



Governing the beautiful game: the future of football in civil society

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*'Football matters, as poetry does to some people and alcohol does to others...Football is inherent in people...There is more eccentricity in deliberately disregarding it than in devoting a life to it. The way we play the game, organise it and reward it reflects the kind of community we are.'*¹ – Arthur Hopcraft

¹ Arthur Hopcraft, *The Football Man* (London: Aurum Press) p.9.

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Introduction

By the start of September 2019, the outside of Gigg Lane was awash with tributes of remembrance.² The standard array of floral testaments were joined by scarves, letters, and football shirts from clubs all over England, not just those of the stadium's previous, 134-year old occupants, Bury FC.³ A symbolic expression of unity from rival fans. The visceral reaction of football supporters to Bury's expulsion from the English Football League (henceforth EFL) the previous month speaks to the manner in which football, and those institutions that continue to uphold it, still lie at heart of local communities across the United Kingdom.

Bury's failure to pay off thousands of pounds worth of debt, and subsequent inability to secure a financial takeover which would have allowed them to do so, resulted in what EFL Executive Chair Debbie Jevans described as 'one of the darkest days' in the league's history.⁴ 'When the news broke at Gigg Lane,' radio broadcaster Mike Minay noted, 'fans instantly let out a huge cry – for help, of disbelief.'⁵ 'Fans walked away in instant tears, some crouching to the floor.'⁶

Yet Bury's plight has, in recent times, been far from isolated. The modern history of English league football is littered with similar stories of clubs unable stay afloat – Macclesfield Town, Chester City and Rushden & Diamonds FC are all amongst those that, since 2011, have joined 'The Shakers' in football's growing institutional graveyard.

Just under two years following Bury's expulsion, supporters of clubs at the upper echelons of the English football pyramid were themselves outraged at the trajectory of their teams. Fans of Arsenal FC, Chelsea FC, Liverpool FC, Manchester United, Manchester City and Tottenham Hotspur took to the outside of their own stadiums to voice indignation at proposals to join a new, exclusive 'European Super League' (henceforth ESL). Designed as a breakaway competition from the English football pyramid for 'elite' clubs, the ESL was described by critics as finding the 'very idea of competitive sport offensive' and the deliberate stupidising of sport.⁷ The project, ultimately dropped by English clubs in reaction to such fan discontent, itself stands as a testament to the dysfunction festering within the governance of English football.

² Matthew Lee "How the people of Bury lost their 134 year-old football club" <https://www.slow-journalism.com/from-the-archive/how-the-people-of-bury-lost-their-134-year-old-football-club>

³ Ibid.

⁴ Debbie Jevans, as quoted in <https://www.telegraph.co.uk/football/2019/08/27/bury-face-expulsion-football-league-125-years-proposed-takeover/>

⁵ Mike Minay "Broadcast on BBC Radio Manchester", as cited in "Bury expelled by English Football League after takeover collapses" <https://www.bbc.co.uk/sport/football/49451896>

⁶ Ibid.

⁷ Jonathan Liew, "Only someone who truly hates football can be behind a. European Super League" <https://www.theguardian.com/football/2021/apr/18/only-someone-who-truly-hates-football-can-be-behind-a-european-super-league>; Barney Ronay "Super League shows why the deliberate stupidising of sport must be resisted" <https://www.theguardian.com/football/2021/apr/24/super-leagues-dumbing-down-of-youth-laid-bare-a-brainchild-of-stupid-old-men>

What both the epidemic of football clubs going into liquidation, and the attempted formation of the ESL, have highlighted is a failure of regulation and leadership at the highest level. It was out of these crises, and the continued threat of the English football clubs becoming increasingly detached from fans and local communities, that in 2021, the government commissioned a Fan-Led Review (henceforth FLR), headed by Tracey Crouch MP. In its own words, the review looked to ‘address the challenges encountered in men’s professional football.’⁸ Crouch herself stated that the motivation for the report was borne out of ‘football lurching from crisis to crisis over the past decade and unfortunately we haven’t seen the right levels of regulations in place to stop that happening.’⁹

The completed FLR has been divided into 11 chapters, each with the purpose of reviewing one critical challenge within men’s football. The report’s breadth in looking at a wide range of governance issues within football is impressive. Topics covered in considerable detail include governance and financial regulation, club ownership structures, equality and inclusion, supporter engagement and club heritage. Perhaps naturally given some of the short-term triggers of the report, it has looked at these areas more thoroughly than pastoral difficulties such as player welfare, whilst acknowledging that women’s football should be granted its own separate review.¹⁰

In responding to each of the challenges outlined, the FLR makes 10 key recommendations, each of which also contains several sub-recommendations. Altogether, the total number of recommendations and sub-recommendations made by the FLR is 47.¹¹ However, the primary takeaway from the suggestions in the report is the introduction of a new Independent Football Regulator (henceforth IREF), which would oversee several key areas of governance, including financial sustainability, a new test for club owners and directors, and diversity and inclusion policies. The report goes into some detail about the scope and specific mandate of IREF, as well as its operational capacity.

Yet the FLR does go further, making several recommendations unaligned with an independent regulator. These include better protection for football clubs as vital parts of local communities, urgent action on player welfare and the implementation of Shadow Boards made up of supporters to be consulted on key club decisions.¹²

⁸ “Fan-Led Review of Football Governance”

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.14

⁹ Tracey Crouch MP, as quoted in <https://www.bbc.co.uk/sport/football/59406087>

¹⁰ “Fan-Led Review of Football Governance”

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.125

¹¹ Ibid. pp.136-141

¹² Fan-Led Review of Football Governance”

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf

In response, however, Premier League clubs raised concerns about the difficulties the report's findings may present. Aston Villa FC CEO Christian Purslow, for example, stated that the ideas for reform had 'gone a little bit far', whilst Crystal Palace FC Chairman Steve Parish said the FLR could have 'huge unintended consequences and could make the game worse in the long run'.¹³

Despite this, supporter groups received the review warmly. AFC Wimbledon's The Dons Trust, for example, claimed that 'These weeks promise to be transformational for football,' whilst Describing the FLR as 'promising' and that it left football 'on the cusp of something brilliant'.¹⁴

Equally, the Johnson Administration accepted or supported each of the FLR's key findings, and endorsed the key recommendation of establishing a football regulator, promising a White Paper setting out detailed proposals on IREF.¹⁵ Then-Sports Minister Nigel Huddleston was quoted as saying a regulator would 'usher in a new era of financial competency'.¹⁶ Whilst rumours that the short-lived Truss government would look to ditch the report as part of its anti-regulation outlook, the Sunak Administration is expected to take a more favourable line to the FLR.¹⁷

In anticipation, therefore, of the publication of a White Paper, this briefing seeks to evaluate how far the ideas of the FLR may go to alleviating the problems regarding governance which currently persist in English football, and move the sport towards a culture of good governance. It will also seek to highlight any areas which the report may have missed, and which need addressing in order to create a healthier future for football in England. Additionally, if there is an overarching criticism to be made on the structure of the FLR, it is that it fails to ask more specific research questions on some of the key challenges facing men's football. Aside from a general study of 'How football might be improved', the review does not set out to answer to any particular challenges within football. This report will therefore look more precisely at some of the areas which need to be scrutinised given the current position of the English men's game. Specifically, it will seek to identify the key difficulties in grassroots level football, and find possible methods for reform in order to ensure that this critical part of the footballing ecosystem is functioning to its maximum potential. Furthermore, in a climate where football is becoming increasingly monetised and commercialised, as well as wielding greater geopolitical influence, the report will look to analyse how football clubs in England can remain the vital local community assets, as has historically been the case, whilst having to adapt to a more global ecosystem.

¹³ Christian Purslow, as quoted in <https://www.birminghammail.co.uk/sport/football/football-news/aston-villa-transfers-fan-review-22272135>; Steve Parish, as quoted in <https://www.bbc.co.uk/sport/football/59481154>

¹⁴ Dons trust co-chair Xavier Wiggins, as quoted in <https://www.standard.co.uk/sport/football/fan-led-review-tracey-crouch-government-fair-game-dons-trust-b966242.html>

¹⁵ <https://www.gov.uk/government/publications/government-response-to-the-fan-led-review-of-football-governance/government-response-to-the-fan-led-review-of-football-governance>

¹⁶ <https://www.gov.uk/government/speeches/fan-led-review-of-football-governance>

¹⁷ <https://www.thetimes.co.uk/article/dismay-as-liz-truss-puts-plans-on-hold-for-independent-football-regulator-l63w57r0j>

This report will subsequently look at the extent to which the current governance structures in English football align with UK Sport’s Principles of Good Governance. It will further assess the extent to which implementing the FLR’s recommendations may bring English football closer to a traditional model of good governance. As part of its final recommendations, the FLR proposes that English football establish a new Code of Corporate Governance, modelled around the Principles of Good Governance.¹⁸ This being the case, it is of utmost importance to look at whether the implementation of the FLR’s other recommendations are in fact cohesive with creating the model for corporate governance that has been outlined as desirable by the review, and whether they would provide a marked improvement in aligning with this model, in contrast to the structures of governance currently in place. This evaluation is even more valuable given that significant bodies currently operating within English football – including being part of the FA’s Code of Governance for County Football Associations – are already utilising UK Sport’s principles to assess their own standards of good governance.¹⁹ This being the case, it is clear that elements within English football are already moving towards such principles as being the rubric for governance procedures, and therefore any proposed future model for English football should seek to align itself as closely with these as possible.

The principles outlined by UK Sport published as part of its ‘Code of Sports Governance’ are: 1) Structure; 2) People; 3) Communication; 4) Standards and Conduct; 5) Policies and Processes. Each of these provide an umbrella for more nuanced ideas which need to be upheld to ensure the strong governance of sport, such as transparency and accountability. In cases where such principles are not accounted for within the current position of English football or by the suggestions made in the FLR, this briefing will look to highlight possible solutions in order to give English football a clearer direction on which areas to focus in order to ensure a healthier future for the sport.

Yet this report forms the first of three prospective parts investigating governance in football. Given the fundamental importance of grassroots football to the future of football in England, the second part, for publication following the release of the White Paper, will look to analyse in closer detail the specific areas a regulator must focus on if it is to deliver for football at a grassroots level, as well as best practices to implement in order to do this.

The third section will examine one of the fundamental underpinnings of the FLR – that football clubs are becoming increasingly unattached from supporters and are thus losing their value as community assets. Taking example from action and inaction in other countries, as well as different sports, it will look to highlight best practices to ensure that clubs remain custodians of community assets into the long-term future.

In April 2021, in announcing the launch of the FLR in a speech to Parliament, then-Secretary of State for Digital, Culture, Media and Sport Oliver Dowden announced that ‘if the past year

¹⁸ “Fan-Led Review of English Football”

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.138

¹⁹ <https://www.thefa.com/news/2020/may/18/regional-code-of-governance-introduction-james-kendall-180520>

has taught us anything, it's that football is nothing without its fans' but that their loyalty 'is being abused.'²⁰ Whilst the FLR has made an admirable start in reversing this trend, it needs a degree of refinement, edition and addition in order to be fully successful in creating a more sustainable future for English football governance.

²⁰ <https://www.gov.uk/government/speeches/statement-by-oliver-dowden-on-the-european-super-league>

English football and the principles of good governance

‘The men’s game is at the financial precipice’, a situation that has been ‘exacerbated because corporate governance in clubs can be so poor.’²¹ The damning indictment given by the FLR serves as a testament to the importance of upholding good governance principles within English football. Yet at present, it remains unclear to what extent a model of good governance, as outlined by the FLR, is being followed by those currently in charge of the sport. Furthermore, the effectiveness of implementing the recommendations of the FLR in creating such a culture of good governance has not been tested in significant detail. One of the purposes of this briefing, therefore, is to establish whether more can be done to maintain good governance in English football, and whether the suggestions presented by the FLR are best placed to establish this.

By taking UK Sport’s five Principles of Good Governance, as outlined in the agency’s ‘Code for Sports Governance’, the current practices of the football industry in England can be measured against a clear framework which itself has been put forward by the review as a desirable model for governance in football – and which in some cases are already being used as a framework at regional level – and thus illuminate any deficiencies within the system and create scope for future development. Furthermore, it is essential that if a new Code of Corporate Governance is to be implemented, that there is a degree of clarity on to what extent the ecosystem in which this operates will be able to facilitate this code to be met effectively. In order to do this, the first part of this briefing will analyse the current position of English football relative to each of these good governance principles, before assessing the impact the FLR’s recommendations would have in remedying any potential longstanding problems.

²¹ “Fan-Led Review of Football Governance” p.35.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf

Chapter I: The structure of English men's football

The current position of English football

Unstable competition for power

The first principle outlined by UK Sport as essential to promoting good governance within sporting organisations is having a coherent structure.²² The agency outlines that 'organisations shall have a clear and appropriate governance structure' which promotes 'collective responsibility for the long-term success of the organisation' with a Board that is 'properly constituted.'²³ This, it has noted, 'enables the best decisions to be made to drive the success of the organisation' and 'having an appropriate governance structure demonstrates to all stakeholders that the organisation is well managed.'²⁴

In 2009, a report published by the 'All Party Parliamentary Football Group' on the governance of English football outlined the manner in which the Football Association (henceforth FA), the Premier League and the EFL were continually 'competing' for power and influence within the English football ecosystem.²⁵ This was deemed 'inefficient and detrimental to the sport.'²⁶ In one recommendation, the report suggested that the FA should be 'regaining its role as the leading governing body, single voice and overall regulator for the sport.'²⁷

Such a suggestion was certainly both apt and timely in nature. Whilst there should in principle be no issue with representation of various parties each presenting individual ideas, the level of impasse and disunity between the FA, EFL and Premier League that has been sown since the latter's formation in 1992 has proved catastrophic for men's football, and points to a clear need for change. As David Conn has written, the Premier League's very conception detracted power from the governing body and 'represented everything the FA had always opposed.'²⁸ This ultimately led to several unsuccessful attempts from the FA to reinstate power, such as a proposal to reduce the size of the league to 18 clubs.²⁹ Despite this, by 2004, the Premier League had been granted four representatives on the FA's board, allowing the organisation yet more scope to influence national football governance.³⁰

²² "A Code for Sports Governance: The Principles" <https://www.uk sport.gov.uk/resources/a-code-for-sports-governance/the-principles>

²³ Ibid.

²⁴ Ibid.

²⁵ "English Football and its Governance" All Party Parliamentary Football Group Report, April 2009, p.13

²⁶ Ibid.

²⁷ Ibid. p.23

²⁸ David Conn "How the FA betrayed their own game" The Guardian 14.11.02 <https://www.theguardian.com/football/2004/nov/14/sport.comment>

²⁹ Ibid.

³⁰ <http://news.bbc.co.uk/sport1/hi/football/3882993.stm>

One of the by-products of this power struggle, and the influence of the Premier League, has been an epidemic of insolvency amongst EFL clubs. In 2019/2020, 37 clubs present in the EFL were found to be technically insolvent.³¹

The All-Party Parliamentary Group's recommendation to restore the FA's authority, and create a clearer structure of hierarchy, therefore, was designed as a means of unification of governing bodies, which would allow for the potential of a greater degree of money sharing by Premier League clubs, and a healthier environment in which those in the EFL may operate.

Whilst in theory the restoration of the FA's authority has been achieved in the 13 years since the report's publication, with the Premier League's own website ceding that the FA is 'the national governing body for football in England and is responsible for sanctioning competition Rule Books, including the Premier League's, and regulating on-field matters,' it is clear that, in all practicality, the phenomenon of competing voices failing to reach satisfactory resolutions on key issues surrounding football in England has persisted.³²

As the FLR alludes to, English football continues to suffer from a variation of parties each attempting to perpetuate their own interests, and a 'lack of one voice' within the sport.³³ Indeed, it is clear that the FA's devolution of power to the Premier League and EFL has resulted in continuing disharmony amongst key players within the football governance structure. This has been exacerbated as English football has transitioned into what Gabriele Marcotti has described as an 'era of superclubs', or clubs with vast financial and administrative resources, each of which has been able to exert significant power within the English football pyramid.³⁴

The result of this has been a continued struggle for stability. In 2020, for example, a consortium of the Premier League's biggest clubs spearheaded an attempt to reform the English football pyramid in what became known as 'Project Big Picture.'³⁵ The initiative, if successful, would have seen the Premier League calendar trimmed, with the League Cup and Community Shield abolished and the 'Big Six' Premier League clubs – Arsenal FC, Chelsea FC, Manchester United, Manchester City, Liverpool FC and Tottenham Hotspur – alongside West Ham United, Everton FC and Southampton FC, get special voting rights on certain issues.³⁶ In exchange, EFL clubs would receive an immediate £250 million windfall

³¹ "English football on the precipice" <https://gameofthepeople.com/2022/03/04/english-football-on-the-precipice-40-plus-clubs-technically-insolvent/>

³² "Premier League's Football Partners" [https://www.premierleague.com/about/football-partners#:~:text=The%20Football%20Association%20\(The%20FA,our%2020%20Member%20Clubs%20compet](https://www.premierleague.com/about/football-partners#:~:text=The%20Football%20Association%20(The%20FA,our%2020%20Member%20Clubs%20compet)

³³ "Fan-Led Review of Football Governance" p.33.

³⁴ Gabriele Marcotti "The dominance of superclubs shows no sign of ending" <https://www.espn.co.uk/football/blog/marcottis-musings/62/post/2883229/the-dominance-of-footballs-superclubs-shows-no-sign-of-ending>

³⁵ Ben Sutherland "Project Big Picture: What is it and how would it work?"

<https://www.bbc.co.uk/sport/africa/54510898>

³⁶ Ibid.

from Premier League clubs to share, as well as 25 per cent of any future television revenue for the Premier League.³⁷

The idea was met warmly by the EFL, with Chairman Rick Parry claiming it was ‘for the greater good’ of English football.³⁸ However, several other stakeholders, including the Premier League, positioned themselves vehemently against the move, with an official Premier League statement stating that ‘it could have a damaging impact on the whole game and we are disappointed to see that Rick Parry, chair of the EFL, has given his on-the-record support.’³⁹ The UK government, too, stated that ‘it would create a closed shop at the very top of the game’, whilst the Football Supporters Association noted ‘with grave concern’ that it risked ‘having far-reaching consequences for the whole of domestic football.’⁴⁰

Such a discord between the most powerful voices in English football was also seen in 2021, when the ‘Big Six’ were reported to be ‘fighting off’ an owners’ charter put forward by the Premier League that would commit them to qualifying for the Champions League ‘on sporting merit’.⁴¹ The imposition of such a charter would have the effect of preventing any breakaway, whilst failing to guarantee the six clubs in question qualification for European competition, and the monetary and brand benefits that come with it.

What has become clear in the past decade, therefore, is that whilst the FA may in theory have assumed more jurisdiction over governance in English football, their policy of devolution of power to bodies such as the Premier League and EFL has resulted in a continuing lack of unity within English football. This has now been exacerbated by the emergence of ‘Super Clubs’ in the Premier League, created as a result of increasing wealthy foreign investment into a potentially lucrative market. The result of this has been a rapid widening of the financial gap between the Premier League ‘Big Six’ and the remaining 14 clubs. As financial analysts Vysyble have noted, during the 2017/2018 season, the revenue gap between the sixth highest earning club (Tottenham Hotspur) and the seventh highest earning (Everton FC) was £191 million, up from just £1.88 million in 2009.⁴² The trickle-down nature of financial distribution currently in place across the football pyramid means that the power and influence of ‘Big Six’ clubs has manifestly increased in that time, in the knowledge that clubs lower down the ladder are reliant on the revenues pulled in by those at the top.

³⁷ Ibid.

³⁸ Rick Parry, as quoted in “Project Big Picture for the greater good of English soccer, says EFL chief” <https://www.sportspromedia.com/news/project-big-picture-premier-league-efl-liverpool-manchester-united/>

³⁹ Premier League, as quoted in <https://www.leeds-live.co.uk/sport/leeds-united/breaking-premier-league-plans-parry-19086636>

⁴⁰ UK government spokesperson, as quoted in Paul MacInnes and David Hynter “Project Big Picture: leading clubs’ plans to reshape game sparks anger” <https://www.theguardian.com/football/2020/oct/11/project-big-picture-premier-league-and-efl-plan-radical-reform-to-avoid-crisis>; <https://thefsa.org.uk/news/fsa-statement-response-to-media-reports-on-project-big-picture/>

⁴¹ https://www.thetimes.co.uk/article/premier-league-big-six-rebel-against-owners-charter-3s07763p3?utm_medium=Social&utm_source=Twitter#Echobox=1644936921

⁴² Robert Kidd “The Big 6 Clubs are Destroying the Premier League, Report Says” <https://www.forbes.com/sites/robertkidd/2019/06/18/the-big-6-clubs-are-destroying-the-premier-league-says-report/?sh=4b8c354310dc>

As a result, the FA's devolution of power to the Premier League and EFL has become tainted by the level of influence top clubs are able to exert over such bodies, as well as differences in the approach of both organisations themselves. This trend risks becoming an alarming development for English football, given the often self-serving nature of the hierarchies amongst top clubs. As Vysable director Roger Bell has noted, the 'Big Six' clubs have a 'desire to reduce risk, which they are now successfully doing with increasing amounts of European prize money and what will be a greater share of the Premier League's international broadcast revenue. The downside is that the remaining group of fourteen clubs, irrespective of their constituents, will fall further behind the Bix Six in terms of revenue, profitability and on-pitch performance.'⁴³

It was out of this culture of self-preservation at the expense of much of the rest of the English footballing pyramid that the European Super League was born in April 2021. As Tariq Panja and Rory Smith have pointed out, one of the main appeals of the creation of the new format was that revenues generated would be given only to all competing clubs, 'rather than being redistributed to smaller clubs and through European soccer's governing body, UEFA. At the same time, the value of domestic leagues and their clubs will diminish drastically as they are effectively rendered also-rans every year.'⁴⁴ As a result, the decreasing revenues amongst domestic leagues would have witnessed a further increase in club insolvency and liquidation, and risked ripping cornerstones out of local communities across the country, as has been the case with clubs such as Bury FC and Macclesfield Town.

It is for these reasons that any regulation implemented within English football needs to fundamentally address the problem of decision-making in governance, with a particular emphasis on the current unstable balance of power between key stakeholders.

Excessive gambling for success leaves clubs in financial peril

The problems surrounding the lack of unified leadership within the English footballing pyramid, and the increasing power of top Premier League clubs, has led to another seminal problem with regards to the long-term sustainability of clubs in England.

In the Premier League, the financial lure of finishing in a place that offers the opportunity of competing in European competition the following season – in the form of the UEFA Champions League, UEFA Europa League or UEFA Conference League – is extensive. In the most recently completed edition of the Champions League, €14.8 million is awarded by UEFA for any club which qualifies for the group stages of the Champions League, something guaranteed by finishing within the top four places of the Premier League.⁴⁵ This figure is €3.4 million for Europa League qualification and €2.8 million for the Europa Conference League.⁴⁶ Financial rewards are increased as clubs progress through the competition, with a potential cumulative prize total of over €50million, €8million and €4million for the winner of

⁴³ Ibid.

⁴⁴ Tariq Panja and Rory Smith "The European Super League Explained", <https://www.nytimes.com/2021/04/19/sports/soccer/super-league-explainer.html>

⁴⁵ "Note to UEFA Member Associations" https://editorial.uefa.com/resources/0269-125fde34ba54-30a4c9aeea13-1000/20210520_circular_2021_35_en.pdf#page3

⁴⁶ Ibid.

each competition, respectively.⁴⁷ However, these figures are at the lower estimate of what winning clubs stand to make, as six-figure pay-outs are also made for each victory recorded throughout the tournament, as well as money made through broadcast revenue and payments in what UEFA describe as ‘coefficient-based amounts’.⁴⁸

However, the increasing financial dominance of the ‘Big Six’ clubs have increasingly become transformed, as Forbes point out, to on-field success.⁴⁹ In the last five completed seasons, for example, only Arsenal in 2021/2022 have failed to qualify for any form of European competition. Accordingly, of the other clubs in the Premier League during the same time period, only Leicester City and West Ham United (both on two occasions) and Wolverhampton Wanderers, Burnley FC and Everton FC (each on one occasion) have secured the opportunity to compete in Europe and gain such revenues.

On the surface this may not appear excessively problematic, with writers such as Sam Wallace pointing to the cyclicity of football as evidence that this is a temporary trend.⁵⁰ Indeed, Michael Graham has noted how the evolution of dominant clubs in English football has changed since the Premier League’s conception in 1992.⁵¹ However, these arguments fail to acknowledge that the levels of financial disparity within the Premier League currently far exceed anything witnessed in previous years. As a result, such cycles are getting harder to break for clubs not blessed with extensive monetary resources. Where such clubs do succeed in infiltrating the ‘Big Six’, the position is not long-term. Leicester City’s shock winning of the Premier League in the 2015/2016 season was followed by a 12th place finish in 2016/2017 and stands very much as an anomaly in breaking the hegemony of the more financially dominant clubs.

The consequence of this phenomenon has been clubs outside the ‘Big Six’ spending increasing amounts of money on player salaries and wages to compete with the more financially dominant clubs. In 2017/2018, for example, the average staff cost to revenue ratio for the ‘Big Six’ clubs was 52.2 per cent, whilst for the other clubs in the Premier League the equivalent figure stood at 67.4 per cent.⁵² Eight clubs that season spent more than 70 per cent of revenue in staff costs.⁵³ However, as a report commissioned by Department for Digital, Media, Culture and Sport found earlier this year, such spending has

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Robert Kidd “The Big 6 Clubs are Destroying the Premier League, Report Says” <https://www.forbes.com/sites/robertkidd/2019/06/18/the-big-6-clubs-are-destroying-the-premier-league-says-report/?sh=4b8c354310dc>

⁵⁰ <https://www.independent.co.uk/sport/football/news/sam-wallace-in-football-s-long-cyclical-game-arsenal-s-present-lack-of-success-is-scarcely-a-drop-in-the-ocean-2356894.html>,

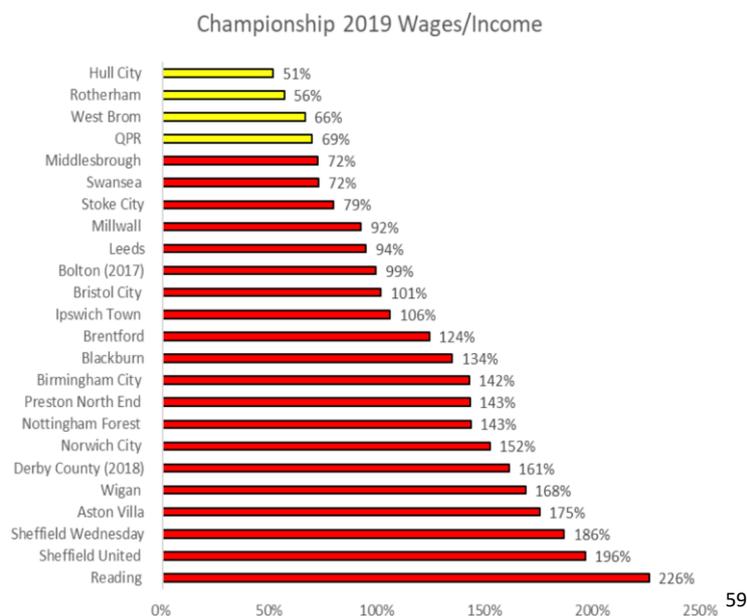
⁵¹ Michael Graham, “Premier League Big Six: how did the balance of power in English football evolve”, <https://www.planetsport.com/soccer/news/premier-league-big-six-balance-power-english-football-evolve>

⁵² Robert Kidd “The Big 6 Clubs are Destroying the Premier League, Report Says”, <https://www.forbes.com/sites/robertkidd/2019/06/18/the-big-6-clubs-are-destroying-the-premier-league-says-report/?sh=4b8c354310dc>

⁵³ Ibid.

long since reached unsustainable levels.⁵⁴ Earlier this year, European football’s governing body UEFA introduced a series of cost control guideline for football clubs, designed to harness levels of unsustainable spending. These stipulated that any club’s spending on player wages, coach wages transfers and agent fees should not exceed 70 per cent of the club’s revenues.⁵⁵ In 2018/2019, as Figure 1.1 shows below, 20 of the 24 clubs competing in the Championship exceeded this wage control guideline, with 15 clubs spending over 100 per cent of revenues on these channels.⁵⁶ The average amount of revenue spent on wages during that season was 129 per cent.⁵⁷ The following season, as Figure 1.2 shows, the number of clubs above the threshold rose to 22 of the 23 clubs which made financial reports public, with only Huddersfield Town spending less than 70 per cent of their income on wages.⁵⁸

Figure 1.1



Source: ‘Assessing the Financial Sustainability of Football’, 11.03.22, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071503/Assessing_the_financial_sustainability_of_football__web_accessible_.pdf

⁵⁴ Christina Philippou and Kieran Maguire, “Assessing the Financial Sustainability of Football”, 11.03.22, p.34, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071503/Assessing_the_financial_sustainability_of_football__web_accessible_.pdf

⁵⁵ “Explainer: UEFA’s new Financial Sustainability regulations”, <https://www.uefa.com/insideuefa/news/0274-14da0ce4535d-fa5b130ae9b6-1000--explainer-uefa-s-new-financial-sustainability-regulations/>

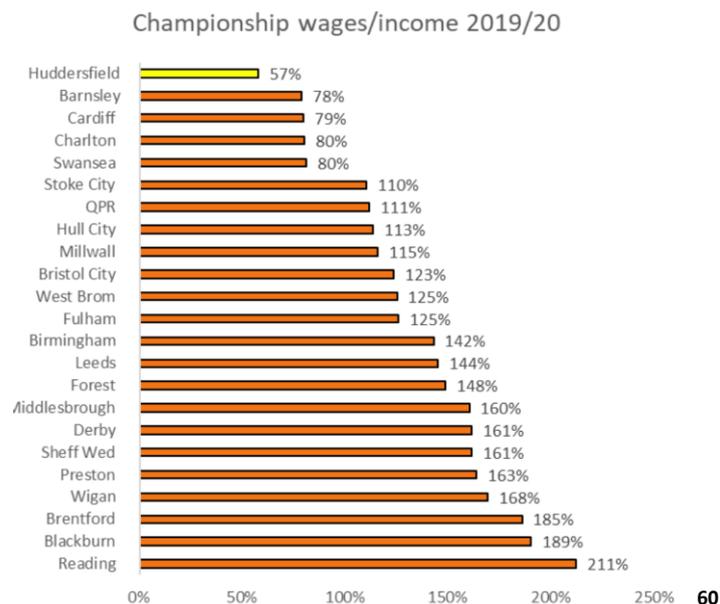
⁵⁶ Christina Philippou and Kieran Maguire, “Assessing the Financial Sustainability of Football”, 11.03.22, p.11, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071503/Assessing_the_financial_sustainability_of_football__web_accessible_.pdf

⁵⁷ Ibid. p.10.

⁵⁸ Ibid. p.12.

⁵⁹ Ibid. p.11.

Figure 1.2



Source: 'Assessing the Financial Sustainability of Football', 11.03.22, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071503/Assessing_the_financial_sustainability_of_football_web_accessible_.pdf

The landscape has been equally bleak in the Premier League, with 13 of 20 clubs exceeding the wage guideline in 2019/2020, and two (Leicester City and AFC Bournemouth) above 100 per cent.⁶¹ This is shown by Figure 1.3 below. Perhaps unsurprising, of the seven clubs who were at or below the 70 per cent threshold, five were from the 'Big Six'.⁶² Of the two others which were below the threshold, one (Watford FC), were relegated from the division at the end of the season. Concerningly, this is not an isolated spike in overzealous spending, with clubs such as Everton FC having exceeded the 70 per cent guideline for each of the past three seasons during which financial statements have been submitted.⁶³ Even Burnley FC, which the DCMS report highlights as 'the most sustainably run football club in the Premier League since being promoted in 2016', spent 75 per cent of revenue wages in 2020.⁶⁴

⁶⁰ Ibid. p.12.

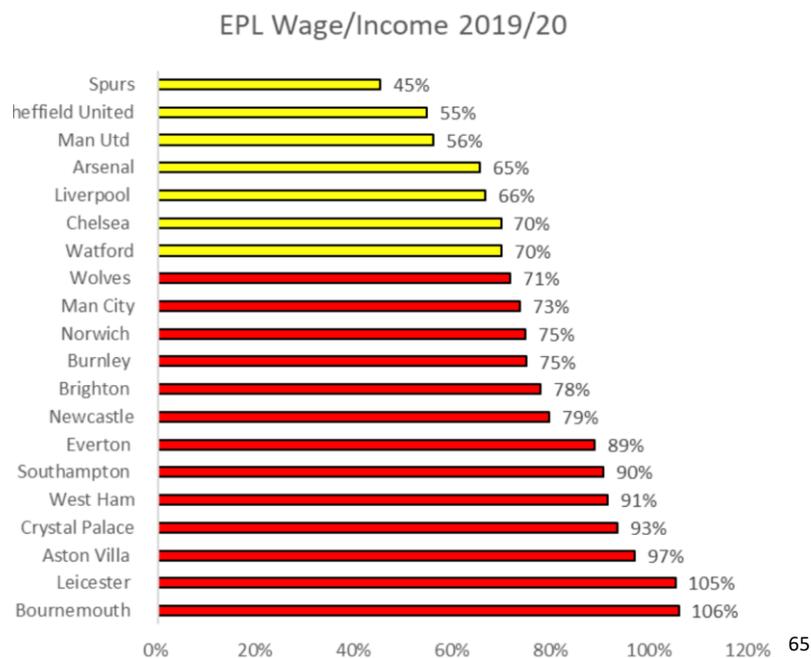
⁶¹ Ibid. p.8.

⁶² Ibid. p.14.

⁶³ Ibid. p.8.

⁶⁴ Ibid. p.15; Since the publication of the report by the Department for Digital, Culture, Media and Sport, Burnley FC have been relegated from the Premier League.

Figure 1.3



Source: 'Assessing the Financial Sustainability of Football', 11.03.22, p.34, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1071503/Assessing_the_financial_sustainability_of_football_web_accessible.pdf

This has resulted in increasing levels of debt amongst in the Premier League, with the clubs within the competition owing a cumulative £4.1 billion in net debt at the end of the 2019/2020 season, an increase of over £400 million from 2018/2019.⁶⁶ As far back as 2017, a financial report from Vysable claimed Premier League clubs were 'hurtling towards bankruptcy' given the rates of spending.⁶⁷ Even more alarmingly, at the end of the 2019/2020 season, a total of 44 of the 85 clubs across the English football pyramid which filed financial returns were 'technically insolvent.'⁶⁸ These included Premier League clubs West Ham United, Brighton & Hove Albion, Aston Villa FC, Wolverhampton Wanderers, Crystal Palace FC and Sheffield United.⁶⁹ This has led to calls from those well placed within club hierarchies for reform, with Tottenham Hotspur Chairman Daniel Levy claiming the

⁶⁵ Ibid. p.8.

⁶⁶ Ibid. p.29.

⁶⁷ "Financial report claims Premier League clubs are hurtling towards bankruptcy", <https://www.sportinglife.com/football/news/pl-clubs-going-bankrupt/85719>

⁶⁸ "New Fair Game study reveals over half of clubs are technically insolvent", <https://www.fairgameuk.org/press-releases/half-of-clubs-technically-insolvent>

⁶⁹ "EFL and EPL Balance Sheet Equity Figures 2020", <https://static1.squarespace.com/static/6047aabc7130e94a70ed3515/t/6220bc80c9dcd6f6893986766/1646312576320/EPL++EFL+Balance+Sheet+Equity+Figures+2020.pdf>;

spending of Premier League clubs had become ‘totally unsustainable’.⁷⁰ Earlier this year, the situation was remarked on by Javier Tebas, President of Spain’s top division ‘La Liga’, who claimed ‘unsustainable spending’ by the Premier League was causing ‘inflation’ and risked endangering football on the whole.⁷¹

Yet it is not just amongst Premier League clubs where this spending has become alarming. As the FLR alludes to, it is lower down the football pyramid that overspending by clubs in order to compete often puts them in serious financial trouble, extending on occasion to their very existence becoming jeopardised.⁷² Indeed, the review notes that:

‘the real cause of Bury FC’s collapse is the fact that Clubs are able to fund player wages not just from normal operating income but by means of cash injections from their owners. This can make clubs completely reliant on owner funding to remain competitive on the pitch. Further, even where an owner is able to continue to fund an individual club, the activities of that club may cause disruption at other as they overspend in order to compete. This will ultimately inject wage inflation, destabilise football and it is questionable whether or not a credible regulator could allow this.’⁷³

This is supported by the ‘report of the independent QC into the failure of Bury FC’, which highlights that in the period between 2013-2018, ‘the club did not limit expenditure on player wages to what it could afford from normal operating income’, leaving it ‘completely exposed’ by the end of 2018.⁷⁴

It is clear, however, that this is a trend that has permeated throughout several clubs in the EFL. In 2021, Derby County FC were placed in administration, having spent over £200 million across the previous seven years, and almost tripling their wage budget.⁷⁵ The result was debts of £60 million and 21-point deduction and relegation from the Championship.⁷⁶ Crouch herself told the *Financial Times*’ Business of Football Summit that the club had overspent chasing dreams, which had ultimately resulted in their financial deterioration.⁷⁷

This level of overspending often comes from the desire to become promoted to the Premier League, which brings with it an increase in revenue of at least £170 million across the three

⁷⁰ “Tottenham’s Daniel Levy: Spending in Premier League totally unsustainable”, <https://www.espn.co.uk/football/tottenham-hotspur/story/3164866/tottenhams-daniel-levy-spending-in-premier-league-totally-unsustainable>

⁷¹ <https://www.dailymail.co.uk/sport/football/article-11199297/Javier-Tebas-report-Premier-League-UEFA-transfer-inflation-spending-2B.html>

⁷² “Fan-Led Review of football Governance” p.111.

⁷³ “Fan-Led Review of Football Governance” p.60.

⁷⁴ “Bird & Bird Report to the EFL Board”, p.30, <https://www.efl.com/siteassets/image/201920/governance-reviews/bury-review.pdf---adobe-acrobat-pro.pdf>

⁷⁵ <https://www.dailymail.co.uk/sport/sportsnews/article-10573961/Derby-County-saved-threat-liquidation-football-regulator-Tracey-Crouch.html>

⁷⁶ Ibid.

⁷⁷ “Tracey Crouch comments to Financial Times Business of Football Summit, March 2022”, as reported in <https://www.dailymail.co.uk/sport/sportsnews/article-10573961/Derby-County-saved-threat-liquidation-football-regulator-Tracey-Crouch.html>

seasons following promotion.⁷⁸ Equally, promotion to the Championship can be worth up to £10 million overall, a not insignificant amount given the revenue of many clubs in each of third and fourth tiers of English football.⁷⁹

What this demonstrates, therefore, is that clubs across the board in the footballing pyramid have continued to spend recklessly in order to chase lucrative financial incentives, without the appropriate regulation to ensure their long-term sustainability. This has led to the financial jeopardy of a significant proportion of clubs, with a number of those entering administration or liquidation.

The impact of the Fan-Led Review's recommendations

It is encouraging to see that the FLR has succinctly identified several of the problems within current structure of English football, albeit perhaps without giving some of them the emphasis they merit.⁸⁰ The review, for example, briefly outlines the lack of single voice within football, without going into detail about the problems that manifest from this and the uneasy power balance currently persisting within the sport. It is, however, much stronger and more robust in observing the levels of financial gambling by football clubs borne largely out of a result of lucrative spending, and exacerbated by a lack of financial regulation.⁸¹ Indeed, it lists 'gambling for success leading to financial clubs facing financial distress' as one of the three main factors football is currently on the 'precipice'.⁸²

As a result, several of the FLR's recommendations and sub-recommendations do seek to address these issues. Naturally, the key finding in the report is that English football should establish an Independent Football Regulator (henceforth IREF). In this regard, key strategic recommendation A notes that 'To ensure the long-term sustainability of football, the government should create an independent regulator for English football (IREF)'.⁸³

Indeed, the report is strong and clear on IREF's prospective role in addressing the problems resulting from the current financial structure of the sport. Recommendation B suggests that 'To ensure financial sustainability of the professional game, IREF, should oversee financial regulation in football.'⁸⁴ Furthermore, sub-recommendation 7 states 'The Government should introduce a financial regulation regime operated by IREF based on prudential regulation'.⁸⁵ As the review itself has noted, one of the key advantages of producing a wide-ranging FLR is 'the freedom to consider different approaches in trying to reform how

⁷⁸ <https://www2.deloitte.com/uk/en/pages/press-releases/articles/huddersfield-and-nottingham-forest-compete-for-the-biggest-financial-prize-in-world-football.html>

⁷⁹ <https://www.sunderlandecho.com/sport/football/sunderland-afc/how-much-sunderland-will-gain-following-promotion-to-the-championship-and-what-it-could-cost-to-be-competitive-3705330>

⁸⁰ "Fan-Led Review of Football Governance",

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf, Various

⁸¹ Ibid.

⁸² Ibid. p.26.

⁸³ Ibid. p.41.

⁸⁴ Ibid. p.22.

⁸⁵ Ibid p.59.

football finances work.⁸⁶ In this regard, the FLR does highlight several methods which may be used in order to bring spending across football down to sustainable levels, including a fixed salary cap and capping wage costs.⁸⁷ However, it concludes that that most effective method of financial control would be based on capital and liquidity requirements, and clubs working 'with IREF to ensure they have adequate finances and processes in place to keep operating'.⁸⁸ This would give IREF the power to 'look at clubs' plans, conduct its own analysis and if a club plan is not credible, does not have enough liquidity, costs are too high or risk not accounted for properly, IREF would be able to demand an improvement in finances.'⁸⁹

What is particularly satisfactory about this model is that it will decrease reliance on owner funding and the risks and unpredictability associated with such. As the FLR has demonstrated,

'the real cause of Bury's collapse is the fact that Clubs are able to fund player wages not just from normal operating income but by means of cash injections from their owners. This can make Clubs completely reliant on owner funding to remain competitive on the pitch. If such an owner becomes no longer ready, willing and/or able (for whatever reason) to provide such funding, the Club is inevitably plunged into deep financial crisis.'⁹⁰

However, the FLR's proposal to set capital and liquidity requirements for each club would require clubs to have a base level of reserves in place in case of sources of funding from ownership became unavailable.⁹¹ When combined with the proposed proportionality mechanism for ownership monetary injection, it is clear that the recommendations put in place by the review have been specifically designed to combat the current structural inefficiencies that have led to reckless spending amongst clubs throughout the footballing pyramid over the last decade. In this way, it is clear that the recommendation put in place, if implemented, would lead to less financial precariousness amongst clubs, and a lower risk of administration and liquidation.

However, what is omitted from the review, but is potentially noteworthy, is the manner in which such regulation, and particularly the proportionality mechanism of investment, could lead to a deterioration of overall investment, and competitive balance. This was something alluded to by the Premier League in the organisation's cool response to the FLR, stating 'It is

⁸⁶ Ibid. p.58.

⁸⁷ Ibid. pp.58-60.

⁸⁸ Ibid. p.58.

⁸⁹ Ibid.

⁹⁰ <https://www.efl.com/siteassets/image/201920/governance-reviews/bury-review..pdf---adobe-acrobat-pro.pdf> as cited in.

⁹¹ "Fan-Led Review of Football Governance"

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.60.

important to everyone that any reforms do not damage our game, its competitive balance or the levels of current investment.’⁹²

With regards to competitive balance in particular, the FLR has failed to outline what impact it feels its financial reform may have, particularly in the Premier League, and what steps may be taken to resolve any issues. During the 2018/2019 season, the Premier League’s ‘Big Six’ accounted for 62 per cent of total revenue within the competition.⁹³ In 2021/2022, they received 81 per cent of the sponsorship revenue.⁹⁴ Given that the review suggests placing the proportionality mechanism of ownership cash injections in line with existing club finances, it is not inconceivable that this would result in top clubs having the ability to spend far more money than the rest of the league, and exacerbate the gap with the remaining 14 clubs. This in turn has the potential to drive down global interest and revenue in the competition.

Recommendation I: The establishment of IREF is necessary given the current position of English football. The establishment of IREF is necessary given the current position of English football. However, it should not be seen either as an indefinite or ideal solution, with a more modern, authoritative FA far more desirable for long-term governance.’

Recommendation II: It is critical that IREF’s plans for financial sustainability, particularly those regarding capital and liquidity requirements, are implemented. It is not unfeasible to implement the idea of a proportionality mechanism too, although the effect that this may have on the competitive balance of leagues should be taken into consideration before doing so.

Furthermore, whilst the report highlights in detail the potential internal configuration of IREF, including the proposal that the FA have observer status on the IREF board, it fails to disclose the hypothetical relationship it may have with various external stakeholders, including the Premier League and EFL.⁹⁵ These relationships, and IREF’s specific place within the footballing ecosystem, are essential to outline, given the aforementioned lack of singular voice and uneasy power balance which currently exists within English football. It is essential that central to IREF’s mission is to resolve this effectively, ensuring the situation such as the months-long financial ‘gridlock’ between the Premier League and EFL, and the attempted establishment of the ESL, are not revisited in the future.⁹⁶

It is not unreasonable, however, to suggest that a solution continues to be attainable with the correct framework. As far back as 2011, Gabriele Marcotti noted that nowhere else in Europe does the top division of football have as much power as the Premier League does in

⁹² <https://www.premierleague.com/news/2368306>

⁹³ <https://businessbar.net/all/premier-league-and-the-money-behind-it/>

⁹⁴ <https://www.sportcal.com/news/sponsorship/premier-league-big-six-to-receive-81-per-cent-of-1-5bn-sponsorship-revenue/>

⁹⁵ “Fan-Led Review of Football Governance”, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.48.

⁹⁶ <https://www.theguardian.com/football/2020/dec/03/premier-league-agrees-bailout-with-efl-to-help-struggling-clubs>, as cited in “Fan-Led Review of Football Governance” p.34.

England, and accordingly, nowhere is the relationship between the league and the respective FA more tense.⁹⁷ As Tim Payton, Head of The Arsenal Supporters Trust, has pointed out, whilst the FA is technically the governing body of English football, in practicality it devolves much of its power to other bodies such as the Premier League.⁹⁸ However, it has become increasingly transparent that this policy of devolution has backfired, with the increasing revenue of the Premier League allowing it to act with greater autonomy than is healthy for English football. This has been exacerbated by the emergence of ‘superclubs’ with vast financial resources, which themselves have the ability to throw the future of the sport into jeopardy with attempts to establish items such as ‘Project Big Picture’ and the ESL.

In response to the FLR, the FA assembled a meeting of its Council to vote in support of giving the association greater power, rather than ceding it to a regulator.⁹⁹ Whilst this solution would seem amongst the most ideal outcomes, with the traditional governing body of English football able to internally regulate the sport without the need for independent regulation, various parties across English football have highlighted how, at present, it is not in a position to do so. The FLR itself outlined areas, such as the creation of a ‘modern, accountable and representative FA board’, where the organisation had been too slow to modernise and thus take the reins of the governance of men’s football, implying further reform was needed before this was a possibility.¹⁰⁰ Moreover, stakeholders such as FairGame have publicly doubted the FA’s ability to contend with the power of the Premier League and EFL, with the organisation CEO Niall Couper stating that ‘until (the FA) sort out their governance and process and there is confidence they would stand up to the Premier League and EFL they are not the right people to be the regulator. They are nowhere near it at the moment.’¹⁰¹ This has been reinforced by the Football Supporters’ Association, with CEO Kevin Miles noting that ‘The FSA have long been clear that we do not feel the FA has the strength of the independence and the standards of governance, currently, to the home of an independent football regulator.’¹⁰² Whilst no official statement on this has been forthcoming from the FA on modernising its process, the FA has indicated that elements of this may only be put in motion with government assurances that an independent regulator would not be established.¹⁰³

Whilst it is clear, therefore, that the need for independent regulation is paramount within English football currently, it is equally plain in its current position, the FA would neither be

⁹⁷ Gabriele Marcotti, “Single voice allows English clubs to exercise rare power in Europe”, <https://www.thetimes.co.uk/article/single-voice-allows-english-clubs-to-exercise-power-rare-in-europe-qwj8mkxrqvq>

⁹⁸ Tim Payton, in Interview with Aaryaman Banerji, 10.11.22.

⁹⁹ <https://www.thetimes.co.uk/article/fa-forget-a-regulator-we-should-have-more-power-jkr8xv03z>

¹⁰⁰ “Fan-Led Review of Football Governance”,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.33

¹⁰¹ Niall Couper, as cited in <https://www.dailymail.co.uk/sport/sportsnews/article-10535477/FA-not-STRENGTH-stand-Premier-League-insist-clubs-fans.html>

¹⁰² Kevin Miles, as cited in <https://www.dailymail.co.uk/sport/sportsnews/article-10535477/FA-not-STRENGTH-stand-Premier-League-insist-clubs-fans.html>

¹⁰³ <https://www.thetimes.co.uk/article/fa-forget-a-regulator-we-should-have-more-power-jkr8xv03z>

able to command the confidence of other stakeholders to be able to effectively fill this position. Nonetheless, having a football association capable of regulating football efficiently would be a potentially more desirable ultimate outcome than an independent regulator which risks deterring investment into the sport. In this way, IREF should take up this role as soon as possible, in order to begin to establish a single voice of authority within English football. However, they should work also closely with the FA in order to modernise the association's processes, with a view to potentially scaling back its own power and ceding it to a reformed and authoritative FA in the medium-term. It is not unfeasible that this should start immediately, by the FA having its observer status on the IREF board promoted to a fully functional seat.

Recommendation III: IREF should work closely with the FA in order to modernise the latter's processes. This may be with a view to scaling back its power and ceding it to the association in the medium-term, as the FA's structures of governance become stronger. In order to begin facilitating this process, it is worth considering whether the FA's observer status on the IREF board should be upgraded to a fully functional seat.

Chapter II: The people governing in English men's football

The current position of English football

Financially fit and proper people

UK Sport's second principle of good governance, and one which has become increasingly pertinent to the footballing ecosystem since the turn of the century, is 'People.'¹⁰⁴ The agency outlines that it essential for sporting organisation to 'recruit and engage people' with the 'independence, skills and experience to take effective decisions' that 'best serve their communities, stakeholders and wider UK society.'¹⁰⁵

Indeed, the Premier League, EFL and National League have noted the importance of having the correct personnel in key positions within football clubs since the early 2000s. This was seen in 2004, when a 'fit and proper persons test' was brought in by each organisation, following concerns that any individual, including those with criminal convictions for fraud, were able to take ownership of a football club in England.¹⁰⁶ These were designed for any director of a football club, or owner that is in possession of over 30 per cent of the club's shares.¹⁰⁷ On the surface, the idea is a sound principle, in ensuring that only capable and competent individuals are able to control of an English football club. However, from the outset, the test's design was fundamentally weak in nature, and simply required the prospective owner or director to overcome a set of reasonably lenient set of conditions.¹⁰⁸ The main points of disqualification were having a conflict interest with another club in the Football League, being in the process of filing for bankruptcy, and having previously been the director of two or more football clubs which have suffered insolvency.¹⁰⁹ Predictably, therefore, the test failed to prevent the emergence of several club owners and directors that transpired to be wholly unsuitable for their respective roles, and which in a number of cases led clubs into serious financial difficulty.

There have been several examples of this being the case, with perhaps the most notable coming at Portsmouth FC between 2005-2011, a period which highlighted the stark inefficiencies of the EFL's ownership vetting process. Indeed, just one year following the implementation of the fit and proper persons test, Portsmouth were sold by owner Milan

¹⁰⁴ "A Code for Sports Governance: The Principles", <https://www.uk sport.gov.uk/resources/a-code-for-sports-governance/the-principles>

¹⁰⁵ Ibid.

¹⁰⁶ David Conn, "What is the 'fit and proper persons test'", <https://www.theguardian.com/football/2009/oct/07/fit-and-proper-person-test>; The test was also brought into place by the Scottish Premier League.

¹⁰⁷ Ibid.

¹⁰⁸ "A fit and proper Premiership", http://news.bbc.co.uk/sport1/hi/football/eng_prem/6923831.stm

¹⁰⁹ Ibid.

Mandaric to French-Israeli businessman Alexandre Gaydamak.¹¹⁰ In his first two years at the club, the new owner embarked on a campaign of reckless and unsustainable spending, including the arrival of nine players during the first full football transfer window during his time in ownership of the club.¹¹¹ Much of this spending was fuelled by large loans and future instalments, which became impossible to repay following the 2008 financial crash.¹¹² As a result, by the start of 2009, the club was in £68 million worth of debt, with Gaydamak having removed all funding from the club and unable to pose as guarantor for the loans.¹¹³

The club was subsequently sold to Emirati businessman Sulaiman Al-Fahim, an individual who had previously acted as a spokesperson for Manchester City owner Sheikh Mansour.¹¹⁴ However, the Premier League's ownership test was once again shown to be unfit for purpose, with Al-Fahim's ownership lasting only six weeks, after it was discovered he had stolen £5 million from his wife to fund the takeover.¹¹⁵ This saw him jailed for five years shortly afterwards.¹¹⁶ Before beginning his sentence, however, Al-Fahim sold the club to Saudi businessman Ali al-Faraj. Yet this sale, too, was soon demonstrated to have been made on false promises from an individual unsuitable for football club ownership. Soon after the completion of the deal, it was discovered that al-Faraj had inflated claims of his own wealth, and had instead financed his takeover through a £17 million bridging loan from Portpin Ltd, a company based out of the British Virgin Islands and owned by Nepalese manufacturing magnate Balram Chanrai.¹¹⁷ Al-Faraj was unable to make the necessary repayments to Portpin, and defaulted on the loan, in doing so handing control of the club to Chanrai, whose first move was to put the club into administration in an attempt to refinance a debt level which had reached £135 million.¹¹⁸ From a footballing perspective, this saw Portsmouth incur a nine-point deduction from the FA, and be prevented by UEFA from taking a place in the UEFA Europa League the following season.¹¹⁹

In spite of Chanrai completing the fit and proper persons tests for club ownership, his period in charge of Portsmouth lasted just 213 days, before selling the club to Russian banker Vladimir Antonov.¹²⁰ However, shortly after taking over the club, Antonov was arrested following allegations of asset stripping of Lithuanian Bank Snoras.¹²¹ His company, CSI,

¹¹⁰ Darren Butler, "How Not to Run a Football Club: The Fall of Pompey", <https://taleoftwohalves.uk/featured/how-not-to-run-a-club-pompey>; Gaydamak had previously co-owned the club with Mandaric

¹¹¹ <https://www.espn.co.uk/football/blog/name/68/post/2063322/headline>

¹¹² Iain Macintosh, "Debt-free Portsmouth finally looking up after long slide to the bottom"

<https://www.espn.co.uk/football/blog/name/68/post/2063322/headline>

¹¹³ Darren Butler, "How Not to Run a Football Club: The Fall of Pompey",

<https://taleoftwohalves.uk/featured/how-not-to-run-a-club-pompey>;

¹¹⁴ Ibid.

¹¹⁵ <https://www.bbc.co.uk/sport/football/43055733>

¹¹⁶ Ibid.

¹¹⁷ Jamie Jackson, "Balram Chanrai becomes Portsmouth's fourth owner in a year",

<https://www.theguardian.com/football/2010/feb/03/balram-chainrai-portsmouth-owner>

¹¹⁸ Ibid.

¹¹⁹ Darren Butler, "How Not to Run a Football Club: The Fall of Pompey",

<https://taleoftwohalves.uk/featured/how-not-to-run-a-club-pompey>;

¹²⁰ Ibid.

¹²¹ Ibid.

declared bankruptcy shortly afterwards, and left Portsmouth owing an additional £1.6 million in debt to HMRC, and £160 million overall.¹²² This being the case, the club were placed into administration for a second time, before being taken over by the Pompey Supporters Trust the following season.¹²³

What Portsmouth's case demonstrates is that the fit and proper persons tests administered by footballing authorities have been farcically inefficient since their creation, with five different unsuitable owners being allowed to take charge of the club within six years, and pushing it to the brink of liquidation on two separate occasions.

Yet Portsmouth are a far from isolated example of the test's inefficiencies. A similar instance of financial mismanagement and the wholesale failure of the fit-and-proper persons test, with a far more tragic outcome, was seen in 2019 with regards to Bury FC. In Bury's case, the club's owner from 2013, Stewart Day, took out a number of mortgage loans against the club's stadium in order to release funds, leaving Bury in a 'perilous' financial state.¹²⁴ However, in 2018, Day's property business Mederco Ltd. found itself on the brink of collapse, following spiralling debts at a number of his companies, each trading under the Mederco name, totalling an estimated £54 million.¹²⁵ Mederco had loaned Bury £4.2 million to fund ongoing losses, with investors calling for it to be repaid.¹²⁶ The situation resulted ultimately in the sale of the club to Stephen Dale for £1 in December 2018.¹²⁷ However, as Matthew Lee has noted, 'Bury supporters cannot understand how Dale was allowed to buy the club for less than a cup of tea' and pass the fit-and-proper-person test given he 'subsequently did not provide evidence of sufficient funding' to pay off the club's debts.¹²⁸ As a result, and despite Dale's insistence that the situation he had inherited from Day was 'far in excess' than discovered during due diligence, staff at the club were left unpaid for extended periods of time following the takeover.¹²⁹ In April 2019, therefore, Dale put Bury on the market, with the club needing to raise approximately £1.6 million to pay wages, HMRC and pensions to the end of May, but only £180,000 worth of income expected during that time.¹³⁰ Despite this, in August, Dale rejected a newly received offer which would have

¹²² <https://www.bbc.co.uk/news/uk-england-hampshire-24284833>

¹²³ "Supporters complete Pompey takeover", https://www.espn.co.uk/football/news/story/_/id/1418459/supporters-trust-completes-portsmouth-takeover

¹²⁴ Matthew Lee, "How the people of Bury lost their 134 year-old football club", <https://www.slow-journalism.com/from-the-archive/how-the-people-of-bury-lost-their-134-year-old-football-club>

¹²⁵ <https://ukdaily.news/manchester/full-nominations-the-23rd-annual-whatsonstage-awards-106994.html>, <https://www.burytimes.co.uk/news/23171014.former-bury-fc-chairmen-stewart-day-steve-dale-declared-bankrupt/>

¹²⁶ <https://www.efl.com/siteassets/image/201920/governance-reviews/bury-review.pdf---adobe-acrobat-pro.pdf>

¹²⁷ <https://www.theguardian.com/football/2019/jun/18/bury-inside-story-financial-ruin-winding-up-petition-loans-car-park>

¹²⁸ Matthew Lee, "How the people of Bury lost their 134 year-old football club", <https://www.slow-journalism.com/from-the-archive/how-the-people-of-bury-lost-their-134-year-old-football-club>

¹²⁹ Stephen Dale, as quoted in <https://www.theguardian.com/football/2019/may/23/bury-players-12-weeks-without-pay-owner-steve-dale>

¹³⁰ <https://www.theguardian.com/football/2019/may/23/bury-players-12-weeks-without-pay-owner-steve-dale>

secured the club's survival, and which staff had 'implored' him to accept.¹³¹ One week later, the EFL withdrew the Bury's membership of the league given that 'Despite repeated requests to its owner Mr Dale over a sustained period of time, the necessary evidence in respect of how the Club would meet its financial commitments, has simply not been provided'.¹³²

Following that point, fans of the club launched Bury AFC as a newly formed organisation to compete in the North West Counties Football League. Twelve months after the former club was dissolved, the *Manchester Evening News* reported: 'Bury FC still exists, though, if only on paper. With no players, no league to play in, and no employees to speak of, it little more than a hollow shell of the club the fans knew and loved.'¹³³ As the club's former PA announcer, Brian White, remarked, 'This has been taken away from us. All because of the greed of two men.'¹³⁴ What becomes clear again, therefore, is that Bury were failed by a system of checks that has consistently shown an inability to properly identify individuals financially unsuitable to take charge of a football club.

Concerningly, the failures of the tests in their current and previous forms go beyond being unable to properly evaluate prospective new owners for football clubs. It is clear that there exists no measure to provide continuing assessment of owners once they take charge, including those who owned clubs before the tests were implemented in 2004. This runs the risk of failing to identify ownership structures which may previously have been appropriate for control of clubs, but which have since deteriorated financially. There have been several examples of this phenomenon leading clubs into difficulty since 2004. Perhaps most tragic was the dissolution of Macclesfield Town FC following a high court order in 2020, after 146 years of existence.¹³⁵ The conditions for this were created as a result of the ownership of the club by Iraqi telecoms businessman Amar Alkadhi, who had taken charge in 2003. Whilst the first 15 years ownership under Alkadhi saw steady but unspectacular investment into the club, the period after this saw spiralling debts reaching £500,000 which the owner was unable to meet.¹³⁶ This included £190,000 in unpaid tax and £173,000 to former club manager Sol Campbell, leading High Court Judge Sebastian Prentis commenting that 'nothing gives me comfort that the club can pay its debts in a reasonable period' and issuing a winding up order.¹³⁷ Evidently, therefore, the lack of ongoing assessment of Alkadhi's ability to own the club in an effective and competent manner resulted in Macclesfield entering a terminal crisis which resulted in dissolution.

¹³¹ <https://www.telegraph.co.uk/football/2019/08/12/bury-staff-plead-owner-steve-dale-accept-takeover-bid-expulsion/>

¹³² <https://www.efl.com/news/2019/august/bury-fc-membership-of-the-league-withdrawn/>

¹³³ <https://www.manchestereveningnews.co.uk/news/greater-manchester-news/year-bury-fcs-expulsion-football-18845220>

¹³⁴ Brian White, as quoted in <https://www.slow-journalism.com/from-the-archive/how-the-people-of-bury-lost-their-134-year-old-football-club>

¹³⁵ Jay Freeman, "Macclesfield Town FC wound up in High Court over debts exceeding £500,000", <https://www.bbc.co.uk/sport/football/54177582>

¹³⁶ <https://www.realbusinessrescue.co.uk/advice-hub/macclesfield-town-fc-wound-up-over-debts-worth-500000>

¹³⁷ Sebastian Prentis, as cited in Jay Freeman, "Macclesfield Town FC wound up in High Court over debts exceeding £500,000", <https://www.bbc.co.uk/sport/football/54177582>

This flawed approach to checking and evaluating potential owners of football clubs has also recently been seen at Blackpool FC. In 2017, Owen Oyston, the club's owner from 1987, and his son were found to have continuously engaged in the 'illegitimate stripping' of Blackpool, paying a total of £26.77 million out of the club to companies to which they owed money personally.¹³⁸ The prosecuting QC Andrew Green noted that during their ownership, the Oyston family had treated Blackpool as 'a personal cash machine'.¹³⁹ During the years preceding the court's discovery of the scheme, Blackpool had suffered consecutive relegations to the fourth tier of English football, having spent the 2010-2011 season competing in the Premier League. In 2019, the High Court forcibly removed Oyston from the club's board, and Blackpool were sold to hedge fund owner Simon Sadler a few months later.¹⁴⁰

Amongst the most fundamental reasons the fit and proper persons test failed to adequately enforce appropriate standards of club ownership is that it was designed in a format whereby in order to meet the threshold for ownership or directorship, candidates needed only to avoid a collection of generously set criteria designed to reject applicants that are ostensibly on the most extreme end of the scale of being unworthy for club ownership. This resulted in a culture whereby several individuals unfit to govern football clubs were able to evade English football's supposed safety parameter simply because they did not precisely meet the stipulations set out.

The test was updated in 2021, and renamed as the 'Owners and Directors Test', with a wider range of disqualification criteria, and thus created the perception that it was more rigorous and left clubs in less jeopardy of poor financial ownership. However, the format, and subsequently the problems, withstanding in the test have remained unchanged, and thus it is arguable that clubs are little or no more secure from unfit owners and directors than they were previously.

Rather, it would be far more desirable and effective for English football to move to a format of test which is designed not just reactively, so candidates may have to avoid certain criteria, but be proactive, with candidates having to meet criteria in order to be eligible for ownership and directorship of football clubs.

Ethically fit and proper people

Furthermore, any future test for prospective owners and directors should strive to ensure candidates meet a series of criteria that go beyond simple financial credibility. Several football clubs have, in recent history, suffered from ownership structures which, whilst

¹³⁸ David Conn "Oystons ordered to buy out Blackpool shareholder for £31m after losing court battle" <https://www.theguardian.com/football/2017/nov/06/oystons-blackpool-ordered-pay-shareholder-high-court-valeri-belokon>; Oyston had previously served a jail sentence for the rape and indecent assault of a 16 year-old girl between 1996-1999, whilst continuing to own Blackpool FC <https://www.theguardian.com/uk/1999/dec/08/paulkelso1>, <https://www.independent.co.uk/news/oyston-gets-six-years-for-rape-1348681.html>

¹³⁹ <https://www.shropshirestar.com/sport/uk-sports/2017/06/12/oyston-family-treats-blackpool-fc-as-personal-cash-machine-high-court-told/>

¹⁴⁰ <https://www.bbc.co.uk/sport/football/47360416>

financially competent, have failed to lead the club with requisite integrity and respect for the importance of football clubs as cultural assets. As has been aforementioned, English football clubs are often cornerstones of local communities, and are cultural assets which require the protection of their heritage. As Ian Murray, Member of Parliament for Edinburgh South, has stated, in Britain 'there is no larger community institution than a football club.'¹⁴¹ In order to preserve this status, it is critical that clubs are run by figures that have the ability to successfully uphold the integrity of the communities and people they represent, and in particular, who do not risk utilising such social bedrocks for political purposes or gain.

Concerningly, however, the increasing commercialisation and globalisation of sport, and the lucrative sums of money that come alongside, have witnessed a global trend in the opposite direction. As with other forms of cultural media, as sport becomes more internationally accessible and an increasingly profitable business proposal, its vulnerability to attract people motivated by factors other than sporting success grows heavily. It is clear that this phenomenon has become increasingly present within English football, and has often resulted in the integrity of football clubs being compromised, at the expense of the communities they serve. This has been facilitated by a fit and proper persons test too supine to effectively identify and regular inappropriate personnel for club leadership.

This has subsequently presented itself in several differing capacities. The first of these is the acquisition of club owners whose personal background is ostensibly unsuitable to take control of a treasured community asset. This has resulted in clubs being taken over by individuals with major criminal histories, including those previously convicted of financial fraud. In 2014, for example, Leeds United were sold to Italian entrepreneur Massimo Cellino, despite him having been handed a 15-month suspended sentence in 2001 for false accounting whilst owner of Sardinian club Cagliari Calcio.¹⁴² At the time of the Leeds takeover, Cellino was also being investigated in Italy for the misuse of public funds.¹⁴³ However, given that the fit and proper persons test only stipulated that 'unsent' convictions could be a disqualifying factor for a prospective club owner, and that the investigation into public funds was ongoing, Cellino was deemed to be eligible to complete the takeover.¹⁴⁴

A similar set of circumstances was seen at Birmingham City in 2009, when Hong Kong businessman Carson Yeung bought the club for £81.5 million.¹⁴⁵ Yeung had previously been convicted in Hong Kong of failing to disclose shareholding in listed companies, but as this was not an offence under UK law, the fit and proper persons test, farcically, approved his

¹⁴¹ Ian Murray MP, as quoted in Peter Starkings and Will Brett, "These Clubs are Ours: Putting football in community hands", https://www.powertochange.org.uk/wp-content/uploads/2021/04/PTC_3789_Football_Report_DR2.pdf

¹⁴² David Conn, "Leeds United get no protection from Football League's tepid test" <https://www.theguardian.com/football/blog/2014/feb/03/leeds-united-football-league-massimo-cellino-test>

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ <https://www.dailymail.co.uk/sport/football/article-8249801/The-good-bad-ugly-Premier-Leagues-foreign-owners-Newcastle-takeover.html>

purchase of the club.¹⁴⁶ Five years later, Yeung was jailed for six years by a Hong Kong court for money laundering between 2001-2007, with the club being sold again a few days before the guilty verdict.¹⁴⁷ In each of these cases, what is clear is that whilst the new ownership structure was, unlike in previous examples, perhaps financially secure enough to ensure the club did not go into administration or insolvency, the character background of each incumbent was profoundly unsuitable to take charge of an organisation which should, at its core, uphold values of integrity and a strong bond with the community it represents.

Alarming, however, this trend has extended beyond instances of historical white-collar criminality, and also failed to highlight inappropriate club owners already in charge at the time of the test's introduction in 2004. This again was seen with regards to Oyston at Blackpool, whose conviction in 1996 for the rape and indecent assault of a 16-year-old girl, at a time when he had already been the club's owner for nine years, was not deemed by the test as a red flag and an example of a club that's ownership structure needed urgent attention.¹⁴⁸

The appointment of people with clearly improper personal backgrounds, however, has been supplemented by the failure of the fit and proper persons test to highlight prospective owners with little or no inclination to protect the cultural heritage of football clubs. As the FLR has noted, 'football clubs are a vital part of their local communities, in recognition of this there should be additional protection of key items of club heritage.'¹⁴⁹ Peter Starkings and Will Brett, in their report into football club ownership, have gone further, noting that 'in many towns across Britain, the football club is by far and away the dominant institution', steeped in the history and heritage of the communities they serve which 'retain a special power like nothing else.'¹⁵⁰

In spite of this, since the introduction of the fit and proper persons test, no stipulation has been in place to ensure prospective owners do not risk upsetting or denigrating this through their own vision for the club. This risks leaving the heritage of football clubs vulnerable to the actions of unchecked individuals, which in turn could lead to vital aspects of British communities becoming increasingly incongruous. It was out of this lack of cultural understanding, combined with no enforcement of fan consultation, that the attempts to create the ESL were born in 2020. The 'appalling' idea, as described by noted sports historian David Goldblatt, was inconceivable given 'the sight of any ruling elite making inequality ineradicable is contemptible, but set against football's core mythology – of level playing fields and sporting chances – it is an act of cultural desecration. No less so, is its careless destruction of 65 years of European football as a grand, inclusive, continent-wide

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ <https://www.independent.co.uk/news/oyston-gets-six-years-for-rape-1348681.html>

¹⁴⁹ "Fan-Led Review of Football Governance",

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.139

¹⁵⁰ Peter Starkings and Will Brett, "These Clubs are Ours: Putting football in community hands",

https://www.powertochange.org.uk/wp-content/uploads/2021/04/PTC_3789_Football_Report_DR2.pdf p.9.

narrative and ritual experience.¹⁵¹ Indeed, the alienation the ESL created between clubs and the communities and supporters they serve was witnessed in the immediate reaction to its attempted formation, with The Arsenal Supporters' Trust labelling it as 'The death of Arsenal as a sporting institution' and the Liverpool Supporters Group Spion Kop 1906 stating,

'We, along with other groups involved in flags, will be removing our flags from The Kop. We feel we can no longer give our support to a club which puts financial greed above the integrity of the game.'¹⁵²

Indeed, Julian Knight MP, Chairman of the Department for Digital, Culture, Media and Sport Select Committee in the House of Commons, noted that the ESL marked 'a dark day for football.'¹⁵³ The clear failing with regards to ESL was that club owners had failed to grasp the sense of community and heritage that pervaded their institutions, and were not obliged to either preserve this or consult supporters on the impact of any large-scale decisions. This led to a catastrophic lapse of judgement in formulating an idea which ripped the essence of community out of the clubs' values.

On a more granular level, this lack of cultural understanding was also witnessed at Cardiff City in 2012, when owner Vincent Tan opted to change the club's playing kit from the traditional blue, white and yellow, to red and black, as well as changing the club's crest to make the Welsh Dragon more prominent than the traditional club bluebird.¹⁵⁴ This resulted in Tan being 'despised' by the club's supporters and marked the first time since 1908 that the club had not worn blue as its primary kit colour.¹⁵⁵ Tan, however, explained that 'red is my lucky colour', with Tony Manfred describing his treatment of the club 'as if it was his and his alone.'¹⁵⁶

Perhaps most alarming, however, is the trend of football clubs becoming utilised as political assets by club owners. As Goldblatt has written,

'The perceptible rise in politicians' engagement with the game has increasingly made football an object of state intervention.'¹⁵⁷ Football, however, offers many things more alluring than mere graft or money-changing options. At a minimum, association with the game delivers profile and local popularity. More substantially, it

¹⁵¹ David Goldblatt, "The greed of the European Super League has been decades in the making", <https://www.theguardian.com/commentisfree/2021/apr/20/greed-european-super-league-football-billionaires>

¹⁵² Tweet by Spion Kop 1906 (@SpionKop1906) 19.04.21, <https://twitter.com/spionkop1906/status/1384095535854800901>

¹⁵³ Julian Knight MP, as quoted in <https://theathletic.com/news/european-super-league-government-latest/ESOGW2YdaOlr/>

¹⁵⁴ Tony Manfred, "English Soccer Owner Invested \$162million So He Could Change The Team's Uniforms To His Lucky Color", <https://www.businessinsider.com/vincent-tan-changed-cardiff-colors-2014-10?r=US&IR=T>

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ David Goldblatt, "Abramovich is but one in a long list of tainted owners.", <https://www.theguardian.com/commentisfree/2022/mar/13/still-believe-politics-football-dont-mix-tell-that-to-dictators-oligarchs>

offers popular arena for playing political theatre, ready-made and ritualised local identities to piggyback upon, and a source of malleable narratives to garnish political progress. Correctly used, it can do so not just for local or national politicians, but for nations states on the global stage.¹⁵⁸

This has not been something localised to England or English club football, with the systematic politicisation of football a cross-continental phenomenon. However, in England, the politicisation of clubs risks jeopardising their value as community assets and stripping away the heritage and local values football clubs represent. This was seen in 2021 during the takeover of Premier League club Newcastle United led by the Public Investment Fund of Saudi Arabia (henceforth PIF), which acquired an 80 per cent stake in the club.¹⁵⁹ Indeed, the takeover of Newcastle highlighted two fundamental issues which saw the state-sponsored politicisation of a British community asset established in 1892.

The first of these was the purpose of the takeover by the PIF. Despite a statement from the club that PIF is ‘independent and autonomous of the Saudi Arabian government’, the group is chaired and controlled by Saudi Crown Prince and Prime Minister Mohammed bin Salman, having been set up by the country’s former monarch, Faisal bin Abdulaziz Al Saud.¹⁶⁰ As a result, Amnesty International described the proposed takeover of Newcastle as ‘sportswashing, plain and simple’ and ‘trying to use the glamour and prestige of top-tier sport as a PR tool to distract from the country’s abysmal human rights record.’¹⁶¹ *The Guardian* newspaper’s Middle Eastern Correspondent, Martin Chulov, goes further, describing it as ‘as much about status as sportswashing’ and that the Saudi state ‘will hope (the) acquisition can not only improve (the) kingdom’s image but also serve as a highly conspicuous display of wealth.’¹⁶² Evidence for this was seen in the month preceding the start of 2022/2023 football season, when the club revealed a new kit featuring a white shirt with green trim on the neck and sleeves, the colours of the Saudi flag, and a mimicry of the kit worn by the Saudi national football team.¹⁶³ The decision to permit the takeover has also been criticised given Saudi Arabia’s human rights record, with Amnesty calling the move ‘an extremely bitter blow for human rights defenders.’¹⁶⁴ Hatice Cengiz, widow of former

¹⁵⁸ Ibid.

¹⁵⁹ <https://www.skysports.com/football/news/11678/12427983/newcastle-takeover-completed-saudi-led-consortium-end-mike-ashleys-14-year-ownership>

¹⁶⁰ <https://www.nufc.co.uk/news/latest-news/club-statement-1/>; Alexis Montambault-Trudelle “The Public Investment Fund and Salman’s State: the political drivers of sovereign wealth management in Saudi Arabia (Review of International Political Economy, 202).

<https://www.tandfonline.com/doi/pdf/10.1080/09692290.2022.2069143?needAccess=true>;

<https://www.ft.com/content/ca35d8fa-9bba-11e8-9702-5946bae86e6d>

¹⁶¹ Felix Jakens, Amnesty International Head of UK Campaigns, as quoted in Louise Taylor, “Newcastle takeover “sportswashing, plain and simple” says Amnesty”

¹⁶² <https://www.theguardian.com/football/2020/jan/27/newcastle-takeover-sportswashing-saudi-consortium-amnesty>

¹⁶³ <https://www.skysports.com/football/news/11678/12641650/newcastle-reveal-next-seasons-third-kit-which-shares-same-green-and-white-colours-as-saudi-arabia>

¹⁶⁴ Amnesty International UK, as quoted in <https://www.independent.co.uk/sport/football/newcastle-takeover-saudi-arabia-amnesty-international-b1934394.html>

dissident journalist and victim of Saudi operatives Jamal Khashoggi, described the move as ‘a real shame for Newcastle and for English football.’¹⁶⁵

Yet the politicisation of Newcastle as a result of the takeover goes further, with the very nature and process of the move itself resulting in the club becoming a geopolitical pawn in Middle Eastern diplomacy. Attempts by a consortium including PIF to take over the club in April 2020 were met with vehement opposition by Qatar state-owned media group beIN, which had been banned from broad casting in Saudi Arabia since mid-2017 as part of a diplomatic dispute and accusations that the Qatari state were responsible for state-sponsored terrorism.¹⁶⁶ There were further allegations that the Saudi state did little to enforce piracy laws of the illegal streaming of Qatari state-owned media group beIN channels in the country, which had caused significant damage to the company.¹⁶⁷ This resulted in beIN CEO Yousef Al-Oblaidy writing to the Premier League and all member clubs demanding the takeover be blocked.¹⁶⁸ At the time, beIN were the Premier League’s media rights holder for the MENA region, the league’s highest overseas contract.¹⁶⁹ This was due to be renewed in December 2020.¹⁷⁰ Following pressure from beIN the Premier League rejected the consortium’s proposed takeover, stating it had failed the fit and proper persons test due to insufficient legal separation between PIF and the Saudi government.¹⁷¹

However, in October the following year, the Saudi government announced that it was lifting the ban on beIN and closing all illegal streaming websites.¹⁷² The day after this announcement, the PIF-led bid successfully completed the purchase of Newcastle for £305 million, despite no ostensible change in the configuration of the group or its relationship with the Saudi government.¹⁷³

What becomes clear, therefore, is that the takeover of Newcastle was designed not as a sport-based initiative to maximise the potential of a valuable and historic community asset, whilst ensuring its most significant stakeholders – supporters – remain an integral part of the club’s identity, but as a piece of political theatre to help create a refurbished image of a state which has otherwise raised grave concerns within the international community for a range of human rights abuses and social oppression. Furthermore, by seeking to utilise the club in such a way, the very process of the takeover resulted in Newcastle becoming the centre point of a diplomatic standoff between two governments at political loggerheads. It is paramount that future takeovers of English football clubs are not victim to the same,

¹⁶⁵ Hatice Cengiz, as quoted in <https://news.sky.com/story/newcastle-united-takeover-jamal-khashoggis-fiancee-says-its-a-real-shame-as-saudi-led-consortium-buys-football-club-12428587>

¹⁶⁶ <https://www.reuters.com/article/us-gulf-qatar-saudi-bein-idUSKCN24F1PB>

¹⁶⁷ <https://theathletic.com/3982136/2022/12/13/bein-sports-qatar-world-cup-saudi-arabia/>

¹⁶⁸ <https://www.ft.com/content/bfcd005c-4506-432c-8535-57402407b486>

¹⁶⁹ <https://www.middleeastmonitor.com/20201218-qatars-bein-sport-renews-english-premier-league-contract-despite-sole-opposition/>

¹⁷⁰ Ibid.

¹⁷¹ <https://www.skysports.com/football/news/11678/12049306/newcastle-takeover-premier-league-ceo-richard-masters-breaks-silence-over-saudi-led-deal>

¹⁷² <https://www.aljazeera.com/news/2021/10/6/qatars-bein-sports-says-saudi-arabia-to-lift-ban-on-channels>

¹⁷³ <https://www.skysports.com/football/news/11678/12427983/newcastle-takeover-completed-saudi-led-consortium-end-mike-ashleys-14-year-ownership>

unsavoury, and alarming set of circumstances, and consequently does not risk clubs across the country becoming tools for state-sponsored political exploitation and propaganda, whilst diminishing their identity, values and community-focused nature.

Impact of the Fan-Led Review's recommendations

In spite of the increasingly clear problems with regards to the personnel permitted to take charge of football clubs at the time of its publication, it is heartening to see the FLR directly address several of the underlying deficiencies which has enabled the culture of often cavalier and inappropriate club ownership.

In dedicating an entire chapter to the analysis of the Owners and Directors Tests, the review is quick to highlight current failings, quoting one of its contributors that 'the fit and proper persons test (sic) has failed to stop many owners who are not "fit and proper". It is a disaster of a system.'¹⁷⁴ Further, the FLR notes that 'the introduction of IREF provides an opportunity to take fresh look at who is permitted to be an owner or director of a football club' and sets out several recommendations and sub-recommendations in order to achieve this.¹⁷⁵ Indeed, it is encouraging to see the significance the review puts on this task, stating that 'ensuring the right people are involved in running clubs will an important task for IREF.'¹⁷⁶

In making its recommendations, the FLR is strong on the format of any newly formed test, as well as the imposition of new financial parameters required to be met by prospective owners. Equally, the proposal for requirements to become director of a football are rigorous in nature, and dilutes the risk of any financial mismanagement at board level. Furthermore, it is heartening to see that the review has made suggestions on imposing a test to determine whether prospective owners have a requisite level of 'integrity' and ethicsto take charge of a football club. However, whilst certainly a welcome start to creating adequate restrictions to the type of character permitted to dictate the future of English community and cultural assets, this area continues to need further detail and refinement before it may become deemed fully comprehensive.

At the most fundamental level, the FLR states that the three separate Owners and Directors tests currently operating, and administered by separate bodies, should be replaced by a single, universal test for the Premier League, EFL, National League, Women's Super League and Women's Championship.¹⁷⁷ This would be administered solely by IREF and ensure 'that only good custodians and qualified directors can run these vital assets'.¹⁷⁸ However, the review does stipulate that this test should be split into two parts, one for prospective owners, and one for directors, executive management, shadow directors, and 'any

¹⁷⁴ "Fan-Led Review of Football Governance", https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.66.

¹⁷⁵ Ibid. p.52.

¹⁷⁶ Ibid. p.66.

¹⁷⁷ Ibid. p.16.

¹⁷⁸ Ibid. p.67.

individuals holding those roles regardless of title that such advisor might have.’¹⁷⁹ This proposal certainly has the potential to lead to a more, efficient, unified, and subsequently secure, method of testing going forward, and would extinguish the lack of transparency and conflicts of interest that arose from the authorities during the PIF-led takeover of Newcastle United.

Furthermore, it is clear for both parts of the proposed test, IREF’s proposal for financial requirement for owners and directors is far more thorough and proactive than has previously been the case. The FLR recommends a more enhanced financial background check of prospective owners to be developed alongside stakeholders such as the Home Office and National Crime Agency.¹⁸⁰ This would apply to all parties with a greater than 25 per cent stake in a football club and would include banking checks and due diligence on any links to criminality.¹⁸¹ However, perhaps significantly, the FLR recommends a far greater proactive approach, by stipulating that all prospective owners, rather than simply meeting the minimum requirements of having adequate and clean funds, submit a business plan for assessment by IREF.¹⁸² This itself would require several different elements, including but not exclusive to a strategy for the club, plans for financial sustainability, commitment to an Equality Diversity and Inclusion action plan, and the proposed corporate structure of the club.¹⁸³ Crucially, the review also notes that owners should be subjected to a renewed test every three years after taking charge of a club, thus minimising the potential both of owners already in place at the time of new test’s introduction being inappropriate, or lowering standards of governance.¹⁸⁴ In a similar manner, the proposed new Directors test takes a more proactive approach than previously, stipulating that prospective directors must demonstrate that they have the requisite qualifications, skills and experience to run a football club, as well as declare any conflicts of interest.

It is clear, therefore, that the proposals regarding financial scrutiny of owners and directors made by the FLR set out a detailed, sensible and progressive plan to prevent poor financial administration, and would go a great distance to fixing many of the problems currently existing surrounding financially inappropriate individuals in charge of clubs.

Recommendation IV: Any new Owners and Directors Test should be carried out by IREF, in order to increase transparency and avoid conflicts of interest. It is also critical that the recommendations outlined by the FLR with regards to new financial tests for club owners, and reformed tests for directors, are implemented quickly and universally across English football.

The FLR has also made substantial efforts to revise the standards of integrity required amongst owners and directors of football clubs. Indeed, the review recommends that as part of the new, IREF administered test, owners and directors must pass an integrity

¹⁷⁹ Ibid. p.67.

¹⁸⁰ Ibid. p.68.

¹⁸¹ Ibid. p.68.

¹⁸² Ibid. p.66.

¹⁸³ Ibid. p.68.

¹⁸⁴ Ibid. p.71.

assessment designed to evaluate their suitability to take charge of an institution with deep social and community roots. Whilst this is certainly an encouraging start, it is clear that the proposed assessment in its current form still fails to offer clubs full protection from potentially inappropriate owners.

What the 18 years since the introduction of the first Fit and Proper Persons Test has shown is that clubs are vulnerable to owners that are unsuitable for control for a fairly diverse set of ethical reasons. The most problematic of these have been a background involving various repeated breaches of integrity which have often resulted in criminal proceedings, a lack of respect or understanding for the cultural values of English football clubs and a subsequent uninformed desire to break away from tradition, and a wish to utilise the club in order to achieve political or geopolitical ambitions.

The FLR does go some way to alleviating potential for clubs to fall victim to owners with these sorts of backgrounds. The most basic requirements of the proposed integrity test outlines that it should look at 'criminal matters not sufficient to be disqualifying conditions' and 'civil, administrative or professional sanction against the proposed acquirer.'¹⁸⁵ For these factors to be taken into consideration, and to have the ability to disqualify prospective owners, would, if previously implemented, have prevented individuals such as Cellino and Yeung from taking over clubs, and avoided the subsequent consequences.

Furthermore, in a separate recommendation to the test, and looking to protect club heritage, the review recommends a 'Golden Share' of the club be held by a Community Benefit Society, which could take the form a Supporters Trust.¹⁸⁶ This would require the club to take the consent of the Golden Share holder when taking certain decisions, including the sale of the stadium, relocation, joining a new competition, or a change to the club badge, name or home colours.¹⁸⁷ This would be effective in both preventing club owners attempting to form a breakaway competition such as the ESL, whilst also stopping owners such as Tan changing items of tradition such as home colours, without consulting the fanbase.

In spite of these positive changes, however, the proposed test does continue to have shortcomings which may leave clubs vulnerable. Predominantly, the test makes no stipulation to prevent owners that may reasonably assessed to wish to utilise the club in order to achieve political or geopolitical ambitions. Including a further aspect of the test which conducts thorough investigations into the political backgrounds of owners and consortiums, in addition to the political and geopolitical context in which the attempted purchase is to be made, would help evaluate whether the club is being bought with intentions that could alienate it from community values. Furthermore, such a check should disqualify any takeover attempt which has affiliation with nation states or governments. Finally, as Amnesty International have previously highlighted, it is unsavoury and inconsistent with the values of English football and the Football Association that clubs may

¹⁸⁵ Ibid. p.69.

¹⁸⁶ Ibid. p.99.

¹⁸⁷ Ibid. p.100.

be bought by owners with links to human rights abuses.¹⁸⁸ Following the Newcastle United takeover, Amnesty recommended a clause which prevents such parties from becoming involved in the control of football clubs.¹⁸⁹ Implementing this would prevent the image and value of clubs from becoming tainted and affiliated with groups whose values risk jeopardising the heritage and reputation of the institution, and would be a further move to protect English clubs from mismanagement.

Recommendation V: IREF’s proposed integrity check should be expanded to investigate the political backgrounds of prospective owners and consortiums, in addition to the geopolitical context in which the sale is being made, and the human rights context of parties involved in the purchase of clubs. Owners that can reasonably be assessed to be purchasing the club with the predominant purpose of promoting political ambitions should be prohibited. This should be extended to any ownership bid with nation states or governments, including government members on the board of the buyer.

Recommendation VI: In the event of IREF ceding power to a more modernised FA in the future, the FA should take charge of the universal Owners and Directors test. This should be conducted with regularity, impartiality and authority.

¹⁸⁸ <https://www.amnesty.org.uk/press-releases/uk-new-human-rights-owners-and-directors-test-proposed-premier-league-football>

¹⁸⁹ Ibid.

Chapter III: Communication in English men's football

The current position of English football

Supporter engagement and corporate governance

'Organisations shall be transparent and accountable, engaging effectively with stakeholders and nurturing internal democracy.'¹⁹⁰ UK Sport's third principle of good governance, placed under the umbrella term of 'Communication', highlights the importance for sports' governing bodies to be 'responsive to stakeholders', whilst making themselves 'accessible' and with a high degree of 'transparency.'¹⁹¹

As has already been highlighted in this report, the current levels of communication between key organisations within English football, including the Premier League, EFL and FA, has been largely abject, and led to an unstable competition for power at the top of the men's game. It is clear, however, that this is simply symptomatic of a much wider malaise within the footballing ecosystem with regards to communication, which has led to the disillusionment of significant stakeholders within the game.

Perhaps most critically, recent years have seen a rise in feelings of alienation and exploitation amongst football supporters across the United Kingdom, with journalist Ian Burrell noting that fans are becoming increasingly 'disillusioned' by the direction of modern football.¹⁹² Yet this phenomenon is far from recent in its genesis, with trends such as rising prices, lack of supporter voice, erosion of club identity, and excessive commercialisation and monetisation of football which for years have created a feeling of detachment among supporters. Naturally, this reached a zenith in May 2021 with the attempted creation of the ESL, which led to a wave of fan discontent and protests across English football, ultimately resulting in the competition's collapse. It is of deep concern, however, that the relationship between supporters and clubs was able to reach a point whereby a fan-led revolt became necessary to prevent the desecration of the identity of several elite football clubs, and the complete failure of the footballing pyramid altogether. Indeed, Kevin Rye, an expert in football supporter engagement and creator of the 'Fan Engagement Index' (henceforth FEI), has noted that feelings of alienation amongst football fans has been the result of decades worth of collective failure from footballing authorities to reform the relationship between clubs and fans.¹⁹³

Rye's FEI divides effective supporter engagement into three separate categories – 'Dialogue', 'Governance' and 'Transparency' – each comprising several specific prerequisites for clubs to fulfil in order to build a strong score. Similarly, the FSA, in guiding supporter engagement, currently utilise a Best Practice Pyramid (shown overleaf, Figure

¹⁹⁰ <https://www.uk-sport.gov.uk/resources/a-code-for-sports-governance/the-principles>

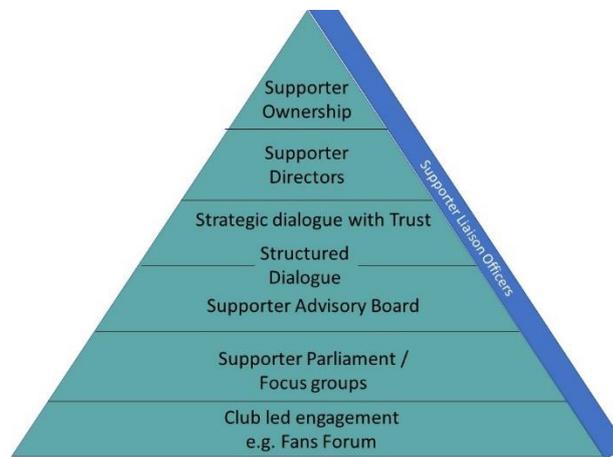
¹⁹¹ Ibid.

¹⁹² <https://www.independent.co.uk/sport/football/news/football-revolution-as-disillusioned-fans-head-for-the-nonleague-9810932.html>

¹⁹³ Kevin Rye, in interview with Aaryaman Banerji (conducted 09.12.22, Online).

3.1), with clubs expected to employ at least each of the three base layers – Club led engagement, Supporter Parliament/Advisory Board, and League Minimum Standards.¹⁹⁴ It has become increasingly clear in recent years, that whilst a rising number of clubs are striving to improve levels of supporter engagement, too many have failed to meet an alarming number of the FEI’s and/or the FSA’s stipulations for good engagement. This was seen in a 2019 study by the Football Supporters Federation, which found that, whilst progress had been made, 39 per cent of supporters said that their club misunderstood or did not act upon structured dialogue.¹⁹⁵ It is the effects of this approach that should be seen as partially responsible for creating feelings of alienation experienced by many supporters, as well as the culture out of which the ESL was born.

Figure 3.1: The FSA’s Pyramid of Supporter Engagement¹⁹⁶



Source: Football Supporters’ Association.

Indeed, whilst the ESL is perhaps the most prominent and extreme recent example of a breakdown a communication between supporters and other stakeholders, it is far from alone in its nature. In 2019, for example, a report by *The Guardian* showed that whilst all clubs in the Football League employed a Supporter Liaison Officer, many of these did not have the power to create direct positive change for fan groups, and few had the access to those at the top of the club.¹⁹⁷ Antonia Hagemann, CEO of Supporters Direct Europe, stated that this demonstrates the fact that ‘quite a few clubs in the UK are merely going through a box ticking exercise’ in appointing these individuals.¹⁹⁸ Moreover, the material impact of such ineffective approaches to supporter engagement have at times become obvious.

¹⁹⁴ <https://thefsa.org.uk/our-work/supporter-engagement/>

¹⁹⁵ <https://thefsa.org.uk/news/fan-engagement-survey-shows-still-room-for-improvement/>

¹⁹⁶ <https://thefsa.org.uk/our-work/supporter-engagement/>

¹⁹⁷ <https://www.theguardian.com/football/the-agony-and-the-ecstasy/2019/nov/29/supporter-liaison-officers-fans-football-clubs-arsenal-watford>

¹⁹⁸ Antonia Hagemann, as quoted in *Ibid.*

During the 2020/2021 season, for example, Oldham Athletic experienced what was described as a ‘complete breakdown’ in communications and relationship between supporters and the ownership, when club owner Abdallah Lemsagam failed to deliver on several earlier promises made to supporters, whilst banning three fans from Boundary Park, the club’s stadium, for ‘promoting dislike’ of his regime.¹⁹⁹ Similarly, the 2022/2023 season has seen Birmingham City become heavily criticised for a lack of transparency with key stakeholders during the club’s most recent ownership crisis, with local MP Shabana Mahmood calling the situation ‘murky and confused’ during a parliamentary debate, and Newcastle-upon-Lyme MP Aaron Bell adding that the fans’ love for the club had been taken advantage of.²⁰⁰

Rye has argued that there are several reasons that such poor levels of supporter engagement have been able to manifest within certain clubs.²⁰¹ The first amongst these is a failure from club owners to acknowledge football as a unique business. Rye’s argument states that many of those in charge of English football clubs are without experience within the footballing ecosystem, and are familiar with a model of business where private companies are treated solely as personal property.²⁰² Yet, critically, given the cultural significance of football in England and the unique influence of separate stakeholders such as supporters within the sport, the same model of business cannot be applied to English football clubs.²⁰³ Accordingly, club owners are unable to act exclusively in the interests of generating personal profit whilst facing impunity from supporter groups, which demand more effective and direct communication than stakeholders in other industries. Evidence of this trend has been clearly demonstrated during West Bromwich Albion’s (henceforth WBA) 2022/2023 Championship season, with club owner Lai Guochuan having a background in construction and development, and having failed to communicate effectively with supporters regarding the club’s increasingly opaque financial situation. During the course of the season, it emerged that Lai had taken out in excess of £9 million worth of loans from the club to put towards his other business ventures, with a target to have these paid back by the beginning of 2023, and thus allow WBA adequate funds to be competitive within football’s January transfer period.²⁰⁴ However, by the start of the New Year, there had been no payback of any of the loans to the club, and sparse communication from Lai about a timeline for doing so.²⁰⁵ This led to the formation of the ‘Action for Albion’ group, which has been forced to exert significant pressure on Lai and club CEO Ron Gourlay in order to establish the status of the loans, and the potential for repayment in a timeframe that would be most beneficial to the club.²⁰⁶ What this highlights is that Lai’s unfamiliarity with the need to

¹⁹⁹ <https://www.manchestereveningnews.co.uk/sport/football/football-news/oldham-athletic-ban-fans-lemsagam-22527054>

²⁰⁰ Shabana Mahmood, as quoted in https://www.birminghammail.co.uk/sport/football/birmingham-city-ownership-st-andrews-25471914?int_source=nba; Aaron Bell, as quoted in <https://www.parallelparliament.co.uk/mp/aaron-bell/vs/shabana-mahmood>

²⁰¹ Kevin Rye, in interview with Aaryaman Banerji (Conducted 09.12.22, Online)

²⁰² Ibid.

²⁰³ Ibid.

²⁰⁴ Action for Albion Spokesperson Alistair Jones, appearing on Guardian Football Weekly 05.01.23.

²⁰⁵ Ibid.

²⁰⁶ Action for Albion Spokesperson Alistair Jones, appearing on Guardian Football Weekly 05.01.23.

communicate and engage with a group of stakeholders such as football supporters, demanding maximum transparency and constant communication regarding the financial situation of the club, particularly in cases in which it may have a material effect on playing performance.

Furthermore, the increasingly lucrative nature of English football as a business venture, combined with the globalisation of the sport, has meant that this trend has continually gained traction over recent years, as the industry begins to appeal to a wider range of individuals from more international geographies. The clubs competing in the 2022/2023 Premier League season alone, for example, have ownership structures with backgrounds including the real estate industry, construction, financial services, professional gambling, mining, travel retail, and shipping. This, too, is far from an exhaustive list. Despite this phenomenon, and the subsequent unfamiliarity of many club owners across the Football League with the nuances of the football industry, and in particular, management of unique footballing stakeholders such as supporters, there currently exists no code of corporate governance which may act as a guide for club hierarchies. Moreover, given the paucity of clubs where a culture of fan-elected directors or fan influence within boardrooms currently exists, there is little hope of immediate education for incoming owners of clubs. As a result, the risk of scenarios such as that currently manifesting at WBA has become prevalent in recent years, as tellingly evidenced by the ESL.

Yet Rye has contended that even where club owners have a more nuanced understanding of the footballing industry and the need for communication and transparency with supporters, fan engagement is too often not considered a priority within the Football League.²⁰⁷ This is often because clubs fail to make a link between effective supporter engagement and generation of significant profit.²⁰⁸ Indeed, a report looking at the 2018/2019 season found that only 35 of the 92 clubs in the Football League had a Fans Forum to facilitate engagement with supporters.²⁰⁹ Furthermore, only three clubs regularly reported the contents of their board meetings, as well as important financial and operational information, whilst only 15 had signed a Memorandum of Understanding or a form of legal agreement with their Supporters' Trust.²¹⁰ Attempts to transfer engagement into the digital age have also thus far been pitifully sparse, with only eight of 92 clubs offering supporters stand-alone Twitter help in 2018/2019.²¹¹

What this clearly points to is the manner in which too many clubs are currently failing to meet several of the factors which constitute the FSA's pyramid of fan engagement. Concerningly, the failure of such a large number of clubs to have even a Fans Forum shows the extent to which many are not even meeting the basic level of engagement with supporters. Furthermore, as of 2021, only an estimated 10 clubs in the Football League had provided a seat on the board for a supporters' groups, with Brentford FC the only club in

²⁰⁷ Kevin Rye, in interview with Aaryaman Banerji (Conducted 09.12.22, Online).

²⁰⁸ Ibid.

²⁰⁹ <https://www.weareimps.com/siteassets/fans/fan-engagement-index-2019-web-ready-final-1.pdf>

²¹⁰ Ibid.

²¹¹ Ibid.

the Premier League to do so.²¹² With regards to the highest level of the FSA's pyramid, only three of 92 clubs in the Football League – Exeter City, AFC Wimbledon and Newport County – are supporter or community-owned.

It would, however, be inaccurate not to acknowledge that whilst cases of poor supporter engagement remain too widespread across English football, recent years have seen a number of clubs within the Football League managing to create an effective, comprehensive and balanced system of engagement which gives supporters an integral role in the club's future. Rye has identified the emergence of individuals within the footballing world more willing to listen and be open to understanding the concerns of supporters as one of the key underlying reasons behind this.²¹³ Indeed, notable examples of excellent engagement with supporters has included Shrewsbury Town's establishment of a Supporters' Parliament, holding both open meetings with fans in order to source opinions, and separate events with the parliament representatives.²¹⁴ It is encouraging, too, to note that examples of good supporter engagement have extended to the Premier League, and not simply amongst less followed clubs. Liverpool FC, for example, has witnessed the introduction of a fans summit attended by senior management owners and directors, whilst Brighton & Hove Albion have created an Away Fans Forum, in order to serve a specific group of supporters which the FSA has highlighted are often undervalued.²¹⁵

Whilst these instances are heartening to see, they should be taken in the context of the wider framework of supporter engagement from football clubs, which remains, at best, variable. They remain useful, however, in providing a positive benchmark for engagement for clubs not currently operating with high standards of communication with supporters. Nonetheless, in order to transition such clubs towards higher standards, it is clear that some degree of reform is required.

Impact of the Fan-Led Review's recommendations

In spite of the problems highlighted regarding supporter engagement and corporate governance within English football currently, it has been encouraging to see that the FLR has dedicated separate sections within its contents to each of these areas. This therefore demonstrates a previously unseen urgency for finding solution in these spaces, and the significance placed upon them by the FLR.

In making its recommendations on supporter engagement specifically, the review makes a number of innovative recommendations in order to facilitate better communication with fans going forward. Indeed, in an overarching strategic recommendation, it states that 'Football needs a new approach to corporate governance to support a long-term sustainable future of the game.'²¹⁶ As part of this, recommendation 16 notes that 'A new Code for

²¹² Ibid.

²¹³ Kevin Rye, in interview with Aaryaman Banerji (Conducted 09.12.22, Online).

²¹⁴ <https://www.shrewsburytown.com/club/fans/supporters-parliament/>

²¹⁵ <https://www.liverpoolfc.com/news/announcements/264023-lfc-launches-new-supporter-liaison-and-engagement-process>; <https://www.brightonandhovealbion.com/news/1270658/away-fans-forum>

²¹⁶ "Fan-Led Review of Football Governance" p.138.

Football Governance based on the Sports Governance Code should be introduced for licensed clubs.²¹⁷ As has been previously highlighted, this would be based on the five principles outlined in this report – Structure, People, Communication, Standards and Conduct, and Policies and Processes – and would require clubs ‘to publicly present evidence of compliance with the Football Code on an annual basis.’²¹⁸ The Code also sets out a range of more material ‘requirements’, including engagement with supporters.²¹⁹ Specifically, this stipulates each club ‘develop and deliver a people plan and strategy for engaging with, and listening to, its fans, community and stakeholders.’²²⁰

It has also been recommended that compliance with the code should constitute part of the ‘licensing’ system for clubs undertaken by IREF, and would be a requirement to continue to compete within the Football League.²²¹ The Code would operate on a ‘ratchet’ system, whereby clubs in the Premier League and Championship be expected to uphold more stringent governance requirements than those in Leagues One and Two, which themselves would uphold higher standards than those in the National League.²²²

Given the current paucity of clear objectives and benchmarked standards surrounding corporate governance in English football, it is undoubtable that a Football Code is not only welcome but overdue. It is also encouraging to see that UK Sport’s Principles of Good Governance are being advised to become the Code’s core principles, given their already proven nature in upholding sporting standards of governance, and the manner in which they are regarded as aspirational by several County FAs. With regards to the material requirements being suggested as part of the Code, however, it could be considered peculiar that whilst they cover a wide spread of the recommendations made by the FLR, they omit key parts of the review’s suggestions. Nonetheless, it is clear that the material suggestions, including those on supporter engagement, are valid in their prospective suggestions. It is advisable, for example, that each club should have a Board, 30 per cent of which should be made up of independent non-executive directors, to provide expertise as well as scrutinise decisions. However, areas such as the protection of club heritage have not been included with the Code, despite the FLR’s highlighting of their importance to both clubs and supporters. It would seem wise, therefore, to base the Code more closely around some of the more effective and feasible specific recommendations made by the FLR, rather than from a more piecemeal conglomeration of ideas, no matter how sensible.

Indeed, the discussion surrounding club heritage in English football has led to the FLR’s recommendation of a ‘Golden Share’ for supporters, which will require the consent of fans before amending certain items of heritage associated with the club, such as the name and badge.²²³ However, it would seem unwieldy to unnecessary to have this as a separate measure to the Football Governance Code, particularly given the history of club owners and

²¹⁷ Ibid. p.138.

²¹⁸ <https://www.uk-sport.gov.uk/resources/a-code-for-sports-governance/the-principles>

²¹⁹ “Fan-Led Review of Football Governance” pp.79-82.

²²⁰ Ibid. p.80.

²²¹ Ibid. p.78.

²²² Ibid. p.79.

²²³ Ibid. pp. 101-102.

directors abusing existing rules surrounding club heritage. Rather, if the protection of club heritage was made part of the Code, it would be easier to extend down the footballing pyramid, and be part of a more concrete framework of governance and fan representation.

Recommendation VII: It is essential, as recommended by the FLR, that a new Code of Corporate Governance should be brought in for English football, and be run according to UK Sport's Principles of Good Governance. However, as part of the more material stipulations for this, supporters should be given a veto on decisions made regarding clubs' heritage, such as change of name and relocation of stadium. This would make the formation of an external 'Golden Share' unnecessary.

Furthermore, the FLR recommends that 'As a uniquely important stakeholder, supporters should be properly consulted by their clubs in taking key decisions by means of a Shadow Board.'²²⁴ The implementation of a 'Shadow Board' would aim to see that a select group of supporter representatives are consulted on a range of issues relating to the club, including strategic vision, short-, medium- and long-term business plans, and ideas relating to club heritage.²²⁵ Furthermore, the Shadow Board, in accordance with recommendation 27, 'should be a licensing condition of IREF.'²²⁶ It is clear that whilst this proposal has the potential for several benefits, and would in many ways be an extension of the Fans' Parliament implemented at a number of clubs, it is of vital importance that any such board is implemented with certain guidance in order to maximise its utility.

At a fundamental level, it is important that any Supporters' Board is comprised of fans with backgrounds or expertise in areas cohesive to running a football club. A potential pitfall of such a high level of fan consultation is the risk that those consulted do not have the requisite background to comment effectively on pressing issues such as financial projections or sponsorship strategy. This would ensure not only that the relationship between the club and the Supporters' Board is more productive, but that urgent macro issues concerning the welfare of the club can be discussed in detail and with additional expertise.

Additionally, a correctly operating Supporters Board should provide clubs with some form of metric as to satisfaction amongst fanbases on levels of engagement. Without such a direct line of communication, fan satisfaction, being a concept which is not concrete, is difficult to measure or quantify. However, the opportunity to provide such direct feedback, as represented by a Supporters Boards, should make this more accessible, and improve fan engagement in the long-run.

On a more general level, whilst there appears to be a misconception amongst several clubs that creating a greater culture of supporter engagement risks being both a time and money consuming exercise, a more nuanced approach highlights how this assumption is often misinformed. As Armando Cirrincione, an expert on sports technology and fandom, has noted, from a purely business standpoint, supporters should be categorised into

²²⁴ Ibid. p.94.

²²⁵ Ibid. pp.94-96.

²²⁶ Ibid. p.96.

different groups, depending on what sort of fan behaviour they demonstrate.²²⁷ Almost all football clubs will possess a small but significant number of fans whose support at stadiums is inelastic, and not dependent on playing performance, price, and general match experience.²²⁸ However, a significantly larger proportion of fans are not willing to unwaveringly commit to attending matches, with their attendance dependent on matchday experience and the overall comfort of their visit. In order to retain this section of support and their gate receipts, it is necessary for clubs to engage effectively with supporters, and provide an experience which appeals to various groups of fans, meeting their needs in an efficient and honest manner.

Recommendation VIII: As a licensing agreement, clubs should be made to implement a Shadow Board of supporters that may be consulted on club decisions. However, this should be comprised of supporters with a background in corporate governance and/or the sports industry. This might be reflected in replacing the current electoral system for Shadow Boards with a formal interview processes. Where there are concerns, clubs may recruit only candidates that are not objectionable to current policy; this process should be done by an independent body.

²²⁷ Armando Cirricione (Delivered in Lecture “Sports Technology” at Bocconi University, Milan, February 2021).

²²⁸ Ibid.

Chapter IV: Standards and conduct

The current position of English football

Conflicts of interest

‘Organisations shall uphold high standards of integrity, promote an ethical and inclusive culture, and engage in regular and effective evaluation to drive continuous improvement.’²²⁹ The framework of UK Sport’s fourth principle of good governance – Standards and Conduct – emphasises the importance of both democracy and diversity within sports organisations. Undoubtedly, both these areas are particularly pertinent within English football, given the sport’s popularity and significance to both British and global culture. Indeed, 40 per cent of the UK population (26.8 million people) watched live coverage of the Premier League on television during the 2020/2021 season, whilst worldwide, more than 1.4 billion people identify as a fan of a Premier League club.²³⁰ 3.2 billion people across the globe watched the Premier League during the 2018/2019 season, and an estimated 1.5 million individuals participate in the playing of football at least twice per month in the UK, making it the highest participation team sport in the country.²³¹ Such an integral foothold within society means it becomes essential that English football is governed with the highest of integrity, ethicality and democracy, with a rigorous process of checks and balances, introspection and evaluation of conduct. This is even more crucial given that the global footprint of English football, and the Premier League in particular, risks it become unwieldy, with numerous cross-continental stakeholders to manage.

Currently, however, the bodies at the top of English football are falling short of these requirements. The approach to governance remains singularly undemocratic, without the scope for diversity of thought or fair means of evaluation. Perhaps most concerningly, the potential for conflicts of interest amongst those in control has become undeniable, and risks bringing the integrity of decision-making into question.

This is most clearly highlighted in the democratic configuration of both the Premier League and the EFL. Current guidelines allow for a framework of self-regulation amongst clubs in the Football League. In the Premier League, this means that

‘Clubs have the opportunity to propose new rules or amendments at the Shareholder meeting. Each Member Club is entitled to one vote and all rule changes and major commercial contracts require the support of at least a two-thirds vote, or 14 clubs, to be agreed.’²³²

²²⁹ <https://www.ukssport.gov.uk/resources/a-code-for-sports-governance/the-principles>

²³⁰ “A record-breaking season”, <https://www.premierleague.com/season-review/the-fans/2164581?articleId=2164581#:~:text=40%20per%20cent%20of%20the,the%20start%20of%202019%2F20>

²³¹ “Premier League global audience climbs to 3.2bn for 2018/2019 season”, https://www.sportspromedia.com/news/premier-league-audience-figures-global-2018-19-season/?zephyr_sso_ott=QTywzw; <https://www.magicleague.co.uk/sports-industry-information/most-popular-sports-in-the-uk/>

²³² “About the Premier League”, <https://www.premierleague.com/about>

The result of this is a policy of self-regulation whereby clubs are involved in shaping not just the content of their contract within the competition, but the entire framework which oversees their behaviour.

A similarly undemocratic and conflicted system exists within the EFL, with current guidelines stipulating that new rules or amendments may be introduced following a vote in which 75 per cent of clubs in each of the three constituent divisions (18 clubs per division) vote in favour.²³³ As the FLR has highlighted, this method of regulation creates a culture where ‘clubs are incentivised to prioritise their own interests rather than taking a long-term view of what is best for the game.’²³⁴

There have been several examples of this being the case, resulting in a lack of progression or sustainability within the English footballing ecosystem. This in turn has, at least partially, led to the problems which saw the FLR created. Perhaps the most prominent instance of this has been the schism created between the Premier League and EFL, around a fair financial distribution package for the football pyramid. Many EFL club owners have been increasingly keen for Premier League clubs to distribute a greater amount of money to trickle down and become available for clubs towards the lower reaches of the pyramid, particularly in an era during which profits have been disrupted by the Covid-19 pandemic.²³⁵ Between 2019-2022, the Premier League claims to have paid a total of £1.23 billion to the EFL and wider football pyramid, equating to £401 million per season.²³⁶ This is equivalent to approximately 16 per cent of the Premier League’s broadcast revenues.²³⁷ The EFL, however, have asked for this figure to be raised to 25 per cent of broadcast revenue, which would raise an extra £250 million.²³⁸ As Tim Bridge, lead partner in the Sports Business Group at Deloitte, has noted, an increase in money presented to the EFL may be welcome, give that ‘the danger that we have at the moment – and it’s a very stark danger – is that EFL clubs stand still while the Premier League clubs move forward.’²³⁹ However, given the self-regulatory system by which Premier League clubs operate, and the self-determination of how much money goes towards the EFL, an agreement between the two bodies has not been reached. Clearly, therefore, the conflicts for both parties when attempting to regulate financial packages has led to a breakdown in progress, at the cost of both clubs and supporters, and cannot be considered as a sustainable model going forward.

These unsustainable conflicts of interest were further seen in 2019 following the publication of a review into the EFL’s corporate governance policies conducted by Jonathan Taylor

²³³ <https://www.dailymail.co.uk/sport/football/article-8415931/EFL-vote-way-salary-cap-League-One-Two-closer-agreement-Championship.html>

²³⁴ “Fan-Led Review of Football Governance”, p.32.

²³⁵ <https://www.dailymail.co.uk/sport/sportsnews/article-10160311/Self-Premier-League-destroy-EFL-force-two-split-insists-Accrington-owner.html>

²³⁶ “Premier League and EFL financial relationship – how and why is it going to change?”, <https://theathletic.com/3529059/2022/08/25/premier-league-efl-financial-changes/>

²³⁷ Ibid.

²³⁸ Ibid.

²³⁹ Tim Bridge, as quoted in Ibid.

QC.²⁴⁰ In spite of the review’s urgency – commissioned in the aftermath of Bury’s dissolution – and the clear deficiencies discovered within the EFL’s governance process, the organisation failed to adopt any of the proposed recommendations, or incorporate them as part of future plans. As the FLR notes, member clubs rejected fully independent EFL board membership ‘in favour of retaining club appointed directors.’²⁴¹

What is increasingly evident, therefore, is that the current system of self-regulation is failing in creating either a sustainable or fair model for English football governance, with the interests of individual clubs and organisations being put in front of the good governance of the sport as a whole. As the FLR further notes, there is additionally ‘an inherent conflict with an organisation taking disciplinary action their own shareholders, particularly where that action might have significant negative commercial impact on the organisation.’²⁴² This was seen in the aftermath of dissolution of the ESL, whereby disciplinary measures taken by the Premier League towards clubs which had threatened to participate were not simply weak, but set a precedent of lack of action taken towards parties which threatened the very fabric of the organisation’s own existence. Indeed, in response to the proposed new competition, the six clubs were fined £22 million between them, which would be put towards ‘the good of the game.’²⁴³ As *Guardian* football reporter Paul MacInnes has noted, the amount was less per club than what each would pay to average squad member per year.²⁴⁴ The reaction amongst fanbases across the Football League was one of justified outrage, with former Manchester United defender, and Sky Sports television pundit Gary Neville labelling it ‘an absolute embarrassment.’²⁴⁵ What was highlighted here, was that even in the most extreme of scenarios, the conflicts of interest with English football have resulted in a failure of good governance, and the high standards of ethics which the sport both needs and deserves.

Gambling and cryptocurrency

It has become increasingly clear, however, that conflicts of interest amongst authorities within English football have in recent years extended beyond the democratic structure and regulation of the Football League, and has, concerningly, negatively impacted aspects of supporter welfare. This has most evidently been the case with regards to the relationship between English football clubs and gambling companies, and the subsequent social consequences which may arise from a weakly regulated association between the two.

This was revealed in 2022, when it was discovered that that EFL clubs had been taking a cut of money from fan losses with bookmaker SkyBet, having acted as ‘affiliates’ of the

²⁴⁰ Jonathan Taylor, “Report To The EFL Board”, <https://www.efl.com/siteassets/image/201920/governance-reviews/bury-review.pdf---adobe-acrobat-pro.pdf>

²⁴¹ “Fan-Led Review of English Football Governance”, p.32.

²⁴² “Fan-Led Review of Football Governance”,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.32.

²⁴³ Paul MacInnes, “Six English ESL breakaway clubs agree to pay £22m to grassroots causes”, <https://www.theguardian.com/football/2021/jun/09/six-english-esl-breakaway-clubs-agree-to-pay-20m-to-grassroots-causes>

²⁴⁴ Ibid.

²⁴⁵ Tweet by Gary Neville (@GNev2) 09.06.21.

organisation, which sponsored each of the Championship, League One and League Two.²⁴⁶ As Rob Davies has noted, in this scenario, an ‘affiliate is a middleman who encourages a gambler to bet with a particular company, which then pays them a percentage of the money that (a) person goes on to lose.’²⁴⁷ As one internal document showed, this means that clubs were entitled to a share of losses from accounts registered in the club’s name to Sky Bet ‘through our affiliate partnership.’²⁴⁸ Whilst the Football League claimed that the agreement, which had begun in 2013 and been renewed in 2017, had been scrapped ahead of the 2019-2020 season, some clubs will continue to receive ‘legacy’ payments until May 2024.²⁴⁹ This was met with cross-party condemnation, with Labour MP Carolyn Lewis describing it as ‘proof that football clubs are exploiting their own fans’, whilst former Conservative Party leader Iain Duncan Smith stated: ‘That a football club might benefit from this runs against all they are supposed to stand for.’²⁵⁰

This conflict of interest, however, highlights a much wider problem within the standards and conduct of English football, and one that, in spite of managing to transcend political lines, has failed to be tackled effectively by either the government or by sporting authorities – the ineffectiveness of regulation for gambling within English football, and its subsequent pernicious widespread social impact.

Under the Gambling Act 2005, gambling operators selling to the British market must have a Gambling Commission license to transact with, and advertise to, British consumers.²⁵¹ The license administered by the commission requires advertisers to comply with the Advertising Codes administered by the Advertising Standards Authority.²⁵² These stipulate particular conditions, such as advertisements being prohibited from suggesting that gambling can be a solution to financial concerns, or portraying gambling behaviour that is socially irresponsible.²⁵³ Further regulations were introduced in 2022 following the Committees of Advertising Practice launching a consultation in 2020 to consider the need to reduce the appeal of gambling advertising to persons under 18, as well as vulnerable individuals.²⁵⁴ As a result, as of 1 October 2022, all gambling advertisements featuring sports stars or reality television personalities, and social media influencers has been outlawed, including a specific stipulation to ban any material featuring top-flight footballers.²⁵⁵ In addition,

²⁴⁶ <https://www.theguardian.com/football/2022/sep/28/football-league-clubs-taking-cut-of-gamblers-losses-with-skybet>

²⁴⁷ Rob Davies, “Revealed: Football League clubs taking cut of gamblers’ losses with SkyBet”, <https://www.theguardian.com/football/2022/sep/28/football-league-clubs-taking-cut-of-gamblers-losses-with-skybet>

²⁴⁸ As cited in Ibid.

²⁴⁹ Ibid.

²⁵⁰ Carolyn Harris, as cited in Ibid; Iain Duncan Smith, as cited in Ibid.

²⁵¹ “Gambling Advertising: How is it Regulated?”, <https://commonslibrary.parliament.uk/research-briefings/cbp-7428/>

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ <https://www.sports.legal/2022/06/crackdown-on-gambling-ads-featuring-sports-stars-new-advertising-rules/>

²⁵⁵ Mark Sweney, “UK to ban gambling ads featuring sports and reality TV stars”, <https://www.theguardian.com/society/2022/apr/05/uk-to-ban-gambling-ads-featuring-sports-and-reality-tv-stars>

advertisements were banned from featuring specific clubs kits or stadia.²⁵⁶ The move was hailed by Shahriar Coupal, director of Committee of Advertising Practice, as inviting ‘a new era for gambling ads, particularly pertinent in the year of a men’s FIFA World Cup.’²⁵⁷

In spite of these claims, however, it is clear that gambling stills holds a powerful influence within English football, in the form of both advertising and sponsorship. This subsequently continues to bring with it a series of problems which have remained largely unaddressed within the sport.

In 2021, a Channel 4 documentary – *Football’s Gambling Addiction* – revealed that gambling logos were, on average, displayed on approximately 700 occasions during a 90-minute football match.²⁵⁸ This follows on from research conducted by the BBC in 2017 showing that 95 per cent of advertising breaks during a football match on television in England featured at least one gambling-related advert.²⁵⁹ It was also indicated that gambling companies spend in the region of half a billion pounds between 2012-2016 on television advertisements alone.²⁶⁰

With regards to sponsorship, the numbers are equally eye-watering. Eight of the clubs competing in the Premier League during the 2022/2023 season, and six of those in the Championship, currently have gambling companies as their shirt sponsors. This is in addition to the EFL itself having SkyBet as its title sponsor, whilst in the non-league system, PitchingIn – a self-described ‘new multi-million-pound investment programme’ – have a flagship partnership with The Isthmian, Northern Premier and Southern Leagues.²⁶¹ During the 2021/2022 season, 19 of the 20 competing Premier League clubs possessed an official betting partner, with Norwich City being the only exception.²⁶² This all leads to an increasingly lucrative gambling market within English football. During the 2019/2020 season, the combined value of shirt sponsorship deals in the Premier League was worth £349.1 million, whilst EFL CEO Trevor Birch has stated that finance and sponsorship from the betting sector is worth up to £40 million annually for the organisation.²⁶³

Devastatingly, however, it appears that the consequences of such an intertwined relationship between English football and the gambling industry have been stark. The Big Step, a campaign to end all gambling sponsorship and advertising in football, has claimed that one in three UK gamblers have been promoted into gambling by marketing, whilst

²⁵⁶ Ibid.

²⁵⁷ Ibid.

²⁵⁸ “Football’s Gambling Addiction”. Channel 4. First broadcast 07.06.21.

<https://www.channel4.com/programmes/footballs-gambling-addiction>

²⁵⁹ “Gambling adverts ‘in 95% of TV matches’”, <https://www.bbc.co.uk/news/business-41693866>

²⁶⁰ Rob Davies, “Betting firms spent half a billion pounds on TV adverts since 2012”,

<https://www.theguardian.com/society/2016/jul/15/betting-firms-spent-half-a-billion-pounds-on-tv-adverts-since-2012>

²⁶¹ <https://entaingroup.com/entain-foundation/pitching-in/>

²⁶² “The Evolution of Premier League Betting Sponsorship”, <https://www.thepunterspage.com/evolution-premier-league-betting-sponsorship/>

²⁶³ <https://www.statista.com/statistics/254513/value-of-jersey-kit-sponsorships-in-the-barclays-premier-league-by-club/>; Trevor Birch as cited in <https://www.business-live.co.uk/enterprise/betting-deals-risk-financial-hit-21662500>

there are a total 1.4 million addicted gamblers in the country currently.²⁶⁴ Even more tragically, the campaign's parent company, Gambling with Lives, has estimated there are between 250 and 650 gambling related suicides every year.²⁶⁵ Whilst it would be overstretching to link each of these to the football industry, or the marketing of gambling companies around football, it is far from unfeasible to suggest, given the popularity of football countrywide and the high prevalence of gambling marketing around the sport, that these statistics have been at the very least partly influenced by gambling culture within football. At a minimum, it would not be undue to suggest that the current culture of gambling within football is exacerbating an already critical problem within UK society. Indeed, whilst the genesis of the UK's gambling problem may not have arisen through football, this should not be used as rationale for the sport's failure to take a stand on the issues created by gambling culture currently.

Moreover, the government's realisation of the negative impact the wider commercialisation of gambling is having on UK society has been highlighted through its commissioning of a Review of the Gambling Act 2000 in December 2020 in order 'to ensure gambling regulation is fit for the digital age.'²⁶⁶ Yet the publication of this review, whilst promising 'evidence on the effectiveness of safer gambling messaging across a number of media', has been the subject of a series of delays which has caused 'outrage' amongst campaigners in the football world.²⁶⁷ This was exacerbated by the most recent postponement allowing three Premier League football clubs – Fulham FC, AFC Bournemouth and Everton FC – to sign new shirt sponsorship deals with betting firms ahead of the 2022/2023 season.²⁶⁸ Whilst the authorisation of the review is welcome, its urgency given the current climate surrounding English football and gambling could not be greater.

This is particularly the case as recent years have seen English football develop a new, and more opaque, form of gambling culture, in the form of the emergence of cryptocurrency firms. The high speed, high event frequency, chance-based accessible and potentially lucrative market created by cryptocurrency has been said to often mirror that of gambling.²⁶⁹ This is supported by academic studies such as that conducted by Paul Delfabbro, Daniel King, Jennifer Williams and Neophytos Georgiou for the *Journal of Addictive Behaviours* which found similarities in the speculative trading associated with cryptocurrency is more likely to attract problem gamblers than individuals that choose not

²⁶⁴ "About The Big Step", <https://the-bigstep.com/about/>

²⁶⁵ <https://www.gamblingwithlives.org/wp-content/uploads/2022/01/Gambling-Suicidal-Ideation-and-Completed-Suicides.pdf>

²⁶⁶ <https://commonslibrary.parliament.uk/research-briefings/cdp-2022-0071/#:~:text=The%20Government's%20Review%20of%20the,are%20considering%20the%20evidence%20carefully.>

²⁶⁷ Ibid.; Jon Ungoed-Thomas, "Gambling review delay lets Premier League football clubs" strike sponsorship deal"

²⁶⁸ Jon Ungoed-Thomas, "Gambling review delay lets Premier League football clubs" strike sponsorship deal".

²⁶⁹ [https://www.fastforward.org.uk/cryptocurrency-what-is-it-and-is-it-linked-to-gambling/#:~:text=Many%20people%20think%20of%20cryptocurrency%20as%20gambling&text=Checking%20in%20on%20crypto%20value,apps%20can%20be%20habit%2Dforming.&text=Buying%20crypto%20is%20very%20high,unpredictable%20factors%20like%20influencer%20tips.&text=Unlike%20traditional%20trading%2C%20crypto%20\(and,\)%20is%20available%2024%2F7.](https://www.fastforward.org.uk/cryptocurrency-what-is-it-and-is-it-linked-to-gambling/#:~:text=Many%20people%20think%20of%20cryptocurrency%20as%20gambling&text=Checking%20in%20on%20crypto%20value,apps%20can%20be%20habit%2Dforming.&text=Buying%20crypto%20is%20very%20high,unpredictable%20factors%20like%20influencer%20tips.&text=Unlike%20traditional%20trading%2C%20crypto%20(and,)%20is%20available%2024%2F7.)

to gamble.²⁷⁰ Furthermore, Devin Mill and Lia Nower have shown that trading cryptocurrency has been strongly linked with gambling problem severity.²⁷¹

Despite this, recent seasons have seen several English football clubs enter into partnerships or sponsorship deals with cryptocurrency firms, particularly in the form of the distribution of ‘fan tokens’. Such tokens are created using blockchain technology and allow fans to buy, sell and trade coins through an internal marketplace, with the value of each token dictated by the fortunes of the club.²⁷² This has led to several Supporters Trusts, including those at Leeds United, West Ham United and Arsenal FC, criticising such initiatives, and suggesting it puts fans under pressure to enter the cryptocurrency market without appropriate knowledge.²⁷³ Indeed, such are the similarities between gambling and cryptocurrency that legal firm Brabners LLP have claimed that many clubs are now considering expanding their activities in cryptocurrency, as a form of substitute, should greater regulation be brought in around gambling.²⁷⁴ Yet despite the clear potential of cryptocurrency trading to evoke problematic behaviours, there currently exists no regulation within football to avoid the exploitation of vulnerable individuals, or overly aggressive advertising by cryptocurrency firms. It is hopeful that the Gambling Review, upon its eventual publication, should look to bring in wider regulation, but failing this, English football should be forced to more tightly control its relationship to such businesses.

Yet the requirement for such regulation extends beyond the societal problems that speculative trading in cryptocurrency has been proven to create. Perhaps equally pressingly, the lack of regulation around cryptocurrency has led to several instances of football clubs entering into sponsorship deals and partnerships with cryptocurrency firms. A notable example of this was seen at Barnsley FC, which entered into a front-of-shirt sponsorship agreement with cryptocurrency firm Hex following the start of the 2022/2023 League One season.²⁷⁵ On its website, Hex advertised itself as ‘the first Blockchain Certificate of Deposit.’²⁷⁶ In more palatable terms, this means that users may buy and sell Hex cryptocurrency. As *The Athletic* have explained, users can then ‘stake’ this cryptocurrency by ‘locking’ it for a period of a time, with Hex’s website claiming ‘Your stake accrues rewards every day, and the amount of yield depends on the length of your stake.’²⁷⁷ The idea, therefore, is that by holding onto Hex, a user gets allocated more cryptocurrency.²⁷⁸

²⁷⁰ <https://www.sciencedirect.com/science/article/abs/pii/S0306460321002069>

²⁷¹ Devin Mills, Lia Nower Preliminary findings on cryptocurrency trading among regular gamblers: A new risk for problem gambling? *Addict Behav.* 2019 May;92: pp.136-140.

²⁷² <https://www.brabners.com/blogs/cryptocurrency-partnerships-football#:~:text=Some%20notable%20partners%20include%20Arsenal,%2C%20sporting%20moments%2C%20and%20memorabilia.>

²⁷³ *Ibid.*

²⁷⁴ *Ibid.*

²⁷⁵ Joey D’Urso, “Barnsley fans 1 Crypto 0: People round here haven’t got time for bull****” 19.08.22, <https://theathletic.com/3519098/2022/08/19/barnsley-fans-cryptocurrency-sponsor/>

²⁷⁶ <https://hex.com>

²⁷⁷ Joey D’Urso, “Barnsley fans 1 Crypto 0: People round here haven’t got time for bull****” 19.08.22, <https://theathletic.com/3519098/2022/08/19/barnsley-fans-cryptocurrency-sponsor/>

²⁷⁸ *Ibid.*

However, between August 2021 and August 2022, the value of Hex fell 38 per cent, causing users to lose significant amounts of money.²⁷⁹

What is concerning, here, is that a historic community institution for a small, working-class town was, through a lack of regulation and due diligence, allowed to enter into a deal with a cryptocurrency company which has been argued to be financially opportunistic towards individuals. In the above case, following a backlash from Barnsley supporters and the discovery of homophobic social media content allegedly linked to a Hex representative that announced the deal, the partnership was dropped shortly after coming into place.²⁸⁰

Yet this is not an isolated example with regards to unsuitable and mysterious cryptocurrency firms permeating their way into English football clubs. In late 2021, for example, Manchester City announced a commercial with 3Key Technologies, a cryptocurrency company offering 150 per cent average annual returns to investors.²⁸¹ The deal, however, was suspended within a week, after discovering that no information about the business was verifiable, including whether it was an officially registered business, or that the individuals which had been quoted in 3Key's official press release following the establishment of the partnership were real.²⁸² It later emerged that the company's founders were reportedly subject to a class action lawsuit in Croatia, following allegations of having run a Ponzi scheme in the country.²⁸³ What therefore becomes clear is that the current lack of regulation surrounding cryptocurrency firms in English football is leading to these companies entering into partnerships with English football clubs, whose own due diligence in this area has often proved to be insufficient. When combined with the potentially dangerous ramifications created for individuals as a result of marketing by such companies, the gravity of the situation becomes clear. In this regard, English football finds itself in an alarming position, failing to provide financial security to supporters in the face of cryptocurrency companies.

Growing the women's game

As part of the 'Standards and Conduct' section of UK Sport's principles of good governance, the organisation stresses the importance for sporting bodies to promote an 'ethical and inclusive culture' in both its configuration and its actions.²⁸⁴ This highlights the significance of having strong and fair standards of equality, diversity and inclusion throughout its practices, which may then be mirrored within the wider societal culture of the sport.

²⁷⁹ Ibid.

²⁸⁰ Joey D'Urso, "Barnsley fans 1 Crypto 0: People round here haven't got time for bull****" 19.08.22, <https://theathletic.com/3519098/2022/08/19/barnsley-fans-cryptocurrency-sponsor/>;
<https://www.reuters.com/article/uk-soccer-crypto-currency-barnsley-idUKKBN2PI11T>

²⁸¹ <https://www.dailymail.co.uk/sport/football/article-10222087/Manchester-City-suspend-partnership-mysterious-cryptocurrency-firm-Key3-Technologies.html>

²⁸² Ibid.

²⁸³ <https://www.footballinsider247.com/man-city-have-dropped-the-ball-amid-1-1bn-fraud-kieran-maguire/>;
<https://www.dailymail.co.uk/sport/sportsnews/article-11394453/SPECIAL-REPORT-Fulham-dump-partners-Mail-Sunday-uncover-outlandish-financial-claims.html>

²⁸⁴ "A Code for Sports Governance: The Principles", <https://www.uk sport.gov.uk/resources/a-code-for-sports-governance/the-principles>

However, given that this report, and the FLR, are aimed at investigating governance of men's football in England, the current position and challenges facing women's football will not be covered in any great detail here. However, it would be remiss not to outline the overall context in which the women's game currently operates, not least to provide a context and framework when observing other forms of diversity and inclusion.

The success of the England Women's senior team at the 2022 European Championships was a testament to the increasingly strong levels of growth and support the women's football has been receiving over the previous few years. Certainly, the FA's introduction of a specific strategy for women and girl's football in October 2020 has appeared to have a positive profoundly impact. As the FA itself has noted,

'the strategy set clear Equality, Diversity and Inclusion objectives and since its launch, 94% of County FAs now have EDI plans specifically for the female game, nearing the target of 100% by 2024. 64% of County FAs are currently offering FA-developed 'football for fun' recreational opportunities for adult women from all communities, with the aim of hitting 100% by 2024.'²⁸⁵

This success has also been reflected through the 17.4 million viewers for the Women's European Championship Final between Germany and England.²⁸⁶

Despite this, it would be complacent not to acknowledge the challenges that persist within women's football. Aside from still having failed to recover in both popularity and financial lucrativeness from the ban between 1921-1970 that prevented women from playing on FA affiliated pitches, problems including but not exclusive to levels of participation, ongoing discrimination, financial sustainability, and sanitary requirements, remain. The FA have quite correctly, however, identified the European Championship win in July 2022 as a potentially 'transformational moment', noting that in the months following the victory, awareness of the England Women's team has increased by 32 per cent amongst girls aged five-16.²⁸⁷ The FLR has recommended that, given the status of women's game, it is afforded its own review to more accurately detail where it might be better governed.²⁸⁸ This would appear a positive next step in continuing to grow the game in England, and it has been heartening to see former England international footballer Karen Carney MBE be appointed to led this, given her experience and specific expertise in this area.

With regards to wider levels of Equality, Diversity and Inclusion (henceforth EDI) within football, this topic has been covered extensively in discourse and literature both preceding and succeeding the publication of the FLR. The FLR's analysis of this therefore forms part of

²⁸⁵ <https://www.thefa.com/news/2022/nov/08/inspiring-positive-change-women-girls-football-strategy-update-20220811>

²⁸⁶ <https://www.dailymail.co.uk/sport/football/article-11068659/Englands-historic-Euro-2022-final-win-against-Germany-attracts-record-TV-audience-17-4-MILLION.html>

²⁸⁷ <https://www.thefa.com/news/2022/nov/08/inspiring-positive-change-women-girls-football-strategy-update-20220811>

²⁸⁸ "Fan-Led Review of Football Governance", https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037648/Football_Fan_led_Governance_Review_v8Web_Accessible.pdf p.125.

a much wider political debate on EDI, which requires specialist and individual coverage, thus making it inappropriate to refer to as part of this report.

Impact of the Fan-Led Review's recommendations

In its analysis of the problems currently persisting within English football, the FLR has, encouragingly, identified several of the issues around 'Standards and Conduct' as pressing problems that require intervention.

Primarily, the review outlines the highly conflicted nature of English football's current regulators, noting that 'the rules of regulation (are) being set by the parties that are to be regulated.'²⁸⁹ As has been highlighted previously, this has led to several instances whereby 'clubs have been incentivised to prioritise their own interests rather than take a long-term view of what is best for the game.'²⁹⁰ It also notes that there have been several previously missed opportunities for reform, such as the 2011 DCMS Select Committee's recommendation that the football authorities should agree and publish a joint report on how to address some of the most pressing problems within English football.²⁹¹ This report, unfortunately, was never produced.

In proposing potential solutions to such conflicts of interest, therefore, the FLR is robust in outlining the potential for several new methods of regulation. Specifically, the review explores leaving the current situation to the market, generating a football-led response, a co-regulatory response, and the introduction of an independent regulator.²⁹² What is clear is that the first of these would leave 'an existing system for club failures' that has witnessed the emergence of several problems within the footballing ecosystem that have been conveyed both in this report and the FLR.²⁹³ Equally, however, both a football led response and a co-regulatory one would be unable to solve the conflicts of interest within the current governance system. As the FLR notes with regards to a football-led response,

'the range of issues faced by those overseeing the current regime has correspondingly increased in complexity. The set up of the system, with regulation split across several bodies, is not optimal – a regulator should be thinking about issues in the round and connecting different parts of the regime. The bodies that make the rules lack the clearly defined objectives of a normal regulator. They also have strong commercial interests and are effectively controlled by those that are to be regulated.'²⁹⁴

Furthermore, from a purely practical level,

²⁸⁹ "Fan-Led Review of Football Governance", p.32.

²⁹⁰ Ibid. p.39.

²⁹¹ Ibid. p.33.

²⁹² Ibid. p.38.

²⁹³ Ibid. p.38.

²⁹⁴ Ibid. p.39.

‘Given the nature of the problems, reform needs to include complex issues like cost controls. This involves designing a system to prevent clubs going out of business while balancing competing factors like avoiding red tape and ensuring healthy competition. These are not the areas of traditional sports governance and to regulate them effectively will need new skills and expertise not currently in the game.’²⁹⁵

Similar issues persist with the idea of co-regulation, which would mean ‘problems would remain around the constitutional setup of the leagues and authorities that would enforce this system,’ thus making it wholly inappropriate to regulate the relevant bodies in English football.²⁹⁶

The existence of these problems once again makes a strong case for the introduction of an independent regulator within English football in the short-run. It is noteworthy that perhaps the only viable solution to alleviate conflicts of interest at the top end of English football in its current state is through independent regulation. Indeed, the FLR has cited the experience of other industries such as financial services in using an independent regulator as evidence of the beneficial culture such a method can create.²⁹⁷ Furthermore, it has been noted that the flexibility of an independent regulator may be of particular benefit to the footballing ecosystem, where problems that arise are often dynamic and unique to the particular industry.²⁹⁸

Whilst this argument rests on fairly solid ground, and lends credence to the already mentioned recommendation that IREF is brought in in the short-term, it is concerning that the FLR again appears to suggest this as a permanent solution, and thus undervalues the importance of reforming institutions within English football which, in more ideal circumstances, would be able to effectively regulate the sport.

As has been previously noted, it should be the aim of English football to establish a strong and active FA to govern and regulate the sport and each of its constituent bodies. It should be part of the remit of IREF to help modernise the FA to such a point that it is able to do its job effectively without becoming influenced or conflicted by other parties within the ecosystem. Whilst IREF should consequently look to actively regulate with independence, it should cause great concern if this was established as its only task. Rather, as part of its rubric and goal to modernise and empower the FA, it should engage effectively with the FA in helping it establish independence and resilience from influence from bodies such as the Premier League and EFL. This would once again be done with the aim of ceding more power to the FA in the medium- to long-term future, with IREF subsequently taking a more minor role in the governance of English football.

²⁹⁵ Ibid. p.39.

²⁹⁶ Ibid. p.39.

²⁹⁷ Ibid. p.40.

²⁹⁸ Ibid. p.15.

Recommendation IX: Finding resolutions to the conflicts of interest currently existing within English football governance may be done by taking into account several of the previous recommendations in this report. In the short-term, the introduction of IREF would allow for uncoloured governance on areas which might otherwise create conflict for stakeholders with power. From a longer-term perspective, such issues should be put under the aegis of a more modernised, powerful FA.

Given the expectation of the publication of the UK government's review into gambling law, as commissioned by the Department for Digital, Culture, Media and Sport in December 2020, it is perhaps understandable that the FLR excluded analysis or recommendation on this topic, or on cryptocurrency, from its contents. The upcoming white paper on gambling is expected to highlight a number of areas for reform, including within the sports industry. Nonetheless, it would be remiss not to explore options specific to football within this report, given the afore highlighted precarious and potentially pernicious state of gambling within English football currently.

It is far from a significant leap to suggest the proclivity and visibility of gambling advertising and sponsorship within football currently is tied to the exacerbation of problem and addiction gambling across Britain in recent years, something highlighted by ministers pushing more widely for stricter gambling regulation within the sport.²⁹⁹ Certainly, given the significant cultural influence of football clubs on English society, and the integral and material role they play in the lives a not insignificant proportion of the population, it would seem inadvisable that clubs are able to openly market gambling sponsors on the front of playing shirts. Furthermore, following on from the Advertising Commission's findings in 2020 that more must be done to reduce gambling advertising influencing under 18s, it seems hypocritical that this might not extend to the coverage of football, given the number of children and teenagers interested in or participating within football in the country.

Whilst the argument could be made – by clubs in particular – that ending gambling sponsorship on shirts could severely affect finances, this was not the trend seen in Spain following the introduction of the same law in 2020. The ban resulted in eight clubs from the country's top two divisions having to quickly find new shirt sponsorship deal, with only one (Deportivo Alaves) failing to do so in time for the following season.

It would also appear unfeasible to suggest that clubs would be unable to secure replacement sponsorship deals of similar lucrateness, if forced to move away from gambling companies. Journalist Edward Hawkins has argued that gambling companies currently represent an 'easy' option for clubs seeking sponsorship, and imposing a restriction would allow for more flexibility in searching for alternative sponsors, and an

²⁹⁹ <https://www.theguardian.com/society/2022/jun/29/gambling-reform-all-bets-are-off-as-tories-fail-to-agree-on-changes>

increased capacity to work, for example, with local businesses.³⁰⁰ Additionally, it would seem a fruitless exercise to impose gambling restrictions on club shirt sponsors without also acknowledging that the same must be done for the name rights of league and cup competitions – for example, SkyBet Championship. Furthermore, given the traction generated by leagues and clubs lower down the pyramid than the Premier League, and the influence even less established footballers may have on under 18s, it would seem advisable to extend the ban on Premier League stars appearing in advertising campaigns to all footballers representing a club within the Football League.

Recommendation X: Whilst the results of the UK Government’s review into gambling is anticipated, there are areas concerning gambling within football that need to be attended to regardless of the paper’s final findings. Given the proclivity of gambling-related problems within the UK, clubs in the Football League should face a ban from having gambling companies as front-of-shirt sponsors.

Recommendation XI: The ban on Premier League footballers appearing in gambling advertising should be extended to those in the Championship, League One and League Two, given the influence footballers can have, even towards the lower end of the Football League.

What is perhaps equally concerning as the influence of gambling on English football currently is the lack of regulation surrounding cryptocurrency firms entering the industry. As has been previously noted, the behavioural tendencies of individual people engaging with cryptocurrency firms often mirrors that of those engaging in gambling. Likewise, investing in cryptocurrency, even in a regulated form, naturally runs the risk of making losses for individuals. Therefore, whilst the current regulation around gambling in football is unsatisfactory, it is even more alarming that there exists none at all around cryptocurrency businesses. Indeed, in November 2022, MPs called on the government to regulate cryptoassets within football, ‘to protect consumers from the risks inherent in the products now being promoted across the game,’ with Aaron Bell MP noting that ‘many cryptoassets have little or no intrinsic value and serve predominantly as a vehicle for financial speculation.’³⁰¹ When combined with the fact several firms expanding to football have been found to be not just opportunistic, but accused of being fraudulent, it is clear that some form of regulation is required. Given the still early history of cryptocurrency firms entering the football industry, and non-existence of current regulation, it would be impossible to give a full outline of what a potential future relationship may seem like. However, it is not overambitious to suggest this should start with a more comprehensive vetting process for any firms trading in cryptocurrency wishing to enter either a sponsorship deal or partnership with an English football club, with clear guidelines on what could cause any deal to be rejected or terminated. Furthermore, in a similar vein to potential proposals on gambling, it would appear inadvisable to allow front-of-shirt sponsoring for cryptocurrency firms, or for top-flight footballers to promote cryptoassets.

³⁰⁰ <https://www.itrustsport.com/blog/could-a-gambling-advertising-ban-threaten-english-footballs-integrity>

³⁰¹ Aaron Bell MP, as quoted in <https://thefsa.org.uk/news/mps-debate-promotion-of-cryptoassets-in-football/>

Recommendation XII: Regulation on cryptocurrency firms operating in football is needed urgently. Given the behavioural similarities evoked by cryptocurrency and gambling firms, there should be an equal ban on cryptocurrency businesses becoming front-of-shirt sponsors for Football League clubs.

Recommendation XIII: There should be a new and stringent vetting process, operated independently by IREF for cryptocurrency firms looking to enter into partnerships with clubs in the Football League. These should include background, integrity and transparency checks.

Recommendation XIV: As the FLR has highlighted, it is clear that women's football requires its own separate review, looking at the current position of the women's game. This report supports the need for such a review to be conducted with immediate effect.

Chapter V: Policies and processes in English men's football

The current position of English football

The financial pyramid

The final principle in UK Sport's Code for Sports Governance is 'Policies and Processes'.³⁰² This stipulates that

'Organisations shall comply with all applicable laws and regulations; consider the social and environmental actions of their decisions; undertake responsible financial strategic planning; and have appropriate control and risk management procedures.'³⁰³

This is highlighted as important to sporting bodies in order to help 'mitigate risk and enhance stakeholder trust and organisational reputation.'³⁰⁴

As has already been mentioned, with regards to financial strategic planning, it is clear that the reckless actions of clubs across the pyramid is causing financial damage to themselves and the wider Football League system. In a number of cases, this has left clubs in financial jeopardy, which has had the potential to put their existence at risk. What is apparent, however, is that this is happening in the context of a wider financial infrastructure which itself has become unfit for purpose, and which is exacerbating the consequences of poor governance at club level.

At present, the Premier League distributes payments to each of the 72 clubs in the EFL at the end of each football season. This can be presented in two forms – 'Solidarity Payments' and 'Parachute Payments'. In the case of the latter, clubs relegated from the Premier League receive a percentage of the equally shared broadcasting rights received by each Premier League club.³⁰⁵ In percentage terms, this amounts to 55 per cent in the first year following relegation, 45 per cent in the second, and 20 per cent in the third if the club had previously been in the Premier League for more than a single season.³⁰⁶

Criticism of this method of redistribution, however, has been rife. Several EFL club owners have noted how giving recently relegated clubs such a financial advantage upsets the competitive balance of the Championship, and results in only a small selection of clubs achieving promotion.³⁰⁷ This argument is not without merit. Since the scheme's beginning for clubs relegated from the Premier League at the end of the 2015/2016 season and the culmination of the 2021/2022 season, seven of the 17 separate clubs to have been

³⁰² "A Code for Sports Governance: The Principles", <https://www.uk sport.gov.uk/resources/a-code-for-sports-governance/the-principles>

³⁰³ Ibid.

³⁰⁴ Ibid.

³⁰⁵ <https://www.theguardian.com/football/2015/jun/02/parachute-payments-clubs-relegated-premier-league>

³⁰⁶ Ibid.

³⁰⁷ Rob Wilson, Girish M. Ramchandani, Daniel Plumley, "Parachute Payments in English Football: Softening the Landing or Distorting the Balance" *Journal of Global Sport Management*, March 2018.

relegated were promoted back to the Premier League. Whilst this in itself should not inherently be seen as a problem, it does speak to a climate in which the competitive balance of the Championship is significantly tilted towards clubs relegated from the Premier League. This in turn, and as aforementioned, causes the remaining clubs within the Football League to gamble brazenly with finances in order regain a form of competitive parity. One potential solution which has been touted is the installation of a merit-based system, where clubs in the EFL are awarded money proportionate to their finishing position within their respective league table, as is done in the Premier League.³⁰⁸ Whilst the reception to this potential proposal has been tentatively warm thus far, no material change has yet been made.

An equally fractious debate has also continued around solidarity. As *The Athletic* have noted, the EFL continue to argue that the Premier League provides more money, and thus creates a more sustainable model for English football.³⁰⁹ The argument made here is that more resources for clubs not in the Premier League has the potential to end short-term gambling with club futures. The Premier League, however, have maintained that the seven-figure payments currently paid to clubs down the pyramid is itself generous, and providing more funding would not bring any guarantee of long-term sustainability.³¹⁰ Concerns currently remain that additional money would simply be used for short-term purposes and would not bring an end to culture of gambling from clubs. Tim Bridge has argued that ‘There needs to be a mechanism whereby additional money going to the EFL clubs doesn’t simply just roll through the system’.³¹¹ The FLR highlighted in detail the manner in which this such an inefficient use of money has been one the main causes of the financial distress of Derby County. From 2013 onwards, Derby’s channelling of income, including solidarity payments, towards short-term assets to gain promotion saw their financial landscape become unsustainable when the club failed to do so on several occasions. This ultimately led them to being placed into administration and handed down a 21-point deduction, having been found to have broken EFL financial rules.³¹² Derby’s case illustrates that whilst the current model of financial redistribution in football might be inefficient, any solution that simply stipulates that the EFL receive a greater amount of money, without imposing regulation on spending and cost control, risks doing far more harm to individual clubs than in bringing benefits.

Player welfare

Given the ‘Policies and Processes’ principle outlined by the UK Sport Code of Governance stipulates that organisations should consider ‘the social and environmental actions of their decisions’, it is important to recognise the significance of the welfare of footballers in the current footballing climate.³¹³

³⁰⁸ <https://www.hulldailymail.co.uk/sport/football/premier-league-propose-alternative-parachute-7014015>

³⁰⁹ <https://theathletic.com/3529059/2022/08/25/premier-league-efl-financial-changes/>

³¹⁰ Ibid.

³¹¹ Tim Bridge, as quoted in Ibid.

³¹² Fan-Led Review of Football Governance, p.111.

³¹³ “A Code for Sports Governance: The Principles”, <https://www.uk sport.gov.uk/resources/a-code-for-sports-governance/the-principles>

Indeed, there has been a great deal of concern raised by several parties on the current status of player welfare, with an increasing consensus that current, former and potential future male footballers are left with too little personal support, with often difficult ramifications. In 2021, Liverpool FC captain and England international Jordan Henderson claimed that ‘nobody takes player welfare seriously enough’, whilst the BBC’s Dan Roan has highlighted how football is facing serious challenges across the board with regards to player welfare.³¹⁴ These arguments have been supported by several recently published studies and reports, covering topics as wide-ranging as mental health in footballers, the proclivity of former players to suffer from dementia, and post playing-career care.³¹⁵

One of the most concerning trends to have merged from this has been the transparent lack of support offered to former academy footballers who fail to become professional. Premier League figures from 2020 showed that just 29 per cent of Premier League apprentices that joined club academies in 2015 were still in the football industry at the time of their publication.³¹⁶ Boys as young as eight-years-old can be selected on a scholarship to a professional club academy, after which an often time-consuming and arduous process sees them and their families travelling long distances for several years in order to compete in matches around the UK. Despite this, 50 per cent of academy players are either released from or leave the system before the age of 16, whilst Professional Footballers’ Association figures have shown that five in six players that are still within the system at 16 will no longer be working in football at 21.³¹⁷ Research conducted on men who fail to make the step to professional football points an increasingly bleak picture. A study conducted at Teesside University in 2015 showed that 55 per cent of young men released by professional academies ‘were suffering clinical levels of psychological distress’ in the 21 days following being let go.³¹⁸ The research’s director, Dr. David Blakelock, noted that the experience of being in an academy can narrow young boys’ perspectives into an ‘athletic identity’, and thus suffer a ‘loss of self-confidence’ when that is taken away.³¹⁹ Dr. Chris Platts of Chester University’s research is similarly telling, claiming

‘For those who leave, the whole process of the academy has had a huge impact on them as a human being, emotionally, psychologically and on their social

³¹⁴ <https://www.theguardian.com/football/2021/dec/22/liverpool-jordan-henderson-voices-player-welfare-fears-covid>;

³¹⁵ See Nicola A. Sothorn & Jimmy O’Gorman, “Exploring the mental health and wellbeing of professional academy footballers in England” *Soccer & Society* (22:6) 2021, Jon Spear “Are professional footballers at risk of developing dementia”, *International Journal of Geriatric Psychiatry* December 1995, Paul Ian Campbell “Football Professionals, Qualifications and Post-playing Career Preparations” *Education, Retirement and Career Transitions for ‘Ex-Black Professional Footballers’* Emerald Publishing Limited, 2020

³¹⁶ <https://theathletic.com/1935880/2020/07/19/academy-education-premier-league-efl-gorman-hopcutt-swindell-mccready/>

³¹⁷ PFA Figures, as cited in <https://www.theguardian.com/football/2017/oct/06/football-biggest-issue-boys-rejected-academies>

³¹⁸ https://www.tees.ac.uk/sections/news/pressreleases_story.cfm?story_id=4857

³¹⁹ *Ibid.*

development. When they are released, they are suddenly rushed into the normal world, and many struggle to cope with it.³²⁰

Both the Premier League and EFL have defended their processes in this area, stating that boys enrolled in professional academies aged 16-18 must continue with education simultaneously, and receive a range of welfare and life skills courses.³²¹ Indeed, the EFL has argued that it is 'supportive of the holistic development of youth players', whilst the Premier League has said it aims 'to support the development of well-rounded young players.'³²² Yet such claims are difficult to justify given the continuing dire consequences being seen for released academy players within English football. Recent years have seen instances of academy players released by clubs taking their own lives after not receiving the right support following being let go. In 2020, an inquest heard the former Manchester City academy footballer Jeremy Wisten did not receive the 'right support' after the club released him, with Wisten taking his life just under two years later.³²³ As David Conn has argued, 'Despite what many football clubs say, the support for rejected boys is not there.'³²⁴

Yet this situation is unfortunately just part of larger fabric of failures by footballing bodies to protect players of all ages. It would be remiss not to note also the historical failure to protect young players from sexual abuse whilst in academies. This follows from revelations first made in 2016 from a swathe of former academy footballers documenting abuse at the hands of former coaches and scouts across four decades, beginning in the 1970s.³²⁵ This was exacerbated by the covering of such allegations at the time by clubs, and the failure of football's authorities to identify individuals that presented a danger to children. Whilst the response from the Football Association since the allegations re-emerged in twenty first century has been stronger – setting up a helpline and commissioning a review led by Clive Sheldon QC that would ultimately make 13 vital recommendations to improve – the gravity and deep-rooted nature of the scenario should serve as warning as to the potential for clear inadequacies in player protection, even at the highest level.³²⁶

However, it would be inaccurate to argue that problems regarding player welfare are limited to academies and grassroots football. It has become evident that a seminal problem also exists at the other end of the scale, and the aid provided to professional footballers following their retirement from playing the sport. The difficulties faced by many former players following the culmination of their careers has become increasingly well documented. Despite the relatively high incomes earned by many professional footballers in England, a career dedicated to playing the game is beset with its own unique set of

³²⁰ Dr. Chris Platts, as quoted in <https://www.theguardian.com/football/2017/oct/06/football-biggest-issue-boys-rejected-academies>

³²¹ <https://www.theguardian.com/football/2017/oct/06/football-biggest-issue-boys-rejected-academies>

³²² English Football League, as quoted in *Ibid.*; Premier League, as quoted in *Ibid.*

³²³ <https://www.bbc.co.uk/news/uk-england-manchester-59214647>

³²⁴ <https://www.theguardian.com/football/2017/oct/06/football-biggest-issue-boys-rejected-academies>

³²⁵ <https://www.bbc.co.uk/news/uk-49253181>

³²⁶ Clive Sheldon, "Independent Review into Child Sexual Abuse in Football 1970-2005", PDF available at <https://www.thefa.com/news/2021/mar/17/clive-sheldon-qc-independent-commission-report-released-20210317>

challenges.³²⁷ Research has shown that many suffer from a ‘loss of identity’ following retirement, seemingly not dissimilar to that reported by those released from academies.³²⁸

Furthermore, there has been an increasing trend of players failing to adapt to new financial circumstances, and ultimately filing for bankruptcy.³²⁹ Alan Gernon, author of the book *Retired: What Happens to Footballer’s When the Game’s Up*, has noted that many former players liken their retirement to a ‘bereavement’, and often take a number of years to grieve for their lost footballing lifestyle.³³⁰ Gernon notes that

‘Many players liken the world of football to military life, where they are told what to do and where to go. Everything is planned for them and their identity is shaped around their profession. When it stops suddenly, in their mid-30s, the transition to “normal life” can be difficult to deal with.’

The results of this phenomenon have been clear to see. Research by world players’ union FIFPro has revealed that 35 per cent of former footballers faced depression and anxiety, particularly if they had suffered with serious injuries during their playing careers.³³¹ Furthermore, in 2015 the *Sunday Times* reported that dozens of footballers had faced financial ruin since their retirement, with losses totalling up to the region of £100 million.³³² It is not unfeasible to suggest that this is linked to what has been described as the ‘staggeringly’ high rate of divorce amongst former footballers, with one in three retired players seeing their marriage break down within a year of finishing their career.³³³

Despite this, the level of after-care provided by organisations such as the Premier League, and by professional football clubs, is currently sparse. Whilst Crystal Palace FC have recently introduced what has been described as an ‘innovative’ after-care system for players released from their club academy, there is little equivalent offered to players following retirement, across the board.³³⁴ It is this culture of nonchalance that has led to the epidemic of footballers suffering from mental and/or financial issues following their retirement from playing, and resulted in an underappreciated cross-section of hardship amongst a vulnerable demographic.

Whilst mental health support for active footballers should be recognised as a slight improvement to that provided after retirement, it is transparent that a great deal more work still needs to be done in order to get this to an adequate level. Since 2018, mental health charity Mind have benefitted from a partnership with EFL, in order to raise awareness of the importance of mental health.³³⁵ This has included ‘improving the approach

³²⁷ <https://inews.co.uk/sport/football/why-former-footballers-struggle-retirement-44759>

³²⁸ Ibid.

³²⁹ Ibid.

³³⁰ Ibid.

³³¹ Ibid.

³³² <https://www.thetimes.co.uk/article/footballers-face-ruin-over-pound100m-investments-vjm7kr86p9w>

³³³ <https://inews.co.uk/sport/football/why-former-footballers-struggle-retirement-44759>

³³⁴ <https://thefootballfamily.co.uk/premier-league-club-launches-innovative-3-year-aftercare-program/>

³³⁵ <https://www.mind.org.uk/news-campaigns/campaigns/mind-and-efl-partnership/>

to mental health in football'.³³⁶ Furthermore, the 'Wellbeing' department of the PFA provides services to all professional footballers in English leagues.³³⁷ This includes delivering mental health workshops to clubs and operating a 24/7 wellbeing helpline.³³⁸ Perhaps most fundamentally, in 2020 several significant stakeholders in English football, including the Premier League, launched 'The Mentally Healthy Football Declaration Commitment'.³³⁹ This included promises to 'Lead from the top within our own organisations to help create a mentally healthy culture across the game' and 'make awareness-raising, training, education and guidance available to all clubs'.³⁴⁰ The material results of this at certain clubs has been clear, with Southampton FC developing a mental, physical and emotional wellbeing strategy in 2021, involving all staff, players, community participants and fans.³⁴¹ As the FA's President, HRH The Prince of Wales, has noted, 'the football community has made significant strides forward since signing the declaration.'³⁴²

Despite this, it would be misplaced to assume more isn't needed in this area. This has been highlighted by several recent high-profile cases of footballers at the highest level facing challenges with mental health, without receiving adequate levels of support from their respective clubs. Whilst it may be remiss in such cases to openly identify and discuss individual cases, recent years have seen more than one former England international footballer discuss struggles with mental health whilst still playing, with one revealing he had considered taking a period of leave from the game. Whilst cases such as these remain present, it is clear that clubs and governing bodies can offer more support in order to make help available for struggling individuals.

It is encouraging to note that similarly significant strides have been being made with regards to physical health, and perhaps most critically, protocol around concussion injuries to players. Following on from claims from the PFA and FIFPro that former footballers are three-and-a-half times more likely to die from degenerative brain conditions than the more general population – as a result of careers spent heading footballs and sustaining concussion injuries – English football has adopted new regulations surrounding concussion incidents during matches.³⁴³ As of February 2021, Premier League clubs began participating in trials laid on by football rulemaking body the International Football Association Board. This involved the introduction of 'concussion substitutions', in order to provide additional protection for players who have been at risk at suffering a concussion injury.³⁴⁴ The trial stipulates that

³³⁶ Ibid.

³³⁷ <https://www.thepfa.com/players/wellbeing>

³³⁸ Ibid.

³³⁹ <https://www.headstogether.org.uk/heads-up/mentally-healthy-football-declaration/>

³⁴⁰ <https://royalfoundation.com/wp-content/uploads/2022/05/Mentally-Healthy-Football-Declaration-Report.pdf>

³⁴¹ Southampton Football Club Mental and Emotional Wellbeing Strategy Final, Feb 2021, 3221.pdf

³⁴² The Prince of Wales, as quoted in <https://royalfoundation.com/wp-content/uploads/2022/05/Mentally-Healthy-Football-Declaration-Report.pdf>

³⁴³ <https://www.thepfa.com/news/2021/8/2/dementia-risk-player-position-career-length>

³⁴⁴ <https://www.premierleague.com/news/1980769>

‘If the referee stops a match for a potential concussion injury to a player, the medical staff of that player’s team will enter the field of play to make an assessment while the tunnel doctor will review video footage of the incident. If there are clear symptoms of concussion, or the video provides clear evidence of concussion, the team will be permitted to apply to replace the player with an additional permanent concussion substitution. The substituted player will not be allowed to return to the field of play. Each team is permitted to use a maximum of two concussion substitutions in a match.’³⁴⁵

This has been supplemented by new guidance issued by the FA on heading footballs. This outlines that professional clubs should limit the number of occasions an individual player performs a ‘high force’ headers per week during training sessions to 10.³⁴⁶ A ‘high force’ impact is classified as a player heading a football that has been received from a pass of over 35 metres, or from free kicks, corner kicks and crossed deliveries of the football.³⁴⁷ At amateur and grassroots level, the rules are more stringent, with players limited to no more than one heading training session per week – to include no more than 10 headers per player.³⁴⁸ In spite of these new regulations, several clubs have voiced concerns that, with regards to concussion substitutions in particular, there is more work to be done.³⁴⁹ Amongst the key issues raised by clubs is that club doctors require more time to study and evaluate whether a player has suffered a concussion, with Leeds United calling for a the introduction of a temporary replacement player to be substituted onto the field whilst such an assessment can take place.³⁵⁰ What is clear, therefore, is that whilst in terms of both mental and physical health, the care afforded to active players is moving towards an optimum level, there requires a serious degree of refinement before it can be considered fully functional, thorough and rigorous.

Impact of the Fan-Led Review’s recommendations

Whilst the FLR has noted that problems surrounding player welfare ‘was not a direct focus of the review’, the gravity of the subject has been highlighted through the dedication of a section to discussing potential strategies for reform.³⁵¹ Furthermore, on the situation of players being released from academies, the review is particularly strong. The review acknowledges that children within academies ‘often spend most of their formative years focused on the dream of a successful career in football to the exclusion of other aspects of their lives.’³⁵² Despite this, however, it notes that 99 per cent of the 10,000 to 12,000 boys in youth systems will be released before receiving a scholarship, and 85 per cent of those

³⁴⁵ Ibid.

³⁴⁶ <https://www.thefa.com/news/2021/jul/28/20210728-new-heading-guidance-published>

³⁴⁷ Ibid.

³⁴⁸ “Youth heading guidance chart” and “Adult amateur heading guidance – August”, PDFs available at <https://www.thefa.com/news/2021/jul/28/20210728-new-heading-guidance-published>

³⁴⁹ <https://www.dailymail.co.uk/sport/football/article-10536549/Several-Premier-League-clubs-believe-current-concussion-substitution-rules-not-fit-purpose.html>

³⁵⁰ Ibid.

³⁵¹ “Fan-Led Review of Football Governance”, p.130.

³⁵² Ibid. p.131.

that become scholars are ultimately released.³⁵³ Consequently, ‘The concern was raised with the Review that this may negatively impact their development, and ultimately their mental health, wellbeing, and future course in life.’³⁵⁴ It has also noted, and as has been mentioned in this report, that ‘there are numerous media accounts of released academy players suffering from severe mental health issues as a result of losing their dream to play professional football, with some ending in suicide, or others turning to drug dealing and other offences as a way of maintaining a lifestyle that they had expectations of living as a successful professional footballer.’³⁵⁵

The FLR also made mention of the difficulties faced by recently retired footballers, citing a 2018 State of Sport survey from the Professional Players’ Federation.³⁵⁶ The evidence highlighted strikes a similar chord to that already shown in this report, contending that over half of respondents reported financial difficulties in the five years after finishing playing.³⁵⁷ Concerningly, it has also made reference to the fact that the problem might be deeper than is currently apparent, as only 40 per cent of those who felt they had an issue with their mental or emotional wellbeing sought help.³⁵⁸

It is encouraging, however, that the review not only recognises this as a pernicious problem within English football, but makes a feasible, nuanced recommendation on the way it should begin to be tackled. Recommendation 46 outlines that

‘As a matter of high priority, the football stakeholders, including the FA, men’s leagues, the PFA, clubs and women’s leagues should work together to devise a holistic and comprehensive player welfare system to fully support players exiting the game, particularly at Academy level but including retiring players, including proactive mental health care and support.’³⁵⁹

At a surface level, this would be a prudent suggestion, but it is important to note that the design of any such system should be handled in consultation, not just with the stakeholders mentioned, but through dialogue with individuals and groups affected and previously affected by the issues highlighted. In this way, it is important to give some weight to the rhetoric of former academy and professional footballers in creating any form of policy going forward.

Furthermore, the recommendation makes no mention of the scope still left to fill with regards to the mental health of active footballers. It would be sage in this case to include within the system a more coherent plan for this demographic. This would not least be advisable given that providing care to footballers particularly in the late stages of their

³⁵³ Ibid. p.130.

³⁵⁴ Ibid. p.131.

³⁵⁵ Ibid. p.131.

³⁵⁶ Ibid. p.132.

³⁵⁷ Ibid. p.132.

³⁵⁸ Ibid. p.132.

³⁵⁹ Ibid. p.132.

careers can provide proactive guidance before they reach retirement. This would have the benefit of being able to ‘soften’ the blow for recently retired players.

Recommendation XV: As suggested by the FLR, football stakeholders should, as a matter of urgency, create a ‘holistic and comprehensive’ player welfare system to support players leaving football at an academy level, and also those retiring from playing professionally. In addition to stakeholders such as the FA and respective leagues in English professional football, currently active footballers, as well as those that have retired or left at an academy level, should be consulted in formulating these.

The FLR also has also, quite compellingly, raised concerns surrounding private football academies, which ‘are not subject to the oversight of any club, or the football authorities.’³⁶⁰ Whilst it would be advisable to bring these under the FA’s jurisdiction in order to maintain benchmarked standards of safeguarding and education, the FLR has argued that ‘there is no easy solution’ for doing so, whilst also noting that the possibility of achieving professional football success through private academies is even less likely than through club academies.³⁶¹ In order to ensure that standards at private academies are high, and are not deceitfully advertising themselves as a guaranteed pathway to success, the review suggests that ‘The FA should proactively encourage private football academies to affiliate to the local County Football Associations to ensure appropriate standards of safeguarding and education for young players.’³⁶² It notes that affiliation should be incentivised through operation of, for example, a ‘kite mark’ scheme. Given the position of private academies within the football ecosystem, and the need to centralise their activities, this would seem a robust way to begin alleviating some of the difficulties that can be created from such organisations.

Recommendation XVI: The FLR’s suggestion that private football academies should ‘look to affiliate to the local county Football Associations to ensure appropriate standards of safeguarding and education’, is sound in its analysis. As outlined, ‘The FA should explore ways to incentivise this affiliation.’ This should be done with immediate effect.

Whilst the FLR therefore makes a largely accurate analysis of the state of player welfare, albeit with clear need for refinement, the same robustness has not been afforded when looking at potential solutions for the financial challenges facing the football pyramid. The review recommends that in order to resolve the existing problems, ‘Football should seek to resolve distribution issues itself’, with ‘backstop powers for IREF’ if no solution can be agreed.³⁶³ It is a cause of concern, however, that this suggestion fails to recognise the inability of the key stakeholders within the process to have achieved this effectively over what has been claimed to have been decades.³⁶⁴ Indeed, it is not unreasonable to argue that

³⁶⁰ Ibid. p.133.

³⁶¹ Ibid. p.133.

³⁶² Ibid. p.133.

³⁶³ Ibid. p.112.

³⁶⁴ Kevin Rye, in Interview with Aaryaman Banerji (Conducted 09.12.22, Online). Rye noted that the problems surrounding distribution had been in place for decades, rather than commenting on the Fan-Led Review in this case.

the inability of football to resolve distribution issues itself has been one of the factors that has led to current unstable financial climate lower down the football pyramid, and in turn triggered the commissioning of the FLR. The review claims, however, that this will need ‘compromise, an evidence based solution and creative thinking to resolve the apparent impasse between the Premier League and EFL.’³⁶⁵ Yet this wild optimism stands in contrast to some of the more astute observations made previously in the review, not least that during the Covid-19 pandemic, it took a significant period of time for the two previously mentioned parties to come to a far more simple, short-term agreement on financial support for clubs during the crisis.³⁶⁶ This being the case, and taken in conjunction with the lack of historical progress in reaching a distribution agreement, it seems unrealistic that ‘Distributions is an issue that football itself can resolve.’

Instead, it would seem appropriate that more direct action is taken by the FA and IREF in order to facilitate a healthier financial system. Whilst it would be incorrect to suggest that a problem of this magnitude can be solved with a single sweep of recommendations, and that this would show significant material benefit with immediate effect, it is equally transparent that a new, independently administered and regulated plan has the potential to provide a far more solid platform from which an optimum level of compromise may ultimately be achieved. It is the recommendation of the report that this can be done through an initial implementation of a five-point plan for redistribution. This would take in some of the more considered recommendations made by the review on this topic, but also attempt to move the impetus in order to avoid a situation where football is not attempting to, and potentially failing to, find a solution itself.

The first part of this, as has already been sketched out, would be to abandon the concept of parachute payments paid to clubs relegated from the Premier League, and replace them with a system of merit-based payments based on the final position of clubs within the EFL. This would mean that clubs relegated from the Premier League would still receive the highest payment within that season of any clubs in the EFL, but as a one-off package, with their payment the following season being based entirely off their finishing position. The system of merit-based payments should also see a proportionate but slimmer gap in money awarded to clubs than currently exists. After being relegated from the Premier League at the culmination of the 2016/2017 season, for example, Sunderland AFC received £41.6 million for 2017/2018, and £34.9 million for 2018/2019.³⁶⁷ Naturally, this compares with no money paid in parachute payments to clubs who were not relegated from the Premier League during this time period. The result of this would be to improve the level of competitive balance within the lower divisions, easing the trend of a similar set of clubs consistently gaining promotion back to the Premier League shortly after being relegated, due to greatly superior financial resources. In turn, this will mean clubs not previously relegated do not have to gamble excessively with their own finances in order to try and gain promotion. This should, in theory, alleviate the epidemic of clubs, as highlighted in the first chapter of this

³⁶⁵ “Fan-Led Review of Football Governance”, p.112.

³⁶⁶ Ibid. pp.111.112

³⁶⁷ <https://footballcollective.org.uk/rules/what-are-parachute-payments-how-much-do-the-teams-get/>

report, spending beyond their financial means and risking their futures on short-term on-field success, thus creating a more long-term financially sustainable climate for clubs going forward.

The second measure that should be reviewed as a matter of urgency is solidarity payments. From a fundamental level, the calls from the EFL to see an increase in money paid to its constituent clubs by the Premier League do seem to have merit, given the increasing lucriveness of the latter, in contrast with the precarious financial position of many clubs lower down the pyramid. However, regulations surrounding solidarity payments must be adapted so as to prevent clubs spending what money they receive in such payments unsustainably. Amongst the problem with this system of payment currently is that, too often, clubs utilise the funds for short-term, unsustainable purposes, such as buying new players for high prices and high wages. This is instead of using the money to either provide the club financial security, or by investing in projects which will help the long-term stability of the club, such as investment in academy programmes. It should therefore become a stipulation of receiving solidarity payments, that a minimum percentage of the money gained should be put towards long-term investment projects or not be spent immediately.

In further attempting to rebalance the distribution system within the football pyramid, the FLR recommends 'A solidarity transfer levy should be introduced for Premier League clubs, to support the football pyramid and overseen by IREF,' for international transfers.³⁶⁸ The review justifies this recommendation by stating that

'The levy would also mean that international transfers are relatively more expensive for Premier League teams, which might put them at a competitive disadvantage in recruiting players. However, English clubs are very wealthy in comparison to other European clubs — an advantage that will grow in the next broadcast cycle as other leagues have seen broadcast income fall but the Premier League has been able to preserve value due to government intervention in allowing the existing Premier League broadcast deal to 'roll over'. The additional costs of such a levy would likely still be within the means of clubs.'³⁶⁹

However, this analysis fails to acknowledge some of the more pressing problems that may be raised by the imposition of such a levy. Most worryingly, in making a widescale assumption regarding the ability of clubs in the Premier League's ability to pay for this levy without material ramification, and thus suggesting a flat levy on clubs without taking into account size of financial depth, it ignores the disparity between clubs in the division. During the 2019/2020 season, for example, Manchester United recorded a revenue of \$651 million, in contrast to AFC's Bournemouth's \$122 million.³⁷⁰ Indeed, the three clubs with the highest revenue that season – Manchester United, Liverpool FC and Manchester City – recorded more than treble the revenue of 13 clubs in the division.³⁷¹ At the end of the season, these clubs occupied the top three positions in the Premier League, earning qualification for the

³⁶⁸ "Fan-Led Review of Football Governance", pp.114-116.

³⁶⁹ Ibid. pp.114-116.

³⁷⁰ <https://www.statista.com/statistics/566666/premier-league-clubs-by-revenue/>

³⁷¹ Ibid.

UEFA Champions League. It is therefore a dangerous strategy to seek to impose the same transfer financial regulations on clubs making significantly less revenue than the highest earners in the division. Whilst clubs with significantly higher revenues, which already stand as the dominant forces within the Premier League, may not be impacted by this therefore, those lower down will find the additional payments far more of a struggle when acquiring new players from abroad. From a material standpoint, this risks widening the gap between the more successful clubs, and the rest of the division, something, which, as outlined in the first chapter of this report, is already in a perilous situation. This would risk upsetting the competitive balance of the league further, and the potential of leading to a scenario, whereby, as has been seen in the EFL, clubs are forced to gamble with finances in order to close the gap to those above them. The potential loss of competitive balance within the Premier League also jeopardises long-term interest in the competition, particularly amongst clubs with lower revenues, for whom aspirations to reach the top end of the division becomes increasingly remote. This may negate the internationally competitive advantage of clubs within the Premier League in the long-term, which has been outlined by the FLR, and lead to a scenario whereby the clubs in the division become significantly disadvantaged in contrast to their European counterparts.

A more nuanced and balanced solution is therefore required in order to take advantage of potentially lucrative transfer fees paid by top clubs, without unfairly penalising those that are not able to do this, or do so with far less frequency. Given the significant revenue generated by participating in European competition each season, particularly through the UEFA Champions League and UEFA Europa League, it would seem far more advisable to impose levies on clubs that have qualified for these through league position the previous season. As has been previously mentioned, £13.55 million is awarded to any club participating in the group stages alone of the UEFA Champions League, and £3.14 million to those in the Europa League.³⁷² Imposing a transfer levy, of an amount to be determined through consultation with IREF, on clubs competing in the Champions League for a particular season would mean that a club competing in the group stage would have to spend £135 million to nullify this figure alone. This does not take into account money received by clubs for winning matches, broadcast revenues, and advancing through the competition. Given the initial sum for competing in the UEFA Europa League group stage is approximately 25 per cent of this, and that for the Europa Conference League less still, clubs competing in these competitions should pay a more modest relative transfer levy, again to be determined through consultation with IREF. Naturally, these levies should include money paid for players taken on loan, in order to avoid the exploitation of the loan system for clubs that do not expect to qualify for these competitions again the following season. Such a regulation would allow money from the most financially successful in a particular season to flow to clubs lower down the pyramid, whilst not negatively impacting those in the Premier League with less financial capability in contrast to their peers.

³⁷² Note to UEFA Member Associations”, https://editorial.uefa.com/resources/0269-125fde34ba54-30a4c9aeea13-1000/20210520_circular_2021_35_en.pdf#page3

Despite its shortcomings with regards to the actual practices around redistribution, the FLR is on more solid ground when on assessments of distributions. Recommendation 41 outlines that 'IREF should produce or procure on a regular basis an assessment of flows, distributions and costs in football to aid policy debate on football finance.'³⁷³ This appears a sensible method by which to both assess regularly the financial health of the football pyramid, and find solutions to areas where there are remaining problems.

Equally, the recommendation that 'The FA should scrap its current formula for distributing revenues it generates' and 'should have more flexibility to redistribute revenues as it sees fit, based on its assessment of where funding is most needed in the game' seems a more dynamic, innovative way of handling financial resources.³⁷⁴ This would give the organisation the autonomy to address the more critical problems within English men's football, rather than be forced to grant money to a superfluous cause, based on an archaic distribution system.

Recommendation XVII: The financial distribution model of the football pyramid requires urgent and unreserved attention. It is far from advisable to suggest a policy whereby relevant stakeholders are left to make another attempt at finding solutions to the present issues themselves. As highlighted, it may be unfeasible to amend the current problems with a single, sweeping set of changes. However, in order to begin this process effectively, IREF should implement a five-point plan, involving the following:

- 1. Parachute payments for clubs relegated from the Premier League should be abandoned. These too often distort the competitive balance of the Championship by giving relegated clubs access to greater financial resources over the course of more than one season. This subsequently creates a culture whereby owners of clubs which do not have access to parachute payments gamble excessively with club finances in order to close the gap with those that do.**
- 2. The amount of money provided by the Premier League to the Football League in the form of solidarity payments should be increased, by an amount determined by IREF. However, this should come with the stipulation that a percentage of the money given in such payments be put towards the following: Savings, long-term off-field investment, academy or grassroots investment, facility upgrade, supporter subsidisation. This would prevent clubs using the money generated for short-term, unsustainable spending.**
- 3) A transfer levy of a percentage determined by IREF should be brought in for clubs that qualify for the UEFA Champions League, UEFA Europa League and UEFA Conference League. This should, however, be set relative to the financial status of each competition. It would be financially inadvisable to impose a blanket a levy across the whole of the Premier League. The money generated by this should be shared between clubs in the Football League.**

³⁷³ "Fan Led Review of Football Governance", p.116.

³⁷⁴ Ibid. p.109.

- 4) The FLR's recommendation that IREF 'should produce or procure on a regular basis an assessment of flows, distributions and costs to aid policy debate on football finance' should be implemented at a first available opportunity. This would have the benefit of allowing proactivity rather than reactivity in the case of potentially unstable situations, as well as promoting a culture of accountability amongst clubs.**
- 5) The FLR's recommendation that 'The FA should scrap its current formula for distributing revenues it generates' and 'should have more flexibility to redistribute revenues as it sees fit, based on its assessment of where funding is most needed in the game' should also be implemented with immediate effect.**

Concluding thoughts

The commissioning and publication of the FLR indicated a seismic moment in English men's football. Whilst the problems currently manifesting within the sport's governance have been clear for some time, the FLR represented the most material yet from the government that some degree of change is required. As the introduction to this report noted, amongst the most impressive achievements of the FLR has been the breadth which it covers in exploring the issues existing within football. The sheer scope of the questions it attempts, and often succeeds, in answering should not be underestimated. In addition, a not insignificant number of its 10 strategic recommendations and 47 sub-recommendations are nuanced and balanced in their suggestions.

Amongst these, the most seminal recommendation, that football requires the introduction of an independent regulator is well-argued and, in several ways, laudable. The FLR is clear that men's football in England stands at a critical crossroads, between a future based on financial stability, social integrity, and the protection of fans, and one tainted by the alienation of communities, economic disparity, and club mismanagement. Whilst the FLR, admirably, begins outlining a viable method of reaching the former, it is clear on closer inspection that a number of areas need refinement, and in certain instances, adjustment, in order to reach its objective.

The aim of this review has been to analyse, in closer detail than is done in the FLR, the current state of the problems within English football, and whether the course set by the FLR is best positioned to alleviate these. In doing so, it has taken the principles set out by UK Sport's Code of Sports Governance, that is recommended by the FLR to be adopted by English men's football to become a concrete code of corporate governance within the sport, and looked to identify to what extent the FLR's recommendations would bring football to a model whereby each of these are successfully fulfilled.

In doing so, the report has made 17 recommendations. A number of these simply serve to agree with the contents of the FLR, and highlight the way in which the initial review's imperatives should be upheld. However, others seek to alter or challenge the suggestions made, and propose alternative solutions that would seem either more realistic or desirable.

Perhaps the most notable amongst these is the idea that an independent regulator, whilst necessary in the short-term, should not be taken as the most effective long-term solution in administering men's football in England. Rather, the partial aim of a regulator should be to help the FA modernise its processes to a point where it is both strong and coherent enough to itself regulate the sport, at which point IREF would cede a large portion of its power to the governing body.

Despite this report's view that areas of the FLR are in need of further study, it would be unmindful not to acknowledge the consequential platform it has provided to begin the process of redirecting football towards a more prosperous future. The work signifies what many supporters and other key stakeholders hope should be a new horizon for which to aim. It is the ambition of this report to be part of the next stage of that process.

Summary of recommendations

Recommendation I: The establishment of IREF is necessary given the current position of English football. However, it should not be seen either as an indefinite or ideal solution, with a more modern, authoritative FA far more desirable for long-term governance.

Recommendation II: It is critical that IREF's plans for financial sustainability, particularly those regarding capital and liquidity requirements, are implemented. It is not unfeasible to implement the idea of a proportionality mechanism too, although the effect that this may have on the competitive balance of leagues should be taken into consideration before doing so.

Recommendation III: IREF should work closely with the FA in order to modernise the latter's processes. This may be with a view to scaling back its power and ceding it to the association in the medium-term, as the FA's structures of governance become stronger. In order to begin facilitating this process, it is worth considering whether the FA's observer status on the IREF board should be upgraded to a fully functional seat.

Recommendation IV: Any new Owners and Directors Test should be carried out by IREF, in order to increase transparency and avoid conflicts of interest. It is also critical that the recommendations outlined by the FLR with regards to new financial tests for club owners, and reformed tests for directors, are implemented quickly and universally across English football.

Recommendation V: IREF's proposed integrity check should be expanded to investigate the political backgrounds of prospective owners and consortiums, in addition to the geopolitical context in which the sale is being made, and the human rights context of parties involved in the purchase of clubs. Owners that can reasonably be assessed to be purchasing the club with the predominant purpose of promoting political ambitions should be prohibited. This should be extended to any ownership bid with nation states or governments, including government members on the board of the buyer.

Recommendation VI: In the event of IREF ceding power to a more modernised FA in the future, the FA should take charge of the universal Owners and Directors test. This should be conducted with regularity, impartiality and authority.

Recommendation VII: It is essential, as recommended by the FLR, that a new Code of Corporate Governance should be brought in for English football, and be run according to UK Sport's Principles of Good Governance. However, as part of the more material stipulations for this, supporters should be given a veto on decisions made regarding clubs' heritage, such as change of name and relocation of stadium. This would make the formation of an external 'Golden Share' unnecessary.

Recommendation VIII: As a licensing agreement, clubs should be made to implement a Shadow Board of supporters that may be consulted on club decisions. However, this should be comprised of supporters with a background in corporate governance and/or the sports industry. This might be reflected in replacing the current electoral system for Shadow

Boards with formal interview processes. Where there are concerns, clubs may recruit only candidates that are not objectionable to current policy; this process should be done by an independent body.

Recommendation IX: Finding resolutions to the conflicts of interest currently existing within English football governance may be done by taking into account several of the previous recommendations in this report. In the short-term, the introduction of IREF would allow for uncoloured governance on areas which might otherwise create conflict for stakeholders with power. From a longer-term perspective, such issues should be put under the aegis of a more modernised, powerful FA.

Recommendation X: Whilst the results of the UK Government's review into gambling is anticipated, there are areas concerning gambling within football that need to be attended to regardless of the paper's final findings. Given the proclivity of gambling-related problems within the UK, clubs in the Football League should face a ban from having gambling companies as front-of-shirt sponsors.

Recommendation XI: The ban on Premier League footballers appearing in gambling advertising should be extended to those in the Championship, League One and League Two, given the influence footballers can have, even towards the lower end of the Football League.

Recommendation XII: Regulation on cryptocurrency firms operating in football is needed urgently. Given the behavioural similarities evoked by cryptocurrency and gambling firms, there should be an equal ban on cryptocurrency businesses becoming front-of-shirt sponsors for Football League clubs.

Recommendation XIII: There should be a new and stringent vetting process, operated independently by IREF for cryptocurrency firms looking to enter into partnerships with clubs in the Football League. These should include background, integrity and transparency checks.

Recommendation XIV: As the FLR has highlighted, it is clear that women's football requires its own separate review, looking at the current position of the women's game. This report supports the need for such a review to be conducted with immediate effect.

Recommendation XV: As suggested by the FLR, football stakeholders should, as a matter of urgency, create a 'holistic and comprehensive' player welfare system to support players leaving football at an academy level, and also those retiring from playing professionally. In addition to stakeholders such as the FA and respective leagues in English professional football, currently active footballers, as well as those that have retired or left at an academy level, should be consulted in formulating these.

Recommendation XVI: The FLR's suggestion that private football academies should 'look to affiliate to the local county Football Associations to ensure appropriate standards of safeguarding and education', is sound in its analysis. As outlined, 'The FA should explore ways to incentivise this affiliation.' This should be done with immediate effect.

Recommendation XVII: The financial distribution model of the football pyramid requires urgent and unreserved attention. It is far from advisable to suggest a policy whereby relevant stakeholders are left to make another attempt at finding solutions to the present issues themselves. As highlighted, it may be unfeasible to amend the current problems with a single, sweeping set of changes. However, in order to begin this process effectively, IREF should implement a five-point plan, involving the following:

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This Civitas publication looks at the prospect of regulation within English men's football, something that has a large impact on football fans and the local community. Aaryaman Banerji is a sports researcher at Civitas looking at how we regulate 'the beautiful game'.

Against the backdrop of football's growing institutional graveyard, with centuries-old clubs now condemned to administration or insolvency, Banerji explores the standing of English football and proposals for a new regulator proposed by the Fan-Led Review led by former sports minister

Several Premier League clubs, however, raised concerns about the report's findings, particular around the establishment of an independent regulator. This report, therefore, makes an independent evaluation of the proposals from the Fan Led Review.

In a climate where football is becoming increasingly monetised and commercialised to the point of financial peril, as well as wielding greater geopolitical influence, this report looks to analyse how football clubs in England can remain vital local community assets, as has historically been the case, whilst having to adapt to a more global ecosystem.

Banerji looks at the extent to which the current governance structures in English football align with UK Sport's Principles of Good Governance and how to bring English football closer to a traditional model of good governance. The governance of English football is increasingly fractured with Banerji arguing that any new regulator should be a temporary fix, not an additional power broker in the game. He argues that the Football Association could reclaim its traditional role governing English football.

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