

WEST DUNBARTONSHIRE COUNCIL**Strategic Lead, Regeneration****Infrastructure, Regeneration and Economic Development Committee:****15 May 2019**

Subject: West of Scotland Loan Fund Ltd**1. Purpose**

- 1.1** The purpose of this report is to update Committee on the current status of the West of Scotland Loan Fund Ltd and the intention of its Board to wind-up the company and to seek approval to amend the Articles of Association of Business Loans Scotland Ltd.

2. Recommendations

- 2.1** It is recommended that Committee;
- (i) notes the Board's intention to wind-up West of Scotland Loan Fund Ltd;
 - (ii) approves the transfer of the Council's loan portfolio to Business Loans Scotland Ltd;
 - (iii) notes the Council's commitment to the treatment of residual ERDF money received during the 2007-14 programme and approve the transfer of ring-fenced funds to Business Loans Scotland Ltd;
 - (iv) agrees the Council's position with regards to withdrawal of West of Scotland Loan fund excess funds for activities as stated in the company's Articles of Association, and
 - (v) approves the proposed amendment to the Business Loans Scotland Ltd Articles of Association.

3. Background

- 3.1** A paper was approved at the Infrastructure, Regeneration and Economic Development Committee on 22nd November 2017 to amend the Articles of Association of the company in order for the Council to access excess funds from the West of Scotland Loan Fund Ltd in line with the requirement that ensures they continue to be ring-fenced and utilised in a way that is aligned with the objects of the company.
- 3.2** The Board of West of Scotland Loan Fund Ltd (WSLF) have now agreed to wind-up the company due to the emergence of Business Loans Scotland Ltd as the vehicle through which debt finance is provided to SMEs across Scotland.

- 3.3** The Council, as of 31st December 2018, has combined assets of £354,227 within the West of Scotland Loan Fund company. This is broken down as: loan portfolio to the value of £73,712; ring-fenced residual European Regional Development Funding (ERDF) of £44,284; and excess funds of £236,231.
- 3.4** To wind-up West of Scotland Loan Fund Ltd the Board are required to consider a number of factors, specifically: the administration of the existing loan portfolio; the use of residual ERDF; and the excess funds member authorities have within the company.
- 3.5** Business Loans Scotland Ltd (BLS) was formed in March 2017, with 27 Scottish Local Authorities becoming Full Members which includes West Dunbartonshire Council and 5 Local Authorities becoming Associate Members.

4. Main Issues

Administration of WSLF existing loan portfolio

- 4.1** As noted above as at 31st December 2018, West Dunbartonshire has an existing portfolio of business loans with a value of £73,712, being collected currently through the West of Scotland Loan Fund Ltd. The majority of loans should be repaid by 2022.
- 4.2** In order to wind up the company, the loan portfolio requires to be transferred to another organisation that can carry out the administration and debt collection of loans. The Board of WSLF identified that, due to existing expertise and resource, Business Loans Scotland Ltd would be the most appropriate vehicle to transfer the existing loan portfolio to. Agreement has been reached between the Boards of West of Scotland Loan Fund Ltd and Business Loans Scotland Ltd that should the loan portfolio be transferred into BLS, there will be no management fee.
- 4.3** A key benefit of transferring the loan portfolio to Business Loans Scotland Ltd is that it offers a vehicle for the management of residual ERDF as well as providing a governance structure that would satisfy any future audits carried out by Scottish Government.

The use of residual WSLF ERDF funding

- 4.4** A condition of the grant awarded during the 2007-14 ERDF programme meant that any ERDF paid back through loans had to be ring-fenced and re-used for future debt finance activity.
- 4.5** As of 31st December 2018 the Council has £44,284 of ERDF within the West of Scotland Loan Fund Ltd ring-fenced for debt finance activity and a balance of £89,410 was previously transferred from WSLF for Phase 1

within Business Loans Scotland Ltd which is also currently ring-fenced for debt finance activity.

- 4.6** A decision has still to be taken on how best to utilise these funds, however it is anticipated that Business Loans Scotland Ltd would be best placed to provide the administrative support to any future programme developed, either individually by member authorities, or through a wider collaboration either nationally or regionally.
- 4.7** Taking all of this into consideration, it is proposed that our ring-fenced ERDF money is transferred along with the existing loan portfolio and that any future debt finance programmes, using the ERDF are administered through Business Loans Scotland Ltd on behalf of West Dunbartonshire Council.

Removal of Excess funds from WSLF

- 4.8** As outlined in section 3.1 of this report, the West of Scotland Loan Fund Ltd Articles of Association (background paper provided) were changed last year. Specifically, Article 4.2 was deleted by Special Resolution to enable funds to be accessed and applied solely towards the promotion of the objects of the company as set forth in Article 4.1.
- 4.9** This was unanimously agreed by all 12 member authorities who form the Board of West of Scotland Loan Fund Ltd, enabling funds not required for Business Loans Scotland Ltd to be accessed and utilised by the Council for purposes directly related to delivering like-minded economic development activity.
- 4.10** As of 31st December 2018, the Council had excess funds which totalled £236,231. Due to the winding up of the company it is proposed that the Council withdraws £200,000 by the end of June 2019 and transfers the remaining £36,231 which will be sufficient to cover any other debts and liabilities such as staff pension costs from WSLF to Business loans Scotland Ltd.

Business Loans Scotland Ltd – Changes to Articles of Association

- 4.11** Business Loans Scotland Ltd was awarded the contract to deliver a new Debt Fund (Phase 2) from January 2019. This new fund 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.
- 4.12** As the match funding, contributed by the Member Authorities under Phase 1 of the Business Loans Scotland Ltd fund 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 Ltd.

- 4.13** The Articles of Association for Business Loans Scotland Ltd (background paper provided), 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 of Association.
- 4.14** In order to change the Articles of Association to allow a Member Local Authority to withdraw funds from BLS in the future and return those funds to its Local Authority, it is proposed by the Board of Directors, in discussion with the Fund’s solicitors, to issue a Special Resolution to the Members.
- 4.15** The Board of Directors of BLS agreed to make this proposal to the Members at its meeting on 8th March 2019. The proposed Special Resolution, 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.”
- 4.16** For the Special Resolution to be passed by the Company, it requires the approval of 75% of the Full Members of the Company. There are currently 27 Full Members, with Angus, East Lothian, Orkney Islands, Shetland Islands and Western Isles Councils as Associate members. 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.
- 4.17** As the Councils original funds within Business Loans Scotland Ltd (£89,410) transferred from WSLF and these were partly funded through the 2007-14 ERDF programme, they are ring-fenced and can only be re-used for future debt finance activity.
- 4.18** Approval is therefore required from the Committee to confirm that Council agree to the proposed changes to the Articles of Association of Business Loans Scotland Ltd which will avoid any “asset lock” in the future.

5. People Implications

- 5.1** All staff previously employed by the West of Scotland Loan Fund have undergone TUPE transfer to Business Loans Scotland Ltd.

6. Financial and Procurement Implications

6.1 The proposed changes are positive and will allow the Council to access and utilise additional financial resources which support the creation, sustainability and growth of local businesses within the area. This will contribute to the Council achieving its ambitions laid out in the Council's Economic Development Strategy 2015 - 2020.

7. Risk Analysis

7.1 Legal guidance on the wind-up of the WSLF Ltd has been provided, and will continue to be supported by the company external lawyers.

7.2 The provision of procured legal and audit services will be concluded and suppliers notified of the company's intention to wind-up.

8. Equalities Impact Assessment (EIA)

8.1 An equalities impact assessment is not necessary for this report. An EIA screening will be carried out as necessary should a new product or service be introduced to utilise the excess funds.

9. Strategic Environmental Assessment (SEA)

9.1 A strategic environmental assessment is not necessary for this report. Strategic Environmental Assessments will be undertaken as necessary for any new products or services which are developed through the excess funds.

10. Consultation

10.1 Consultation and advice has been provided to the WSLF Board by the external company lawyers to ensure the correct processes are followed in winding up the company.

11. Strategic Assessment

11.1 The proposals contained within this report support the four strategic priorities of the Council's updated Economic Development Strategy (2015-20).

- Stimulating economic investment and growing the business base
- Improving the skills of all our people and supporting them into work
- Creating an inclusive and prosperous place where people choose to live work and invest
- Building stronger partnerships and innovative approaches to delivery

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Date: 12 April 2019

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Appendices: None

Background Papers: IRED Committee 22 November 2017 – West of Scotland Loan Fund– Amendment to Articles of Association
West of Scotland Loan Fund Ltd - Articles of Association-2010
Business Loans Scotland Ltd – Articles of Association-2017

Wards Affected: **All Wards**