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REPORT TO: Members' Library Service

MEETING DATE:

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Governance Review - Musselburgh Racecourse

1 PURPOSE

- 1.1 To report on the interim measures approved by East Lothian Council to set up an associated committee of the Council.

2 RECOMMENDATIONS

- 2.1 To note the measures taken to set up the Musselburgh Racing Associated Committee.

3 BACKGROUND

- 3.1 The governance arrangements of the MJRC are regulated by a Minute of Agreement between the LRS and the Council. However, it has been acknowledged by both the Council and LRS that the current arrangements cannot continue. The Council wishes to continue working with the LRS in order to find a suitable resolution which will protect racing at Musselburgh.
- 3.2 On 7 July 2017 the BHA Board granted a temporary licence to the MJRC in respect of Musselburgh Racecourse, which was subject to a number of conditions agreed between the BHA, MJRC and East Lothian Council, including that an independent governance review of the MJRC would be conducted and its recommendations implemented by 7 April 2018. The temporary licence expired on 31 December 2017.
- 3.3 In October 2017 Pinsent Masons LLP (a legal firm) were appointed jointly by the Council and LRS to carry out the independent governance review, as

required by the BHA. Pinsent Masons LLP concluded their governance review in December 2017.

- 3.4 The BHA Board issued a further temporary licence with further conditions, which expires on 7 April 2018. The conditions were that the Council would keep the BHA fully apprised of the progress of the implementation of the review recommendations, and that implementation would be substantially complete by 7 April 2018. On or prior to the expiry of the temporary licence, the BHA Board will consider the progress made in relation to implementation in order to determine whether it is in the best interest of the Racecourse and the wider sport to issue/extend the licence for a further period.
- 3.5 At its meeting on 27 February 2018, the Council took steps to implement one of the new governance structures presented in the governance review, which would comply with the terms of the current temporary licence issued by the BHA. The recommendations approved by the Council at that meeting are set out below. These steps have now constituted the Musselburgh Racing Associated Committee (“MRAC”).

The Council:

- approved the termination of the Minute of Agreement between Lothians Racing Syndicate Limited and East Lothian Council
- approved the new Scheme of Administration (attached at Appendix 1) as an interim measure to reconstitute the Musselburgh Joint Racing Committee (“MJRC”) as an associated committee of the Council (“MRAC”) with six representatives comprising four councillors (Councillors Stuart Currie, Andrew Forrest, Katie Mackie and Fiona O’Donnell) and two individuals with racing expertise.
- approved the appointment to the MRAC of two individuals with racing expertise, to be nominated by the LRS, with nominations to be submitted prior to 10 March 2018; failing receipt of such nominations, the Council instructed the Chief Executive to advertise for suitable individuals.
- delegated authority to the MRAC to set up a sub-committee with a membership which has individuals with the appropriate mix of skills for the operation of the Racecourse, and that this sub-committee would report back to the MRAC.
- approved the delegated authority (as set out in Appendix 2) to the Racecourse General Manager, noting that such delegation would only be implemented at the point at which Racecourse employees transfer to the employment of the Council.
- agreed that the Depute Chief Executive (Resources and People Services) and the Service Manager - Legal and Procurement would report back to the Council with recommendations on the way forward as to the operation of the Racecourse on a permanent basis, which would be based on an analysis of the merits of continuing with the approved interim option, setting up and progressing with an ALEO, or procuring a third-party operator.

- 3.6 The MRAC shall have strategy oversight and authority in relation to the running of the Racecourse. This Associated Committee shall take over the role of the MJRC and shall look to form a suitable sub-committee with appropriate representation of individuals with a suitable skills mix who will assist in the overall operation of the Racecourse.

4 POLICY IMPLICATIONS

- 4.1 The Council is permitted to operate the Racecourse in terms of the East Lothian District Council (Musselburgh Links, etc.) Order Confirmation Act 1985. There are therefore no policy implications arising from this report.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – at present the Council receives rental from the Racecourse, a proportion of which is paid to the Common Good Fund. This arrangement shall be reviewed.
- 6.2 Personnel – there will be no direct impact on the day-to-day operation of the Racecourse.

By bringing the Racecourse in-house there will be additional resource implications on Committee Services, Human Resources and Procurement.

The full extent of these and other resource implications are not fully known as yet and may depend on business demands.

- 6.3 Other – none at this time.

7 BACKGROUND PAPERS

- 7.1 Private report to Council on 19 December 2017 – Musselburgh Joint Racing Committee: Governance Review
- 7.2 Private report to Council on 27 February 2018 – Governance Review: Musselburgh Racecourse

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DATE	8 March 2018

Appendix 1

Scheme of Administration

Musselburgh Racing Associated Committee

A Remit and Powers

To act in accordance with the relevant policies and procedures of East Lothian Council in force and as may be amended from time to time.

To provide, organise, safeguard, maintain, develop and improve, or assist in the provision, organisation, safeguarding, maintenance, development and improvement of horseracing and facilities for horseracing at Musselburgh Links and the adjoining reclaimed land, to manage and organise horseracing on that land, and to carry out other related and ancillary functions, as appropriate, including:

1. to agree a strategy for the operation of Musselburgh Racecourse and to monitor progress and regularly review and update the strategy as and when required but no more than once in any 12-month period, except in the case of emergencies;
2. to propose an annual budget for the Racecourse on or before 31 December in any year and to monitor progress against such budget, which will form part of the Council's overall budget-setting process;
3. to maximise the use of Racecourse infrastructure and associated income, except where this would detract from or interfere with the operation of the Racecourse for its primary purpose or contravene Common Good restrictions;
4. to approve any substantial alteration in, or addition to, the nature of activities undertaken at the Racecourse, in particular where such change is outside of the agreed overall strategy set by the Committee;
5. to approve and make arrangements for carrying out improvements to land managed by the Committee and for general maintenance and upkeep of the land and buildings, stands, rails, posts, fences and other apparatus erected on the land;
6. to approve any individual capital expenditure relating to the Racecourse;
7. to approve the disposal of any moveable assets associated directly with the Racecourse;
8. to approve any supplier contract of more than 12 months duration;

9. to determine dates of race meetings to be held at Musselburgh Racecourse (subject to the approval of British Horse Racing Authority);
10. to determine prize money amounts to be paid in respect of racing events at Musselburgh Racecourse;
11. to monitor the collection of income and the disbursement of expenditure in connection with race meetings;
12. to determine admission and parking charges on land under the control of the Committee at times when race meetings are held;
13. to monitor arrangements for the provision of catering, the letting and hiring of sales stances and the display of advertisements within the enclosure and for general publicity;
14. to establish a sub-committee of the Musselburgh Racing Associated Committee:
 - i. The Musselburgh Racing Associated Committee may establish a sub-committee, which subject to such limitations as it may impose, delegate or refer to such sub-committee, any of the functions delegated to the Musselburgh Racing Associated Committee under this Scheme of Administration, save that the MRAC shall remain responsible for the overall strategy of the Racecourse.
 - ii. Such sub-committee shall comprise individuals with the appropriate mix of skills for the operation of the Racecourse. These individuals do not require to be part of the Musselburgh Racing Associated Committee. The Musselburgh Racing Associated Committee shall appoint the convener of any sub-committee appointed under this paragraph.
 - iii. Decisions made by the Musselburgh Racing Associated Committee and any sub-committee established by it shall be made in accordance with the powers established within this Scheme of Administration and with due consideration of the Sport Scotland SBG Governance Framework.
15. to review the delegated authority to the General Manager of Musselburgh Racecourse and update and revise such delegated authority as required. The Musselburgh Racing Associated Committee shall be obliged to report any changes to the next East Lothian Council meeting for noting;
16. to approve press releases and announcements in the name of the Musselburgh Racing Associated Committee relating to matters determined by the Committee.

B Membership

1. The membership of the Musselburgh Racing Associated Committee shall comprise 4 Councillors and 2 independent members with knowledge and experience of the racing industry appointed by the Council. The Convener of the Committee requires to be a Council representative and will be appointed by the Council. The Council shall determine the councillor membership of the Musselburgh Racing Associated Committee. In appointing councillors to the Committee, the Council shall seek to achieve political balance. In the event that this cannot be achieved, the Council may adjust the membership of the Committee by way of appointing members of any political group/independent councillors to the vacant places.

C Quorum

1. Three members, which require to be Council representatives

D Substitutes

1. There shall be no substitutes.

E Meetings

1. Meetings shall be called by the Chief Executive of the Council. The notice shall specify the agenda for the meeting and shall be accompanied by the reports to be discussed at the meeting.
2. The agenda shall, whenever possible, be issued seven days prior to the meeting.
3. Meetings of the Musselburgh Racing Associated Committee will, where appropriate, be held in public.
4. In the event of a tied vote, the Convener will have a casting vote.
5. In the absence of the Convener at a meeting, the Council members of the Committee will nominate a substitute Convener from among the remaining Council members present.

F Reporting Arrangements

1. An official of the Council shall be responsible for taking minutes of the meetings of the Musselburgh Racing Associated Committee.
2. Minutes shall be presented to the Musselburgh Racing Associated Committee for approval.

G Miscellaneous

1. The remit and powers of the Committee shall not be amended without the agreement of at least five of the members of the Committee. Any such amendment shall also require the approval of the Council.

Appendix 2

Delegated Authority to General Manager of the Musselburgh Racecourse ("Racecourse General Manager")

The Racecourse General Manager is responsible for executive and operational management matters within the overall strategy and delegated authority set by the Musselburgh Racing Associated Committee.

In that context the key responsibilities of the Racecourse General Manager are set out below.

1. To act in accordance with the relevant policies and procedures of East Lothian Council in force and as may be amended from time to time;
2. To develop and propose strategy, business plans and annual budgets to the Committee;
3. To provide leadership to the staff in pursuit of the strategy and business plans;
4. To keep the financial and operational performance under regular review and ensure that remedial action is taken where required;
5. To agree terms and conditions of supplier contracts within a general framework determined by the Committee;
6. To prepare an annual statement of conditions of the Racecourse infrastructure and recommendations for maintenance and/or additions; this to be completed by the end of the calendar year for consideration by the Committee;
7. To maintain and promote an effective system of risk management, including ensuring that there remains appropriate and adequate insurance coverage in place;
8. To ensure the effective implementation of decisions made by the Musselburgh Racing Associated Committee or of its sub-committee;
9. To ensure that operations at the Racecourse are always carried out in compliance with all relevant legislation, in particular applying to the Common Good and public sector legislation;

10. To be responsible for the entertainment of Racecourse guests and VIPs, which shall include but not be limited to the following:
 - British Horseracing Authority local stewards
 - Owners
 - Trainers
 - Leisure/racing industry trade association representatives
 - Racing industry officials
 - VIPs from any customer supply/groups or similar
 - Sponsors
 - Media

11. To represent the Council as the operator of the Musselburgh Racecourse at social events, which includes but is not limited to the following:
 - Opening ceremonies
 - Dinners
 - Functions
 - Racecourse visits

12. To represent the Council as the operator of the Musselburgh Racecourse at leisure/racing industry level, which includes but is not limited to the following:
 - the Racecourse Association
 - the British Horseracing Authority
 - the Horseracing Betting Levy Board
 - the Tote
 - as Director on the Board of Scottish Racing Limited (if appointed)
 - relevant industry committees

13. To ensure the safe delivery of racing events at the Racecourse; this shall include but shall not be limited to the following (in the interest of public safety):
 - Abandoning the race meeting
 - Early closure of the bars and food outlets
 - Evacuating all, or parts of, the Racecourse

14. To report to the Musselburgh Racing Associated Committee or its sub-committees (as appropriate) either directly or through the relevant convener, and ensure that the committees are aware of any important racecourse issues.

Please note that this delegated authority shall not be in force until the General Manager of the Musselburgh Racecourse has formally transferred to the Council.