

ANNUAL GENERAL MEETING 13 OCTOBER 2012

CHARITABLE STATUS

Achieving registered charity status is, in my opinion, an important further stepping-stone towards achieving not only the ECF's financial stability (through the potential financial benefits it makes possible), but also a means of moving forwards by attracting fresh sponsorship, donations and legacies. It has the additional advantage of reinforcing the emphasis on supporting the amateur game, i.e. those who fund and benefit from its activities, and developing the pipeline for the future stars, while leaving Chess England to dedicate itself to the elite end of the spectrum.

Response from Charity Commission to draft ECF Articles

The Charity Commission responded encouragingly (see Appendix) to a draft copy of the ECF Articles as they might be amended to reflect the necessary changes for charitable status. Their response is included as an Appendix to this paper.

In response to the points raised by the Charity Commission, the draft Articles were revised by David Anderton, in consultation with the members of the informal charitable status committee.

Specifically, the second object referred to by the Commission (which expanded upon the ways in which amateur chess would be promoted and supported, through the organisation of competitions, grading and the National Chess Library) has been moved to the Powers.

The object relating to the advancement of education has been retained, although it could be removed if demonstrating the validity of this proved a stumbling block.

The concern raised over the prize fund of the British Championships (i.e. that it is too large to be seen as simply promoting an amateur sport) will not be relevant, provided the British Championships are moved to the responsibility of a new non-charitable entity, as already envisaged.

Draft Articles and Bye Laws

The amended Articles and Bye Laws prepared by David Anderton and revised again following the Charity Commission's feedback have been included **for information only** with the AGM papers. Council is NOT being asked to approve these documents at this time.

These documents include what are believed to be the necessary changes to reflect charitable status. The opportunity has been taken to strip out and/or update a number of outdated references from the time the Articles were first prepared (e.g. the list of membership benefits and definitions of membership categories).

The draft does NOT reflect any specific amendments being proposed at this AGM, with the exception of the change to the ECF's accounting year, and these would need to be incorporated if passed at the meeting.

New non-charitable organisation

As has been previously advised to Council, it will be necessary to move those aspects of the ECF's activities which do not fit the defined charitable goals (promoting amateur sport or education) into a new, non-charitable organisation, intended to be called Chess England Ltd.

There are important issues of substance to be decided concerning this organisation, such as its object, capitalisation and governance. It is also important to affirm acceptance of the basis of funding for the new organisation, namely through the British Championship (which will require a grant from the ECF to support its amateur sections in order to be able to achieve this). Practical matters such as administrative support also need to be decided.

Due to other priorities (primarily affecting the Chief Executive's available time), there has been less progress on these points than had been hoped. A draft set of Articles has been prepared by David Anderton but requires further review. This will take place in the weeks leading to the AGM, when a further report may be possible. The draft set of Articles will be published on the ECF website, but not as a paper for formal consideration at the AGM.

Proposed Way Forward

In view of the importance of this change and the need to ensure that Council has an appropriate opportunity to consider and debate it, it is proposed that an EGM should be held in January or early February 2013. This meeting would consider:

- Whether to proceed with a formal application for the ECF to become a registered charity;
- The amended Articles and Bye Laws required to make this application; and
- The establishment of the non-charitable organisation, Chess England.

A BCF meeting would also be required to consider:

- Transfers of capital, if any, to the ECF and/or Chess England; and
- The new PIF Trust Deeds and the future of Chess Centre Ltd.

At this stage, Council is asked to confirm its agreement to this proposed course of action.

**Andrew Farthing,
Chief Executive**

16 September 2012

APPENDIX: Response of Charity Commission to Draft Articles

Thank you for your email of 6 March and attachments. Further to my earlier message I have now completed my review of the information you have provided and consulted with senior colleagues. Please accept my apologies for the delay.

Objects

The Articles list three objects.

The first of these is for the promotion of amateur sport by promoting the study and practice of chess for the benefit of the residents of England. The wording as drafted would be satisfactory for the purpose of charity registration. You will be aware of the Decision of the Commission in the application to register Hitchin Bridge Club, available from our website, which considered the advancement of amateur sport in the context of bridge as a mind game. We are satisfied that chess would demonstrate the same health benefits in promoting mental skill and exertion as set out in the Decision in Hitchin.

Our published guidance in RR11 'Charitable Status and Sport', available from our website, gives further guidance. .

The second object is for the advancement of amateur chess. The wording as set out would appear to describe means by which the company would further its purpose for promoting the amateur sport of chess, rather than a separate charitable purpose.

The means set out include competitions. The Articles set out the game fees and as described we could be satisfied that these are not so high as to discourage or prevent participation. Our guidance in 'Charities and Public Benefit', available from the link to the Guidance pages of our website, sets out the principles of public benefit. We would expect any application for charity registration to show how arrangements for competitions and grading is directed to facilitating public participation in chess. We would also need to understand how the National Chess Library might operate for the public benefit and what is intended by 'other services'.

The third object is for the advancement of education and the wording as drafted would be satisfactory for the purpose of charity registration. Any application would need to explain how the means to further this purpose might be directed to training or developing the mind and how the methods and processes used are capable of advancing education. Our guidance in 'The Advancement of Education for the Public Benefit' may be helpful to that.

Membership

The Federation as described is a membership body. Where a charity has a membership, the membership may only serve the administration and operation of the charity in furtherance of exclusively charitable purposes for the public benefit. Any arrangements which might benefit the membership would need to be shown to be in the best interests of the charity and any private benefit to members may only be a by product of the work to further the purposes.

To the extent that the Federation may further its purposes through its member chess clubs, any application would need to explain how the member clubs are aligned to the purposes of the Federation and what controls the Federation may have over their operation in furtherance of those purposes.

Our published guidance in RS7 'Membership Charities' may also be of use to the trustees, in particular Part C which sets out legal considerations.

The trustees may also wish to consider the published public benefit assessment report for Radlett Lawn Tennis and Squash Club, available from the link to the public benefit pages of our website, which sets out the public benefit considerations for an organisation directed to the promotion of amateur sport.

Provisions of the Articles

From my review of the draft Articles and supporting bye laws it appears that they are oriented to the operation of the company in furthering its stated purposes and that the company will be able to operate independently in the control of the trustees. It may be that the bye laws, in particular that relating to structure, may be updated on the basis of any restructuring to form the separate entity named as Chess England, for example.

However I note that the Articles make reference to alternate directors from clause 45. A charitable company may not normally use alternate directors as it interferes with the responsibility of the appointed trustees for the operation of the charity they serve.

Competition prizes

Thank you for providing a copy of your response to the Commission's consultation on the advancement of amateur sport. We note that prize money for competition events is generally low but aht the British Championship offers a prize fund of £20k.

We note what you say in the consultation response about the Championship being primarily an event for amateur players and the involvement of professionals encouraging amateur players.

Where a charity directed to the promotion of amateur sport offers prize money to participants who demonstrate excellence in that sport, there is a difficulty in seeing how that prize is directed to promoting the sport rather than rewarding competition and excellence. In this case the size of the prize 'pot' raises concern about amateur participation and we would ask the trustees to consider whether this aspect of the operation of the company could be handled outside the proposed charity.

Non charitable activities

It appears that any current or planned non charitable activity is to be taken over by Chess England. It would be helpful if any application for charity registration could set out the scope of

work to be covered by Chess England and how that entity is established and will operate independently of the Federation.

I hope that these comments are of some use and would be pleased to provide clarification as required.