

FINANCE COUNCIL MEETING 13 APRIL 2013

CHARITABLE STATUS UPDATE

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1. Introduction

It has long been an aim of the ECF to achieve charitable status. As a result of developments in legislation (the Charities Act 2006) and a recent consultation paper by the Charity Commission on The Advancement of Amateur Sport, the opportunity to proceed has become a practical reality.

There are a number of tax advantages from operating as a charity (e.g. gift-aid (which allows the receipt of income from HMRC at a rate of 25% of donations made), Inheritance Tax (e.g. reliefs on legacies) and certain VAT exemptions (e.g. it is possible to have an exemption on membership income)) which could assist with the ECF's funding.

The ECF established a committee, chaired by Andrew Farthing, to consider issues affecting an application for charitable status and the movement of non-charitable activities into a new entity (referred to below as CE).

Andrew issued four papers which included in full or part aspects relating to possible application for charitable status:

- C16.16 Charitable Status
- C16.17 Governance
- C16.18 Financial Capital
- C17.18 Charitable Status

The document C17.18, which was presented at the October 2012 AGM, highlighted a number of areas which needed further consideration in order to form a full proposal that could then be presented to Council.

The areas below required further consideration:

- The basis of funding of CE
- The objects of CE
- The capitalisation of CE and the ECF
- The governance of CE
- Administrative support for CE

- The interaction between FIDE, the ECF and CE

It had been hoped that proposals in respect of the above could be presented to Council at an EGM in early 2013 (which would also consider the utilisation of the PIF Trust funds), however, the ECF Board were unable to find a satisfactory model of funding of CE.

2. Purpose of consultation paper

Moving to charitable status would be a major change for the ECF and would require a certain amount of reorganisation (as the above papers have previously explained).

One of the major reorganisational aspects of a move to charitable status would be the required split between charitable and non-charitable activities. The specific implications for the ECF are that the non-amateur chess activities included within International Chess and the British Championships would need to be excluded from the charity.

One possible way to fund the non-charitable organisation could be through the British Championships – the idea being that a grant could be requested from the ECF to support its amateur sections. The Board considered this approach but did not feel comfortable that an event that has historically sought and currently seeks to break-even should require significant grants of the magnitude that could support International Chess.

During the Finance Team's preparation of the budgets for Finance Council, it started to emerge, as a result of the take up of the membership scheme, that perhaps the answer regarding the funding is to have a split membership scheme.

Council members are therefore invited to send comments and suggestions regarding section 3 of this paper to the ECF, either to the office or direct to the Director of Finance, by **30 June 2013**. Responses will be taken into account in formulating a detailed proposal at the AGM in October 2013 with a view of allowing a vote on this matter, together with the utilisation of the PIF Trust funds, at Finance Council in April 2014 with any agreed changes taking effect from 1 September 2014.

3. Consultation on a dual membership scheme

Split or Dual membership schemes provide those interested in similar organisations the accessibility to join both, for example, I have dual membership of the Chartered Institute of Taxation and the Association of Tax Technicians – other organisations such as the WI and CIOB also have dual membership schemes.

One of features of dual membership is that it allows funds to flow into separate organisations so that they can be financially independent. This consultation seeks views regarding a possible funding model for the separate entities that would be required if the ECF was to apply for charitable status. Once funding has been considered the next step is to take responses and contemplate possible objectives, governance and the capitalisation for CE.

The Charity Commission has previously provided feedback with regard to the possible membership of an ECF charity. As some of these points influence some of the aspects in creating a possible dual membership scheme they have been reproduced for ease of reference in Appendix 2.

In terms of the funding of the non-charitable activities of the ECF it is useful to look at the detailed budget for International. Taking the figures for 2012/13 (as explained in the budget report the figures

for 2013/14 do not represent a 'normal' year due to their being an Olympiad and European Championship in the same year), there is net expenditure of £21,599 (which is comparable with previous years). It is assumed that the British should break-even.

Looking at the current indications of income from the different membership categories it is possible to draw up schemes which would allow CE sufficient funds to support international activities. On considering such splits it is important that the philosophy of such a scheme reflects Council's view on the funding of international (this is a debate that we will see at Finance Council).

It is assumed for illustration purposes below that professional chess is seen as the responsibility of all English chess players rather than just a subsection (e.g. say just Silver and Gold categories).

Looking at the figures as at the point the membership reached 9,000 members one split could be that, say 80% of the current membership fees goes to the charitable side of the ECF whilst 20% goes to CE.

Illustration of split between membership categories

As noted in the budget it is still too early to allow us to predict where the ECF will be in terms of membership numbers and splits between categories until we get to the end of August. For illustrative purposes we have taken below the split of membership as at the point that the membership reached 9,000. The split at the time was:

- 56% Bronze
- 24% Silver
- 18.5% Gold
- 1.5% Platinum

With approximately 14% being juniors.

Based on an 80:20 split the income for CE could look like:

Subscription from current Platinum members:

$$9,000 \times 1.5\% \times £60 \times 20\% = \text{£1,620}$$

Subscription from current Gold members:

$$9,000 \times 18.5\% = 1,665 \times 86\% \times £28 \times 20\% = \text{£8,019}$$

Subscription from current junior Gold members:

$$1,665 \times 14\% = 233 \times £22 \times 20\% = \text{£1,026}$$

Subscription from current Silver members:

$$9,000 \times 24\% = 2,160 \times 86\% \times £19 \times 20\% = \text{£7,059}$$

Subscription from current junior Silver members:

$$2,160 \times 14\% = 302 \times £13 \times 20\% = \text{£786}$$

Subscription from current Bronze members:

$9,000 \times 56\% = 5,040 \times 86\% \times \text{£}13 \times 20\% =$ £11,269

Subscription from current junior Bronze members:

$5,040 \times 14\% = 302 \times \text{£}9 \times 20\% =$ £1,270

This could give income for CE of “about” £31,049

(I say “about” as his figure would be reduced by early payment discounts / Paypal charges / VAT - the VAT element on £31,049 brings the figure down to £25,874).

Whilst the above net of VAT figure (before discounts and charges) is higher than the net expenditure on non-charitable expenses there are additional expenses that could logically be allocated to CE which are currently covered in other directorship budgets. These could include the recharging of office staff costs together with a proportionate element of overhead costs (e.g. office rental etc.) and possibly other “competitive” related expenditure – such as grading and/or rating.

4. The interaction between FIDE, the ECF and CE

As noted above CE would run and finance the "professional" side of English chess this would include the England teams playing in FIDE tournaments.

Currently the ECF is the existing member of FIDE and it is currently assumed that this would not change. It is envisaged that the FIDE Delegate would still be appointed by the ECF and potentially a board member of CE. CE would then be tasked with organising and funding international chess.

During the recent Candidates tournament the ECF had informal discussions on various issues with FIDE, one of these was in regard to the above.

FIDE have no qualms about the Olympiad team being selected by a body other than the main federation. It was noted by FIDE that it already happens in several other countries, usually where the team is picked and funds raised for it by the players.

Appendix 1: Charitable Status proposal checklist

1. ECF – “The Charity”
 - 1.1. Summary of benefits:
 - 1.1.1. Ability to reclaim gift-aid on membership fees
 - 1.1.2. Tax beneficial for those living legacies
 - 1.1.3. Potentially opens opportunity to obtain grants
 - 1.1.4. Potentially more attractive for corporate sponsors
 - 1.2. Proposed charitable objectives used in discussions with the Charity Commission have been:
 - 1.2.1. Development / promotion of amateur chess
 - 1.2.2. Development / training of young players
 - 1.2.3. Making chess as accessible as possible
 - 1.2.4. Promotion of mental health
 - 1.3. Legal structure
 - 1.3.1. It would be envisaged to keep existing company but change Articles of Association (drafts have been prepared by David Anderton)
 - 1.4. Membership
 - 1.4.1. To consider responses to consultation regarding potential dual membership
 - 1.5. A charity requires trustees
 - 1.5.1. One option is for current ECF directors to become trustees
 - 1.6. Funding
 - 1.6.1. To consider responses to consultation regarding potential dual membership
 - 1.7. Financial Capital
 - 1.7.1. This aspect has been addressed in paper C16.18 – formal proposals are now required which will link to funding
2. CE – “Professional Chess”
 - 2.1. Objects
 - 2.2. Membership
 - 2.2.1. To consider responses to consultation regarding potential dual membership
 - 2.3. Governance
 - 2.4. Funding
 - 2.4.1. To consider responses to consultation regarding potential dual membership
 - 2.5. Financial Capital
 - 2.5.1. This aspect has been addressed in paper C16.18 – formal proposals are now required which will link to funding
3. Permanent Investment Funds of the BCF
 - 3.1. The PIF trust deed was extended in January 2013 until April 2014
 - 3.2. Proposals will be required regarding transfer of capital to the ECF and/or CE

Appendix 2: Charitable Membership – feedback and guidance from the Charity Commission

Feedback from the Charity Commission

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.

Published Charity Commission Guidance: RS7

Public benefit

Trustees need to give careful consideration to the way in which eligibility for membership is determined within their charity. No one has an automatic right to membership of a charity but restrictions on membership must normally be avoided and eligibility for membership should be as open as possible.

In certain circumstances, which should be transparent, restrictions on membership may be necessary. Particular care needs to be taken when membership is a prerequisite to receiving a benefit from the charity. Here any restriction may impact on the level of public benefit the charity is able to demonstrate. Restrictions on membership must not be used as a means of conferring a non-charitable and purely private benefit.

The level of non-charitable 'private benefit' that members of a charity can receive is also an important consideration.

The motivations of membership

People have a variety of motivations for becoming a member of a charity. Benefits of membership found in the research included:

- access to information or support;
- a sense of contribution to and involvement in society; and
- tangible benefits, for example reduced admission fees to historical sites or particular areas.