOTRA, which represents breeders, owners and reinspeople. Do you have a sense of how many participants have left the industry over the last five or six years, or an estimate?

**Mr CASTLES** - It's hard to say. Where I am, we have our own issues on the north-west coast. People had the feeling that it was getting harder to win. When you're struggling along and you have that sort of belief, what becomes a bit of a tough period was the end of the road for a few people, so there's no doubt that has happened. I'm trying to look forward, and I believe we're through most of that. Let's hope it's upwards from here.

**Acting CHAIR** - We're probably a couple of minutes over the time we had allocated for you. Is there anything you'd like to raise that you haven't had the opportunity to say?

**Mr CASTLES** - Yes, I certainly would. We have a quarterly HIF (Harness Industry Forum) meeting, which enables us to meet with the ORI people in the past and the Tasracing people, and we get updates and discuss topical stuff. The ability to attend it at 11 o'clock at Campbell Town, for most of us in this game, that's peak hour at home, and then you've got to get yourself to Campbell Town at 11 o'clock. We find that difficult. We find the fact that we can't move a motion or we can't have enough - we've got skin in the game, but we can't have the say in the room to the level that we'd like.

**Acting CHAIR** - Why can't you move a motion in the meetings?

**Mr CASTLES** - It's an advisory, harness industry forum. It's better than nothing, but in years gone by, we had a board where there was basically someone from each region. They would meet monthly and they would meet with the Chief Steward and they would meet with the participants' issues of the month. That system is gone. It was a more costly thing. We've streamlined, but we've lost the sort of say we'd like to have. We sit in a room full of people, but when it gets down to who's actually the people who really have things at stake here, there's only three or four or five of us, isn't there, Barrie? Out of the 15 or 20 there. We just think that balance needs to be looked at.

**Acting CHAIR** - Have you got a solution for us that we could make as a recommendation?

**Mr CASTLES** - Well, I think a review of it that gives more seats in the room to the participants. I think that would be good. I think the ability to actually move a motion and test the room on certain issues would be good.

It's one of those things, you wonder why you go to them for all the hassle of getting there, but if you don't, something goes through and nothing is said, you know what I mean? I think it would be worthy of all parties involved to sit down and just look at that and say, 'How can we do this a bit better?'

**Acting CHAIR** - Mr Rattray, do you have anything you want to say?

**Mr RATTRAY** - I've got two. The night of the ABC filming at Launceston, there was a delegation of drivers that went to the stewards' room and said, 'Well, we're not going to race.' I don't know the exact words, but, 'If we've got to go through the saddle and paddock through the correct areas and onto the track with the others filming, we're not going to race.' That is, I perceived, what happened, that there was certainly a delegation. I don't know exactly what was said. It was a delegation that went to the stewards' room.

We changed the whole concept of what we were doing. We went back through the car park, which is unsafe. I'm not sure that somebody didn't have somewhat of an incident because they went back through the car park. Two participants that went to go through the required system were threatened with fines if they didn't go with others.

**Acting CHAIR** - Who was in the delegation?

**Mr RATTRAY** - Who was running the show?



## PUBLIC

**Acting CHAIR** - Who was in the delegation?

**Mr RATTRAY** - There was a number of Yole drivers and a number of Fords that went to the stewards' room.

**Acting CHAIR** - And the other one?

**Mr RATTRAY** - The other one, and this one's probably for you, Kristie, it's the RSPCA. The public perception of the animal welfare, let me tell you, there's no-one in the industry that thinks that's a standard that's satisfactory. Our rules, and I know the rules are there, do not meet any of those standards.

**Acting CHAIR** - The policy's been totally botched, hasn't it? I mean, we've now got a new policy that they say the Yoles meet.

**Mr RATTRAY** - They don't. I had a steward come out to my place and we had sheds that have been up for some time at day yards and the horses backed up to them and kicked the tin. The tin was damaged and they came out to me and told me that that's not satisfactory - either repair it or pull it down. I pulled it down. I didn't think it was an unreasonable request. It was something that I'd been a bit slack on and probably should've done. But how that fits in at the same point in time when we've got numerous horses in a small acreage - if I've got two horses in a paddock, they'll eat together happily, but you put three in there and there's a - you've got to be dodging and weaving and making sure they're not kicking each other.

How you can have as many horses that have been in a paddock down there, that doesn't meet any industry standards that I'm aware of, and for the Office of Racing Integrity to pass it off to the RSPCA and say, 'We've done our job', is ridiculous.

**Acting CHAIR** - Well, we've had them in here today saying that the new Equine Code of Practice is met by the Yole training facilities, so I don't know why we did the new - did you have anything?

**Ms JOHNSTON** - Continuing on that. Is it something that you'd like to see is that there, and the RSPCA is obviously limited by the *Animal Welfare Act* in terms of what they can do and where the *Animal Welfare Act* is woefully inadequate and it would seem the Equine Code of Practice is inadequate if it deems Yole's property to be satisfactory and compliant, is there a recommendation you'd like to see us make around animal welfare to meet what you think the standards should be and is for other participants in the industry?

**Mr RATTRAY** - None of our participants in the industry see that as satisfactory. None of our participants.

**Ms JOHNSTON** - There needs to be a complete review?

**Mr RATTRAY** - My understanding of the new document that came out would say that that's not satisfactory.

**Acting CHAIR** - I have to tell you the evidence we heard earlier from the now former Director of Racing was that simply wearing a rug counted as having shelter, for example. And,

amongst other things, the stewards had inspected the property and that it met the new Equine Code of Practice, which is extraordinary.

**Mr RATTRAY** - Our rule book says that it wouldn't.

**Mr CASTLES** - There are less numbers now, which is a factor. You have to see this not in isolation, the rug. There's a whole series - how many horses in the paddock, access to, you know, feed, water, mud situations, all that sort of those things. Tasracing's latest welfare code, are you referring to?

**Ms JOHNSTON** - Yes.

**Acting CHAIR** - Thankfully, I hope - it is probably not something we will follow up quickly because if the decision of the new welfare body is upheld, there won't be horses trained out of there anyway. Outside of that, we need to ensure that the new integrity body is appropriately adhering to the policy, but we'll follow that up.

**Mr CASTLES** - I think we need to realise that there has been a change at that property. That policy, broadly speaking, wasn't too bad. I wouldn't think we should be throwing that out just based on our previous experience at that property.

**Acting CHAIR** - Mr Rattray, I realise I forgot to ask you a question. We were talking earlier today with Tasracing about race times and WorkSafe as well about race times. We can't and won't go into the specifics of the crash for legal reasons, but in a policy sense, can you explain the impacts that having races finish at 10.35 p.m. in Hobart has on you? What time are you getting home? What time do you have staff starting? What time are you starting? What does a day look like for you when you have late races in Hobart?

**Mr RATTRAY** - Let me tell you that we ensure that we've got at least two drivers. That one of us is given the opportunity to jump out because I'm going to sleep and I find it more and more as I get older. We've always got two people in the car. Yes, it's a handful and it's a big day, but it's what we've done for 40-odd years.

**Acting CHAIR** - Have the races always been that late?

**Mr RATTRAY** - Yes, we used to get home from Hobart in the '90s, or whatever, we'd get home at 4 o'clock in the morning. That is not unusual. I wonder: have we researched the details of that accident completely in the days leading up?

**Acting CHAIR** - In terms of this inquiry we aren't going - because it's subject to an appeal and we could - if we talk about it too much - cause a problem. We are not going into it, although I'd love to. Just from a policy point of view, I wondered about the attitude, particularly from the northern trainer's point of view, to late racing, whether it's just a fact of life that you're prepared to deal with or whether it's something you'd like to see changed?

**Mr RATTRAY** - It's a fact of life that we deal with that we would like to see changed and identify those that are travelling north and south and put them on earlier, which is quite often done I might add, but not always. It's a matter for consideration that could help those trainers and drivers considerably.

## PUBLIC

**Acting CHAIR** - Mike, you're coming from the north-west, so have you got a view on this?

**Mr CASTLES** - Yes, it affects how often we go. We simply wouldn't go south every week. Over time it just wears you down. That's how we deal with it.

**Acting CHAIR** - Have either of you had a fatigue management policy in place, either formally or informally? In fact, Barrie, you kind of talked about an informal policy where you're making sure you have two drivers - that's how you manage it?

**Mr RATTRAY** - Yes. No-one drives home on their own. The other person is always able to drive whilst not always wanting to. Always able to drive. We break the legs up. Todd and I, for instance, I'll drive quite often at least to Campbell Town, quite often just to Mood Food, and then he'll take over, or vice versa.

**Acting CHAIR** - Is that the standard way, Mike, that people manage it?

**Mr CASTLES** - Pretty much, yes. We'd never send a horse to the race with one person, anywhere. To Hobart there's always two drivers.

**Acting CHAIR** - Sure. Mr Rattray, there was evidence earlier today about the WorkSafe review into compliance with workers compensation policies. They mentioned over 100 trainers were involved. I'm wondering if you were a part of that and what your perceptions were of it, whether it was something that was valuable?

**Mr RATTRAY** - I think to go through the exercise was very valuable, to identify any problems, any dangerous areas and dangerous practices. I know that after they left we did up a WorkSafe guideline for our people who are handling horses. There's about 20 different things on it, you know, driving a horse and leading horse, always let the leaders go. We wrote it up and formalised it rather than stuff that we've talked about in the past.

**Acting CHAIR** - So it's more of an educative thing for you?

**Mr RATTRAY** - Yes. It's just to formalise it a bit more. It was of value, yes.

**Mr CASTLES** - I would say it did raise a few issues which are unresolved. Workers comp policies on volunteers: I'd say that's something that's going to need a lot more talk and how that's going to be funded. The cost of these things - when you mentioned horse sales -

**Acting CHAIR** - I was about to ask that.

**Mr CASTLES** - Pretty horrific, apparently. There you go. I can't even quote that. From our galloping friends, they've told us those types of issues are very real. A lot of our operations are family-based and friends-based and there are regular volunteers and that does put them under the scope of workers compensation. That's unresolved, really.

**Acting CHAIR** - My next one was for *in camera*. What we do now, gentlemen, is that because you indicated earlier you'd like to answer a question *in camera*, what we need to do is, firstly, I'll ask if we can turn the broadcast off.

## **PUBLIC**

**The public hearing suspended at 3.34 p.m.**

**The Committee adjourned at 3.54 p.m.**