Local Government and Communities Committee

Common Good Property and Funds

Submission from Jason Rose

Please see below for my experience of trying to find out basic information relating to my local common fund.

Horse racing has taken place on Musselburgh Links for at least two hundred years. In the middle of the race track is a nine-hole golf course - the oldest links course in the world - dating from 1672.

As a resident of the "Honest Toun", I assumed that finding honest answers to simple questions about my local racecourse would be easy. It's been anything but!

The racecourse sits on historic Common Good land. It's public property and should be managed in the best interests of the people of the town. These days the Common Good assets of Musselburgh are managed by East Lothian Council, so you'd think that it would easy to see whether or not the town’s biggest Common Good asset is being managed in the best possible way.

Here’s what I reckon will shock you, as it shocked me:

1. The racecourse is run by the Musselburgh Joint Racing Committee (MJRC), an organisation made up of a private company called the Lothians Racing Syndicate (LRS) and East Lothian Council (ELC). Despite being called a “committee”, despite the fact that East Lothian councillors form the majority of the committee, despite the fact that East Lothian Council provides the committee’s secretariat and physically holds copies of minutes of its meetings, and despite it being an associated committee of the Council for accounting purposes, this “committee” is not covered by Freedom of Information laws, so the public are not allowed to see what this committee discusses. This has been confirmed by Scotland’s Information Commissioner, who I asked to investigate after East Lothian Council refused to show me minutes of the meetings.

2. When I asked Musselburgh Racecourse for copies of the minutes of the MJRC and any annual reports/accounts, I was told: “Unfortunately as The MJRC is not a public body but a commercial business the Minutes of the MJRC meetings are private and confidential.”

3. When I asked the chair of the MJRC for copies of the minutes, I was told: “Unfortunately the MJRC minutes are private and unable to be distributed, even to the other Councillors.”

4. The Lothians Racing Syndicate - whose directors I detail below - is classed as a “dormant” company under the Companies Act 2006 so it doesn’t have to produce any accounts, so the public have no idea what money it takes in nor what it spends its income on. The minute of agreement between the LRS and ELC states that any profits should be reinvested in the racecourse but we cannot see what these profits are.
5. Freedom of Information requests I submitted to East Lothian Council reveal for the first time how much the MJRC pays into the Musselburgh Common Good Fund as rent for using the Links for a racecourse: £40,000 a year. By comparison some small local businesses renting Common Good-owned shop units are paying £15,000 a year in rent. Is £40,000 enough for our biggest Common Good asset? Annual attendance at the racecourse is reported to be over 70,000 people a year, with sell-out crowds of 10,000 on the busiest days.

6. A quick search of the Scottish Assessors site shows that the Lothian Joint Valuation Board values the annual rent of the race track as £155,000 a year. So, how did MJRC reach a much lower figure of £40,000?

What I am calling for:

Musselburgh Joint Racing Committee is clearly a public body and there is public interest in its activities, so it should be covered by Freedom of Information laws. I have submitted this case to the Scottish Government, after Scottish Ministers confirmed to me that they regularly review which bodies are covered by FOI law.

Musselburgh’s Common Good Fund should be transparent so that citizens of the Honest Toun can judge for themselves whether we are getting good value.

The Lothians Racing Syndicate should open its books so the citizens of Musselburgh can judge whether the racecourse’s finances are being managed in an appropriate manner.

MJRC needs to explain how the rent of £40,000 a year was reached, when the Lothian Joint Valuation Board puts it at more than three times that figure.

Musselburgh Links is public property. End the secrecy!

Further links:
Ruling by Information Commissioner following my complaint about East Lothian Council refusing to publish the minutes it holds of MJRC meetings. [http://www.itstpublcknowledge.info/uploadedFiles/Decision270-2016.pdf]

Lothian Valuation Joint Board list Musselburgh Racecourse race track as having a ratable annual value of £155,000:

https://www.saa.gov.uk/search/?SEARED=1&ST=&SEARCH_TERM=EH21+7RG &ASSESSOR_ID=&SEARCH_TABLE=valuation_roll_csplit&DISPLAY_COUNT=10 &TYPE_FLAG=CP&ORDER_BY=PROPERTY_ADDRESS&H ORDER BY=SET+DESC&UARN=405M666AE3&PPRN=000000000027922&ASSESSOR_ID=10&DIS PLAY_MODE=FULL PROPOSED#results