

# INVESTIGATIONS & PROSECUTIONS: BEST PRACTICE STANDARDS

Recommendations issued under  
s.95H(1)(d)(i) of the *Racing Act 1958*

May 2025

VICTORIAN  
RACING  
INTEGRITY  
BOARD



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## INTRODUCTION

The Victorian Racing Industry (**VRI**) comprises the thoroughbred, harness and greyhound racing industries. These industries have their own controlling bodies (**the controlling bodies**), with Racing Victoria (**RV**) overseeing thoroughbred racing, Harness Racing Victoria (**HRV**) overseeing harness racing and Greyhound Racing Victoria (**GRV**) overseeing greyhound racing.

RV is a company limited by guarantee under the *Corporations Act 2001* (Cth), while HRV and GRV are 'statutory authorities' which are 'public entities' subject to the *Public Administration Act 2004* (**PA Act**).

Each of the controlling bodies have the authority to conduct investigations and prosecutions with respect to their respective racing industries. Additionally, the Victorian Racing Tribunal has jurisdiction for all matters involving serious offences under the rules of racing of the respective racing codes as well as appeal from decisions of stewards in relation to other offences. This framework establishes processes to ensure fair hearings and review for all parties.

The maintenance of the highest integrity standards within the VRI is essential to its continued success and prosperity. In order to maintain the highest integrity standards, there is a need for a consistent approach by the controlling bodies to integrity investigations and prosecutions. This approach should be based on best practice principles which are both clear and transparent and adhere to the tenets of natural justice and procedural fairness.

These standards are established pursuant to section 95H(1)(d)(i) of the *Racing Act 1958* (**the Act**) to advise and make recommendations to the controlling bodies in relation to integrity policy. They are not intended to override policies, procedures and/or methodologies issued by the controlling bodies but are designed to establish the key principles which should be applied across the VRI.

In developing these standards, consideration has been given to the "Australian Government Investigations Standard" (**the AGIS**), and the Prosecution Policies of the Victorian Director of Public Prosecutions (**VDPP**), Commonwealth DPP (**CDPP**) and other Victorian regulatory agencies.

If these standards are in conflict with any applicable law, the legislative requirement will prevail.

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## KEY PRINCIPLES

There are three key principles underpinning the purposes and objectives of these standards, as follows:

**1** **First**, integrity is at the core of racing, and the Victorian Racing Integrity Board (VRIB) has been established as part of the Victorian Government's support to strengthen the VRI's integrity standards.<sup>1</sup>

**2** **Second**, regulation and integrity in racing is absolutely essential in maintaining public confidence. The Court of Appeal has emphasised the importance of regulation of the VRI as follows:

*"Horse racing in Australia is a highly regulated industry. This is hardly surprising, given the high level of public interest and participation and the consequent need to maintain public confidence in the industry. As has long been recognised, regulation is necessary both to ensure fair and open competition in racing and to maintain the health and wellbeing of horses and their jockeys."*<sup>2</sup>

Indeed, the Full Court of the Supreme Court of Western Australia has recognised that betting turnover largely funds the racing industries and - in the context of administration of drugs to horses - emphasised the importance of public confidence in the integrity of horse racing as follows:

*"Hence, the very survival of the industry as well as substantial government revenue would seem to depend on encouraging the public to bet on horse racing, that is, to bet on the outcome of each race.*

*If it is correct to think that the financial well-being of the industry depends significantly on the maintenance of betting turnover, the need to maintain integrity in horse racing, and to do so manifestly, is easily seen to be imperative and of paramount importance. It may well be anticipated that unless racing is perceived to be fair and honest, people may be discouraged from betting".*<sup>3</sup>

**3** **Third**, public confidence in the VRI is best served through a consistent, transparent and principled approach to integrity investigations and prosecutions across the controlling bodies.

This objective can best be achieved through the implementation of policies, procedures and/or methodologies by the controlling bodies in relation to investigations and prosecutions of integrity matters. The need to ensure transparency and instil confidence in the public is best achieved by making these policies publicly available. See, for example, the publicly available prosecution policies of the Victorian Director of Public Prosecutions (**VDPP**),<sup>4</sup> the Commonwealth DPP (**CDPP**)<sup>5</sup> and other Victorian regulatory agencies.<sup>6</sup>

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1 [Victoria's racing industry | vic.gov.au \(www.vic.gov.au\)](http://vic.gov.au)

2 *Racing Victoria Ltd v Riley* (2016) 51 VR 261; [2016] VSCA 230 [1].

3 *Harper v Racing Penalties Appeal Tribunal of Western Australia and another* (1995) 12 WAR 337, 347.

4 See "Policy of the Director of Public Prosecutions for Victoria" - [Annual reports, policies and registers - Office of Public Prosecutions \(opp.vic.gov.au\)](http://annualreports.policiesandregisters.vic.gov.au) (VDPP Policy)

5 See "Prosecution Policy of the Commonwealth, Guidelines for the making of decision in the prosecution process" - [Prosecution Policy | Commonwealth Director of Public Prosecutions \(cdpp.gov.au\)](http://prosecutionpolicy.dpp.gov.au) (CDPP Policy)

6 See, for example - **WorkSafe Victoria** [WorkSafe occupational health and safety compliance and enforcement policy | WorkSafe Victoria](http://worksafevictoria.com.au); **EPA Victoria** [Sanctions | Environment Protection Authority Victoria \(epa.vic.gov.au\)](http://epa.vic.gov.au); [Compliance and enforcement policy | Environment Protection Authority Victoria \(epa.vic.gov.au\)](http://epa.vic.gov.au); **Wage Inspectorate Victoria** [Wage Inspectorate Victoria's compliance and enforcement policy | vic.gov.au \(www.vic.gov.au\)](http://wageinspectorate.vic.gov.au)

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## INVESTIGATIONS

The “Australian Government Investigations Standard” (**the AGIS**)<sup>7</sup> is the Australian Government’s foundational standard for accountability and security for entities conducting investigations relating to the government programs and legislation they administer. Whilst not binding on State entities, it is nonetheless highly instructive.

The AGIS defines an “investigation” (at p.1) as follows:

An investigation can be broadly described as an activity to collect information or evidence to a particular standard of proof related to an alleged, apparent or suspected breach. An investigation gathers information across a broad spectrum to assist entities to determine a course of action, which may also be preventative and/or disruptive action instead of prosecutorial.

In deciding whether to commence investigations (and prosecutions) of integrity matters, controlling bodies must reflect their statutory and strategic mandate in order to uphold the integrity of the VRI.

In doing so, the approach should be risk-based. The predominant approach to regulation in Australia and the OECD is the “risk-based” model. This approach is also recommended by the Victorian Competition and Efficiency Commission (**VCEC**) in its report “Smart regulation: grappling with risk” (April 2015).

**The VRIB therefore recommends that:**

- (a) Controlling bodies establish a risk-based approach to ensuring integrity within the VRI.
- (b) Controlling bodies establish integrity policies, procedures and/or methodologies and make them publicly available on their websites (n.b. controlling bodies do not however need to publish information they believe may be detrimental to the effectiveness of their regulatory operations).

**The VRIB recommends** that the integrity policies, procedures and/or methodologies of the controlling bodies should:

- (a) Be reflective of the statutory mandate and objectives, preferably with a statement of principles underlying the regulatory approach of the controlling body.<sup>8</sup>
- (b) Be risk-based with clear and transparent factors which guide decision-making, with appropriate categorisations of seriousness and possible consequences.<sup>9</sup> Examples of risk-based frameworks include those published by Sport Integrity Australia<sup>10</sup> and EPA Victoria.<sup>11</sup>
- (c) Include reference to publicly available guidance with respect to integrity matters in order to encourage compliance.
- (d) Ensure that they are compliant with all legislative and other requirements.
- (e) Include a statement in relation to the circumstances in which the controlling body may also refer matters for investigation by other relevant agencies/departments, such as Victoria Police.

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<sup>7</sup> Commonwealth of Australia, Australian Federal Police, October 2022. See - [Australian Government Investigations Standards | Attorney-General's Department \(ag.gov.au\)](#)

<sup>8</sup> See, for example, page 5 of WorkSafe Victoria’s “Compliance and Enforcement Policy” - [WorkSafe occupational health and safety compliance and enforcement policy | WorkSafe Victoria](#)

<sup>9</sup> See, for example, Part 3.1 of the AGIS - [Australian Government Investigations Standards | Attorney-General's Department \(ag.gov.au\)](#)

<sup>10</sup> See the “Case categorisation and guidance for sanctions booklet” - [Resources | Sport Integrity Australia](#)

<sup>11</sup> See pages 5-9 of the EPA’s Compliance and Enforcement Policy - [Compliance and enforcement policy | Environment Protection Authority Victoria \(epa.vic.gov.au\)](#)

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## PROSECUTIONS

The prosecution policies of the Victorian DPP (VDPP) and Commonwealth DPP (CDPP) contain a number of key principles and obligations in relation to the decision-making process as to whether prosecutions should be brought. They include the following five principles:

- (i) **Importance** - the decision whether or not to prosecute is the most important step in the prosecution process.<sup>12</sup>
- (ii) **Test** – The decision involves a two-stage test: whether there is a reasonable prospect of conviction and, if so, whether a prosecution would be in the public interest.<sup>13</sup>
- (iii) **Criteria** – There are a number of relevant factors underlying the assessment as to whether there is a reasonable prospect of success<sup>14</sup> and, if there is a reasonable prospect of success, whether a prosecution is in the public interest.<sup>15</sup> The VDPP and CDPP policies include a list of non-exhaustive factors that are relevant to this process.
- (iv) **Improper considerations** – The decision-making process must not be influenced by improper considerations. The VDPP and CDPP policies provide non-exhaustive lists for guidance.<sup>16</sup>
- (v) **Independence and fairness** – Prosecutors act independently from government and have a duty of fairness, including the duty of disclosure.<sup>17</sup>

**The VRIB recommends** that the integrity policies procedures and/or methodologies of the controlling bodies be consistent with, or adopt, the VDPP Policy with respect to the two-stage test and the five key principles, with any modifications as necessary to adapt them to the VRI.

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<sup>12</sup> CDPP policy at p.4, Part 2.2

<sup>13</sup> VDPP Policy at pages 3-5 (paragraphs 1-5) and the CDPP Policy at pages 4-8 (paragraphs 2.1 - 2.27).

<sup>14</sup> VDPP Policy at page 3 (paragraph 2) and the CDPP Policy at pages 4-8 (paragraphs 2.1 - 2.7).

<sup>15</sup> VDPP Policy at pages 3-5 (paragraphs 3-5) and the CDPP Policy at pages 4-5 (paragraphs 2.8 – 2.12)

<sup>16</sup> VDPP Policy at pages 5-6 (paragraph 6) and the CDPP Policy at pages 5-6 (paragraphs 2.13 – 2.14).

<sup>17</sup> VDPP Policy at page 8-11 (paragraphs 13-24) and the CDPP Policy at page 2-4 and page 18 (paragraph 8.1) and the “Statement on Prosecution Disclosure” – see [Statement on Disclosure | Commonwealth Director of Public Prosecutions \(cdpp.gov.au\)](#)

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## VICTORIAN MODEL LITIGANT GUIDELINES

It has long been recognised that it is fundamentally important that the State acts as a “model litigant”.<sup>18</sup> This helps to minimise costs and delays and therefore not only benefits the litigants but the public more generally.

The model litigant duty has been the subject of guidance provided by the Department of Justice and Community Safety Victoria (**DJCS**) by way of its publication “Victorian Model Litigant Guidelines” (**the guidelines**).<sup>19</sup> The guidelines apply to “the State of Victoria, its departments and agencies”.<sup>20</sup>

In essence, the guidelines state that “being a model litigant requires that the State and its agencies, as parties to litigation, act with complete propriety, fairly and in accordance with the highest professional standards”.<sup>21</sup>

Regardless of whether or not the model litigant guidelines are strictly binding on the controlling bodies, the **VRIB recommends** that the controlling bodies give consideration to the guidelines and expressly state so in their integrity policies, procedures and/or methodologies.

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<sup>18</sup> See, for example, *Melbourne Steamship Limited v Moorhead* (1912) 15 CLR 133 at 342; *Kenny v State of South Australia* (1987) 46 SASR 268 at 273; *Yong Qin v The Minister for Immigration and Ethnic Affairs* (1997) 75 FCR 155.

<sup>19</sup> See Note 7 of the [Victorian Model Litigant Guidelines | Department of Justice and Community Safety Victoria \(the Guidelines\)](#); see also the Commonwealth Guidelines (upon which the Victorian Guidelines were based) - [Federal Register of Legislation - Legal Services Directions 2017](#).

<sup>20</sup> See Note 1 of the Guidelines.

<sup>21</sup> See Note 7 of the Guidelines.

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## CONTROLLING BODIES POLICIES

It is expected that each of the controlling bodies will use these standards to update their integrity policies, procedures and/or methodologies. While the VRIB expects alignment with the expectations of these standards, the content of the controlling bodies policies, procedures and/or methodologies remain within their own discretion.

The VRIB will publish these standards and **recommends** that controlling bodies publish this document, and their own prosecution and investigations policies, procedures and/or methodologies, on their respective websites (n.b. controlling bodies do not however need to publish information they believe may be detrimental to the effectiveness of their regulatory operations).

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[www.vic.gov.au/victorian-racing-integrity-board](http://www.vic.gov.au/victorian-racing-integrity-board)

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