
Business Loans Scotland Ltd – Proposal to Amend the Articles of Association

1.0 INTRODUCTION

- 1.1 Business Loans Scotland (BLS) was awarded the contract to deliver a new Debt Fund herein referred to as Phase 2 from January 2019. 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.
- 1.2 As the match funding, 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 BLS. Argyll and Bute Council's match (£50k) was transferred in from the West of Scotland Loan Fund.
- 1.3 The Articles of Association for BLS, as they are currently written, prevent the Company returning funds to a Member Local Authority due to the "asset lock" provisions written into the Articles. It would therefore be prudent to seek approval for the Articles of Association for BLS to be amendment to ensure that Phase 1 match funding of up to £50k could be returned to Argyll and Bute Council to be used for "SME development activities" as prescribed in the letter from the Scottish Government, dated 2nd November 2017. To ensure this money is used for "SME development activities" it will be returned to Argyll and Bute Council's Business Gateway Team.

2.0 RECOMMENDATIONS

- 2.1 Members of the Policy and Resources Committee are asked to:
 - Approve the change to the BLS Articles of Association; and
 - Provide delegated authority to the Economic Growth Manager, Director BLS to advise the BLS Board of this decision and complete any necessary paperwork to be signed, with the Head of Development & Economic Growth, to withdraw the Phase 1 match funding.

3.0 DETAILS

- 3.1 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 is proposed by the Board of Directors, in discussion with the Fund's solicitors, Wright, Johnston and Mackenzie LLP (WJM) to issue a Special Resolution to the Members.

- 3.2 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.”

- 3.3 For the Special Resolution to be passed by the Company, it requires the approval of 75% of the Full Members of the Company. Therefore, for the Resolution to pass, 21 Full Members are required to agree to amend the Articles of Association as prescribed in the Special Resolution.

4.0 CONCLUSION

- 4.1 The Policy and Resources Committee members are asked to endorse the recommendations of this paper to enable the amendments to the Articles of Association for BLS to be made and to progress the procedure to withdraw appropriate resources from BLS, up to a total of £50k, and returned to Argyll and Bute Council’s Business Gateway Service to be used for “SME development activities”.

5.0 IMPLICATIONS

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| 5.1 | Policy | Making a local authority loan fund available to businesses across Argyll and Bute supports the Council’s revised Economic Strategy 2019-2023 and aligns to the focus on rural entrepreneurship in the Rural Growth Deal. |
| 5.2 | Financial | Argyll and Bute Council will be able to progress with withdrawing funding from BLS Phase 1 back to the Argyll and Bute Council’s Business Gateway Team. Initial match funding for BLS came from the West of Scotland Loan Fund with no additional funding required from the council. |
| 5.3 | Legal | Officers sought advice from the council’s legal department with regard to the proposed changes to the Articles of Association and no further comments were provided. It was also advised that given the level of funding involved (up to £50k) the Head of |

Development & Economic Growth and the Economic Growth Manager could be the two named signatories to sign the final Special Resolution.

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| 5.4 | HR | None. |
| 5.5 | Equalities/Fairer Scotland Duty | This will have no adverse impact on key equality groups. BLS complies with all Equal Opportunities policies and obligations. |
| 5.6 | Risk | Without the amendment to the Articles of Association, the £50k match funding for Argyll and Bute Council will remain in BLS and not returned to the council for “SME development activities” in the Argyll and Bute area. |
| 5.7 | Customer Services | None. |

**Executive Director of Development and Infrastructure, Pippa Milne
Policy Lead, Cllr Aileen Morton**

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