

East Neuk of Fife Preservation Society



5 Station Road
St Monans
Fife, KY10 2BJ

2 February 2022

Dear Member

CHARITABLE STATUS OF THE SOCIETY

One of the major issues that has been causing the Committee a challenge during 2021 is the legal status of the Society. Currently, the ENFPS is an “unincorporated organisation” which means that it comprises a collection of individuals with no separate legal identity. As the Society owns a property it must rely on individuals to do so on its behalf which increases the risk of personal liability for those involved, including its members.

Being a Scottish Charitable Incorporated Organisation (or SCIO) offers a degree of protection to charity trustees against personal liability which isn't found in unincorporated associations. This gives protection to those running the organisation and to its members. However, it also means that committee members need to take their responsibilities very seriously as personal liability may still occur if trustees are found to be reckless, negligent, or act outwith their powers in the management of the organisation.

The Scottish Charity Regulator (OSCR) has issued extensive guidance on the process for incorporation which we have followed. There is no process to change, directly, an unincorporated organisation into an incorporated charity. Instead, the procedure is as follows:

- Firstly, a completely new organisation must be created and registered as a charity by OSCR;
- Secondly, all of the assets of the former charity are transferred to the new charity;
- Thirdly, the old charity is closed down.

Specifically, for the needs of our Society, a new constitution was written by adapting OSCR's pro-forma version and this was accepted by OSCR on 11 October 2021. Therefore, a new “incorporated” society exists as the East Neuk of Fife Preservation Society (SCIO) with charity number SC051336.

It is now required that the wording of the current constitution (which dates from 24 March 2006) is amended at an Extra-ordinary General Meeting to permit a smaller number of members to approve the winding up of the current society and transfer of its assets to the new Society. Currently **three quarters of all members are required to have voted to wind up the Society** (an impossible goal!). It is proposed that the wording be amended to reduce the number required to **three quarters of the members attending the meeting or who have responded in writing or by email**.

If you have any questions please let me know by 15 March. I trust that you will appreciate our need to “incorporate” the Society and look forward to meeting with you on 29 March 2022 at Earlsferry Town Hall.

Yours sincerely

John Beaton

Chairman