

EAST RENFREWSHIRE COUNCILCABINET15 March 2018Report by Director of EnvironmentWEST OF SCOTLAND LOAN FUND LTD – AMENDMENT TO ARTICLES OF ASSOCIATION**PURPOSE OF REPORT**

1. The purpose of this report is to update the Cabinet on the current status of the West of Scotland Loan Fund Limited (WSLF) and to seek approval to amend the Articles of Association.

RECOMMENDATIONS

2. The Cabinet is asked to:
- (a) Note the position regarding the current status of the West of Scotland Loan Fund Ltd; and
 - (b) Approve the proposal to amend the WSLF Articles of Association to enable member authorities to access surplus funds from the Fund, in line with the requirement to ensure that they continue to be earmarked and utilised for the purposes outlined in the objects of the company.

BACKGROUND

3. The West of Scotland Loan Fund Ltd (WSLF) is a consortium of the 12 West of Scotland local authorities and was incorporated as a company limited by guarantee in June 1996. The fund has provided loan finance in individual amounts of up to £100k and has successfully operated across the West of Scotland as a fund for more than 18 years filling the funding gap to new and growing, small and medium sized enterprises.

4. To support this activity, each participating local authority has had an allocation of ring fenced loan funding based on its individual budget commitment matched by European Regional Development Fund (ERDF) monies and bank finance. Loan applications have been dealt with by business advisers within the relevant authority for initial scrutiny and appraisal including a full analysis of all financial aspects of the business and its proposal. The WSLF team undertake compliance and verification checking, prior to any loan being approved within the relevant local authority.

5. In 2014, the Scottish Government indicated its desire to see a move away from regional loan funds to a pan Scotland Local Authority led Loan Fund and advised that such a mechanism would be required to access any further EU resources. This proposal has been brought forward to create a Scotland-wide local authority business loan fund. Business Loans Scotland Ltd (BLS) was created as the vehicle to take this forward.

6. East Renfrewshire Council became a member of Business Loans Scotland Ltd and transferred an initial £34,371 from the WSLF. A further £65,000 was transferred to accommodate proposed loans to a local business but this loan subsequently did not progress. There was also a further £2,500 transferred from WSLF to BLS to cover legal fees for the preparation of future loan agreements. This, along with additional European Regional Development Fund (ERDF) and bank funding, created a lending “pot” of £100,000 available to East Renfrewshire Council to provide loans (up to £100,000) to local eligible businesses for the period to 31 December 2018.

7. East Renfrewshire Council as at 31 December 2017 has approved 4 loans totalling £111,000 and which were issued as part of the previous European programme. All loans have been fully repaid. Cash held within WSLF as at 31 December 2017 is £89,435.14.

REPORT

8. A number of the larger member authorities have considerable resources within the Fund and the full value of their resources are no longer required for lending purposes. However, the existing WSLF Company constitution, which consists of a Members' Agreement and Articles of Association, prevents members from withdrawing funds which they do not want to be used for lending via WSLF.

9. In addition to the constitutional restrictions, WSLF received ERDF funding through the 2007-2013 European funding programme. The rules attached to this require the funds received to be reinvested in SME's and not reutilised for purposes other than loans.

10. In order to move forward and enable member authorities to access their funds, two key actions are required:

- The current Articles of Association requires to be amended by unanimous approval of all 12 member authorities; and
- Confirmation is required from the Scottish Government over the treatment and value of ERDF funding that was received through the 2007-2013 ERDF programme which must be utilised for future loans.

11. The current Objects of the company which in legal terms lay out the overall objectives of WSLF are relatively broad and wide ranging, and in particular state that the Fund must be used: *“to promote commerce by giving financial assistance by way of loans, donations or subscriptions or otherwise to any firm, company, individual, association or other body (whether incorporated or unincorporated) carrying on a commercial enterprise whose business is or is to be carried on in whole or in part”* within the WSLF (Section 4.1 of Articles of Association). It is proposed that any future use of the funds would still require to be in line with the original Objects of the Company.

12. However, Section 4.2 of the Articles of Association, states that *“the income and property of the Company, howsoever derived, shall be applied solely towards the promotion of the objects of the company as set forth in Article 4.1 and no portion thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus to otherwise howsoever by way of income or profit, to the Members...”*.

13. It is therefore being proposed that Article 4.2 be deleted by Special Resolution to enable the Funds to be accessed and applied solely towards the promotion of the objects of the company as set out in Article 4.1. While some authorities have limited or indeed no surplus funds remaining in WSLF, it is anticipated that support for this change allowing others to withdraw their ring-fenced resource will be unanimous.

14. In relation to the treatment of previous ERDF funding received, written confirmation is being sought from the Scottish Government to ensure there are no future audit implications over the treatment of the funding. The value of available funds will be dependent on the Scottish Government's interpretation and confirmation.

FINANCE AND EFFICIENCY

15. There are no financial or efficiency implications to the Council with these proposed changes.

CONSULTATION

16. Consultation has taken place with Legal Services and the twelve member authorities.

PARTNERSHIP WORKING

17. East Renfrewshire Council works in partnership with 11 other local authorities to deliver the West of Scotland Loan Fund.

IMPLICATIONS OF THE PROPOSAL

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

RECOMMENDATIONS

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Director of Environment

Further information can be obtained from: Michael McKernan, Business Development Team Leader on 0141 577 3106 michael.mckernan@eastrenfrewshire.gov.uk

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