

EAST RENFREWSHIRE COUNCIL

CABINET

29 August 2019

Report by Director of Environment

BUSINESS LOANS SCOTLAND: AMENDMENT TO ARTICLES OF ASSOCIATION

**PURPOSE OF REPORT**

1. The purpose of this report is to seek approval for a change to the Articles of Association of Business Loans Scotland of which East Renfrewshire Council is a member. This proposed change will allow all member authorities including East Renfrewshire Council to withdraw any of their surplus funds currently being held by Business Loans Scotland which will then be available to use for economic development activities.

**RECOMMENDATIONS**

2. The Cabinet is asked to:
- (a) Approve the draft resolution as proposed in paragraph 16;
  - (b) Delegate to the Director of Environment in consultation with the Chief Officer - Legal & Procurement to make all necessary arrangements to accept the resolution and have the surplus funds returned; and
  - (c) Note that the surplus funds returned to East Renfrewshire Council will be used solely for the purposes of economic development activity.

**BACKGROUND**

3. Business Loans Scotland was formed in March 2017, with 27 Scottish Local Authorities becoming Full Members of the Company and 5 Local Authorities becoming Associate Members.
4. It was set up to manage loan funds providing funding to new and growing small and medium sized businesses across Scotland. Business Loans Scotland builds on the success of previous loan funds including the West of Scotland Loan Fund.
5. East Renfrewshire Council is a full member.
6. Business Loans Scotland developed in 2 phases.
7. As part of phase 1 Full Members made a match funding contribution to the initial finances of the Company that was then expected to be matched with a corresponding amount of European Regional Development Fund (ERDF) grant.
8. Unfortunately, Business Loans Scotland did not meet its target to retain any of the ERDF grant and the amount received in relation to ERDF grant during the phase 1 period had to be returned to the Scottish Government in December 2018.

9. As part of phase 2, Business Loans Scotland was awarded the contract to deliver a new Debt Fund from January 2019.

10. A significant difference between the two phases, is that Phase 2 is fully funded by the Scottish Growth Scheme and the European Regional Development Fund and therefore did not require any match funding contribution from the Member Authorities.

11. As the match funding, previously contributed by the Member Authorities under Phase 1 is not required to be used for Phase 2, there are a number of Member Authorities seeking to withdraw their Phase 1 match funding from Business Loans Scotland.

12. As a consequence of the above East Renfrewshire Council now has surplus funds (held by Business Loans Scotland) which at 1 April 2019 amounted to £89,435.

13. However, the release of these funds is dependent upon changes to the Articles of Association.

## REPORT

14. The current Articles of Association for Business Loans Scotland (BLS) prevent the Company returning funds to a Member Local Authority due to “asset lock” provisions written into the Articles

15. In order to change the Articles of Association to allow a Member Local Authority to withdraw funds from BLS and return those funds to its Local Authority, it was proposed by the BLS Board of Directors, in discussion with the Fund’s solicitors, Wright, Johnston and Mackenzie LLP (WJM) to issue a Special Resolution to the Members.

16. The Board of Directors of BLS at its meeting on 8<sup>th</sup> March 2019 agreed to make this proposal to the Members.

17. The proposed Special Resolution, prepared by WJM, would amend Articles 4.2 and 20 as follows;

Article 4.2 of the existing Articles of Association of the Company be deleted and the following be substituted therefor:

*“4.2 The income and property on the Company, howsoever derived, shall be applied solely towards the promotion of the objects of the Company as set forth in Article 4.1, save that the Company may distribute funds it holds to the Members in the proportions agreed among them” and*

Article 20 of the existing Articles of Association of the Company be deleted and the following be substituted therefor:

*“20 If, upon a winding up or dissolution of the Company, there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same may be paid to or distributed among the Members in the proportions agreed among them.”*

18. It is proposed that the returned surplus be used for economic development purposes.

## **FINANCE AND EFFICIENCY**

19. There are no financial or efficiency implications to the Council with these proposed changes other than the potential return of surplus funds of £89,435 to the Council for economic development purposes..

## **CONSULTATION**

20. Consultation has taken place with Legal Services.

## **PARTNERSHIP WORKING**

21. Business Loans Scotland comprises 27 Scottish local authorities as full members and 5 Scottish local authorities as associate members.

## **IMPLICATIONS OF THE PROPOSAL**

22. There are no implications regarding staffing, property, procurement, legal, IT, equalities or sustainability regarding this proposal.

## **CONCLUSIONS**

23. The proposed changes to the Articles of Association will allow all member authorities to withdraw any of their surplus funds currently being held by Business Loans Scotland which will then be available to use for economic development activities.. With regard to East Renfrewshire Council this will amount to £89,435.

## **RECOMMENDATIONS**

24. The Cabinet is asked to:

- (a) Approve the draft resolution as proposed in paragraph 16;
- (b) Delegate to the Director of Environment in consultation with the Chief Officer - Legal & Procurement to make all necessary arrangements to accept the resolution and have the surplus funds returned; and
- (c) Note that the surplus funds returned to East Renfrewshire Council will be used solely for the purposes of economic development activity.

Director of Environment

Further information can be obtained from: Andrew Cahill Director of Environment on 0141 577 3036

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August 2019

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