



Department for Culture, Media and Sport

Football Governance: Response to the Culture, Media and Sport Committee Inquiry (HC792-1)



Department for Culture, Media and Sport

Football Governance: Response to the Culture, Media and Sport Committee Inquiry (HC792-1)

Presented to Parliament by the Secretary of State for Culture,
Olympics, Media and Sport by Command of Her Majesty
October 2011

© **Crown Copyright 2011**

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this document should be sent to us at enquiries@culture.gov.uk

This publication is available for download at www.official-documents.gov.uk

This document is also available from our website at www.culture.gov.uk

ISBN: 9780101820721

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID 2458826 10/11 15427 19585

Printed on paper containing 75% recycled fibre content minimum.

1 Introduction

1. The Government is grateful to the Culture, Media and Sport Select Committee for carrying out its Inquiry into football governance and for publishing the results on 29 July 2011.
 2. The Inquiry marks a significant moment in the history of Parliament's interest in the important issues surrounding football governance and an important step in improving the governance of our national game.
 3. The Government believes that the Committee's conclusions and recommendations provide a practical and welcome way forward for the football authorities, working closely together in the game's long-term interests, to make a lasting and fundamental change to the way that football is run.
 4. Football in this country is unrecognisable from the position of two decades ago – better teams, safer and more family-friendly stadia, and growing success against racism and discrimination. Yet it has also changed into a multi-billion pound business whilst the corporate governance structures still look like they belong to another era.
 5. The Select Committee's report highlights the inability of the football authorities to respond to new challenges quickly enough and the strong perception that they are unable to agree and deliver a common vision for the long-term health of the game. The welcome global popularity of the English game has posed challenges which the existing structures do not yet appear to be equipped to respond to effectively.
 6. At the same time, supporters' expectations are at an all-time high, both in terms of their club and national team success but also their links and involvement with the club.
 7. This is not a question of apportioning blame or seeking scapegoats. There is too much to celebrate in our game and too much at stake to fall into that trap. Simply, we urge the football authorities to now join together to respond to the recommendations laid down in the Select Committee's report.
 8. This is an opportunity for football to come together and prove that it can respond to and address this challenge.
-

2 Government's response to the conclusions and recommendations

9. In this section the Government sets out its response to the conclusions and recommendations in the Select Committee report. In referencing those areas, we use the paragraph numbers as summarised in the section 'Conclusions and Recommendations' in Chapter 8 of the Committee report. In the interests of brevity we have combined the headings in some areas.
10. The Government notes that a significant majority of the conclusions and recommendations are directed towards the football authorities, rather than explicitly towards Government. Whilst Government does not have the formal responsibility for addressing those areas, at the same time the Government believes that wherever appropriate it is right to give its view on all the Committee's conclusions and recommendations.

Reform of the FA Board (paragraphs 52-56)

11. The Government strongly welcomes the Football Association's decision to add two independent non-executive members to the FA Board, which was ratified by its Shareholders on 24 August 2011.
12. This is a good start, but the Government agrees with the Committee's recommendation that there needs to be further change in the overall composition of the Board to allow it to function as effectively as possible. The Government recognises the strong views put forward by all parties on this issue, but believes that the recommendation for a Board of no more than ten, with Chairman, General Secretary, two further FA executives that bring wider football expertise, two independent non-executives and two each from the professional and national game offers a potential way forward.
13. The Government believes that moving to a thoroughly strategic, accountable and representative Board with the right mix of world-class skills, experience and abilities is the key to unlocking the long-term potential of football in this country, from grassroots right up to the national teams. It is fundamental to get the right balance between professional, national, independent non-executives and FA executive representatives.
14. We recognise the strong economic arguments in favour of the removal of the current automatic 50:50 split between the national and professional game. The issue of how best to divide any surplus revenues is one for the reconstructed FA Board.

Reform of the FA Council and Other Committee Reforms (paragraphs 61-63 and 65)

15. We recognise and support the strong recommendations on the reform of the FA Council; changes to tenure and the format of meetings; removing overlap with the Shareholders; and ensuring that it is a body which is genuinely representative of the modern game. The principle that all FA Committees should report to the Board rather than the Council is one that has attracted strong backing and which the Government supports.
16. We recognise the obvious symmetry in the Football League and Premier League adopting similar tenure limits to those suggested to the FA Council and Government urges them to consider seriously introducing such changes. It is for the football authorities to agree on the appropriate lengths, but we would support proposals of two terms of three or four years each.

Debt in the game and What is causing the debt problem? (paragraphs 73 and 79)

17. We recognise the considerable amount of evidence considered by the Committee on the level and sustainability of debt within the Premier League and Football League. The Government shares the concern expressed by the Committee at the extent of losses and the number of clubs on the edge of viability.
18. Debt per se is not always a bad thing, but it must be genuinely sustainable and should be assessed as a percentage of turnover. Government believes that there is a legitimate role for the national governing body, working hand in hand with competition organisers, to ensure that appropriate and consistent checks and balances are in place to protect the overall financial integrity of the national game and its long-term viability. The recent moves by the Football League to work towards a break-even rule in the Championship are a welcome indication of the appetite amongst many clubs for a change.

Players and agents (paragraph 90)

19. The Government understands the strong feeling about the way that some agents appear to operate and the potential consequences for conflicts of interest and transfer fee and salary inflation. We support the Committee's recommendation that the Football Association should continue to press FIFA to provide an international solution.

The Football Creditors Rule (paragraph 107)

20. The Government recognises the very strong views presented to the Committee on the principle and operation of the package of football regulations and rules which have come to be known as the ‘football creditors rule’. We have sympathy for those who described the consequences of the rule as ‘morally indefensible’. We understand and acknowledge the strong desire of the football authorities to protect the integrity of their competitions. At the same time, it should not be beyond the skill and financial resources of the professional game to find a solution that protects the integrity of the competition, incentivises financial prudence and due diligence, and offers equal protection to all unsecured creditors in any future insolvency event. The Government recognises the legal issues under consideration, in particular the current legal challenge being brought by HMRC against the Football League. Nevertheless we commit to work with the football authorities to support their efforts to find an appropriate and modern solution to this issue.

Broadcasting rights (paragraph 113)

21. The Government recognises that the current model of funding football is heavily dependent on the way that broadcasting rights are packaged and sold. The Court of Justice of the European Union provided judgment on a number of legal issues, including territorial selling, on 4 October 2011 in what is known as the *QC Leisure* case. This judgment will be referred to the High Court who will apply it to the specific circumstances of the case.

Parachute payments (paragraph 127)

22. The Government supports the principle of financial solidarity between competition organisers, to ensure that the step between the Premier League and Football League can be negotiated as sustainably as possible. We agree with the Committee’s recommendation that there is a role for the sport’s national governing body in such discussions in the future. We believe that as the national governing body the relative health of aspiring clubs in both Leagues is a legitimate concern of the Football Association. It is not for the Football Association to determine the detail, but as a responsible governing body, there is a role for them in helping to frame the discussion.

The impact of UEFA (paragraphs 141 and 142)

23. The Government agrees with those who provided evidence to the Committee that the UEFA rules on financial fair play hold out the promise of either directly or indirectly supporting more prudent spending patterns within the Leagues. The new approach is a welcome and significant step forward. At the same time we support the Committee's hope that the operation of new financial fair play regulations will not prevent the ambitious owners of smaller clubs having the flexibility to invest in areas such as infrastructure and youth development for success.

A licensing model for England and Administering the domestic licensing model (paragraphs 150, 151 and 160)

24. The Government recognises the considerable body of evidence heard and seen by the Committee about the need for consistent, appropriate and effective rules and regulations. Whilst the tightening of some financial regulations by the Leagues in recent years has been welcome, the Government believes that the Committee's recommendation about the introduction of a licensing model will be an important step in rebuilding confidence.
25. We agree with the Committee that the licensing model should be imposed consistently throughout English football to underpin the self-regulation already introduced by the Leagues. The licence should cover all competitions and all leagues. The Government is clear that it does not expect that the Football League or Premier League rulebooks will be superseded. The day-to-day detail and administration of those rulebooks should remain with the Leagues, but within the framework of the licence provided through the Football Association.
26. We agree with the Committee that it is crucial that the licensing model should be both backwards and forwards looking, and that the Football Association should take the primary responsibility for establishing this system as well as a strong scrutiny and oversight role.
27. The Committee have not made a recommendation on whether an existing or new body within the Football Association should be set up to perform this oversight, review and horizon-scanning role. Whilst it is for the football authorities themselves to agree the form of this body, the Government notes the strong statements from the Committee that in their current form the National Game Board and the Professional Game Board do not promote strategic decision making. In that context, it is important that the body which has responsibility for the licence has the appropriate power, skills, accountability and representation to carry out this role effectively.

28. Therefore the Government urges the football authorities to focus sufficient attention on ensuring that the body which oversees the licence is thoroughly equipped for its role. In line with the other recommendations of the Committee, we support the view that this body should report directly to the newly formed Football Association Board.

Foreign ownership (paragraph 172)

29. The Government notes the comments made by the Committee on the importance of not discouraging foreign ownership of English clubs. We recognise the important contributions that foreign owners have made to our national game and the performance of a number of clubs. At the same time the Committee recommends that because of the inherent attraction of English football clubs to foreign investors and markets, particularly robust criteria need to be applied to prospective owners and directors before they are allowed to own or run a club. The Government believes that this is one of the attractions of introducing a consistent licensing model, overseen by the Football Association.

Leveraged buyouts (paragraph 176)

30. The Government notes the evidence before the Committee on the use of leveraged buyouts to purchase football clubs and the strong view of the Committee on the appropriateness of this vehicle. The Government expects that the issue of financial sustainability should be addressed as part of the recommendations on the new licensing model.

Club ownership (paragraph 191 and 192)

31. The Government notes and welcomes the strong recommendations made by the Select Committee in the area of club ownership. The evidence taken by the Committee in this area demonstrates how clearly football governance has failed to keep pace with the challenges of the modern game and the global commercial attractiveness of English football.
32. We agree that robust ownership rules should be consistently applied across the professional game as part of the licensing model with strong Football Association scrutiny and oversight.

33. Too many of the problems faced by clubs and the supporters who try to rescue them have been caused when the ground becomes separated from the club. We support the Committee's recommendation that there should be a presumption against selling a ground, unless it is in the best interests of the club. The Government recommends that the football authorities include this condition within the terms of the new licensing system and that it is rigorously enforced. In addition the provisions in the Localism Bill currently before Parliament could offer significant assistance to supporters. For example, they would enable local supporters to apply to the local authority to have a facility such as a football ground or training ground listed as an 'asset of community value'. Where that asset is then subsequently offered for sale, supporters or the wider community would have a period in which they could mount a bid for that asset.
34. The evidence taken by the Committee on the issue of the transparency of ownership of clubs should have concerned everyone who heard it. The Committee's recommendation that there should be complete transparency around ownership and the terms of loans provided by Directors offers owners the opportunity to clearly demonstrate their good intentions towards the club to the authorities and the club's supporters. It is hard to see any well-intentioned owner or owners refusing such transparency. In responding to these recommendations we strongly urge the football authorities to include this recommendation within the new licensing system as a key condition.

A way forward for supporter ownership (paragraphs 218-222)

35. The Government welcomes the Committee's focus on increasing the ability of supporter-owned clubs to raise funds and increasing the opportunity for supporters' trusts to achieve a share in their clubs.
36. The Department notes the specific recommendations to the Government relating to the Financial Services Management Act 2000 and the protection of minority supporter stakes in the event of compulsory purchase orders. We are currently in the process of discussing with other Departments, including HM Treasury and the Department for Business, Innovation and Skills, the legality and practicability of the recommended changes in these areas. Given the potential need for legislative changes, there will naturally be a high threshold in order to justify Government action.
37. The Government will consider bringing together an informal expert group to report on the degree to which there are other issues that create genuine barriers and to provide recommendations for practical action.

38. The Government supports the Committee's recommendation about effective consultation with fans. The Government believes that every club should have a dedicated and mandatory supporter liaison officer. Furthermore, that every club should officially recognise the relevant supporters groups or trusts and keep an open dialogue with them. They should hold official and regular annual general meetings at which these groups are invited to take part and at which appropriate financial and other information can be shared and consulted upon.
39. The Government believes that these conditions should be an explicit condition of the football licensing model recommended by the Committee and so compliance should be a requirement of the club competing within the English game.
40. Furthermore, the Government urges the football authorities to consider ways to actively encourage and incentivise methods of including supporter representatives on the Boards of clubs. We see the value in the views of many supporters that such representatives should have a full role within the club Board. At the same time, we acknowledge that this may not be the right solution for all clubs or all supporters. Where there are ways of achieving this role in an advisory capacity that do not attract fiduciary responsibilities that could create conflicts of interest, then we urge the football authorities to also consider this route. Whatever the way that representation is achieved, we believe that there is every reason to think that clubs are stronger because they have supporters at the heart of the club, not weaker.
41. One option that we have considered is to specify within the new club licensing system a trigger point that would require clubs to make a seat available to one or more supporters' representatives on the Board. Such a trigger point could be the next time the club changes hands; the point at which the officially recognised supporters organisations reach a certain size; or by a majority vote of eligible supporters. There will be other options as well.
42. The Government recognises that these would be major steps that would mark a change in the corporate governance landscape of football ownership in this country. It would need to be accompanied by a similar step-change in the professionalism and skills of supporters' representatives. It is for the football authorities to determine the best way of achieving the right changes, but Government will welcome and support those discussions.

Supporters Direct (paragraph 231)

43. Supporters Direct is an effective and influential organisation which makes a vital contribution to enabling supporters to play an informed role in helping to secure the future of their club, either through greater involvement or outright ownership. There is no doubt that many of the instances of successful supporter engagement with clubs would not have been possible without the advice and engagement of Supporters Direct.
44. The financial and governance problems that have affected Supporters Direct over the last few months have not reflected well on our national game, the organisation itself or its funders. The Government believes that a solution to provide funding for the long-term future of Supporters Direct and other high-profile supporters group representative bodies should not be beyond the skill of the football authorities, working closely with the bodies concerned. The Government commits to support those discussions wherever appropriate.

Strategic planning: youth development (paragraph 244)

45. The Government notes the Committee's statement that the correct strategy for youth development is properly a matter for the football authorities. We look forward to a successful conclusion to the current negotiations between the Premier League and Football League on the operation of the planned new Elite Player Performance Plan which offers the opportunity to make a fundamental change to the way in which elite players are identified and developed.
46. The Government wants the England teams and all our national sides - men and women, and all ages - to be as successful as possible in international competition. Although not a specific part of the Select Committee's remit, a number of witnesses drew parallels between changes in football governance and ultimate improvement in England team performances.
47. The Government suggests the football authorities consider the scope of the Committee's recommended new licensing system to reflect a renewed focus on ensuring the best possible support for the national teams. For example, it has been argued that the inclusion of full mandatory release powers in such a licence could increase the ability of the Football Association to run successful England teams in the Under 17, 19 and 21 categories. No one should ever expect the dynamic between players, clubs and national teams to be straightforward, but rebalancing the approach to mean that there is a legitimate expectation that the best English players – at every age - will be selected for their national team could be a significant practical step forward.
48. The Government urges the football authorities to consider such an initiative and others to make sure that England teams are in the best possible position to reap the rewards of their talent in the competitive cycle from 2012-13.

Strategic development: coaching (paragraph 248)

49. The Government recognises the weight of evidence considered by the Committee on the issue of coaching, in particular the historic weaknesses in England in developing the kind of high-level technical expertise in coaching that appears to have been so important in the success of other nations at international level.
50. The Government notes the recent actions of the Football Association to redress the balance and to build a broad-based coaching structure. The Government also notes and welcomes the Football Association's expectation that the new National Football Centre at St George's Park, Burton will be a major asset in making sure that more of the coaches who achieve their first qualifications work their way to the top.
51. The Government welcomes this commitment by the Football Association to deliver the best possible player and coach development centre at St George's Park. We will work closely with them in their drive to bring England's coaches up to world-class standards.

Finance (paragraph 253)

52. The Government is proud to support grassroots participation in our national game and in the improvement of facilities. Over the course of the current Spending Review period we are committing £25.6m through Sport England to the Football Association for participation. We are also investing £10m per year into the Football Foundation to improve facilities all over the country, in partnership with the Premier League and Football Association.
53. Football offers an obvious route to increased sporting participation and Government will maintain its focus on ensuring that football, like all those sports supported through the Whole Sport Plan process, deliver on their commitments. The Government is particularly keen that sports address the specific issues relating to participation in the 14-25 age group.
54. The Government recognises the Committee's recommendation that the Football Association review their expenditure on the grassroots. At the same time, we note that within the football family, responsibility for funding participation and facilities is not absolutely limited to the governing body, but also necessarily extends to those with significant income from the sale of broadcasting rights.
55. The Government expects that a Football Association review of their expenditure should be complemented by a review by the Football League and Premier League.

56. As the national game, football has exceptional reach into every community in this country. It is therefore able to deliver important benefits to the wider society outside the game itself and can play a big part in helping to rebuild parts of our society which recent events have shown to be so lacking in positive focus and opportunity. Coaches, players and volunteers should be important positive role models to whom young people can look up, particularly in the absence of other influential figures in their lives. The Football Association's Respect campaign is clearly an important part of that process and the Government encourages the football authorities to continue to strengthen this campaign. Furthermore Government and football should take every opportunity to redouble our partnership in this crucial area.

Other important issues

57. Although not explicitly covered in the Committee's report, there are three additional issues on which the Government hopes that the football authorities will be able to work together successfully. The first is that of the role that football can play in addressing homophobia and transphobia in sport and wider society. As part of the Government's commitment to promoting equality a *Charter for Action* was launched with sports organisations in March this year. This sets out the direction needed to tackle homophobia and transphobia to make sport a welcoming environment by challenging discrimination and other unacceptable behaviour.
58. The success of campaigns such as *Kick it Out* show just how effective the football authorities can be when they work together to challenge discrimination head-on. Such campaigns have a resonance that goes far beyond sport.
59. The Government believes the time is now right for the football authorities to follow-through on their welcome commitment to support the *Charter for Action* with a high-profile and well-resourced campaign to tackle homophobia and transphobia. The Government hopes that the Leagues will actively support this campaign at the highest level including, where appropriate, the use of well-known players and other figures within the campaign.
60. The second issue concerns the disciplinary process that operates within football. The Government believes that there is a good case to be made for the policy-making and decision and sanctions process to be modernised to ensure that there is the best possible support for disciplinary decisions across the game. It is right that policy-making on disciplinary issues sits with the Football Association and that rules and regulations are made in consultation with all those with an interest. It then seems appropriate that having made those rules and with support in their implementation in letter and spirit by the football authorities, the charging and decision-making process is handled outside the Football Association, by an accountable, but independent and separate organisation. Yet at the moment the policy-making, charging and decision-making sit within one body.

61. The Government hopes that the football authorities will see the value in that separation of responsibilities and that they will come forward with a proposal that will strengthen the credibility of football in dealing with disciplinary issues.
62. Finally, another area of discipline that the Government takes very seriously is the issue of doping in sport. We welcome the work carried out by the Football Association to combat the threat of doping. The Government would like to see the Football Association and UK Anti-Doping continue to cooperate to enhance and improve these efforts, to ensure both that the Football Association's anti-doping rules are fully compliant with the United Kingdom's Anti-Doping Policy and that the threat of doping in football is effectively addressed.

The way forward (paragraph 261)

63. The Government notes and supports the Committee's assessment that almost all their recommendations can be achieved through agreement between the football authorities and without the need for legislation.
64. The Government expects that the football authorities, having considered the report carefully, will now respond positively and collectively with an agreed strategy and a timetable for change.
65. The Government believes that the immediate priorities are three-fold: the creation of a modern, accountable and representative FA Board; agreement to the implementation of a licensing framework administered by the Football Association in close cooperation with the professional game; and agreement to changes to the decision-making structures within the Football Association, specifically in relation to the Council.
66. We expect the football authorities to work together to agree proposals, including plans for implementation, by 29 February 2012. The new Board can then agree the way forward for the remainder of the recommendations, ideally for implementation for the start of the 2012-13 football season.
67. The Government is fully committed to ensuring that the changes put forward by the football authorities make a lasting and substantive difference. If that does not happen the Government will introduce a legal requirement on the Football Association to implement the appropriate governance clauses by the swiftest possible means. To do that the Government will seek to secure, using all available channels, appropriate legislation as soon as Parliamentary time allows. There is a strong case for such legislative proposals to be formally considered in pre-legislative scrutiny.

3 Summary

68. It is not for Government to run football, or any other sport. Sports are best governed by modern, transparent, accountable and representative national governing bodies, which are able to act decisively in the long-term interests of the sport.
69. The Committee's report lays out in stark detail the way in which the existing structures, governance arrangements and relationships have failed to keep pace with the challenges and expectations surrounding the modern game.
70. The Government believes that the Select Committee's report sets out a package of conclusions and recommendations that offer a sound blueprint for the future of football governance in this country.
71. The report is an opportunity for the football authorities to come together and demonstrate their ability to respond collectively to the challenges laid out in the report.
72. Our expectation is that the football authorities will now agree and publish a joint response to these recommendations and set out the process for how they intend to take forward their plans.
73. The Government believes that the immediate priorities are three-fold: the creation of a modern, accountable and representative FA Board; agreement to the implementation of a licensing framework administered by the Football Association in close cooperation with the professional game; and agreement to changes to the decision-making structures within the Football Association, specifically in relation to the Council.
74. We expect the football authorities to work together to agree proposals, including plans for implementation, by 29 February 2012. The new Board can then agree the way forward for the remainder of the recommendations, ideally for implementation for the start of the 2012-13 football season.
75. The Government is fully committed to ensuring that the changes put forward by the football authorities make a lasting and substantive difference. If that does not happen the Government will introduce a legal requirement on the Football Association to implement the appropriate governance clauses by the swiftest possible means. To do that the Government will seek to secure, using all available channels, appropriate legislation as soon as Parliamentary time allows. There is a strong case for such legislative proposals to be formally considered in pre-legislative scrutiny.



information & publishing solutions

Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone: 0870 240 3701

The Parliamentary Bookshop

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders/General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: bookshop@parliament.uk

Internet: <http://www.bookshop.parliament.uk>

TSO@Blackwell and other Accredited Agents

ISBN 978-0-10-182072-1



9 780101 820721