

Restricted Fund Reorganisation – Summary of Application

Introduction to Proposed Scheme

Edinburgh and Lothian Trust Fund SCIO (SCO49138) ('the charity') has applied to the Office of the Scottish Charity Regulator (OSCR) for approval of a restricted funds reorganisation scheme for:

- The variation of the purpose for which restricted funds may be used
- and
- The variation or removal of any condition imposed on the charity in relation to the use of the restricted funds

under section 43A of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act).

Background to Reorganisation

The Surplus Fire Fund became The Edinburgh Fire Fund (EFF) in 2015. It has its origins in the Great Fire of Edinburgh in the High Street in 1824 which prompted a public appeal for funds to assist those who had suffered from the fire. This included 400–500 families who were made homeless and lost their possessions as well as those that had been injured and the families of those who had been killed. The Lord Provost and other Trustees were appointed to administer the funds. Once all payments had been made, a balance of around £4,000 remained and this became known as the Surplus Fire Fund.

From 1927 the SFF was administered by Edinburgh Corporation. Payments from the Fund were always infrequent and by 2000, the Fund was effectively dormant. Changes were made to the purposes to increase the number of applicants but this action was largely unsuccessful.

The City of Edinburgh Council (Leith Links and Surplus Fire Fund) Act 2014 transferred the SFF to the Edinburgh and Lothian Trust Fund (EVOT) at which point it became the EFF. EVOT subsequently transferred all of its assets including the EFF to the Edinburgh and Lothian Trust Fund SCIO (ELTF).

When transferred in 2014, the purposes of the EFF (in summary) were:

- (a) the relief of injured persons or of dependants of injured or deceased persons;
- (b) making awards for non-structural damage to domestic premises and household contents (the original use to which the funds were put in 1824);
- (c) making awards to persons for meritorious service and
- (d) making awards to fund the purchase of equipment for use in hospital burns units.

The area of benefit is restricted to the City of Edinburgh.

The purposes of ELTF are:

- 4.1 The prevention or relief of poverty
- 4.2 The relief of those in need
- 4.3 The provision of support whether by way of financial assistance, accommodation, advice or otherwise to individuals or groups of individuals living in the area who, by reason of health, physical or mental disability or otherwise, are in necessitous circumstances;
- 4.4 The provision of assistance whether financial or otherwise to other charitable organisations operating in the area whose purposes are in the opinion of the Trustees similar to those outlined in sub-clauses 4.1,4.2 and 4.3 above.

Reasons for reorganisation

The EFF is one of several funds managed by ELTF whose primary purpose is the prevention or relief of poverty and the relief of those in need. It was because of that focus on relief of poverty and those in need that the Council selected ELTF as the appropriate organisation to take over responsibility for the Fire Fund.

Since taking over the EFF in 2014, ELTF has made awards under purposes (a) and (b) and has increased the number of these awards compared with previous years when the EFF was in the custody of City of Edinburgh Council. However, despite strenuous and ongoing efforts to raise awareness of the EFF as well as liaison with Fire and Rescue Scotland and the Fire Brigade Union (FBU), insufficient numbers of eligible applicants are coming forward to enable ELTF to use all of the income from the EFF. This may be due in part to a significant decline in the number of house fires, probably as a result of fewer people smoking, fewer coal fires and improved fire safety (795 in 2009-10 down to 429 in 2022-23).

The charity would therefore like to use the EFF to better effect for charitable purposes consistent with the charity's constitution, by using any unused portion of the income and capital to make grants for the relief of poverty more generally to individuals in need who are resident of the City of Edinburgh

To remove purposes (c) and (d) which relate, respectively, to meritorious service and the provision of equipment in hospital burns units'

Reorganisation conditions

The charity is applying for reorganisation because it considers that the following condition/s from Section 43A (2) of the 2005 Act apply:

- a) That some or all of the purposes of the restricted funds:
 - (ii) can no longer be given effect to (whether or not in accordance with the directions or spirit of the restricted funds' purposes)
- b) That the purposes of the restricted funds provide a use for only part of its property

The trustees suggest that these conditions are met because:

The first two purposes (a) and (b) of the EFF are being fulfilled as far as possible, however the remaining purposes (c) and (d) cannot as they are inconsistent with the charitable purposes of ELTF and are adequately provided for by other means.

In relation to purpose (c) meritorious service, the trustees have identified there are already a number of awards systems for firefighters, other emergency services personnel and member so of the public in place. Given that there is already established official systems for making awards in which the Fire Service already participates, the trustees consider it unclear how they or the Fire Service could separately identify a suitable candidate in relation to the City of Edinburgh area who has not already been recognised by the established channels. No application has ever been received from the FBU or Fire and Rescue Scotland.

In relation to purpose (d) grants to hospital burn units, the trustees have identified a number of difficulties. No application has been received under this purpose since the Fund was transferred to EVOT in 2014.

Making of any grants to NHS would appear to be out with the purposes of the ELFT and instead is more likely to fall within the charitable purpose of the advancement of health.

Trustees are concerned that by making of a grant or award under their current provisions would constitute a breach of their trustee duties under section 66 (1) (a) of the Charities and Trustee Investment (Scotland) Act 2005 to ensure that the charity acts in a manner which is consistent with its purposes.

Reorganisation Outcome

The trustees suggest that the restricted fund reorganisation will enable the resources of the restricted fund to be applied to better effect for charitable purposes consistently with the charity's constitution.

The trustees suggest that this outcome is met because:

In summary, the charity's constitution specifies its purposes as the prevention or relief of poverty, the relief of those in need, the provision of support to individuals in necessitous circumstance and the provision of assistance to other charitable organisations whose purposes are similar to those of ELTF.

Following reorganisation, eligible applications in connection with fires would continue to be funded but any unused or surplus income and capital would be used for the relief of poverty more generally in Edinburgh. This would assist in meeting the significant and growing demand for assistance from households in poverty. It would also allow the restricted fund to be more effectively applied in accordance with the charitable purposes set out in the ELTF Constitution.

It is the intention of ELTF to continue to promote awareness of the EFF and to maintain links with the Fire Service and FBU to ensure that the EFF still receives eligible applications.

The trustees have declared that they have been unable to ascertain the wishes of the donor(s) in respect of the restricted fund/s. This is because

- (i) The donor/donors is/are no longer living
- (ii) The donor/donors are unknown and/or not contactable

The charity has taken legal advice which confirms that as the fund was established by public subscription in 1824, none of the subscribers are alive and any case, their identities are unknown.

How to make a representation in relation to the proposed reorganisation scheme

Any person may make a representation to OSCR either supporting or opposing this proposed reorganisation scheme. Should you wish to make a representation, you may do so by writing to OSCR providing the following information:

- Your name and address (or email address)
- The name of the charity concerned
- The nature of the representation and reasons for it

These are the terms of Regulation 7 of the Charities Restricted Funds Reorganisation (Scotland) Regulations 2012.

Representations should be sent to OSCR by post or email

Postal: OSCR
2nd Floor Quadrant House
Riverside Drive
Dundee
DD1 4NY

Email: info@oscr.org.uk

Representations can be made up to 14 days following the end of the publication period. The latest date for the receipt of representations is 03 January 2025.

We cannot accept representations via social media channels.

Copies of any representations will be provided to the applicant charity for comment. If you do not wish the charity to be provided with your personal details, please indicate this in your representation.

Personal details will otherwise be disclosed to the applicant charity.

Please contact us by email or by telephone on 01382 220446 if you have any questions about the submission of a representation.

OSCR
22/11/2024