

BRIEFING

Fair Game on Government response to consultation on White Paper

Fair Game welcomes the Government's response to the consultation on the White Paper on reforming club football governance, [A sustainable future - reforming club football governance: consultation response](#). In particular, the continued commitment to an independent regulator and the acknowledgement of the urgency in addressing the crisis in governance and sustainability. The Government is to be applauded for driving on with this issue.

There are though still some crucial outstanding points where the action is unlikely to be sufficient to fully address the problems or where there are remaining questions still to be clarified. Key among these is the future of financial distribution but also the exclusion of EDI and the environment from the proposed regulator's remit.

The document goes into more depth about four areas of concerns:

- A) The Regulator's Remit;
- B) Financial Sustainability;
- C) Owners' and Directors' Test; and
- D) The Golden Share.

This Briefing also highlights some key statistics that illustrate the issues of financial flow in football and also our proposed solution - The Fair Game Index.

Before the announcement of the Government's Policy Paper, Fair Game also spelt out 11 areas we wanted to see included. Here's how the Policy Paper measured up...

The Fair Game tests

1. IREF has remit to oversee all men's professional clubs down to National League North and South.

The proposed remit stops at the National League.

2. IREF to create new annual state of play survey for football. The survey will look at best practice and assess all clubs on financial sustainability, good governance, equality standards, fan engagement, and community engagement.

This was not spelt out in the paper, but has been mentioned previously. This is an important barometer to assess clubs and the health of the game.

3. IREF has the power, either directly or through backstop powers, to impose a fairer financial flow that rewards well-run clubs and is weighted on divisional average attendances.

No - though the paper stresses that the IREF should have backstop powers to impose a sustainable solution if the football authorities cannot reach an agreement. There is no definition of what form this could take and how it could be imposed. Fair Game believe that the regulator should at the very least define the parameters around an acceptable deal.

4. The IREF remit to be future proof, and as a minimum include scope to introduce regulations regarding Equality, Diversity and Inclusion; and Environmental sustainability.

This was explicitly not included.

5. The Owners and Directors Test must be fully transparent and include criteria on ethics and human rights.

Transparent, but no reference to Human Rights and indeed the Paper stressed that the regulator should not be involved with anything that might infringe upon the work of the Foreign Office.

6. The "Golden Share" must be a license condition and be overseen by the IREF not the FA. The Golden Share will ensure designated fans groups have the final say on proposed changes to "crown jewels" of a club including club colours, club name, nickname, area where club plays, etc...

No. Elements of the Golden Share - namely name and club colours - are under the remit of the FA and therefore not overseen by the regulator and therefore there is no guarantee ensuring fans have the final say.



7. All clubs under the remit of the regulator must submit full accounts and provide real-time financial reporting.

Not specifically mentioned. We hope that this is part of the financial sustainability brief.

8. The regulator must provide support to all licensed clubs to ensure there is no extra burden either financially or staffing wise to them for providing the data required. This should come in the form of ring-fenced funding, training and collaborative intervention.

Funding is not mentioned, but support is and there is an explicit reference that clubs with smaller resources should not have a high burden on them.

9. The IREF must be fully transparent and ensure the removal of vested interests in all decision-making processes.

Yes in IREF structure. However, the proposals delegate much of monitoring to football authorities meaning vested interests will not be entirely eliminated.

10. The IREF must have a strong legislative power to impose penalties. Those penalties must be clear, well-defined, with enforced procedural remits and timelines.

The Paper does promise escalating powers of sanctions and a suite of sanctions, but there is no clarity on what this would involve.

11. Designated fans groups must have the final say over any club move from the geographic location of where the club takes its name.

No. There is only a requirement to consult and crucially financial considerations would come first. This actually makes it easier for a club to relocate and permit a repeat of the Wimbledon scenario. Protections for fans to prohibit such a move is commonly called “The Wimbledon Clause” and at the moment the current policy proposals fail that test.

A. The regulator’s remit

The setting up of a regulator that is independent of the football industry, the government and other influences is to be welcomed. The emphasis on information sharing and co-ordination between the regulator and the football industry along with a clearly defined remit for it is also something that we support. The recognition that the impact of the



changes will require different approaches for different levels of clubs - particularly for the smaller teams with low resources - is an important one.

The threshold conditions for the regulator are to be:

- 1) Appropriate financial resources
- 2) Suitable owners
- 3) Fan interests
- 4) Approved competition

These are also more broadly expressed as Club sustainability, Systemic sustainability and Cultural Heritage. Fair Game's concern is that this appears to specifically exclude other vital areas such as environmental impact and EDI. The commitment to "continual engagement" on EDI does not set any clear standards or expectations and is a way of working with the football authorities that has had little success in the past. Notably EDI was among the top priorities in the fan-led review chaired by former Conservative Sports Minister Tracey Crouch.

The establishment of a compulsory 'Football Club Corporate Governance Code', to be enforced through the 'appropriate resources' Threshold Condition is also to be welcomed. Fair Game is working hard with Sport England and the EFL Trust and will be producing a Governance Code in due course.

One key element that has been left unclear in the response is the regulator's powers of enforcement. The government state that there will be an "Escalating model of enforcement" It doesn't though clarify what this "Suite of sanctions" would be. In fact it seems clearer on what these won't include rather than what they will. Clarification here is urgent as otherwise the regulator will be just left with its licencing powers - the 'Nuclear Option' of withdrawing a licence and preventing a club from playing. It would in effect leave the regulator toothless except in the most extreme of circumstances.

Finally, the regulator's remit would cover the top five divisions (including the National League). The inclusion of the National League is important and welcome. It would make sense though to also extend it to the National League North and South. These are all part of the National League's governance structure and many crisis clubs have ended up at that level, most recently Scunthorpe United.



B, Financial sustainability

We understand the Government's preference for football to get its own house in order and welcome the pledge of a backstop for the regulator to intervene if this doesn't happen. However, football has failed to get its house in order for decades and any deal is likely to suit the interests of the current interests. For example, the Championship clubs have 50% of the EFL vote on such decisions. As a result, 80% of the money currently distributed to the EFL from the broadcasting deals goes to Championship clubs (over half of that in parachute payments). The other 48 clubs only get 20% and the National League and women's game get peanuts if anything at all. The regulator must have it as part of its remit to ensure this imbalance is corrected as it is a key cause of the current financial instability.

The other key issue here is rewarding well run clubs as an incentive to sustainable behaviour. Current discussions by football authorities seem to focus exclusively on allocating money according to league position - arguably increasing the incentive to overspend to try to finish higher up the division. This puts well run clubs at a disadvantage and penalises attempts to put long-term financial stability at the core of a club's approach. Without incentives to change the likelihood is that the game will continue to repeat the mistakes of the past.

Another important aspect is the need for real time financial reporting. It may be implicit in the regulator's remit to ensure financial sustainability but it would be useful to see it explicitly referenced. Without this, malpractice would often only be caught in hindsight and too late to enable it to be rectified.

The response was also silent on the Fan Led Review's call for a solidarity levy to be put in place. In a year where the Premier League spent record amounts of money on transfers this could have provided a major boost to struggling clubs. Instead we see large sums going out of the game as payments to agents. The levy was first mooted by Tracey Crouch in the fan-led review and would involve a 10% stamp duty on transfers between Premier League clubs and Premier League clubs and overseas clubs. Over the last 12 months this would have raised an extra £278m for the football pyramid.

C. Owners and Directors Test (ODT)

The concern expressed about the failures to adequately vet new owners, directors and other key decision makers is well made. We support the commitment to address these shortcomings, by requiring the Regulator would establish new owners' and directors' tests consisting of three key elements:

- a fitness and propriety test (owners and directors);
- enhanced due diligence of source of wealth (owners); and
- a requirement for robust financial plans (owners)

“Fitness and propriety tests would be designed to ensure that prospective owners and directors have sufficient integrity, honesty, financial soundness and competence to be suitable custodians of football clubs.”

The key question here is what is defined as integrity. Questions of Human Rights abuse for example would clearly make an owner unfit to run a football club on the grounds of integrity. It seems though that the government is inclined to exclude this and other areas that could potentially relate to state ownership. Perhaps the best option to avoid any foreign affairs overlaps and to ensure long-term sustainability would be to support the Premier League's proposition that nation-state ownership should be blocked.

D. The Golden Share

We welcomed the government's commitment to fans having a Golden Share in clubs - effectively a veto over key decisions that affect the fans, the community and their heritage. While this response maintains this for the club shirt colours and badges it potentially weakens it in two vital aspects.

Firstly, it leaves it to the regulator, rather than the fans, to make a final decision on which competition a club can play in. In short, fans would no longer have the veto they were promised on any renewed efforts to set up a European Super League.

Secondly, it leaves the final decision on the sale of a club's stadium and/ or a relocation of the club to the regulator and insists that the primary considerations should be financial. This leaves clubs open to the abuse that we have regularly seen, where owners have sold stadia (often to other companies they own) or where owners have



decided they can make more money by moving the club away from its supporters, community and heritage. We have seen the trauma that caused when it was inflicted on AFC Wimbledon. The previous sale of a ground has also been a key blocking point for administrators trying to find ways to prevent the collapse of a club, for example with Derby County.

Fans should not be fobbed off with club badges and colours. Where a club plays - the stadium or the league it plays in - is crucial. Clubs are community assets and should not be taken from communities without the full approval of their fans.

The Fair Game Index

Earlier this year, Fair Game released the results of the [Fair Game Index](#), a first-of-its-kind comprehensive state-of-play analysis of England's clubs. The Fair Game Index rates each club on four criteria - financial sustainability, good governance, equality standards and fan engagement – all measures set to come under the remit of football's new Independent Regulator in time for the 2024/25 season.

In the White Paper, [A sustainable future – reforming club football governance](#), published on 23 February 2023, along with pledging to commit to a new Independent Regulator for English Football, the Government also stated that it will introduce a State of Play Survey for Football.

Fair Game partnered with world-renowned independent experts and organisations in football to create that survey.

The Index focuses on the four key criteria, using over 80 different touchpoints, to create the most comprehensive analysis of the top 92 clubs in the English pyramid ever produced. The [comprehensive accompanying report](#) highlights the winners and losers in each division and also fully explains the mechanics behind the proposed financial distribution.

AFC Wimbledon emerge as England's best run club with an overall score of 73.58 out of 100. The Premier League's top club are Brentford.



Championship side Plymouth Argyle boast a perfect score in the Financial Sustainability metric, whilst League One's Cambridge United set the standard for Good Governance. Exeter City are the highest scorers for Fan Engagement, with Lincoln taking the honours for Equality Standards. In fact, clubs in Sky Bet League's One and Two scored higher overall across all four criteria than their counterparts in the Sky Bet Championship.

Fair Game believes the results should be used as a basis for correcting football's financial flow.

The model acknowledges that both parachute payments and the EFL's current distribution model (80% of revenue received from Premier League TV revenues goes to Championship clubs, 12% to League One, and 8% to League Two) are flawed and should be phased out and replaced by the Independent Regulator.

The Fair Game Index offers a glimpse of a football landscape with a fairer distribution model that addresses the financial cliff edges between the divisions. Fair Game's financial experts concluded that the regulator's preferred option must be a distribution model of:

- 50% to Championship clubs
- 25% to League One
- 13% to League Two
- 6% to National League
- 3% to National League South
- 3% to National League North

Based on these figures, 92% of clubs outside the Premier League would benefit financially from the implementation of the Index.

This would offer a financial lifeline to struggling clubs in the lower leagues, whilst also providing a roadmap for clubs to become more sustainable.

The Transfer Levy

Fair Game is also a strong supporter of the transfer levy.



Premier League spending - not involving EFL clubs - reached an astronomical £2.78bn over the last 12 months. And the era of the £100m transfer has become normalised.

Meanwhile, in a bid to compete, clubs lower down the pyramid are making deep cuts. Backroom staff are either being made redundant or seeing their pay frozen, community programmes and academies are seeing their funding cut, and important ground improvements are being postponed.

The levy – effectively a 10% stamp duty on transfers between Premier League clubs and Premier League clubs and overseas club – would see £278m ringfenced to support clubs outside the top flight.

As an effective tax, the levy could be introduced by the Treasury with the money being given to the regulator to distribute and used to reward well-run clubs.

The concept of a levy was a key recommendation of the Fan-Led Review chaired by the former Conservative Sports Minister Tracey Crouch which was published in November 2021.

Facts and figures

Finances

Since the start of the Premier League, there have been 64 incidents of clubs in the top four divisions going into administration.

Based on 21/22 Companies House accounts:

- 39 of the 89 clubs that filed accounts are technically insolvent (44%)
- 31% of clubs were spending more than they earn on players' wages - that figure rises to 68% when you look at the Championship
- Championship clubs spent on average 126% of their revenue on players' wages

TV revenue

Of the £3.19bn of TV revenue distributed to the top seven divisions each year, only 12% goes to clubs outside the Premier League. In the 2022/23 season, the £3.19bn was split as follows:

- 88.242% to Premier League clubs;
- 7.348% to the five clubs receiving parachute payments;
- 3.285% to the other 19 clubs in the Championship;
- 0.622% to League One clubs;
- 0.415% to League Two clubs;
- 0.058% to National League clubs;
- 0.015% to National League North clubs; and
- 0.015% to National League South clubs.

For every £1000 of TV revenue, £882 goes to Premier League clubs, £6.22 to League One clubs and just 15p to National League South sides.

Attendances

In the 2022/23 season, each weekend 890,944 people watched football in the top seven divisions of the English football pyramid, of which:

- 45.16% went to a Premier League match;
- 6.57% to a Championship match hosted by a club receiving parachute payments;
- 18.89% to other Championship matches;
- 14.31% to a League One match;
- 7.81% to a League Two match; 4.60% to a National League match;
- 1.45% to a National League North match; and
- 1.20% to a National League South match.

For every 1000 people who watch football in the English pyramid each weekend, 452 watch a Premier League match, 78 go to a League Two game, and 12 watch a match in the National League South.

In the 2022/23 season, on an average weekend more people watched National League football than Chelsea.

What could the money buy?

- A League Two kitman earns around £20,000 a year.
- A senior physio at Watford's academy earns around £30,000 a year.
- The Head Groundsperson at Norwich City earns just over £45,000 a year.
- A League One Chief Executive earns around £90,000 a year.



- Shrewsbury Town's annual energy bill is around £180,000 a year.
- According to Sponsorlytix, top Championship side Leeds United spend £390,000 a year on travel to away games (train, coaches and hotels).
- Cambridge's Category 3 Football Academy costs £865,000 to run.
- A 3G full-size football pitch according to Sport England's facility guide costs £1.1m.
- Accrington Stanley's new hospitality suite - including three bars - cost £2.5m to build
- Exeter City's new state-of-the-art training complex cost £3m to build.
- Charlton's award-winning League One community programme costs £5.4m a year.
- AFC Wimbledon's top-of-the-range 9,000 all-seater stadium cost £32m to build.