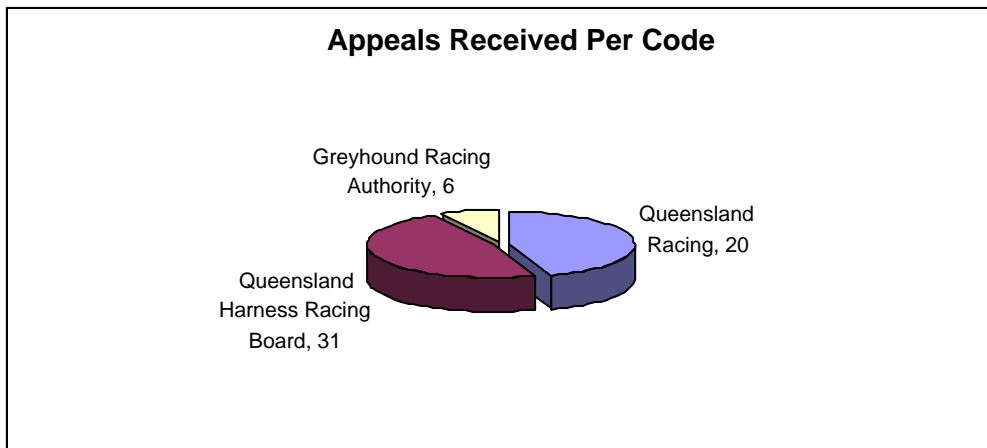


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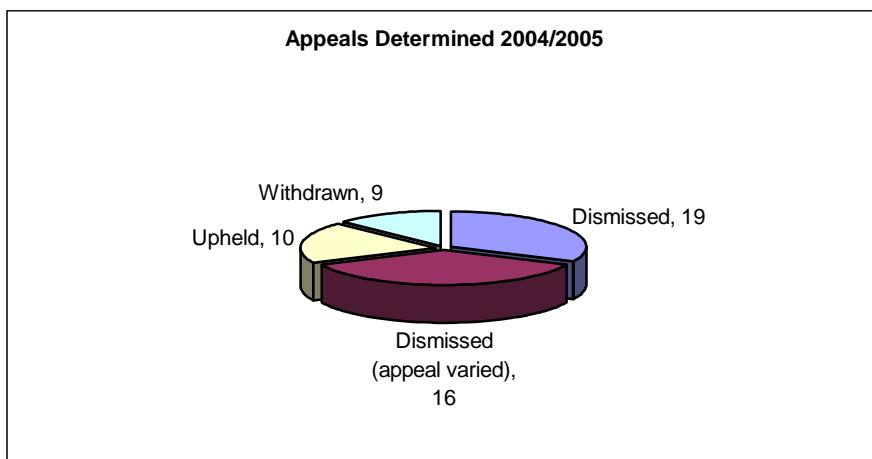
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1. Snapshot of the Racing Appeals Tribunal Annual Report 2004/2005

- The Racing Appeals Tribunal replaced the Racing Appeals Authority under the *Racing Act 2002*.
- The registry function continues to be provided by the Commercial and Consumer Tribunal registry which is located on level 11, 259 Queen Street, Brisbane.
- The total number of appeals lodged this reporting year increased to 57 up from 54 the previous year.



- Against a statutory timeframe of 28 days, the Tribunal averages 25 days between lodgement and the hearing of an appeal. This takes into account the time taken to prepare and read transcripts.
- The Tribunal's timeframe for the delivery of a decision is 4 days. Decisions in less complex cases are delivered sometimes instantly. Decisions are reduced to writing and delivered within one week. Some more complex matters require up to 7-14 days.
- The Tribunal finalised 54 of its 57 outstanding appeals. 9 appeals were withdrawn.



2. Role of the Tribunal

The Racing Appeals Tribunal (“the Tribunal”) is established under the *Racing Act 2002* (“the Act”) to hear and determine appeals mostly directly from decisions of the control bodies or their stewards but also from first level appeal committees.

The Tribunal has power to hear appeals from all three codes of racing, namely Thoroughbred, Harness and Greyhound racing. Some appeals from the Thoroughbred code go to a first level appeal committee before coming to the Tribunal, unless they are over a \$2000 fine or a three month suspension or disqualification in which case they can be made direct to the Tribunal. Appeals from the Harness Racing Code and the Greyhound Code have no first level appeals committee and come direct from the respective control body or its stewards. Appeals are heard from control bodies, licensees or stewards from all over Queensland.

This is the second year that the Tribunal has operated under the *Racing Act 2002*.

Section 167 of the Act sets out the jurisdiction of the Tribunal.

167 Decisions that may be appealed

(1) Subject to subsection (4), a person aggrieved by any of the following decisions may appeal to the Tribunal against the decision—

(a) a control body’s decision to—

- (i) refuse to grant or renew a licence; or*
- (ii) take disciplinary action relating to a licence; or*
- (iii) take an exclusion action against a person; or*
- (iv) impose a monetary penalty on a person;*

(b) a decision of an appeal committee made in relation to an appeal against a monetary penalty imposed by, or other decision of, a steward;

(c) the imposition of a monetary penalty by, or other decision of, a steward of a control body if there is no right of appeal to an appeal committee against the decision;

(d) another decision of a control body prescribed under a regulation.

(2) A steward of a control body may appeal to the Tribunal against a decision of an appeal committee made on an appeal against the steward’s decision.

3. Membership of the Tribunal

The Tribunal comprises:

- Mr Leo Williams AO RFD BA LL B (Chairperson)
- Sir James Killen AC KCMG LL B (Deputy Chairperson) (Sir James retired in April and was replaced in May by Mr Brockwell Miller BA LLB)
- Mr Dennis Standfield LL M (Member)

Under Section 165 of the Act, the Tribunal can be constituted by one or more members.

All three members meet as required either singularly or together.

4. Commercial and Consumer Tribunal Registry

Registry and Procedure

The registry functions of the Tribunal are delivered by the Commercial and Consumer Tribunal (“the CCT”) registry which is located on Level 11, 259 Queen Street, Brisbane. The hearing rooms are situated on Level 10.

The Director of the CCT continues to act efficiently in the capacity of the Secretary of the Tribunal. The relationship between the Tribunal and the Registry is good.

Under the Act an appeal is instituted by an Appellant lodging a notice of appeal and paying the relevant fee. The notice must be served on the Respondent in accordance with the Act and the Regulations. The fees for a racing appeal are an appeal deposit of \$200.00 and a non-refundable administration fee of \$50.00 (This was increased to \$51.25 by Regulation on 13 August 2004). The appeal deposit is refundable if the appeal is successful.

A notice of appeal must be lodged with the Secretary of the Tribunal within 14 days of receiving notice of the decision being appealed.

The Act provides that appeals must be heard within 28 days. The Tribunal can and does order extensions of time both for lodgement and hearing having the power to do so.

In this financial year the Tribunal’s average timeframe is 25 days between the notice of appeal being lodged and the matter being heard.

Section 172 of the Act provides that the Tribunal may decide its own procedures. While not bound by rules of evidence, it must ensure the rules of natural justice are followed and it can inform itself in any way it considers appropriate.

A hearing before the Tribunal is usually by way of a rehearing based on the transcript of the evidence given before the control body or stewards who made the decision appealed against. Further evidence required by the Tribunal or the parties can be called and presented in either a formal or informal manner. The Tribunal can rehear all evidence.

The Tribunal receives, at the controlling body’s cost, a transcript of proceedings if there is a hearing.

All available evidence provided is read by the members prior to the hearing.

The requirements of the format of decisions of the Tribunal are stated in Section 187.

187 Forms of decision of Tribunal

A decision of the Tribunal that finally decides matters the subject of a proceeding-

- (a) must be in writing; and
- (b) must state the decision, and the reasons for the decision; and
- (c) may be published.

Written decisions stating reasons are prepared, communicated to the parties and published. They are published on the internet.

5. Tribunal Output

The Tribunal has again seen an increase this year in the total number of appeals lodged.

Based on figures provided at the Australasian Racing Conference, the racing appeals body in Queensland has the heaviest case load of all states and territories.

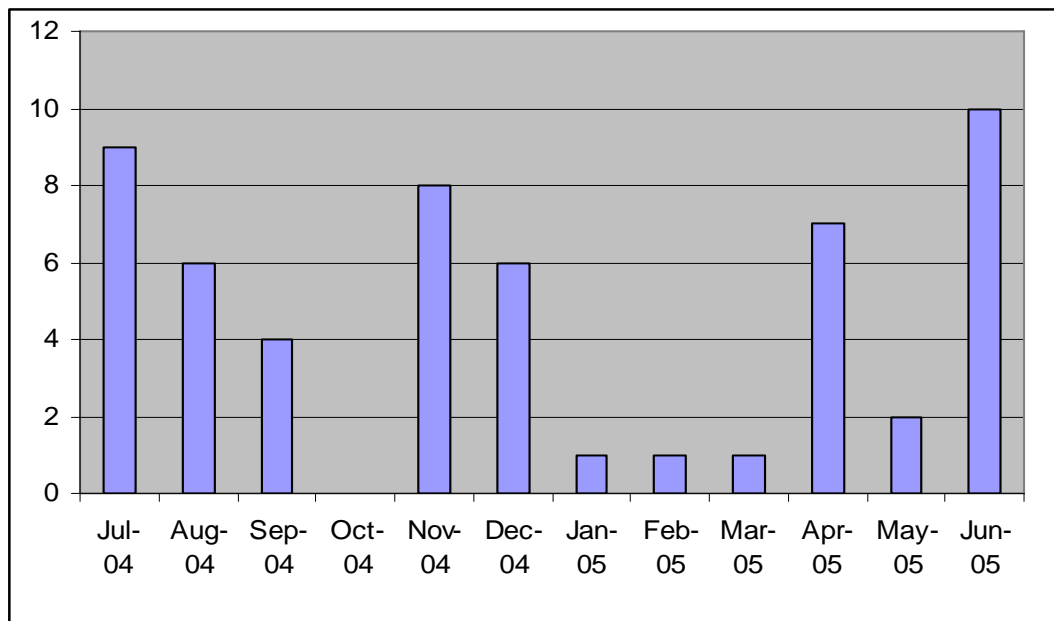
Of the 57 appeals received across all three codes the breakdown is as follows:

Table 1 Appeals Received Per Code

Appeals Received by code	2003/2004	2004/2005
Greyhound Racing (GRA)	4	6
Harness Racing (QHRB)	26	31
Thoroughbred Racing (QR)	24	20
TOTAL	54	57

The following is a break down of the number of appeals received per month.

Table 2 Appeals Received Per Month



The Tribunal hears appeals which cover a variety of issues with varying degrees of seriousness and penalty.

Table 3 Subject Matter of Appeals Determined

Principal issue in Tribunal decision	2004/2005
Driving/Riding infractions	28
Prohibitive Substance/Positive Swab (Animal)	18
Improper/Detrimental Actions to the Industry	5
Licensing	3
Failure to Withdraw/Notify Change	0
Ownership/Fraudulent Actions	0
Banned Substance in System (Human)	0
Improper Care/Animal Welfare	0
TOTAL	54

Table 4 Penalties Appealed Against

Penalty		2004/2005
Disq/Susp	Greater than or equal to six months	15
	Between three & six months	7
	Less than three months	25
Fine	Greater than or equal to \$2000	4
	Less than \$2000	9
Licensing	Not granted by Control Body	3
TOTAL		63

Timing

The average number of days between lodgement of a notice of appeal and the hearing date is 25 days and the average number of days from commencement to formal judgement to finalise an appeal is 29 days.

Table 5 Results of Appeals Lodged

Decisions of the Tribunal	2003/2004	2004/2005
Dismissed	15	19
Dismissed (appeal varied)	17	16
Upheld	9	10
Withdrawn	6	9
Carried over	8	3
Totals	55	57

Parties have the right of appeal to the District Court on a matter of law only. In this reporting year there were 4 appeals to the District Court.

6. Other Matters

Database

While all decisions are currently published on the internet there is precedent access enabling decisions to be cross referenced on issues, penalties, rules etc.

Conference

While a conference was not held during the 2004/2005 year they continue to assist in keeping the Tribunal apprised of contemporary legal and regulatory issues which impact the on-going performance of the Tribunal and the industry.

7. The Public

While it is obviously not possible to please all appellants, the Tribunal conducts its hearings in an attempt to ensure that all appellants have a fair hearing and a process they can understand. Lawyers have become the order of the day in recent times but some appellants choose to conduct their own cases or have some other industry-related person do it for them.

8. Forecast for 2005/2006

The Tribunal has also seen an increase in the number of appeals lodged over the last reporting year. This trend seems likely to continue.

9. Budget

Funding is provided for the Tribunal from the budget of the Department of Tourism, Fair Trading and Wine Industry Development. The Tribunal's expenditure for both 2003/2004 and 2004/2005 is set out below in **Table 6**.

Table 6 Racing Appeals Tribunal Expenditure for 2003/2004 and 2004/2005

Racing Appeals Tribunal Expenses	2003-2004 \$	2004-2005 \$
Employee Expenses	3,205	18,298
Members' Fees	30,885	35,744
Supplies and Services		
Maintenance		
Lease Rental & Hire Services	500	8,000
Motor Vehicle Expenses		
Consumables	968	76
Data Processing Costs		
Other Professional Expenses	7,079	3,502
Conferences & Seminars		
Travel Expenses	213	0
Other Administrative Expenses	266	716
Depreciation	883	883
Total Expenses	43,999	67,219

The Tribunal adopts a number of considerations in its procedures to reduce operational costs. The Tribunal usually determines several appeals on the one day. The Tribunal has in determining its 57 appeals, sat on a total of 33 days. This includes directions hearings.

The Tribunal utilises videoconferencing facilities around the State and has not incurred any travel expenses. In this reporting year, the Tribunal has conducted 1 hearing by way of video conference.