

SUPREME COURT OF QUEENSLAND

CITATION: *Queensland Racing Integrity Commission v Queensland Racing Appeals Panel (No 2)* [2026] QSC 178

PARTIES: **QUEENSLAND RACING INTEGRITY COMMISSION**
(applicant)
v
QUEENSLAND RACING APPEALS PANEL
(first respondent)
and
CHAD SCHOFIELD
(second respondent)

FILE NO/S: BS No. 591 of 2025

DIVISION: Trial Division

PROCEEDING: Application for a statutory order of review

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 24 July 2026

DELIVERED AT: Brisbane

HEARING DATE: Written submissions on costs from the applicant dated 13 July 2026 and from the first respondent dated 20 July 2026

JUDGE: Burns SJA

ORDER: **THE ORDER OF THE COURT IS THAT the applicant pay the first respondent's costs of the application, to be assessed on the standard basis if not agreed.**

CATCHWORDS: PROCEDURE – CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS – COSTS – DEPRIVING SUCCESSFUL PARTY OF COSTS – NATURE OF PROCEEDING – PUBLIC INTEREST OR DUTY – where an application for a statutory order of review was dismissed – where the first respondent sought its costs – where the applicant sought no order as to costs – where the applicant contended the proceeding was public interest litigation raising a novel question of statutory construction – whether costs should follow the event

Uniform Civil Procedure Rules 1999 (Qld), r 681

Courtney v Chalfen [2021] QCA 25, cited
Huon Aquaculture Group Ltd v Minister for the Environment (No 2) [2018] FCA 1938, cited
Northern Territory v Sangare (2019) 265 CLR 164, applied
Oshlack v Richmond River Council (1998) 193 CLR 72, considered

R v Australian Broadcasting Tribunal; Ex parte Hardiman (1980) 144 CLR 13, cited
Sharples v Council of the Queensland Law Society Inc [2000] QSC 392, cited
The Australian Institute for Progress Ltd v The Electoral Commission of Queensland (No 2) [2020] QSC 174, applied

COUNSEL: A Turner (sol) for the applicant
 E L Hoiberg for the first respondent

SOLICITORS: Queensland Racing Integrity Commission for the applicant
 Clayton Utz for the first respondent

- [1] On 15 June 2026, I dismissed an application by the applicant, the Queensland Racing Integrity Commission, for a statutory order of review of a decision of the first respondent, the Queensland Racing Appeals Panel.¹ Directions were then made for the exchange of submissions on the question of costs. Written submissions have since been filed by the Commission and by the Panel.²
- [2] The Commission seeks an order that each party bears its own costs. It contended its application raised a novel, previously unresolved and genuinely arguable question concerning the proper construction of Part 4 of the *Racing Integrity Act 2016* (Qld), that the application was brought in the discharge of its statutory responsibilities rather than for any private advantage, and that the judgment provides guidance of ongoing significance for the Act's administration. On that basis, it was submitted the justice of the case is best served by each party bearing its own costs.
- [3] The Panel, on the other hand, seeks an order that the Commission pay its costs of the application, to be assessed on the standard basis if not agreed. It relied on the general rule that costs ordinarily follow the event³ along with the associated principle that special or exceptional circumstances are required to deprive a wholly successful party of its costs.⁴ It was further submitted that the Commission's interest in the outcome was not in truth that of a disinterested public interest litigant. Instead, it argued, the Commission was a party to the review before the Panel, it was the Commission's own stewards' decision that the Panel set aside, and the Commission unsuccessfully contended before this court that the Panel's approach to that decision was legally wrong.
- [4] Although a successful party is generally entitled to a costs order, the discretion to order otherwise is broad. It is nevertheless a discretion which must be exercised judicially, with its purpose being compensatory, not punitive.⁵ Something more than the fact that a proceeding may loosely be described as raising a matter of public interest is ordinarily required. Indeed, most proceedings in this court's administrative law jurisdiction touch on the public interest in some sense, and that will hardly ever

¹ *Queensland Racing Integrity Commission v Queensland Racing Appeals Panel* [2026] QSC 65.

² The second respondent, Mr Schofield, took no part in the substantive application and has taken no part in the costs argument.

³ *Uniform Civil Procedure Rules 1999* (Qld), r 681.

⁴ *Courtney v Chalfen* [2021] QCA 25, [4]-[5].

⁵ *Northern Territory v Sangare* (2019) 265 CLR 164, [24]-[25].

be sufficient to move the case away from an application of the general rule.⁶

- [5] I accept that the application raised a question of some novelty and general importance to the administration of the *Racing Integrity Act*, and that the Commission's construction, though ultimately rejected, was properly arguable.⁷ However, that does not distinguish this case from the many cases of the kind considered by Applegarth J in *The Australian Institute for Progress Ltd v The Electoral Commission of Queensland (No 2)*⁸ in which a public body brought an application to resolve uncertainty about the scope of its own, or another body's, statutory functions within the same scheme. That is a common feature of such applications, not an exceptional one, and it cannot by itself found a departure from the ordinary rule.⁹
- [6] Nor do the Commission's remaining points, taken separately, help its argument. That its construction was arguable is not itself a special or exceptional circumstance.¹⁰ Nor does it assist that the judgment provides guidance for the future administration of the *Racing Integrity Act*. A public benefit in clarifying the law is not, of itself, sufficient ground to deny a successful party its costs.¹¹ After all, clarification is the ordinary by-product of any judgment resolving a genuinely contested question of construction, and it was, in any event, a by-product here of the Commission's unsuccessful pursuit of its own construction rather than an independent object of the proceeding.
- [7] Nor can it be said, in the sense that mattered in *Oshlack v Richmond River Council*,¹² that the Commission had nothing personal to gain. It was a party to the review before the Panel, and it was the decision of its own stewards that the Panel set aside. Its interest in the outcome was therefore real and direct, notwithstanding that it also, legitimately, sought guidance on the proper construction of the Panel's powers.
- [8] For completeness, I do not overlook the feature that the Panel's participation was confined, in conformity with the principles expressed in *R v Australian Broadcasting Tribunal; Ex parte Hardiman*,¹³ to matters bearing on the true nature of the review power, not the merits of the decision concerning Mr Schofield. That restraint does not disentitle the Panel to its costs because, absent an active contradictor, its submissions were necessary for a properly balanced argument.¹⁴
- [9] For these reasons, the matters relied on by the Commission do not amount to special or exceptional circumstances of the kind required to displace the ordinary rule. The Panel, having wholly succeeded in defending the application, should have its costs. It will be ordered that the Commission pay the Panel's costs of the application, to be assessed on the standard basis if not agreed.

⁶ See *Sharples v Council of the Queensland Law Society Inc* [2000] QSC 392, [30]; *Oshlack v Richmond River Council* (1998) 193 CLR 72, [71] (McHugh J dissenting).

⁷ *Queensland Racing Integrity Commission v Queensland Racing Appeals Panel* [2026] QSC 65, [23]-[33].

⁸ [2020] QSC 174.

⁹ *Australian Institute for Progress*, [47].

¹⁰ *Ibid*, [31].

¹¹ *Ibid*, [42], [48].

¹² (1998) 193 CLR 72, [46]-[49].

¹³ (1980) 144 CLR 13, 35-36.

¹⁴ See *Huon Aquaculture Group Ltd v Minister for the Environment (No 2)* [2018] FCA 1938, [54].