



**MINUTES OF THE MEETING OF
MUSSELBURGH RACING ASSOCIATED COMMITTEE**

**TUESDAY 18 DECEMBER 2018
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor F O'Donnell (Chair)
Councillor A Forrest
Councillor K Mackie
Councillor S Currie (Items 1- 7)
Mr R Miller-Bakewell
Mr R Anderson Green

In Attendance:

Mr B Farnsworth, Racecourse General Manager
Ms S Montgomery, Racecourse Commercial Manager
Mr D Kennedy, Racecourse Financial Controller
Mr A McCrorie, Depute Chief Executive (Resources and People Services), ELC
Mr C Grilli, Service Manager, Legal and Procurement, ELC
Mr S Allan, Senior Auditor, ELC (Item 7)

Clerk:

Mrs F Stewart

Apologies

None

Declarations of Interest

None

At the outset of the meeting, although not on the agenda, Mr Ray Anderson Green chose to read from a prepared statement on the Working Group progress to date and issued copies to Committee members and the press. In his statement, Mr Anderson Green stated that the Lothians Racing Syndicate (LRS) was concerned at the delay in issuing the tender documents for a new operator for the Racecourse and the associated legal costs incurred. The LRS was also concerned that there was no date set for the Working Group to meet in January. Mr Anderson Green stated that legal costs had now reached £300,000 which he described as excessive, and he stated that it was unacceptable for all legal fees to be paid from Racecourse funds.

1. APOLOGIES

There were no apologies.

2. MINUTE OF MEETING ON 18 SEPTEMBER 2018 FOR APPROVAL

Robert Miller-Bakewell pointed out that the Owners and Trainers Association quoted in Item 6 (Commercial and Operations report) is two separate organisations; the Racehorse Owners Association and the National Trainers Federation.

Mr Robert-Bakewell stated that not all of the questions he raised in relation to the MRAC Working Group Update (Item 7) were included in the minute. Specifically, he had asked a) if the Committee would receive copies of Pinsent Masons invoices, b) if the Racecourse was responsible for paying all of Pinsent Masons invoices and c) what the final cost of the fees would be. [Post meeting note – Mr Grilli advised later in the meeting that he had forwarded copies of the invoices to the General Manager for issuing to members of the Committee. On checking her notes, the Clerk had recorded Mr Grilli stating that the Racecourse was responsible for paying the Pinsent Masons invoices in full. On being asked if he knew what the projection for costs would be, Mr Grilli had replied ‘Not at present, but the matter would be discussed by the Working Group’.

Also in the minute for Item 7, Mr Farnsworth had stated that ‘the aim was for the tender documentation to be issued to tenderers within 90 days of the Open Day’. Mr Farnsworth recalled that, at the Open Day, Mr Grilli had advised that there was a statutory 90 day period for this documentation to be issued. Mr Grilli replied that those attending the Open Day had not been advised there was a statutory 90 day period, only that the aim was to produce documents within that time frame.

Subject to clarification on the points raised above, the minutes of the meeting on 18 September 2018 were agreed to be a true record of the meeting.

3. HEALTH AND SAFETY REPORT

A report had been submitted by the Racecourse Health and Safety Officer to advise the MRAC of Health and Safety Management at Musselburgh Racecourse.

Bill Farnsworth presented the report which outlined staff training, Golf Course raceday activity, non raceday activities and desirable future capital expenditure.

Councillor Currie enquired if the remit of the health and safety report included staff and the structure of buildings. Mr Farnsworth replied that this report did not include staff

matters or matters related to the racetrack, which was regulated by the British Horseracing Authority (BHA).

Councillor Mackie asked if the Old Golf Course/raceday activity objectives outlined in the report had been agreed with the Golf Course and Mr Farnsworth replied that they had not, as Enjoyleisure's position on raceday activities differed to the Racecourse's position. Mr Farnsworth advised that he would take the objectives to the next Joint Racecourse and Golf Course meeting in January. He added that it was important that the issue of joint activities was resolved and clearly addressed in the tender documents for the attention of the new operator of the Racecourse.

The Chair enquired if the issue of access to the Golf Course on racedays had been agreed and Mr Farnsworth replied that this matter would be discussed by the Working Group.

Councillor Currie recommended that any agreement between the Racecourse and the Golf Course in relation to golf course activity on racedays should allow a certain degree of flexibility. Mr Farnsworth stated that Racecourse management was entitled to close public access to the Racecourse 3 days before, and one day after, race meeting dates. However, he considered that it was only appropriate to close on the days prior to, and the one day following, Ladies Day, which was the biggest event of the year at the Racecourse. He was in favour of both the Racecourse and the Golf Course being used as much as possible when joint use was safe for all to use.

Decision

The MRAC agreed to note the report.

4. WORKING GROUP- UPDATE

A report had been submitted by the Depute Chief Executive, Resources and People Services, to update the Committee on the progress made by the Working Group.

Carlo Grilli, the Council's Service Manager, Legal and Procurement, presented the report. He stated that good progress had been made in terms of preparing the tender documents, but issuing the documentation within 90 days of the Open Day, an arbitrary period stated at the Open Day, was always going to be challenging. He advised that a number of meetings had taken place since the Open Day and, working with Pinsent Masons, the final documentation was now being prepared. However, Pinsent Masons had advised against issuing the tender documents before Christmas as this might have been viewed unfavourably by the industry. Following today's meeting, a letter would be sent to potential bidders, advising them that the tender documentation would be issued in January 2019.

The Chair enquired if the BHA was content with the progress of the procurement process and Mr Grilli replied that he had been in contact with the BHA and they presented no objections. Mr Grilli advised that it was likely that a new operator would be confirmed by October 2019. Mr Farnsworth advised that he had applied to the BHA for a licence for 2019 and expected to receive a response by the end of December. The Chair enquired if the new licence was likely to be for the full year or until the new operator was in place and Mr Grilli replied that a full licence had been applied for but the new licence might only be valid until October 2019. Ray Anderson Green stated that, at the MRAC meeting on 18 September 2018, it was hoped that the tender documents would be issued by October and that a new operator would be in place in July 2019.

Mr Anderson Green expressed concern that future meeting dates of the Working Group had not been agreed and Councillors had not attended the Working Group meeting on 17 November 2018. The Chair replied that she took the business of the Working Group very seriously but had been unable to attend the November meeting. Mr Anderson Green was also concerned at the high level of legal costs incurred on the procurement process, particularly when Mr Grilli had advised at an earlier MRAC meeting that there were Council Officers with procurement experience. Mr Anderson Green stated that, to date, all legal costs had been paid from Racecourse funds and there had been no discussion on how the costs would be divided between the Council, the Racecourse and the Musselburgh Common Good fund.

Councillor Currie stated that he had confidence in the procurement process and was comfortable with the documents being issued in January 2019, but would be concerned if the documentation was issued beyond that date. Councillor Mackie asked Mr Grilli if he could confirm that the documentation would be issued in January and Mr Grilli confirmed the documentation would be issued in January. Mr Anderson Green stated that, as yet, no meeting had been set up for January and he did not know what the content of the tender documents would be. He was therefore doubtful that the tender documents would be issued in January. Mr Grilli replied that it was not necessary to meet to make progress and all comments received from Working Group members would be taken into account before the tender documents were finalised.

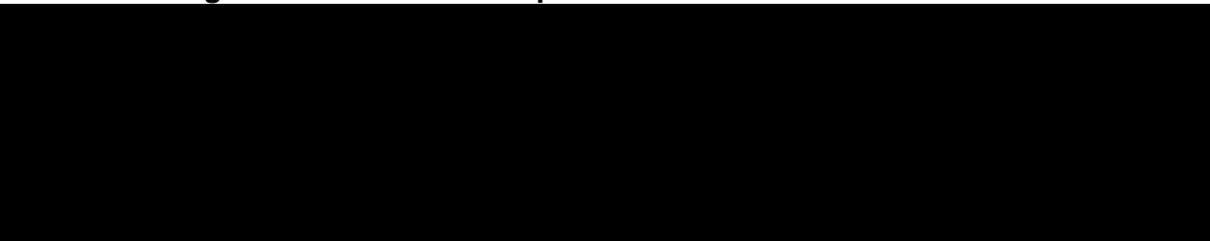
Mr Anderson Green stated that the Racecourse had been given no opportunity to approve expenditure on the procurement process and Mr Miller-Bakewell stated that Mr Grilli had agreed, on 18 September, to circulate Pinsent Masons invoices to MRAC members. Mr Grilli replied that the invoices had been forwarded to the Racecourse and he apologised if they had not then been forwarded to members of the Committee. Mr Farnsworth stated that he had received invoices dated to the end of July and advised that Mr Miller-Bakewell was referring to subsequent invoices. Mr Grilli stated that it was not normal practice to circulate invoices and Mr Miller-Bakewell replied that there had been a commitment made in September to circulate invoices. In view of the high level of fees being invoiced, he considered it was relevant that they came before the Committee.

Decision

The MRAC agreed to note the position.

PRIVATE

Matters Arising from Minutes of 18 September 2018



5. COMMERCIAL AND OPERATIONS REPORT

A report had been submitted by the Racecourse Senior Operations and Commercial Manager to update the Committee on the commercial and operational performance of the Racecourse for 2018/19.

Sarah Montgomery, Racecourse Commercial Manager, was pleased to report that sponsorship for New Year's Day and Ladies Day had been secured. Stobo Castle had committed to sponsoring Ladies Day for another 5 years and Betway had agreed to sponsor the New Year's Day fixture. She also advised that the VisitScotland report had been received and the Racecourse had retained its 5 star grading for the 11th successive year. The only area highlighted for improvement was the public car park. She therefore asked the Committee to agree to spend £10,000 to deliver the necessary improvements to the car park, subject to the end of year performance.

Ms Montgomery advised that new artwork for Ladies Day was launched in early December and sales for this event were looking positive ahead of the festive period. She also updated the Committee on advertising and marketing budgets, raceday operations and corporate hospitality. A SWOT analysis of the permanent bars was attached to the report.

Concerns were raised about a number of visitors drinking to excess on Ladies Day last year. To re-assure members, Ms Montgomery advised the measures in place to control the consumption of alcohol. She stated that bag searches were carried out at all entrances, caterers had a Drink Aware policy and bar staff recorded the number of challenges made on age. There would also be targeted marketing in future. Ms Montgomery added that the Racecourse had a responsibility to operate a safe event and she was pleased to report that the Safety Advisory Group were supportive of the Racecourse's policies on alcohol and the Police were satisfied with the effectiveness of the measures in place.

Councillor Mackie recommended Best Bar None, an accredited scheme with national awards aimed at promoting the responsible operation of licensed premises. Councillor Forrest stated it was important that the licensed premises were monitored to identify if drinks were being distributed to younger adults after being purchased at the bar.

The Chair noted the introduction of a Yurt Experience for customers on New Year's Day and described it as an excellent initiative. Ms Montgomery advised that they had hired two yurts and both had been sold.

Members discussed the request for funds to improve the public car park and agreed to defer to the next meeting when more information would be available. Mr Farnsworth was in agreement with deferring to the next meeting but stated that it was important for the Racecourse to retain its 5-star status for the new operator.

Decision

The Committee agreed to note the report.

6 GENERAL MANAGER'S REPORT

The Racecourse General Manager had submitted a report to provide the MRAC with an update on the general management of the Racecourse and any matters requiring the attention of the MRAC.

Mr Farnsworth presented his report.

2.1 HR Matters

Mr Farnsworth advised that the Racecourse union representative had written to Mr McCrorie on 12 July 2018 and Mr McCrorie had responded on 11 October 2018, declining the request for a meeting with the MRAC Remunerations Sub-Committee. Mr Farnsworth stated that it was his understanding that the MRAC would set up a sub-committee to review all HR matters before the tender process began. The Chair stated that this matter would be discussed further at Item 10 of the agenda.

2.2 Catering

Mr Farnsworth had renegotiated the terms of the Heineken contract for the supply of beer to the Racecourse, and recommended that this contract was now signed.

Decision

The MRAC agreed to delegate authority to Mr Farnsworth to sign and return the Heineken contract.

2.3 Britbet

The Chair proposed that this item was discussed at Item 10 of the agenda.

2.4 Harness Racing

Mr Farnsworth stated that he informed the Harness Racing Association that the event in its current form could not go ahead this year, but the Committee would be willing to consider a viable alternative. The Association replied, proposing a one day event on 22 June 2019 and this had been cleared with the Golf Club. Mr Farnsworth circulated a draft budget for the event and advised that the harness racing organisers expect the fixture to generate £5,000 profit for the Racecourse. However, when all of the costs associated with the event were included, he anticipated that the harness racing fixture was likely to return a loss for the day. Taking account of all the circumstances, Mr Farnsworth recommended that the harness racing day was allowed to go ahead in 2019.

Councillor Currie stated that it was important all costs of the fixture were met by the Harness Racing Association. Mr Farnsworth suggested that the Racecourse could agree to hold the event on the condition that the organisers guaranteed £15,000 income for the Racecourse.

The Chair moved to a vote on whether harness racing should be allowed to go ahead on the condition that the Harness Racing Association paid £15,000 one month in advance of the raceday.

For	3
Against	0
Abstentions	3

Decision

The MRAC agreed to allow the harness racing fixture to go ahead on 22 June 2019 providing that the Harness Racing Association paid £15,000 one month in advance of raceday.

2.5 Stables Café

Mr Farnsworth stated that the operation of the Stables Café was presently the joint responsibility of the Committee and the Working Group. He insisted that it would be better for the Racecourse to have sole responsibility for the café and underlined the importance of the issue in relation to the tender documents. He also highlighted a recent breakdown in communication between Enjoyleisure and the Racecourse when heating in the café failed.

Robert Miller-Bakewell stated that he had asked to see the contract between the Racecourse and Enjoyleisure at the September meeting but had not yet had sight of it. Mr Grilli stated that he had looked into the matter of the contract and had concluded that there was no written agreement between the parties, and therefore there was no clear position. He also advised that any agreement between the Council and Enjoyleisure was outside the scope of the Committee. Mr Miller-Bakewell replied that there had been performance issues and the new operator would have an interest in how the relationship (between Enjoyleisure and the Council) works. He advised that Musselburgh was the only racecourse which did not operate its own café and this fact would need to be disclosed to potential bidders. Mr Farnsworth stated that he had asked for a written agreement in the past but none had been forthcoming. He also urged the Committee to agree that it would be much more satisfactory for the Racecourse to be solely responsible for the café and the staff who work there.

Mr Anderson Green fully supported Mr Farnsworth's position on this matter and asked what information would be included in the tender documents. Mr Grilli replied that the current arrangements would be given, the services and the cost. Mr Anderson Green asked when the current agreement would expire and Mr Grilli replied that the leasing arrangements were between Enjoyleisure and the Council, and the current arrangement would remain in force until both parties decided not to continue with it. Mr Anderson Green stated that there needed to be a written agreement in place for the new operator of the Racecourse. Councillor Currie stated that, at some point, a Service Level Agreement ought to be drawn up as he was not in favour of issues needing to be rectified after the new operator was in place.

The Chair advised that the café operation also had to be compliant with BHA policy. She stated that this matter had been discussed at length by the Working Group and they needed time to work through it. Both she and Mr Anderson Green were in favour of a Service Level Agreement between both parties.

2.6 Irrigation Supply

Mr Farnsworth advised that the Council were co-operating with Forth Fisheries Trust and SEPA (Scottish Environment Protection Agency) on the extraction of water from the River Esk for the purpose of providing an irrigation supply to the Racecourse and the Golf Course. In co-operation with the Council, the Racecourse was exploring alternative irrigation supply options, including a bore hole supply.

Councillor Mackie asked if permission was required to extract water from the river and Mr Farnsworth replied that an extraction licence would need to be issued by SEPA. Mr Farnsworth also advised that the bailiff had closed the sluice gate without permission and blocked the water supply to the Racecourse. The Council was presently in discussions with SEPA and the Racecourse on the matter. In his view, the best solution was to put a bore hole in but, as there were three stakeholders (ELC, the Racecourse and the Golf course), there would need to be an agreement on how the cost would be met.

The Chair highlighted that there was now an increase in demand for water due to the new jet washer and Councillor Forrest advised that, when the tractor is in motion, irrigating and winding the hose in, there is no-one on the tractor. The Chair requested that a risk assessment was carried out on the operation of the tractor and Mr Farnsworth agreed to carry out the assessment.

Mr Miller-Bakewell warned that the risk to the Racecourse due to a loss of water supply should not be under-estimated.

2.7 Conditions Survey

Mr Farnsworth stated it was important that the Racecourse was handed over to the new operator in good condition. The Survey Report recommended repair works at an estimated cost of £23,000 but he was confident the cost of the repair works could be reduced by half. He suggested that a decision on carrying out the programme of works was deferred to March or April. Councillor Currie proposed that any vital repair works was delegated to the Chair and the General Manager for action.

2.8 Scottish Enterprise

Mr Farnsworth advised the Committee that, as the MRAC was now an Associated Committee of the Council, it would no longer qualify for Scottish Enterprise support.

Decision

The MRAC agreed to note Items 2.1 to 2.8 and to make decisions where appropriate, all as noted above.

7 INTERNAL FOLLOW UP REVIEW – MUSSELBURGH RACECOURSE

A report had been submitted by the Depute Chief Executive, Resources and People Services, to inform the Committee of the recent follow-up work undertaken by Internal Audit.

Stuart Allan, a senior auditor of the Council, presented the report. He advised that the report provided a summary of the current status of the recommendations made in Internal Audit's report on Musselburgh Racecourse issued in November 2015, together with the Management's response (attached as Appendix A to the report). Of the 22 recommendations, 12 had been fully implemented, 3 partially implemented and 7 remained outstanding. In response to a question from the Chair, Mr Allan recommended that all recommendations should be fully implemented.

The Chair stated that the Committee needed to decide today if the risks associated with the outstanding, or partially implemented, recommendations were acceptable risks.

The Committee discussed a number of the recommendations in detail.

Decision

The MRAC noted the findings of the report and agreed that:

- i. a mileage claim form should be introduced to properly account for business mileage and personal use of vehicles owned by the Racecourse (para ref 2.3.1);

- ii. the MRAC should be provided with information on the tendering process and details of tenders submitted (para ref 2.4.1);
- iii. compensatory controls should be put in place for the handling of cash (para 2.2.2);
- iv. in terms of banking, cash should be banked intact and payments needing to be made, particularly on racedays, are processed using the petty cash imprest system, with one exception, when cash is required on New Year's Day to replenish the cash machine; (2.2.3)
- v. staff must sign for any cash taken (to pay individuals or award to stable staff etc) (2.2.4); and
- vi. all taxable benefits must be recorded for HMRC (Form P11D) (2.3.2);

8 FINANCE – QUARTER 1-3 – REVIEW 2018-19

The Racecourse General Manager & Financial Manager had submitted a report to update the Committee on the profit/loss forecast for the year from 1 April 2018 to 31 March 2019 at the end of the first and second quarter.

Bill Farnsworth presented his report outlining Profit/Loss 2018/19 and providing details on Media Rights, income and expenditure.

The Chair enquired what the Racecourse's investment in Britbet was and Mr Farnsworth replied that there were two elements; a loan (for £77,000) to help get the operation up and running, and a share of the costs for soft and hardware required to run the operation (£122,000). He also advised that the £122,000 would be repaid out of future income, therefore no revenue was expected from this source for approximately 4 years. The loan was due to be repaid to the Racecourse by 2023. The Chair enquired what return there would be on the loan and Mr Farnsworth advised that there would be no return, only the original sum of the loan repaid; the Racecourse auditors had instructed that the loan should be recorded as an investment.

The Chair noted that income from racedays was down but both expenditure and prizemoney had increased. Mr Farnsworth advised that £58,000 of the prize money could be attributed to an extra fixture in March which was not included in the original budget. Otherwise, prizemoney had been increased a little to attract more runners, but for the last quarter, prizemoney had been reduced.

The Chair asked if the deaths of four horses during last Monday's race meeting (10 December) had had an impact on the Racecourse and Mr Farnsworth replied that it had been a terrible end to a terrible year for the Racecourse. He advised that the BHA had carried out an inspection of the course on Friday 14 December and had concluded that the track was in excellent condition. They could identify no factors which would have contributed to the fatalities. He also advised that the BHA are in control of the Racecourse on racedays and they take the decision to halt racing if they consider that conditions are unsafe.

The Chair stated that it was now important to look to the future and noted that work had begun on the landscaping of the food court at a cost of approximately £40,000.

The Chair asked Mr Farnsworth if he was satisfied with RMG's (Racecourse Media Group) explanation on why Musselburgh's media rights income was lower than their

original forecast. Mr Farnsworth replied that he was disappointed with the revenue. He had put a conservative figure in the budget but the revenue had come in even lower than that figure. The priority now was to attract owners to the Racecourse to increase income from RMG.

Ray Anderson Green noted a figure of £159,000 for Pinsent Masons fees relating to the tender process (under exceptional costs). He understood that fees had now reached £300,000 and asked how this figure was arrived at. Mr McCrorie advised that costs to July 2018 were £159,000 and the total was now in the region of £300,000.

Mr Miller-Bakewell stated that he had raised concerns over the approval for payment of Pinsent Masons invoices in October 2018. He had not seen the invoices and did not understand why the Racecourse was solely responsible for paying the invoices to July 2018. He cautioned against waiting to the year end for external auditors to advise that the Racecourse should not be responsible for this expenditure. He also pointed out that the cost of procurement amounted to twice the annual rental of the Racecourse and stated that the costs were badly managed and out of control. The Chair asked if he had evidence to support his claims and Mr Miller-Bakewell replied that some of the advice given by Pinsent Masons showed a total lack of understanding of the racing industry. In his view thousands of pounds had been spent on 'useless' advice. Mr McCrorie stated that the Council was not trying to impose costs on the Racecourse; the Racecourse was the beneficiary. He also informed Mr Anderson Green that his earlier statement was inaccurate when he (Mr Anderson Green) said that the MRAC had paid all costs from Racecourse funds. Mr McCrorie referred to his tender update at Item 10 which states that 'discussions were ongoing regarding accounting for the fees'.

Noting that the Profit/Loss figure was down by £218,000 on budget, Mr McCrorie stated that the Committee needed to support the General Manager in reducing his expenditure and increasing income before the end of the financial year.

Decision

The MRAC agreed to note the point raised above and approve the financial performance to date and the forecasts to the year ending 31 March 2019.

9. BUDGET REPORT 2019-20

The Racecourse General Manager and Financial Manager had submitted a report on the draft of the 2019-20 Budget.

Mr Farnsworth presented his report, stating that this budget had been more difficult than in previous years due to changes and uncertainties. He advised that, following the Government's decision to bring forward the new legislation on fixed odds betting terminals (FOBTs) by six months, major betting shop closures were expected to follow. He stated that there had been no response from the industry, which he found disappointing, but many racecourses were now following the course taken by the Arena Racing Company (ARC) to reduce prizemoney. Although it was feared that the number of LBO closures could approach 2,000 (which would have seen Musselburgh's media rights reduced by £367,000), it was now thought that the number of closures would be in the region of 1,000, and he was working with RMG on mitigating the impact of the betting shop closures. He advised that media rights was forecast to be £79,000 per fixture, but if the racecourse under performs, this income would be lower.

Mr Farnsworth advised that the management team had begun to reduce expenditure, but he emphasised the need to maintain prizemoney for as long as possible. He stressed that savings could not be made in isolation, as they could potentially have an impact on sources of income. Mr Farnsworth described the budget as a work in progress and would bring further information to the March meeting.

The Chair asked if other Racecourses were facing the same difficulties as Musselburgh and Mr Farnsworth replied that the MRAC differs to some other racecourses in that it doesn't hold large reserves on its balance sheet. However, there were many racecourses which had looked forward to higher media rights income that they were no longer likely to receive.

Alex McCrorie cautioned that there would need to be adequate funds in the Racecourse account to settle invoices due to be paid in March 2019. Mr Farnsworth replied that the management team ran the Racecourse but had nothing to do with the legal fees. He struggled to see how the Racecourse could maintain a positive balance sheet position if having to pay legal fees. Mr McCrorie replied that these costs could be properly payable. He also stated that a 'golden hello' which could help to off-set legal fees had been discussed at the Working Group. Mr Farnsworth advised that the income from media rights could not be depended upon to ease financial difficulties.

The Chair stated that she was confident that the management team would do all they could to meet the challenges they faced.

Decision

Members of MRAC commented on and noted the 2019-20 Budget.

10. HUMAN RESOURCES AND PROCUREMENT UPDATE

A report had been submitted by the Depute Chief Executive, Resources and People Services to provide an update to the Committee regarding HR Matters and the procurement process.

Carlo Grilli presented the report. In respect of the agreement the Racecourse had with Britbet, he advised that arrangements would need to be put in place for the transfer of this agreement to the new operator and for the loan and investment to be repaid. Mr Farnsworth replied that the new operator would be expected to repay the money but they needed to be made aware of the agreement.

Ray Anderson Green enquired what the value of the Racecourse assets were and Mr Farnsworth advised that a list of all assets would be sent to Mr Grilli to be placed in a data bank. He suggested that the Working Group could calculate a valuation figure.

Sarah Montgomery wished to clarify that the claim being made to the Employment Tribunal was at the request of staff and not Mr Farnsworth. Mr Farnsworth added that the intention was for the Trade Union representative to manage the claim going forward.

Sederunt: Bill Farnsworth, Sarah Montgomery and Douglas Kennedy left the meeting.

The Chair sought Mr Grilli's advice on the protection of employment for staff and Mr Grilli replied that the position had not changed since correspondence had been exchanged with the GMB union (in July and October 2018). The legal view was that there had not been a change of employer and therefore TUPE was not engaged. Employees would continue to be employed with continuous service.

Ray Anderson Green stated that the bonus scheme was another issue to be resolved. The Committee had earlier discussed forming a sub-committee to deal with remuneration but this had not happened. The Chair replied that a pay claim was expected to come forward this year and Bruce Caldow of Harper MacLeod would represent the Committee in any negotiations with ACAS (the Advisory, Conciliation and Arbitration Service).

Decision

The MRAC agreed to:

- i. note the position on The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and the position in relation to The Advisory, Conciliation and Arbitration Service (ACAS) and approved the use of Harper MacLeod as the Racecourse solicitors to assist with this process.
- ii. note the position regarding the proposed procurement and confirmed that no further action will be taken in relation to the Racecourse Staff Bonus Scheme until the outcome of the procurement process has been determined.
- iii. note the position regarding the tender specification and approved the Racecourse reimbursing the Council for all legal costs associated with the procurement process as set out in paragraphs 3.10 to 3.12 of this Report.
- iv. delegate to officers authority to explore the options around the Britbet loan and investment and to decide on the best way for this to be incorporated into the invitation to tender.

Signed

Councillor F O'Donnell
Chair of Musselburgh Joint Racing Committee