DEPARTMENT OF AGRICULTURE, FISHERIES AND FORESTRY

CHAP REVIEW – RACING NSW (RNSW)

2007/2008
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1. EXECUTIVE SUMMARY

1.1 Introduction

On 9 September 2007, the Minister for Agriculture, Fisheries and Forestry, the Honourable Peter McGauran, announced assistance measures for those horse dependent businesses, employees and employers affected by the equine influenza outbreak in Australia.

Commercial Horse Assistance Payments (CHAPs) were provided to primary carers of commercial horses who would otherwise be active and potentially earning an income if not for the equine influenza outbreak and resulting standstill. A per-horse, per-day payment was provided to eligible applicants for the welfare and ongoing training of horses to ensure they remained fit and healthy and could return to normal activity as soon as the standstill was lifted.

Acumen Alliance was engaged by the Department of Agriculture, Fisheries and Forestry to undertake an independent third-party financial and performance audit of each Commercial Horse Assistance Payments (CHAPs) delivery agency. This report has been compiled to provide an assessment of the project delivery by Racing NSW (RNSW) and make recommendations for future improvements.

1.2 Audit Scope

In conducting the third party audit, Acumen Alliance:

- reviewed the delivery agencies’ books, records (including project reports and invoices) and financial statements, including those relating to the receipt, holding, expenditure and commitment of the funding;

- reviewed whether the funding was spent in accordance with the Terms of the Funding Deed with the Department of Agriculture Fisheries and Forestry; and

- examined the efficiency and effectiveness of delivery agencies’ activities in administering CHAPs.

1.3 Conclusion

Overall, Racing NSW successfully implemented the CHAPs program on behalf of the Commonwealth. Opportunities for improvement were identified if Racing NSW were to undertake a similar program in the future.

The main issues identified were an inconsistent appeals process, and various payment arrangements that were outside of the funding deed. These are discussed within the body of the report.
2. BACKGROUND

Racing NSW, established under the *Thoroughbred Racing Act 1996*, is the regulating body for thoroughbred racing in NSW.

NSW is divided into three thoroughbred racing sectors:

- The Provincial Association of NSW (PANSW) comprised five race clubs that surround the Sydney metropolitan area.
- Racing NSW Country comprised of the 100 professional clubs and 37 amateur clubs throughout country NSW.
- Metropolitan Clubs comprised of the four race clubs that hold meets in the Sydney metropolitan area.

CHAPs was administered by RNSW for eligible primary carers whose thoroughbred racing horses were unable to compete in racing, and could otherwise have generated an income from racing, if not for the quarantine restrictions in place.

Racing NSW have advised that up to 15 staff were assigned to the CHAPS program at any one time. This was broken up as follows:

- Call centre – paperwork, calls etc manning a 1800 number funded by Racing NSW – 3 staff
- Approval team – 3 staff
- Finance team – 3 staff
- The Manager Finance and IT and the Manager Regulatory providing oversight
- Other RNSW staff
- As required, temporary staff to help with paperwork.
- Racing NSW systems developers for building a database specifically for CHAPS. This database linked into existing systems for information on prize money and registration details for validation of horse identifications.

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1 Information obtained from the Racing NSW website.
## 3. Compliance with Funding Deed

<table>
<thead>
<tr>
<th>Deed Section</th>
<th>Compliant</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Defined Terms &amp; Interpretation</td>
<td>Not Assessed or Information Only</td>
<td></td>
</tr>
<tr>
<td>2. Project Performance</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>3. Grantee’s Warranties</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>4. Funding Payment</td>
<td>Non Compliant</td>
<td>Amounts were paid outside of the funding guideline. The methods of payments did have ministerial approval.</td>
</tr>
<tr>
<td>5. Use and Banking of Funding Money</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>6. Goods and Services Tax</td>
<td>Not Assessed or Information Only</td>
<td></td>
</tr>
<tr>
<td>7. Accounts and Records</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>8. Reports</td>
<td>Non Complaint</td>
<td>Final Report and Retained fees report had not been submitted at the time of the review. RNSW indicated that delays were due to waiting for a decision from DAFF in regards to unspent retained fees. DAFF have advised RNSW a number of times that they need to pay back the unspent retained fees.</td>
</tr>
<tr>
<td>9. Assets</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>10. Commonwealth Material</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>11. Confidential Information</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>12. Personal Information – Grantee to Comply with Privacy Obligations</td>
<td>Not Assessed or Information Only</td>
<td></td>
</tr>
<tr>
<td>13. Personal Information – Grantee to Comply with Privacy Obligations</td>
<td>Not Assessed or Information Only</td>
<td></td>
</tr>
<tr>
<td>Deed Section</td>
<td>Compliant</td>
<td>Comment</td>
</tr>
<tr>
<td>--------------------------------------</td>
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<td>-------------------------------------------</td>
</tr>
<tr>
<td>14. Indemnity and Insurance</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>15. Conflict of Interest</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>16. Dispute Resolution</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>17. Termination</td>
<td>Compliant</td>
<td></td>
</tr>
<tr>
<td>18. Assignment</td>
<td>Not Assessed or Information Only</td>
<td></td>
</tr>
<tr>
<td>19. No Partnership or Employment</td>
<td>Not Assessed or Information Only</td>
<td></td>
</tr>
<tr>
<td>20. Compliance with Law</td>
<td>Not Assessed or Information Only</td>
<td></td>
</tr>
<tr>
<td>21. Notices</td>
<td>Not Assessed or Information Only</td>
<td></td>
</tr>
<tr>
<td>22. Miscellaneous</td>
<td>Not Assessed or Information Only</td>
<td></td>
</tr>
</tbody>
</table>
4. DISCUSSION POINTS

4.1 Application Process

Summary

- Application forms were readily available to those who required them
- Initial payments were made by RNSW before applications were received
- Applications were assessed against the RNSW database to ensure they were registered and Stewards Stable Audits undertaken to ensure the horses were in work
- RNSW had a number of processes in place to ensure horses were and remained in work including:
  - obtaining lists or numbers from race clubs;
  - stewards specifically being asked to audit specific trainers and their neighbouring trainers; and
  - a state-wide vaccination program that recorded horses in trainer’s Stables that could be cross referenced.
- Statutory declarations were obtained
- Fortnightly ongoing forms were required as well as CHAPs 2 and CHAPs 3 applications where applicable
- Horses were approved outside of the funding guidelines by agreement with the Minister
- Some paperwork was missing due to misfiling

Discussion

Application forms were available to all applicants who required them. The forms were available through:

- The RNSW website
- DPI Website
- DPI Offices
- email, mail, or fax on request
- Race clubs
RNSW received an initial $10m prepayment of CHAPS funding. With this money, RNSW made an initial payment to recipients before applications had been received. The payments were based on Stewards Stable Audits. When the EI outbreak was initially identified, RNSW through their Stewards, obtained from trainers a list of horses that were currently in their stable for work. The Stewards reviewed the reasonableness of this. This check was done before the announcement of CHAPS so therefore there was no financial incentive for trainers to put down extra horses. These lists were used as the basis of the calculation for the first payment. RNSW already had all the trainers bank account details as they put money into their account for prize money.

After this, application forms started to come in. If an individual had received money from the initial payment and had not put in a form, a follow up was done to ensure they put in an application if eligible. Otherwise, RNSW recovered the money if ineligible. Application forms were assessed against records in the RNSW databases and the Stewards Stable audits. Where there were discrepancies, this was followed up. All the required statutory declarations were submitted.

As discussed above, the Stewards Stable Audits were used as a basis to determine if a horse was in work. Going into CHAPs 2 and 3 RNSW had processes in place to ensure horses were in work. The sheer volume of horses did not allow blanket coverage so horses were audited randomly depending on the weight of evidence. Other checks as stated above were in place from RSNW to verify that the horses were in work.

RNSW did require all applicants to resubmit fortnightly forms as per the funding guidelines. RNSW broke the various CHAPs phases into periods of 14 days and required a form for each period. In some instances, these periods weren’t exactly 14 days given the dates involved. RNSW also required applicants to fill in a CHAPs 2 application form and for new horses in CHAPs 2, the required statutory declarations. Again with CHAPs 3, a CHAPs 3 form and statutory declaration were required for all horses. In the sample reviewed, all horses who received CHAPs 3 funding were in the correct zone.

**Issues**

**Horses Approved Outside of the Funding Guidelines**

A requirement of receiving CHAPS funding was that the owner (or primary owner) had liquid assets of under $300,000. The owner was required to complete a statutory declaration to confirm this. Some horses assessed did not have this statutory declaration. As per the funding guidelines, this should have made the horse ineligible. However RNSW paid the trainer 30% of the daily rate. For instance, for a country horse the daily rate was $40 a day. In these instances $12 a day was paid. A 70-30 split for the owner and trainer was set out by RNSW and it was determined that although the owner was ineligible, the trainer should still receive funding so therefore they still received their 30%. Approximately $280,000 was paid to trainers under these arrangements.

There was a further example of monies being paid outside of the funding guidelines. RNSW paid a rate of $30 per day to owners for horses that were in pre-training. These were horses
that were not in the stables of a registered trainer but were out with a non-registered trainer doing some pre-training work. A rate of $30 per day was not in the funding guidelines and all horses were to be in work with a registered trainer. The $30 was calculated based on owners receiving $28 a day (70%) for country horses and rounding up. $1.2m was paid out under these arrangements.

In both these situations, the Minister approved these arrangements and meeting minutes were made available.

**PAPERWORK MISSING**

Through the testing process, some paperwork such as application forms could not be located. Due to the large volume of application forms received, there was a considerable amount of paperwork at the RNSW office in regards to CHAPs. The missing forms were put down to misfiling as apposed to forms not being submitted.
4.2 Payment Process

Summary

- Payments were calculated using a system developed by RNSW
- RNSW invoiced DAFF based on estimations as apposed to approved applications
- The estimations were based on the funding guidelines rates and did not include estimations for the rates paid outside of the funding guidelines
- Some overpayments were identified by RNSW which were confirmed during the testing process
- Some further incorrect payments (over and under) were identified in testing but these were minor
- Payments in the CHAPS system were confirmed to the bank account information
- RNSW, in agreement with the Minister, determined that trainers should receive 30% and owners 70%
- The agreed process for taking off prize money was adhered to
- Prize money information was automatically uploaded from the Stakes system to the CHAPS system

Discussion

To administer the CHAPS program, RNSW developed a SQL database with a web-based front end to process CHAPS payments. Initially payments were made based on estimations from the Stewards Stable Audits. In some instances, there were variances between the steward’s stable audits and the approved horses. Therefore, there were some adjustments to subsequent payments in these instances. The information in the CHAPS program was confirmed to actual approved applications. Audit then reviewed actual payments made. In some instances, there were some minor variances but these had already been identified by RNSW.

RNSW prescribed that 70% of the CHAPS fee was to go to the owner and 30% to the trainer. The full amount was paid to the trainer and it was up to the trainer to pass this money onto the owner. There were some complaints received by owners that they had not received their funding but this was resolved by RNSW.

RNSW, as per the funding guidelines, took prize money off by reducing both the owners and the trainers eligible CHAPS payment by one of two methods:

- If the prize money was equal to or exceeded the maximum remaining CHAP payment, assistance was no longer paid for that horse.
If the prize money was less than the maximum remaining CHAP payment, the payment for that fortnight was reduced by the amount of prize money won. If the prize money was greater than the fortnightly payment, they would only miss out on that fortnight’s payment. Further fortnightly payments would not be affected.

This formula meant that in some instances the owner would no longer be eligible for CHAPs payment in that phase but the trainer would continue to receive his 30%. Prize money details were automatically uploaded into the CHAPs system from the RNSW Stakes system. A sample of prize money details in the CHAPs system was reviewed against actual race results and found to be accurate. Furthermore it was found that prize money was taken off CHAPs payments correctly as per the funding guidelines.

**Issues**

**Invoices to DAFF Were Estimations**

RNSW had a different arrangement to other agencies involved in the CHAPs program. Other agencies were required to invoice DAFF based on actual approved applications. In effect the process was:

- Applications received and approved
- Payment calculated based on approved applications
- DAFF invoiced for the total amount
- DAFF made payment to agency
- Agency make payments to applicants

Racing NSW had a different arrangement in place. Initially they received a $10m prepayment and after this sent in invoices as and when they required money as apposed to actual applications. Information was sent to DAFF with invoices about the number of eligible horses, but these were estimations only.

**Estimations Were Based on Rates in Guidelines**

The estimations used for the invoices to DAFF were based on the rates in the guidelines. As discussed earlier, RNSW paid amounts outside the guidelines. Therefore, as a result of the estimation process itself and estimating based on full rates rather than actual rates used in some instances, DAFF have paid RNSW more than what has been passed onto recipients. RNSW has indicated the overpayments from DAFF are intended to be returned to DAFF as part of the final calculation process and acquittal process.
4.3 Unsuccessful Applications

Summary

- Unsuccessful applications were notified by letter
- Rejection reason were consistent with the guidelines

Discussion

When horses were rejected a letter was sent out to the applicant indicating why the horse(s) were rejected and details on how they could appeal. NSW Racing rejected approximately 1090 applications across the three funding rounds. A sample of rejections were reviewed and the rejection reasons were consistent with the funding guidelines.
4.4 Site Visits

Summary

- Site visits were conducted based on tip offs or suspicion
- If a specific site visit was done on an applicant, Stewards would visit other recipients in the area
- When stewards were visiting sites to do vaccinations, they would take CHAPs details with them to check
- Details on discrepancies identified were handled in house through Stewards Enquiries and not passed onto DAFF or the AFP unless fraud was identified.

Discussion

RNSW utilised their Stewards to do spot checks for the CHAPS program. The stewards did conduct some spot checks of stables based on tip offs or suspicions. When this occurred, the stewards made an effort to visit other properties in the region. Stewards were also visiting stables as part of the vaccination process. When this occurred they would take CHAPS details with them to do a cross reference.

Issue

DISCREPANCIES HANDLED IN HOUSE

Through a tip off and subsequent investigation it was found that a trainer had been claiming for a horse that was not in his care. RNSW did notify Acumen Alliance about this when we arrived to conduct the review but had not previously notified DAFF or the AFP. This event and subsequent stewards enquiry was very recent to the audit visit. The matter was handled through a Stewards enquiry and the trainer was subsequently suspended for three months and ordered to pay the money back.
4.5 Appeals Process

Summary

- An appeals process was put in place with an appeals board who were segregated from those actively involved in the process
- A large number of rejections were appealed
- In some instances, appeals were upheld which were inconsistent with the funding guidelines

Discussion

Applicants were informed when they received their rejection letters that they could appeal and had 28 days to do so. There was no specific appeal form or template so most were received by written letter. Most of the 1090 rejected applicants appealed. Of these, 391 were successful. An appeals board was set up and those that sat on the appeals board were separate to those actively involved in the application process. Some appeals were upheld because further information was provided in the appeal that was not available in the original application.

Issue

**Appeal Decision Inconsistent with the Funding Guidelines**

The review identified three appeals decisions that were upheld that were inconsistent with the funding guidelines. The circumstances were:

- One horse would not work on a track so therefore was in work on a property rather than in the stables. It seems unlikely that a horse that will not work on a track will race.
- Two horses where the appeals board agreed to pay at the $30 pre-trainer rate. These horses were not in work with a registered trainer.
- One horse was in hospital with an injury and then got EI whilst in hospital. The horse was never in work at the time of the lock down

RNSW stated that decisions to approve and the general assessment of appeals were within the guidelines, and that some flexibility was required relying on industry expertise. For example, the definition of a Commercial horse is somewhat subjective, as was assessment of ‘in-training’ as non racecourse venues are sometimes used in preparing a horse for racing.
4.6 Reporting

Summary

- RNSW provided reporting with invoices but the reports were based on estimations and not actual applicants.
- The final report and the retained fees report had not been provided at the time of the review.

Discussion

As discussed previously, RNSW did submit a report with their invoices but these were based on estimations and not actual applications. These reports contained all the required information.

Issue

Reports not Submitted

At the time of the review RNSW had not submitted their final report or the retained fees report. This has been delayed due to final determination of payment of retention monies to trainers. DAFF have advised Racing NSW a number of times that they need to pay back the unspent retained fees.
4.7 Quality Assurance

Summary

- An independent QA process was not in place
- Each application was approved by a separate person to who assessed the application
- A process has been undertaken to assess payments made against eligible entitlements. This has identified some overpayments

Discussion

RNSW did not have an independent QA process but did have some QA processes in place such as:

- Each application was reviewed and approved by the Manager Regulatory who was independent of the assessment process.
- Actual payments made to each applicant were assessed against the total amount entitled. Some variance were identified which were confirmed during the review.
4.8 Retained Fees

Summary

- RNSW retained fees of $10 per horse per day as agreed with DAFF
- These were paid as per the guidelines
- RNSW are intending to distribute unspent retained fees to the applicants rather than return them back to DAFF
- RNSW are in negotiation with DAFF to obtain retained fees for CHAPS 3. DAFF have advised Racing NSW a number of times that they need to pay back the unspent retained fees.

Discussion

RNSW did retain fees at the rate of $10 per day per horse. This was agreed with DAFF and the money would be spent as per the funding guidelines. The application process varied depending on the component to which retained funds were being applied. Some assistance payments were calculated automatically by RNSW based on information contained in their database. Supplements to jockeys, insurance costs and video operators are an example of this. Other payments were based on an application form provided to the applicants. This included equine transport, stud farms and breeders skills retention.

There were instances of groups seeking financial support. RNSW considered these on their merits.

The table below was provided by RNSW and indicates how the money was allocated:

<table>
<thead>
<tr>
<th>Funds Disbursed</th>
<th>Activity</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,263,220</td>
<td>Subsidy paid to licensed Jockeys and Apprentice Jockeys at 70% of their estimated average weekly race and trial ride fees, less ride fees paid where racing occurred during the EI period. Contributions to jockeys superannuation fund and jockeys career benefit scheme for participating riders.</td>
<td>Maintained the riding skill base in NSW</td>
</tr>
<tr>
<td>-$252,577</td>
<td>As above, but funded by NSW Government</td>
<td></td>
</tr>
<tr>
<td>Funds Disbursed</td>
<td>Activity</td>
<td>Outcome</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>$90,400</td>
<td>Payments to small businesses servicing the racing industry providing pictures for broadcast. Support was in the form of $600 per camera operator for the first 16 weeks after the outbreak of EI.</td>
<td>Maintained the required industry skills retaining camera operators and along with business assistance grants the small businesses of video operators. This ensured that operators were available to provide pictures for broadcast and integrity purposes on resumption of racing.</td>
</tr>
<tr>
<td>$526,612</td>
<td>Payments to equine transport companies specialising in thoroughbred work. Support payments were in the amount of $600 per driver per week over 24 weeks less a $10,000 threshold for two Business Assistance Grants.</td>
<td>Maintained the skill base of equine transport drivers and, along with business assistance grants, the small businesses of transport operators. This ensured that operators were available to provide transport of racehorses as travel bans were lifted.</td>
</tr>
<tr>
<td>$30,000</td>
<td>Wage support payments to jockeys agents based on the number of riders the agent represents. Payments carried through the first 14 weeks of the EI crisis.</td>
<td>Ensured this niche skill was maintained.</td>
</tr>
<tr>
<td>$9,200</td>
<td>Wage supplement for operators of the equine pool at Broadmeadow racecourse. The support was provided for sixteen weeks of the EI period.</td>
<td>Maintain the operation of the equine pool at Broadmeadow racecourse (Newcastle) which services NSW’s largest single racehorse population.</td>
</tr>
<tr>
<td>$15,000</td>
<td>A wage supplement of $250/wk for apprentices employed by Master Farriers over 12 weeks.</td>
<td>Maintained skill base by ensuring the continued employment of apprentice farriers.</td>
</tr>
<tr>
<td>$59,739</td>
<td>Wage support payments to trainers unable to claim CHAP or other skilled employees in the racing industry impacted by EI. Wages were based on actual payments to stable staff or reasonable estimates of lost earnings for persons ineligible to access other EI assistance (BAG, wage supplement).</td>
<td>Ensured employment was maintained and that racing related skills retained.</td>
</tr>
</tbody>
</table>
### Purpose and Expenditure of Retained Funds

<table>
<thead>
<tr>
<th>Funds Disbursed</th>
<th>Activity</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,822,504</td>
<td>Wage and salary costs of specialist track and racing staff employed in the NSW racing industry. These payments were made to retain these staff while racing was dormant and the costs met being for the period from the outbreak of EI until the commencement of open race meetings at each venue.</td>
<td>Ensured the employment was maintained and skills specific and important to racing and race clubs were retained.</td>
</tr>
<tr>
<td>$668,367</td>
<td>Public liability insurance premiums for trainers, jockeys and race clubs. Group personal accident policy for jockeys through their Association. Payments are pro-rated for the CHAP retained funds period against the full year expense (168/366 days).</td>
<td>Ensured public liability insurance coverage was fully maintained.</td>
</tr>
<tr>
<td>$3,536,704</td>
<td>Workers compensation insurance premiums for trainers, jockeys and race clubs. Payments are pro-rated for the CHAP retained funds period against the full year expense (168/366 days).</td>
<td>Ensured workers compensation insurance coverage was fully maintained.</td>
</tr>
<tr>
<td>$99,000</td>
<td>One off grants to studs in red and amber zones to underpin their viability. Grants based on the number of employees engaged in equine husbandry and care. The hub of the NSW breeding industry in the NSW Hunter Valley was excluded from this support as the creation of the purple zone facilitated horse movement to facilitate matings in 2007.</td>
<td>Maintain the equine husbandry skills on studs in regions most severely affected by EI.</td>
</tr>
<tr>
<td>$162,500</td>
<td>One off grants for breeders to underpin their involvement in breeding and relevant skills where the breeder’s mares were stranded away from their home property.</td>
<td>Maintain the equine husbandry skills in breeding of thoroughbreds.</td>
</tr>
<tr>
<td>$9,030,669</td>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>

These payments are consistent with supporting documentation provided and were spent in accordance with the funding guidelines.
Certain applications for retained funds were rejected by RNSW. These include:

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Reason for non-support</th>
</tr>
</thead>
<tbody>
<tr>
<td>Feed and supplement suppliers</td>
<td>Not at complete standstill. Application not for wages or related costs aimed at skill retention.</td>
</tr>
<tr>
<td>International racehorse transporters.</td>
<td>Transporters of racehorses to overseas. Not a key outcome for the NSW racing industry.</td>
</tr>
<tr>
<td>Magazine publishers.</td>
<td>Publishers of racing/breeding magazine. Not a key skill to be retained in the NSW racing industry.</td>
</tr>
<tr>
<td>Skills retention applications from interstate breeders.</td>
<td>Advised by DAFF to decline applications.</td>
</tr>
<tr>
<td>Retention payment for stable ground staff.</td>
<td>Declined by DAFF.</td>
</tr>
<tr>
<td>Clerks of Courses Horses</td>
<td>Not commercial horses. Skills unlikely to be lost to industry and applicants received funding through EFA-NSW as non racing commercial horses.</td>
</tr>
</tbody>
</table>

**Issue**

**PASSING RETAINED FEES BACK TO TRAINERS**

RNSW have not spent all the retained fees. Once they have done the final calculations, their intention is to distribute the left over funds out to the trainers and through them the Owners. This is not consistent with the funding guidelines and DAFF have advised Racing NSW a number of times that they need to pay back the unspent retained fees.