Birkbeck
UNIVERSITY OF LONDON

Football Governance Research Centre

The State of the Game

The Corporate Governance of Football Clubs 2004

Research Paper 2004 No. 3

The State of the Game

Published by the:
Football Governance Research Centre

Malet Street, London WC1E 7HX
Tel: 020 7631 6871
Fax: 020 7631 6872
www.football-research.bbk.ac.uk
enquiries@football-research.bbk.ac.uk

Sponsored by:
Mutuo

77 Weston Street, London SE1 3SD
Tel: 020 7367 4177
Fax: 020 7407 4476
www.mutuo.co.uk
enquiries@mutuo.co.uk

Grant Thornton

Melton Street, Euston Square, London NW1 2EP
Tel: 020 7383 5100
Fax: 020 7383 4715
www.grant-thornton.co.uk
enquiries@grant-thornton.co.uk

The Professional Footballers Association

20 Oxford Court, Bishopsgate
Manchester M2 3WQ
Tel: 0161 236 0575
www.givemefootball.com
info@thepfa.com

Further copies are available for £25.00 (including post and packaging) (£5.00 for students, club officials and supporters' trusts) from the FGRC. Also downloadable free of charge from www.football-research.bbk.ac.uk

ISBN 0-9549012-1-5

ISSN 1473-7884

Contents

Page

About the Authors

Matthew Holt, Jonathan Michie, Christine Oughton, Lee Shailer and Geoff Walters are members of the Football Governance Research Centre, Birkbeck, University of London. Michie and Oughton are co-editors of *A Game of Two Halves: The Business of Football* (Mainstream, 1999) with Sean Hamil; and with Steven Warby and Sean Hamil: *Football in the Digital Age: Whose Game is it Anyway?* (Mainstream, 2000) and *The Changing Face of Football: Supporters Direct* (Frank Cass, 2001).

Matthew Holt is a Research Officer at the Football Governance Research Centre at Birkbeck. Matthew takes a particular interest in the role of the governing bodies in the industry and is currently working on a FIFA funded research project on the governance and regulation of European football by UEFA.
t: 020 7631 6743
m.holt@bbk.ac.uk

Jonathan Michie is Professor of Management and Director of Birmingham Business School, University of Birmingham. He is also Visiting Professor at Birkbeck, University of London. He is an elected board member of Supporters Direct and a committee member of Shareholders United, the supporters' trust at Manchester United.
t: 0121 414 3555
j.michie@bham.ac.uk

Christine Oughton is Professor of Management at Birkbeck. She is also Director of the Football Governance Research Centre at Birkbeck, University of London.
t: 020 7631 6768
c.oughton@bbk.ac.uk

Lee Shailer is a Research Officer at the Football Governance Research Centre. He is also working on a PhD researching stakeholding models of governance at football clubs.
t: 020 7631 6871
l.shailer@bbk.ac.uk

Geoff Walters is a Research Associate of the Football Governance Research Centre at Birkbeck, and is currently working on a PhD researching the governance of the football industry.
t: 020 7631 6884
g.walters@mbs.bbk.ac.uk

Acknowledgements

This is our 4th annual survey of professional football clubs and supporters' trusts and we would like to thank all the club officials and supporters' trust board members who took the time and effort to complete and return our questionnaires; without their efforts we would not have been able to compile the information that informs and underpins this research. Special thanks go to John Moules and Bill King, Chief Executive and Chairman of the Football Conference respectively, for endorsing the survey sent to all Football Conference clubs.

Our thanks also go once again to our three main sponsors: Grant Thornton, the independent financial and corporate advisors; Mutuo, the think-tank for the co-operative and mutual sector; and the Professional Footballers' Association.

We would particularly like to thank Kate Barker, Chair of the FA Financial Advisory Committee, for contributing an informed and thoughtful Foreword to this year's Report and also Sir Trevor Brooking, Director of Football Development at the Football Association, for providing an excellent Preface.

We would also like to thank Neil Prescott of the Football Association for his continued interest in our research, and also Nic Coward, former FA Director of Corporate and Legal Affairs. Many thanks also go to David Barber, FA Librarian, for arranging access to archives.

The FGRC continues to benefit from the expertise of Cobbetts Solicitors and Pensions Investment Research Consultants (PIRC), and we would like to acknowledge their support.

We are also very grateful to our colleague, Bridget Holroyd, who deserves a great deal of praise for her efforts in administering the survey process throughout the Spring and Summer.

And finally, special thanks go to our students on Birkbeck's Sport Management and the Business of Football Master's programme who continue to provide valuable feedback on the survey and its findings.

Matthew Holt, Jonathan Michie, Christine Oughton, Lee Shailer & Geoff Walters
Football Governance Research Centre, Birkbeck, University of London
November 2004

Preface

by Sir Trevor Brooking CBE
Director of Football Development, The Football Association

We have been living in interesting times these past few years in football. The development of subscription television and pay-per-view technology have resulted in increased broadcasting revenues into the game in England and elsewhere, but the collapse of the ITV Digital agreement with the Football League illustrated the difficulties and challenges that have also faced the game, alongside the opportunities.

The football authorities and sporting organisations more generally have been actively working over these past few years to meet those challenges and to develop the opportunities. These activities included the formation of the Football Task Force, on which I served, and the establishment of Supporters Direct, which I welcomed at the time, when I was pleased to share a platform at the conference in 2000 at which the then Secretary of State for Culture, Media and Sport, Chris Smith, announced the Government's support for the new initiative.

As I wrote in the book that came out of that conference:

> It is now recognized that football supporters, who have always been the lifeblood of football clubs, should have a greater involvement in the running of those clubs. This will help the professional clubs to extend and enhance their involvement in community work, and to augment the work of the many projects supported by Sport England. Ultimately, the extension of football clubs' involvement in the community will enhance the financial strength of clubs.[1]

I was at that time Chair of Sport England, whose remit I always saw as being about optimising opportunities for the whole community to take part in sport.[2] These objectives coincided with the Government's priorities of tackling social exclusion and increasing participation. I see the work of Birkbeck's Football Governance Research Centre as contributing to the achievement of these goals. I am also heartened by the progress of The FA's own Financial Advisory Committee, which is examining governance issues in some detail.

I am therefore pleased to welcome this year's *State of the Game* survey.

Sir Trevor Brooking CBE
November 2004

---

[1] Trevor Brooking, 'United for Change', in Hamil, Michie, Oughton & Warby (eds), *The Changing Face of the Football Business: Supporters Direct*, London: Frank Cass, 2001, p. 27.
[2] See for example Sport England, *Annual Report 1998/99*, London: Sport England, 1999, p. 2.

Foreword

Kate Barker
Chair, Financial Advisory Committee, The Football Association

Being invited to write this foreword is a welcome opportunity to express support for the work on corporate governance at Birkbeck, University of London. While there is a frequently-held view that the governance of football clubs leaves much to be desired, there is often rather less in the way of thoughtful analysis, or indeed positive comment on the progress which has been made over the past few years. This Report seeks to provide both.

My own experience of football's governance, most recently as Chair of the Football Association's Financial Advisory Committee (FAC), suggests that alongside much good financial practice, there are some weaknesses. The FAC aims to respond to this by seeking to co-ordinate the approach to finance matters across the higher leagues of the English game. Its main objective is: 'promoting and protecting the financial health and stability of clubs in their communities'. In talking about the financial management of clubs, this means a great deal of emphasis on 'sustainability' – that over-used, but important, term.

The task is not easy. It is obvious that good governance has to mean more than a tick-box approach; it must be an integral part of day-to-day activity. But how this works is complicated by the very different sizes of business in the different leagues. There is a wide gulf, in terms of size, complexity and ability to draw on expertise, between a club in the Premier League and one in the Football Conference, or even Leagues 1 and 2 of the Football League. Any discussion about regulation has to be sensitive to these differences, but also ensure that regulation makes sense for clubs moving between leagues.

Common across all sizes of club is the need to ensure the integrity of those on the board. It is therefore very welcome news that the Football League and the Premier League have both, for the current season, adopted 'Fit and Proper Person' criteria for the directors of their clubs. This step forward, which the other senior leagues also expect to adopt during this season, has been actively supported and encouraged by the FA. It cannot, on its own, solve all governance problems - but is a clear indication of football's determination to improve its reputation with regard to governance matters.

In addition, the FA has introduced a new certificate, to be attached to the annual return of all football clubs, in which the directors are required to affirm: their commitment to the club's long-term future, a reasonable expectation of adequate resources to meet fixtures over the coming season, and security of tenure for the ground for the next season.

Supporters Direct plays an important role in adding to informed debate on these and other issues, working towards the goal of managing for the long-term which is shared by all concerned with the future of the game. This Report contributes to the same agenda.

Kate Barker
November 2004

Glossary of Terms

Annual General Meeting (AGM): a company gathering, usually held after the end of each fiscal year, at which shareholders and directors can discuss the previous year's performance and the outlook for the future, directors are elected and other shareholder concerns are addressed

Alternative Investment Market (AIM): a market regulated by the London Stock Exchange, but with rules not as strict (or expensive) as those on the main stock exchange. In particular, there is no minimum requirement for the proportion of shares that must be traded publicly

Annual Report: an audited document issued annually by all publicly listed companies to their shareholders. Contains information on financial results and overall performance of the previous fiscal year and comments on future outlook

Articles of Association: supplementary information to the Memorandum setting out in greater detail the internal administrative rules by which the company is to conduct its business

Audit Committee: a committee recommended in the Combined Code for establishing formal and transparent procedures regarding financial arrangements

Auditor: an accountant who audits the company accounts

Authorised Share Capital: The amount of the company's share capital

Board of Directors: the collective group of individuals elected by the shareholders (and in some cases appointed by the Board) to oversee the management of the company

Customer Charter: requirement set by both FA Premier League and Football League that each club will have a written charter in which they set out club policy with regard to ticketing, merchandise and relations with supporters, season ticket holders, shareholders, sponsors, local authority, etc. A copy of the charter should be publicised by the club

Combined Code: a set of principles of good governance and good corporate practice incorporated into the listing rules of the London Stock Exchange. The Combined Code was introduced in 1998 and since then a number of reviews have provided additional guidance on implementing the code (Turnbull 1999, Smith 2003, Higgs, 2003). In 2003, the guidance and suggestions of these reviews were incorporated into a revised Combined Code 2003, which came into effect for reporting years beginning on or after 1st November 2003

Companies House: the registry for incorporated companies

Company Law: the system of legal structures to regulate companies and their activities

Company Law Review: an independent review of company law with the aim of developing a simple, modern, efficient and cost effective framework for carrying out any business activity in Britain

Company Limited by Guarantee: a company structure offering limited liability for its members and defined responsibilities for its directors

Company Minute Book: a book containing all the minutes of proceedings of any general meeting of the company, kept at the company's registered office and open for inspection by any member without charge

Co-operative: governing structure owned and run jointly by its members. Also called a Mutual.

Corporate Governance: The way in which companies are run, including the relationship between the shareholders, directors and management of a company

Director: A person elected by shareholders to serve on the company's board of directors

Disclosure: The public dissemination of material or market-influencing information

Enterprise Governance: Enterprise Governance combines *conformance* with *performance*, where conformance is related to corporate governance and performance is concerned with business governance, resource utilisation, strategy and value creation (IFA, 2004)

Extraordinary General Meeting (EGM): Shareholders' meeting called by the directors or shareholders representing not less than one tenth of the paid up capital carrying voting rights

Executive Director: A member of a company's board of directors who is also an employee of the company

FA: Football Association

FAPL: FA Premier League

FC: Football Conference

Football Creditor Ruling: A ruling which defines a special category of preferential creditors ("the football creditors") who must be paid in full in any case of football club insolvency, if the club is to maintain its membership of its league

FRC: Financial Reporting Council

FSA: Financial Services Authority

Higgs Report: a review of the role and effectiveness of non-executive directors, published in 2003

Independent non-executive Director: a non-executive director who is independent from the company and other directors. For a non-executive Director to be independent they must meet certain criteria, including that they should not be affiliated with the company in any other capacity, and they should not have had an association with the company for more than 9 years

Industrial and Provident Society: a form of governance structure built on not-for-profit, democratic and community benefit principles which is registered with the Financial Services Authority (FSA)**.** Also called a mutual

Insolvency: a state in which a company cannot pay its debts as they fall due

Issued Share Capital: the nominal value of the shares issued to shareholders

London Stock Exchange: a market where the shares of listed public limited companies (PLCs) are traded

Memorandum: states the name and status of the company, and its statement of purpose or 'objects'

Modernising Company Law: a government paper issued in response to the Company Law Review proposals in its Final report, which maps out how the Company Law framework is to be restructured and corporate governance improved

Mutual: a governance structure owned and run jointly by its members. Also called a Co-operative

Nomination Committee: a committee recommended in the Combined Code as part of a formal and transparent procedure for the appointment of new directors to the Board

Non-executive Director: a person elected by shareholders to a company's board of directors who is not employed by the company

OECD Principles: An established set of discretionary good corporate governance principles

OFEX: A regulated share market established in 1995 to provide a share-trading platform for unlisted and unquoted securities

PFA: Professional Footballers Association

PIRC: Pensions Investment Research Consultants

PLC: a public limited company

Proxy: a person who is authorised by a shareholder to vote at general meetings of shareholders in their absence

Remuneration Committee: a committee recommended in the Combined Code to ensure directors' pay is structured so as to link rewards to corporate and individual performance, while avoiding paying more than necessary

Resolution: formal motion by a Board, or the shareholders, authorising a particular act, transaction or appointment

Senior Independent non-executive Director: The Combined Code requires that there should be a strong and independent non-executive element on the Board, with a recognised senior independent non-executive director other than the chairman to whom concerns can be conveyed. The chairman, chief executive and senior independent director should be identified in the annual report

Share register: a list of names of all shareholders

Shareholder: a person or entity that owns shares in a company or mutual fund

Smith Report: a report on the role of Audit Committees and the Combined Code, written in 2003

Stakeholder: in the context of football, a person or entity with an interest in the game but without necessarily having formal representation within its decision making structures

Supporters Direct: a Government funded initiative promoting supporters' trusts as a vehicle for supporters to play a greater role in the running of the clubs they support

Supporter-shareholder trust: a supporters' trust that holds shares on behalf of its members

Supporting statement: a statement of up to 1000 words accompanying a resolution requisitioned by shareholders under the Companies Act 1985

Turnbull Report: A report on internal control for directors serving on boards of listed companies, with special emphasis on assessment of risk, evaluation and control

Unincorporated Trust: a form of governance structure that is constructed by a trust deed and not incorporated i.e. does not fall under the regulatory requirements of Companies House or the FSA

Executive Summary

The regulatory system for English football is comprised of four key elements:

1. Regulation by the Football Authorities
2. Regulation via the legal system: company law, consumer law, labour law and competition law
3. Codes of Corporate Governance
4. Shareholder activism and Stakeholder Participation

This report covers each of these four areas though our analysis of the legal system is confined primarily to the operation of company law in relation to corporate governance issues. This year, for the first time, our analysis of the corporate governance of football clubs has been extended to include Conference league clubs.

Chapter 1 Regulation and Governance by the Football Authorities

FA Premier League clubs' revenues in 2003/04 totalled £1.33 billion. In the same season, football clubs contributed over half a billion pounds to the exchequer. However, since the FAPL was formed in 1992 there have been 36 clubs in the Football League (50%) that have been in administration or subject to some other form of insolvency. And in spite of FL attendances being the highest since 1963/64, FL revenue fell by 12% to £412 million in 2003/04. Club finances have been hit by: the Bosman Ruling, the collapse of the transfer market, and the imposition of a transfer window. In 2003/04, the total spent by FAPL and FL Clubs dropped to £203 million, from £407 million in 2002/03.

Structural change

The impact of the Champions League on domestic football goes beyond the 'Leeds United Syndrome'. The introduction of group stages, three or four clubs each from the strongest domestic leagues, UEFA's professional marketing and increased broadcasting revenues has created 'a division within a division' in the FAPL – those clubs competing regularly in the Champions League with a cash injection of £15-30 million per season, and those who do not.

The governance and regulation of English football

We have undertaken an audit of the football authorities' responses to the recommendations made by independent organisations looking at the regulation of football.

The Football Association
The formation of the Financial Advisory Committee (FAC) represents an important move towards addressing some of the financial and governance problems affecting football. The FA catalysed the adoption of a 'fit and proper person' test by the FA Premier League and Football League, and is working on developing a code of corporate governance. Also, additions have been made to FA Form A, with Boards required to sign a declaration on various governance criteria.

The Football League
The State of the Game 2003 welcomed the introduction of sporting sanctions for clubs entering administration and a salary cost management protocol for last season's division three, in which clubs cannot spend over 65% of turnover on player wages. In 2002/03 the wages to turnover ratio in Division Three (League Two), was 68%, down from 86% in 2000/01. The FL has now introduced the protocol to apply to both League One and League Two. We also welcome the following reforms:

i. Clubs to register all payments made to agents
ii. a 'fit and proper person' test for Directors and majority shareholders
iii. Clubs to indicate in player contracts the remuneration levels for each Division a player might play in

The FA Premier League
The FAPL has introduced a 'fit and proper person' test for football directors and sporting sanctions for clubs entering administration. These regulatory reforms are to be welcomed. Given the plight of clubs relegated from the FAPL, it would be appropriate to introduce a similar regulation to that of the FL, whereby clubs indicate in player contracts the remuneration levels for each Division a player might play in.

UEFA and UEFA Licensing
In the last two to three years, the European governing body has grasped the regulatory agenda. There is a proposal to limit the size of squads to 25, and also to ensure that clubs play with a minimum of seven or eight players deemed to be 'home-grown'. The UEFA Licensing system will regulate clubs (although the national associations will be the licensor, responsible for implementation and governance). The licensing system includes legal, infrastructural, personnel and administrative criteria. The demands made on clubs will become more rigorous in forthcoming seasons. In 2006/07 Clubs will need to submit a liquidity plan, proving a club's ability to meet liquidity needs. Clubs will also need to produce Financial Licensing Documentation with balance sheets, and profit, loss and cash flow data. The third phase will require Clubs to show proof of positive equity.

Proposals for improved governance

The problems facing English football demand an evolution of the structure of the FA, and the consolidation of the IFC within the regulatory framework:

i The modernisation of The Football Association

Whilst the demise of Adam Crozier was caused by the inherent tensions in the organisation between the professional and amateur game, Palios's resignation was the result of managerial deficiencies, exacerbated by errors of judgement. Although the decisions taken did not relate to the governance structure of the organisation *per se*, the structure of the organisation limits the pool of talent from which the key decision makers are drawn. That the powerbrokers of English football are drawn from the county FAs, and from the professional game, is crippling the ability of the organisation to make balanced, effective, broad-based decisions. We would advocate the use of more independent non-executives as has been the case on the FAC.

ii. The Independent Football Commission

The IFC has been subjected to criticism for being funded by the authorities that it polices, and for being without the authority to impose its recommendations. In our view the role of the IFC should be written into the rules of the relevant governing bodies, most specifically within the FA. The IFC should have a broader range of powers, including the capacity to ensure that existing rules and regulations are adhered to and the capacity to ensure that their recommendations are acted upon. Whatever form such moves might take, the IFC needs to be given sufficient authority to help restore the integrity of decision making.

Chapter 2 FA Premier League and Football League Clubs

When the Combined Code was introduced in 1998, the proportion of companies complying with all aspects of the code was relatively low (PIRC, 2003). In the six years since the code has been in operation, the rate of compliance has increased significantly. The CC has also had a spillover effect on companies generally, with many companies listed on AIM and OFEX as well as unlisted companies complying with some or all of the code.[1]

Our analysis of the corporate governance of Premier and Football League clubs shows a similar pattern for football clubs. Over the past four years our results record significant improvements in the governance practices of clubs – this is true for both listed and unlisted clubs, though the proportion of clubs complying with best practice tends to be higher for listed clubs. There are however some notable exceptions, for example, unlisted football clubs make greater use of supporter-elected directors on their boards.

Areas where there have been marked improvements in corporate governance include: information disclosure and consultation; the use of independent non-executive directors; board approval of directors' pay and disclosure of directors' histories; and improvements in risk evaluation. There is, however, considerable room for further improvement, for example, only 62 per cent of clubs stated that their board approved a 3-year business plan and only a minority of clubs stated that they had mechanisms in place to evaluate board performance and the performance of individual directors.

Football clubs would benefit from adopting many of the changes, particularly the Higgs *Suggestions for Good Practice* on the role of the board and independent non-executive directors, and the Smith Guidance on Audit Committees. The new combined code also makes greater allowance for differences in the requirements of small and large companies.

Over the past year or so the Football Association has been working on the development of a code of corporate governance for football clubs. Our analysis shows that the introduction of such a code, tailored to the football industry, would do much to improve the governance of football clubs. Just as the Combined Code led to similar codes being adopted in other countries, the introduction of an FA Code of Corporate Governance for Football Clubs would set an international standard for best practice governance in the football industry.

Chapter 3 The State of the Game in the Football Conference

In the light of recent developments below the FL, we decided to extend our survey to include the Football Conference National Division – the top tier in semi-professional football – hereafter referred to as the Football Conference or FC.

Current developments in the Football Conference (FC)

The last two years have seen a number of developments in the football industry 'below' the FL, including:

[1] In 2003, the CC was updated to reflect improvements in best practice governance and guidance was introduced to encourage companies to embed the principles of the code into their governance procedures. These changes have come into effect for reporting years beginning on or after 1st November 2003. Thus, with effect from November 2004, the 2003 CC has become the required benchmark for all LSE listed companies and other companies wishing to follow best practice.

i. Restructuring the semi-professional system
Changes for 2004/05 involve two new feeder divisions – the Conference North (CN) and the Conference South (CS) – into the newly named Conference National division. The three original feeder leagues to the FC – the Northern Premier League, the Southern League Premier and the Isthmian League Premier feed into the new CN and CS. The previous structure had 69 clubs competing for 3 promotion places: the new system reduces that to 44. The winners of the CN and CS are promoted automatically, with the clubs finishing in 2nd-5th places in each league competing in a play-off system for the third promotion place. Our *State of the Game* survey asked Clubs whether restructuring would impact upon their club: 54% thought not. However, 54% also thought the restructuring would improve the playing standard in the FC National Division.

ii. Rising attendances
Average attendances have risen over the past 25 years, albeit with some fluctuation: the 1979 average attendance of 1,218 rose to 1,902 in 2004.

iii. Professionalism
Although the FC is considered semi-professional, there are currently 12 clubs that maintain full-time playing squads.

iv. Improved recognition by the Football League
At the FL Annual General Meeting in June 2002, it was agreed that a two-up, two-down system of promotion and relegation between the FC and the FL would be introduced for season 2002/2003. This emphasises that the FL recognise the strength and progression of the FC.

v. The development of the governing body
The governing body for the FC – the 'Football Conference Limited' – became incorporated in 1997, taking over from the previously unincorporated association, the Football Conference. Moreover, the expansion of the Football Conference for season 2004/2005 places the governing body in administrative charge of three leagues and 66 teams.

Corporate governance in the Football Conference

Our survey results for the clubs in the FC have identified some encouraging results. For instance, 83% of Clubs have a 1-year business plan in place, although there is room for improvement concerning longer-term planning with 50% having a 3-year plan. Furthermore, 92% thought the Board had a clear understanding of its duties and responsibilities. 46% of Clubs in the FC have at least one non-executive director on the board of the football club, with the roles of Chief Executive and Chair separate in 54% of cases. However, only 15% set out in writing the division of responsibilities between the Chief Executive and Chairman and only 25% of Boards undertake an annual evaluation of their own performance, with the same percentage evaluating the performance of individual directors.

Information disclosure and consultation with shareholders
Only 54% of clubs would provide paper copies of the share register, while 77% of clubs would provide shareholders with a paper copy of their Memorandum and Articles of Association. In only 8% of cases is there a senior independent director available for shareholders.

Use of the AGM to disclose information to shareholders
69% regarded questions at the AGM as constructive. Only 8% of clubs disclosed directors' histories/resumes and none provided directors' attendance records.

Dialogue/consultation between club and fans
85% of clubs in the FC claim it is not difficult to maintain a dialogue with fans. 67% would support the introduction of a customer charter to provide a more formal framework.

Risk assessment and management
50% of clubs in the FC have in place a process for identifying and evaluating risks. However, only 17% carry out specific 'risk studies' and assessment of impact. Virtually all Clubs monitor the progress of player contracts.

Regulatory issues
All FC Clubs would support increased redistribution from the FAPL and FL to the FC. 92% would favour greater redistribution of TV revenue within the FC. 2003/04 was the first year of the FC's 'Approved Playing Budget', a salary-capping scheme designed to promote financial stability in the league by restricting the percentage of turnover that a club can spend on player wages, based upon an average of two years audited turnover: 69% felt this has helped to maintain financial stability in the FC.

Conclusion
This is the first year that clubs from the Football Conference have been involved in the *State of the Game* survey. Our analysis has shown aspects that are particularly encouraging. However, what is clear is that there is a need to develop a code of corporate governance tailored to the needs of the smaller football club.

Chapter 4 Supporters' Trusts

This year's survey demonstrates that supporters' trusts continue to grow. There are 70 at football clubs in the

FAPL, Football League and Football Conference, an average of over 60% in each division. Aggregate memberships of trusts and average membership per trust has increased significantly since last year. Fundraising, turnover and the amount invested in football clubs has also increased.

Number of trusts agreed and established

Division One (the Championship) has historically been a slow developer in terms of trust growth with only 13% and 25% of clubs in 2000 and 2001 respectively having a trust in operation. However, the collapse of the ITV Digital contract in 2001 changed this. In the context of Football League revenue falling by 12% between 2001/02 and 2002/03, 70% of the Division's clubs have an established trust, with a further two in the pipeline. 86% of trusts operating in an environment where the club has recently faced insolvency proceedings have some form of shareholding, compared with 43% for all trusts.

Supporter representation on the board of the football club

25% of clubs in the FAPL, Football League and Football Conference (28 clubs in total) have supporter representation on the Board.

Trust/club initiatives

An indicator of the relationship between football clubs and supporters' trusts is the number of joint initiatives between them. The definition of joint initiative is purposely broad and examples cited in the survey returns include community events, joint communication in the media for the benefit of the club or co-operation in submitting a planning application for a new stand at the ground. The significance is that it is indicative of co-operative practice between club and trust. In Division One only 13% of clubs have joint club/trust initiatives, up from 4% last year. Returns from Division Two (League One) indicate 42% of clubs now have joint initiatives. Division Three (League Two) reports joint initiatives at 46% of clubs.

Membership

Membership of trusts continues to grow: from 6,748 in 2001, to 17,749 in 2002, to 32,883 in 2003, and 42,296 in 2004. If these figures are scaled up to reflect the total number of supporters' trusts – 106 at the time of writing – then membership has increased from 16,067 in 2001, to 46,052 in 2002, to 65,766 in 2003, to 72,312 in 2004. Average membership has also continued to grow from 337 in 2001, to 467 in 2002, to 606 in 2003, to 755 in 2004.

Turnover of supporters' trusts

Funds raised by trusts last season totalled £2,103,726, up slightly from £2,039,788 in the 2002/03 season.

Trust ownership and control of clubs

Eight supporters' trusts now have either majority ownership or control of their football clubs.

Trust links with bodies and organisations in the community

36% of trusts have links with local schools, up from 29% in 2003, and 37% reported a relationship with disabled groups. The percentage of supporters' trusts reporting established links with their local MP(s) and the local authority is 68% and 57% (up from last year's figures of 57% and 47% respectively). 55% of trusts have established links with the local business community in their area, the same percentage as last year.

The attitude of Clubs to trusts

Clubs indicate that they would work co-operatively with trusts on a variety of joint initiatives including: supporting social inclusion (56%); fundraising to improve facilities (81%); fundraising for the supporters' trust (78%); fundraising for urban regeneration (50%); fundraising for other local initiatives (22%); supporting projects within local schools (66%); supporting outreach work with local groups and organisations (66%); supporting youth development (50%); and supporting social inclusion (56%). 61% of trusts reported they had received support from the football club, up from 52% last year. Examples of club support for the trust include use of the club's facilities, such as room hire free of charge, joint publicity to promote the club and its initiatives; and most commonly, participation in the joint initiatives with the club's football in the community scheme.

Chapter 1

Regulation and Governance by the Football Authorities

The financial performance of English football continues to be characterised by the ability to generate high levels of revenue. In 2002-03 attendances reached their highest level since 1951 in the top division and since 1963-1964 for the three divisions below (Deloitte and Touche, 2004a, p. 8). Football remains the key product for pay television, and the commercial activity of clubs continues to expand. The value of the FAPL in particular, as a saleable commodity is unsurpassed. The total revenue of FAPL clubs for the 2003/04 season is estimated to be £1.33 billion, making the FAPL, in financial terms, the 'European and world champions' (Deloitte and Touche, 2004a, pp. 6-7). Additionally, in the 2002/03 season, the revenue generated by the 92 professional clubs rose 4 per cent to £1,658 million (Deloitte and Touche, 2004a, p. 25).

However, whilst football has little problem generating income, concerns remain over the standards of governance and financial management. Many clubs, particularly outside the FA Premier League (FAPL), continue to feel the pain of ongoing financial pressures, and the structural inequities inherent in the organisation of domestic competition. Since the FA Premier League (FAPL) was formed in 1992, clubs in the Football League have been subject to some form of insolvency on almost 40 occasions (Deloitte and Touche, 2004a, p. 61).

During 2002 and 2003, seventeen FL clubs entered administration (Deloitte and Touche, 2004a: p. 9). Furthermore, and in spite of growing attendances, FL revenue fell by 12% to £412 million in the 2003/04 season, increasing the financial gap between the leagues. This only serves to increase the levels of risk for the 'yo-yo' clubs that move between the leagues. The impact of relegation from the FAPL can be devastating. It is estimated that Wolves, Leeds United and Leicester City lost at least £13 million each as a result of their relegation from the FAPL (Deloitte and Touche, 2004b).

Additionally, a series of circumstances have conspired to put pressure on club finances. These include the longer-term effects of the Bosman Ruling, the collapse of the transfer market and the imposition of a transfer window (IFC, 2003, p. 17). In the 2002/03 season, the total spent by clubs on players in the FAPL and the FL dropped to £203 million, from £407 million in 2002/01 (Deloitte and Touche, 2004a: p. 35).

This chapter discusses the key structural factors that affect the governance and regulation of English football, looks at developments in the regulation of clubs, and assesses how the relevant governing bodies have reacted to some of the key issues.

1. Structural change

The major structural transitions of English football have been characterised by the demands of the larger clubs for greater economic independence than allowed by the organisational structures in place. Four historic events are as follows:

i. The formation of the Football League in 1888. This was a response to growing demands from the clubs for more integrated competition, rising crowds and the emerging professionalism.

ii. The abolition of gate sharing in 1983. This brought to an end the system by which 20 per cent of the home gate was distributed to the visiting club.

iii. Formation of the Premier League in 1992. This was due to the growing demands of clubs in the top division to secure a greater slice of football's television income.

iv. The formation and restructuring of the UEFA Champions League in 1992. This enabled an increase in revenues for those clubs competing in the top European competition, and increased the number of national participants. Domestically this has triggered the formation of 'divisions within divisions'.

These changes have been made in response to commercial forces and the demands of the more economically powerful clubs. The problems encountered by predominantly lower league clubs can be seen in the context of the financial scramble for revenues.

The creation of two 'new' competitions in 1992: the FA Premier League (FAPL) and the UEFA Champions League are two key factors associated with the growing economic disparity. The impact of the formation of the FAPL on the finances of club football is well established (see for example Conn, 1997 and 2004; Szymanski and Kuypers, 2000). The impact of the Champions League goes beyond what might be termed 'Leeds United Syndrome' – the budgeting for regular Champions League football, and facing the financial consequences of failure.

The restructuring and rebranding of the European Champions Cup has seen the commercial value of the competition rise significantly. The introduction of group stages, three or four clubs each from the strongest domestic leagues, combined with UEFA's increasingly professional marketing and increased broadcasting

revenues has helped create a competition of high commercial and sporting value. Clubs are able to generate even more money through the increased number of games the competition involves.

This has not only transformed European competition, but has also shifted parameters in the domestic game. In financial terms, the consequence has been to create what has been termed ‘a division within a division’ in the FAPL – those clubs competing regularly in the Champions League (for example, Manchester United, Arsenal, Chelsea, Liverpool) as opposed to those who do not. Deloitte have referred to this as a ‘super-margin’ (Deloitte and Touche, 2004a, p. 32). In the 2002/03 season the four clubs with the highest operating profit (Manchester United, Newcastle United, Liverpool, Arsenal) all played Champions League football.

As well as creating the ‘super-margin’, the development of the Champions League has altered perceptions about the relative merits of domestic and international competition. Whilst the FAPL title remains a fundamental objective of any aspiring club, the Champions League has become a comparable benchmark for the top clubs.

With the increasing number of clubs exposed to the thrills of the premier European competition, the top clubs now frequently argue that their natural competitors are not Southampton and Charlton Athletic, but Bayern Munich and Real Madrid. Similarly, participation in the Champions League enables clubs to attract players with the prospect of performing at the Estadio Santiagio Bernabeu, as well as at Selhurst Park.

The top FAPL clubs stake their claim to greater levels of domestic income by citing the need to compete financially with the top European clubs. Of course, revenue levels are only one factor generating sporting success. Jose Mourinho’s Porto this year showed what a club is able to produce without substantial expenditure. However, revenue generation remains a significant variable. According to Deloitte and Touche, English clubs’ main financial competitors are Juventus, AC Milan, Real Madrid and Bayern Munich, with turnovers in the 2002/03 season of €218m, €200m, €192m, and €162m respectively (Deloitte and Touche, 2004c, pp. v-vii). Both Liverpool and Arsenal trail these clubs financially, and could suffer should their financial ability to compete be constrained.

The effect of the Champions League has therefore been to consolidate the financial inequalities heightened by the formation of the FAPL and its lucrative television deals. The domino effect of this has been extensive. The plight of Leeds United illustrates the dangers of aiming for European success only to fall short. Conversely, regular qualification for the Champions League places clubs at immediate advantage to the rest of the division through a cash injection of £15-30 million per season.[1]

The consequential effect has been for the ‘bigger’ clubs of the FL to demand a greater slice of the Football League’s income in order to broach the gap with the FAPL. Speculation regarding a ‘Phoenix League’ and the integration of Celtic and Rangers was eventually quelled by restructuring the FL’s board and management, which has seen the top division of the FL, now named ‘The Championship’, gain greater decision-making influence and financial autonomy. This has involved the appointment of a director with specific responsibility for the FL Championship in order to ‘close the gap with the FA Premier League from both a quality and financial perspective.’[2] As a consequence the income gap between the FL Championship and the FL One and Two, may also grow. The consequences of these changes have been and will continue to be twofold. It will increase the levels of risk as income streams will be more dramatically affected by relegation, and it will also limit the ability of the economically smaller clubs to gain promotion, thus diminishing an element of competitive uncertainty.

In reality, it is inevitable that different participants will have competing interests. The milieu in which Manchester United competes will never be the same as Macclesfield Town’s. Similarly, there will always be a divergence of interest between the professional game and the amateur game. Each agenda has its merits, whether grassroots development, financial stability, or the pursuit of European glory.

What this means, however, is that the governing body must be strong enough to withstand the demands of the more powerful organisations, and be able to govern neutrally and effectively, making decisions that acknowledge the merits of the various respective interests.

[1] In the 2003-04 season Manchester United earned CHF 42.5 million (approximately £18.2m) and Arsenal CHF 43.3 million (approximately £18.6m) from UEFA alone. These figure do not include match-day revenues (*UEFA Direct*, July 2004: 8-9).
[2] http://www.football-league.premiumtv.co.uk/page/WhosWho/0,,10794~83584,00.html

2. The Governance and regulation of English football

The various problems clubs encounter are heightened by a governance framework in which professional games plays a significant role in regulating itself (see Figure 1.1). This is exacerbated by variable standards of governance and management. Added to this is the competitive imperative that characterises organisations operating in a sporting context. The continuous struggle for a higher position, whether that be rising up a division, promotion from one division to another, or challenging for the Premier League title, means that resources are constantly stretched. In the pursuit of ambition, clubs will frequently overstretch.

An effective governance structure cannot solve the financial problems of clubs alone. However, the financial problems that clubs encounter are intrinsically affected by the governance and regulatory structures in which they operate. Problems associated with the governance framework will need to be addressed within that context, alongside the separate need for a pragmatic, policy driven responses to excessive risk taking and managerial deficiency.

Chapters 2 and 3 of this report look at the corporate governance of clubs, and identify the areas where clubs, of their own accord, can raise standards and manage their financial affairs more transparently and more effectively. However, the governing bodies should take a lead through improving standards and ensuring that clubs adhere to the regulations. In *The State of the Game 2003*, we reported that the Football Association and, in particular the Football League, had started to take a more proactive role in monitoring and enforcing good governance at clubs. Here we look at developments over the course of the last twelve months.

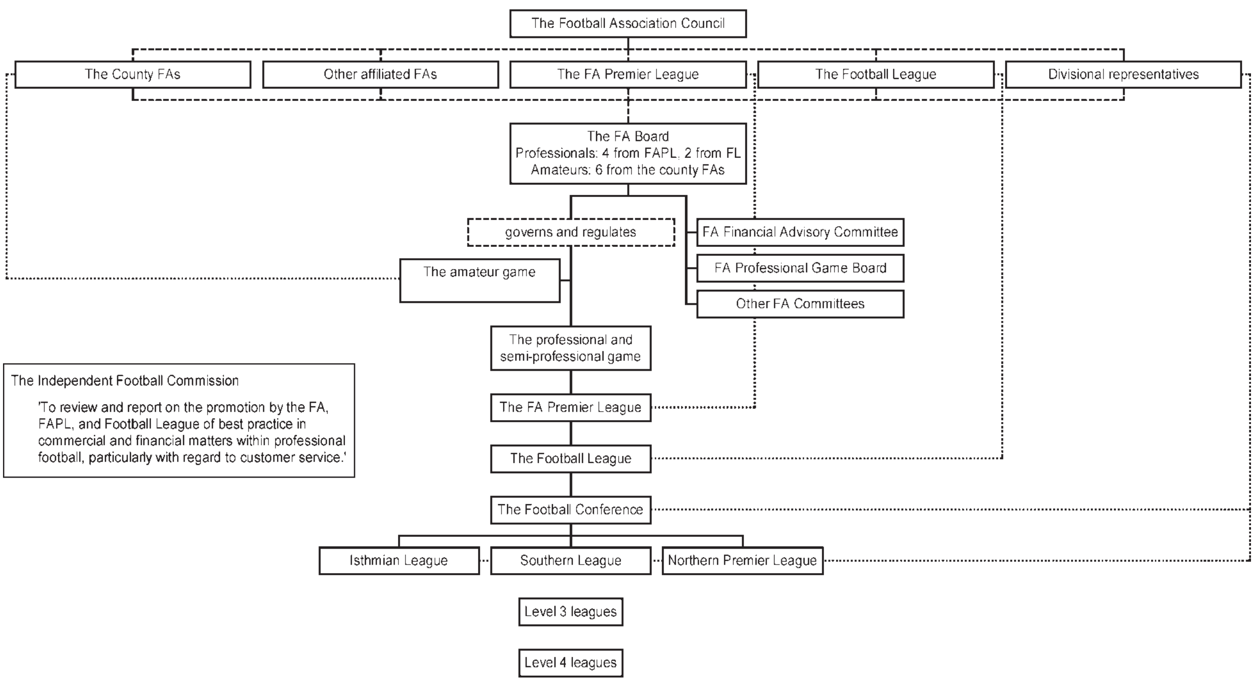
2.1 The Football Association

The Football Association has declared its intention to make governance a priority. In the 2003/2004 Annual Review, former chief executive Mark Palios stated:

> 'When I arrived at Soho Square, development of the game was one of my two priorities. The other was governance. We had to be seen to be governing with integrity' (The FA, 2004, pp. 4-5).

Media focus on governance developments at the FA has largely concentrated on the revision of the disciplinary procedures, and the review of doping procedures in the aftermath of the Rio Ferdinand case. As important as these issues are, we believe that the

Figure 1.1 Football's Regulatory Framework



integrity of the game has been undermined more by financial concerns in an era of unparalleled wealth, than the delays involved in Rio Ferdinand's doping case.

However, it is fair to say that the FA has made some steady progress. The IFC Annual Report 2002 stated that the Financial Advisory Unit (FAU) of the FA had enjoyed 'some successes' (IFC, 2002, p. 44). In the 2003 report, the IFC found that 'issues of governance are now being purposively addressed by the FA' adding that 'the FAU continues to contribute to raising standards of financial administration and control in the Football League and feeder leagues'. However the IFC also found that much more needs to be done.

Last year we reported that the Football Association finally convened the Financial Advisory Committee (FAC), to which the FAU will report. This encouraging move is an attempt by the authorities to play a more proactive role in the governance of clubs. The remit of the committee is as follows:

'To review and assess the adequacy of financial controls throughout football. In exercising this, the committee shall consider the following:

a) the adequacy of corporate governance at each level of the game
b) the overall financial health of clubs
c) the manner in which any applicable policy for dealing with insolvent clubs has been observed
d) consideration and regulation of material transactions
e) applications from a club to significantly change their interest in their stadia.'

(FA, 2004: p. 24)

The FAC consists of an independent Chair, Kate Barker, also a member of the Bank of England's monetary policy committee, Dan Corry, also an independent member, and representatives of the FAPL, the FL, the Football Conference, Southern League, Isthmian, and the Northern Premier League.

The introduction of the FAC has given a clear reporting line to the FAU, which in turn produces an annual report for the FAC. The remit of the committee certainly gives it the authority to consider wide-ranging initiatives regarding the finances and good governance of the game. According to the FA Annual Review, the 'work streams' include:

i. A detailed review of the cash flows in the game, which will identify sources, flows and use of funds in the game.

ii. Research into the merits of a domestic licensing system.

iii. The possibility of a single comprehensive financial reporting requirement on clubs and to establish a code of corporate governance and good practice for football, against which directors must report.

iv. The establishment of a 'fit and proper person' test for directors with sanctions applicable to directors for breaches. Directors should also make an annual declaration that their club will be able to trade at their ground for the full season.

v. The introduction of regulations that will require the identification of agents, managers and other coaching staff involved in transfer or contract negotiations, and to find ways in which greater transparency can be brought to the process.

vi. To look at requiring new owners of clubs to provide credible proof of funding plans.

(FA, 2004: p. 15)

The list is substantive and, if followed through, has the capacity to have a positive impact on the governance of clubs. As things stand at present, significant progress has been made. The FA has overseen the implementation of a 'fit and proper person' test for the FA Premier League and Football League and work is under way on a code of good governance and good practice for football – also a recommendation of *The State of the Game 2003* and the IFC (2003). Significant progress has been made in the additions to the FA's Form A, an annual declaration to be made by the boards of all the professional and semi-professional clubs[3]. Boards must now agree to the following:

i. The board/committee is committed to the long-term health and stability of the Club in the community of which it has traditionally been a part.

ii. After making enquiries of the current financial position of the club and having undertaken a budgetary process and risk assessment, the board/committee considers that there is a

[3] Includes members of the FA Premier League, the Football League, the Football Conference, the Isthmian Football League, the Northern Premier Football League, and the Southern Football League.

reasonable expectation that the club has adequate resources to be able to meet its fixtures for the season 2004/05.

iii. The club has security of tenure of its authorised home ground to meet its fixtures for the season 2004/05, or has made alternative arrangements for the use of a ground that has been approved by the football authorities.

iv. The club acknowledges that it will at all times abide by the rules and regulations of The Football Association, the league of which the club is a member, UEFA and FIFA.

Thus, the additions to Form A against which clubs, boards and directors must report, requires that clubs must adhere to certain minimum governance standards, including security of tenure. Furthermore, Clause (i) makes it clear that clubs should not consider following the example of Wimbledon (now Milton Keynes Dons FC) by relocating outside the community of which the club has 'traditionally been a part'. These additions to the Form A are to be welcomed as part of an ongoing process that tightens the organisation's grip on the regulation of clubs.

Also vital to the process is the enforcement of sanctions of those that breach the requirements as laid out in Form A. This has also been progressed by the introduction, as recommended by the IFC, of a Compliance Department 'dedicated to the enforcement of proper corporate and financial governance' (IFC, 2003, p. 27). The IFC also recommend the formation of a 'properly constituted Compliance Advisory Committee'. Such a committee has yet to be introduced.

2.2 The Football League

Over the past year, the Football League has introduced a number of governance initiatives to which its clubs must adhere. In *The State of the Game 2003* we broadly welcomed the introduction of sporting sanctions for clubs entering administration and a salary cost management protocol for last season's division three (now League Two), in which clubs are not permitted to spend over 65 per cent of turnover on player wages. In the 2002/03 season the wages to turnover ratio in League Two, was 68 per cent, down from 86 per cent in 2000/01. Deloitte and Touche comment that the improvement seems to have been reinforced in 2003/04 (Deloitte and Touche, 2004a, p. 7). The FL has built on this foundation and the protocol now applies also to League One.

Concern about the high level of fees paid to agents in the transfer of players has also prompted the FL to introduce a new regulation, making it compulsory for clubs to register all payments made to agents during the course of a transfer with the FL. The League will then report the figures on a six monthly basis. The reporting of the fees brings a new transparency, revealing what agents are costing each club.

One might argue that the percentage of a transfer fee an agent receives, around 10 per cent, is not excessive and is comparable with other businesses. However it is not the percentage of the fee that is the issue, but the service the agent performs. For what purpose is the agent employed by clubs, especially in the transfer of well-known players? What service has the agent provided in return for the fee, and is that service necessary? The role of the agent is shrouded in mystery, and there remains concern about what happens to the agents' fees after they have been paid. Are portions of the fee paid to players and coaches, for example? This should be the first step in a process that will scale down the role of agents, and the sums paid for services that appear less than onerous.

After years of prevarication by the authorities, the Football League has introduced a 'fit and proper person' test into its rules, for both club directors and majority shareholders. The rule will prevent the following individuals from being either a director of a football club, or from holding a majority interest:

- Anyone subject to a ban from a Sports Governing Body relating to the administration of sport
- Anyone with an unspent conviction relating to fraud or dishonesty
- Anyone currently subject to a bankruptcy order
- Anyone who has been a Director of a club that has been in administration twice during a five-year period or a Director of two different clubs that have each gone into administration in a five-year period.

(www.football-league.co.uk)

The FL has also introduced a regulation making it mandatory for clubs to indicate in player contracts of more than one season's duration, the remuneration levels the player receives in each division, during the term of his contract.

This is an area which is vital in ensuring clubs have a sound financial base. Deloittes argue in favour of the introduction of ‘a far greater performance related element into all contracts’ and suggest that such contracts may have ‘motivational benefits’ (Deloitte and Touche, 2004a, p. 3). However, Deloittes also correctly note that whilst there is a collective interest in keeping wages low, individually clubs seek to gain an edge by offering more attractive contracts than other clubs. This is the competitive imperative at work. In the context of financial pain, and given the plight of clubs relegated from the FAPL, collective action by the FL (and also the FAPL) may be the only way to address this issue effectively. This initiative of the FL is therefore an appropriate start.

As well as appointing Sir Brian Mawhinney last year as independent Chairman, the FL has also appointed an independent non-executive director (Ian Ritchie) to the FL board, with the intention to bring in another non-executive director within the next twelve months. According to the Combined Code, ‘the Board should include a balance of executive and non-executive directors (and in particular independent non-executive directors) such that no individual or small group of individuals can dominate the board’s decision making’ (Committee on Corporate Governance, 2003, p. 6)

The prioritisation of good governance has coincided with Sir Brian Mawhinney’s chairmanship. The power vacuum and financial crisis left in the wake of the collapse of ITV Digital appears to have allowed Mawhinney to use his political acumen to lead the clubs, and to drive forward measures that the clubs have been persuaded are in their best financial and sporting interests. It also indicates that the FL is intent on setting an example by improving its own governance procedures, as well as those of the clubs.

Perhaps the most impressive aspect of the Football League’s new measures is that the clubs themselves have supported them. Even as ‘autonomous businesses,’ it is in the clubs’ best interests to operate within a framework of benign intervention that helps protect clubs, and sanctions those that breach regulations. In a organisation consisting of 72 League chairmen, this can again be considered a significant achievement of the chairman, board and management of the FL.

2.3 The FA Premier League

It could be argued that the higher standards of financial management in the FAPL negate the need for tighter regulation and the imposition of new governance measures. Indeed the IFC report that there is a ‘new generation of financial directors in place at Premier League clubs, raising standards’ (IFC, 2003, p. 31). That is, of course, to be welcomed. Reflecting on a period of consolidation in the FAPL, Dan Jones of Deloitte remarks: ‘Analysis clearly shows an overall improvement in Premiership clubs’ finances. Whilst revenues continue to grow strongly, of more significance – and potential benefit going forward – is that the growth in wages was the lowest rate since the formation of the Premiership. Lower wage growth, combined with a much-reduced level of transfer spending, provides evidence of stronger financial management’. In terms of operating profitability, the Premiership continues to be the most successful league in the world (with the average club generating an operating profit before player trading of £6.2 million), well ahead of the German Bundesliga, the next most profitable league (Deloitte and Touche, 2004b).

However, the spectacular collapse of Leeds United demonstrates the inadequacies of the FAPL’s system of financial regulation. Whilst officers of Leeds United bear a heavy responsibility, any sporting framework that allows for such levels of risk to go unchecked should act as a warning against complacency.

Other clubs also teeter on the edge of the financial crisis that could arise from unexpectedly poor performance. Chelsea FC was reportedly saved from insolvency by Roman Abramovich,[4] and other clubs have large debts incurred through securitisation deals. In the FAPL these include Newcastle United (£55m), Southampton (£25m), Everton (£30m), Manchester City (£44m), Tottenham Hotspur (£75m available) and Norwich City (£15m) (Deloitte, 2004a, Appendices, p. 13).[5] Relegation from the FAPL could fundamentally affect a club’s ability to meet such obligations.

In this context, new regulatory measures introduced by the FAPL are to be welcomed. The collapse of Leeds United was the catalyst for the decision to deduct nine points from clubs that enter administration under Rule C58.1 (FAPL, 2004, p.24). The FAPL has introduced its

[4] See David Conn, ‘Behind Abramovich’s dream lurks a nightmare of Russian intrigue’, *The Independent*, 10th April 2004.
[5] See also David Conn, ‘Financial clouds cast gloom over Manchester City’s new dawn’, *The Independent*, 17th April 2004.

own ‘fit and proper person’ test along the same lines as the FL. It will be interesting to see the extent to which this rule is complied with and monitored. Additionally, annual directors’ reports will see clubs set out statements of transactions, including payments to agents and other third parties to the football authorities as and when required. Furthermore, clubs must now declare shareholdings to the FAPL to ensure that dual ownership rules are being adhered to.[6]

These new measures are to welcomed. However, we would also argue that regulations with regard to players’ contracts would also be desirable. Relegation from the FAPL to the FL, and the consequent paying of Premier League salaries with Football League incomes has been a central cause of financial crisis at clubs such as Bradford City. It would therefore be appropriate to introduce a similar regulation to that introduced by the FL, whereby it is mandatory for clubs to indicate in player contracts the remuneration levels for each Division a player might play in, during the term of his contract.

There also remains concern regarding the co-operation of the FAPL with regulation by the FA. The IFC notes in its annual report that the FAU has had no role with regard to the FAPL, arguing that the FAPL ‘cannot exclude itself from scrutiny by the way in this or other areas … whatever the Premier League’s view of its competence, the regulatory role pertains.’ (IFC, 2003, p. 29). Whilst this is not altogether correct (the FAU played a significant role in developing the English version of the UEFA License) there is evidence of both reluctant engagement with new regulatory measures, and efforts to dilute proposals that could, in total, amount to a more effective system of regulation.

For example, according to FA Board meeting minutes, in December 2003, Southampton FC chairman, Rupert Lowe ‘considered the concept and approach of the FAC to be flawed’ and queried ‘why the FA should be involved in such matters, and why it had not been done five or more years ago when it might have been more relevant’.[7] However, as former FA Director of Corporate and Legal Affairs Nic Coward responded: ‘Similar proposals had been made in 1994 and 1995, but had not gone forward following representations made by the Premier League’.[8] It is remarkable that a member of the FA Board should question the financial regulatory role of the FA given that ‘the long-term financial viability of the game as a whole’ is a stated organisational objective (The FA, 2002, p. 7).

There is also evidence that the FAPL has sought to slow the regulatory initiatives promoted by the Financial Advisory Committee of the FA. For example, there has been a divergence between the FAPL and the FA over what the FAC ‘work streams’ should consist of. The minutes to the second FAC meeting on the 11th November 2003 include the agreed FAC responses to the recommendations made in the 2003 FAU report. However, the FAPL later wrote to Nic Coward, then the FA’s Director of Corporate and Legal Affairs, raising doubts about the decisions made by the FAC in the Responses Document.

For example, the FAC was recorded as agreeing ‘to consider the opportunities … for the coordination of data streams submitted by clubs, and the possibilities of using this information for developing a benchmarking exercise’. The FAPL responds ‘clubs will be reluctant to release sensitive information or partake in benchmarking exercise except on the least controversial issues.’ The FAC also records that it agreed to look at regulating the transfer of majority shareholdings in clubs by requesting ‘confirmation of the new owner’s/directors funding plans, and evidence of this funding’. The FAPL viewed this as ‘impractical’.[9]

In summary, whilst recent initiatives introduced by the FAPL are to be broadly welcomed, they fall short of those introduced by the Football League, with no requirements pertaining to players’ salaries, and concerns over the co-operation of the FAPL with regard to external regulation. Furthermore, whilst the FL has re-evaluated its own governance structures, and introduced an independent non-executive director, the FAPL board has yet to follow this good governance practice.[10]

2.4 UEFA and UEFA Licensing

In the last twelve months, the European governing body has grasped the regulatory agenda. Both the previous and current Chief Executives – Gerhard Aigner and Lars-Christer Olsson – have warned against football becoming overly commercial.

[6] See ‘Governance Measures Announced’, www.premierleague.com
[7] The Football Association. Committee Reports Received at the Council Meeting Held on 15th March 2004: Board Meeting (meeting as General Purposes Committee), minutes of a meeting held on 16th December 2003.
[8] The Football Association. Committee Reports Received at the Council Meeting Held on 15th March 2004: Board Meeting (meeting as General Purposes Committee), minutes of a meeting held on 16th December 2003.

[9] The Football Association: Committee Reports Received at the Council Meeting Held on 15th March 2004, pp. 44-68.
[10] The Combined Code (Committee on Corporate Governance, 2003, p. 7) states that a director cannot be considered independent if he or she ‘has been an employee of the company within the last five years’.

Regulatory proposals announced by Olsson regarding European competition have the capacity to impact on both the international and the domestic game. There is a proposal to limit the size of squads to 25, and also a proposal to ensure that clubs play with a minimum of seven or eight players deemed to be 'homegrown'.[11]

Should such proposals be introduced to European competition it is probable that there would be consequences for domestic competition. Given that the Champions League represents a key target of Manchester United, Arsenal and Chelsea, it seems unlikely that the clubs could deploy two separate squads for domestic and European competition. With the top clubs potentially having to include more homegrown players, the ability to develop and coach raw talent will grow in importance by comparison with the significance of a club's financial base. The top clubs may face increasing competition, impacting on competitive balance.

Perhaps the most interesting aspect to these proposals is the confidence that UEFA has in bringing them forward. With the potential to erode competitive advantage, the proposals are unlikely to be popular with the wealthier clubs. Furthermore, UEFA refuses to recognise the G14 organisation,[12] and communicates with the professional leagues and the larger clubs through its statutory structures, including the European Club Forum. This reveals the contrasting influence that the larger clubs have within the domestic and international bodies. Whilst the FAPL are constitutionally guaranteed influence as members of the FA council and board, the national associations are the sole members of UEFA. Any influence the clubs exert is therefore through the national associations, and other statutory mechanisms such as the Professional Football Committee. There is no club representation on the UEFA Congress, Executive Committee, or on the judicial organs.

Whilst the proposals above are issues for the future, the UEFA Licensing system represents a new foray into the direct regulation of clubs. Concerns were raised by the FAPL about its introduction when FAPL chairman Dave Richards told the FA board that the FAPL were worried that 'its clubs would fully comply only to find that other national associations do not apply the regulations fully.'[13] Whilst the concern might be legitimate, the responsibility of the FAPL is to ensure that its own clubs adhere, and to let UEFA concern itself with the transgressions of others.

The licensing system has been introduced to combat what Olsson has referred to as 'financial doping'[14] and also includes legal, infrastructural, personnel and administrative criteria. Whilst the initial demands are relatively straightforward, the demands will become more rigorous in forthcoming seasons. In the 2006/07 season for example, clubs will need to submit a liquidity plan, proving a club's ability to meet liquidity needs for the period to be licensed. Clubs will also need to produce Financial Licensing Documentation (FLD), which includes balance sheets, and profit, loss and cash flow data. The third phase of implementation will demand that clubs show proof of positive equity.

The system may amount to a significant extra tier of regulation and has the potential to have a positive impact on governance. The fact that all FAPL clubs have the possibility of qualification for European competition, most notably through the Carling (League) Cup and the FA Cup, means that UEFA Licensing will have to be taken seriously: Millwall's qualification for the UEFA cup for the season 2004/05 demonstrates that clubs outside of the top division will also have to give thought to achieving the requisite standards. Indeed, 'Licensing' is one of the work streams of the FAC, which indicates that the possibility of introducing licensing below the FAPL is under consideration.

These are bold moves by UEFA, and the scope and international nature of UEFA as an organisation, operating without the excessive influence of the FAPL, means that the Licensing System has been introduced with very little obstruction from the elite clubs.

3. Proposals for improved governance

The pragmatic policy-based initiatives undertaken by the football authorities have gone some way to easing the financial problems clubs have encountered over the last year. Careful monitoring of clubs, and the enforcement of existing and new regulations will undoubtedly go some way towards improving standards of governance and financial management. However, we believe that there is still much that the authorities can do. Pragmatic policy-based initiatives will only go so far in protecting the long-term health and good governance that the game requires.

---

[11] 'Homegrown remedies vital – Olsson', www.uefa.com, Monday, 26th July 2004. http://www.uefa.com/uefa/news/Kind=128/newsId=209890.html

[12] See http://www.g14.com

[13] The Football Association. Committee Reports Received at the Council Meeting Held on 12th November 2003: Board Meeting (meeting as General Purposes Committee), minutes of a meeting held on 16th September 2003.

[14] 'Keeping the House in Order', www.uefa.com, Monday, 19th July 2004. http://www.uefa.com/uefa/News/Kind=128/NewsId=208440.html

Proposed solutions have varied. The Football Supporters' Federation published the *Fans' Blueprint for Football*, in May of last year (FSF, May 2003, p. 15). The document is an interesting and radical riposte to governance *status quo*. For example, the *Fans' Blueprint* argues for 'the creation of one unified governing body governing all levels of football in England to replace the current multiplicity of leagues and associations.' It also argues in favour of 'the introduction of revenue sharing between all professional clubs where one quarter of all league TV and gate revenue (including executive boxes) is pooled and divided equally'.

The existing governance structures, and the influence of the FAPL within them ensure that such initiatives are unlikely. Nevertheless, the *Fans' Blueprint* makes a series of informed and sensible recommendations that are well within the realms of possibility. For example, The FSF argues for 'an annual club licensing system to be introduced over a five year period' of which a condition of licensing is 'to include a ban on unfounded revenue deficits'. It also argues in favour of the 'development of clear legally enforceable rules to prevent clubs selling their grounds without the explicit prior agreement of their supporters and another ground provided in the same town'. Indeed, these recommendations echo the objectives of the FAC for the forthcoming year.

We would argue that the two best hopes for structural solutions to the problems facing English football are through the evolution of the structure of the FA in line with stakeholder models of governance, and through the consolidation of the IFC within the regulatory framework.

3.1 The modernisation of The Football Association

Last year's *State of the Game* report raised questions about the FA's ability to regulate neutrally and effectively in view of the growing influence of the FAPL. It remains the case that its organisational structure continues to favour the interests of the larger clubs.

The recent upheaval that has seen the demise of yet another FA chief executive has again drawn attention to the ability of the organisation to govern effectively. Whilst the demise of Adam Crozier was caused by the growing power of the professional game, Palios' resignation was the result of managerial deficiencies, exacerbated by individual errors of judgement.

Whilst the FA ought to have had a policy relating to the media interest in the private lives of its staff (indeed it is remarkable that it did not given the media interest in Eriksson's private life), two exceptionally poor decisions were the catalyst for a crisis: the decision to threaten legal action over allegations relating to the England coach; and the hasty decision of Geoff Thompson to clear Palios of wrong-doing before the finalisation of enquiries.

Furthermore, whilst the decisions taken did not relate to the governance structure of the organisation *per se*, it could certainly be argued that the structure of the organisation limits the pool of talent from which the key decision makers are drawn. That the powerbrokers of English football are drawn exclusively from the county FAs and the professional game constrains the ability of the organisation to make balanced, effective, broad-based decisions. The representatives of the county FAs have been criticised for being out of touch and indecisive. Conversely, the representatives of the professional game have been accused of attempting to strengthen their grip over football's decision-making structures, and its finances.

Neither the county FAs, nor the professional game have provided the necessary strategic direction required to run a multi-million pound organisation covering all levels of the football industry. Despite the contrasting criticisms of the two sets of representatives, what they both have in common is the self-interested and short-sighted instinct to protect their own positions.

It will be important to ensure that the resignations, consequent power vacuum, and the imminent structural review, are not used as a justification to hijack the organisation in order to consolidate the influence of the professional game. This is an agenda that is slowly being pursued. FAPL representatives on the FA Board have already argued in favour of giving the professional game more control of the organisation's commercial properties. One FAPL member of the FA Board has stated, 'the inherent conflict between the governing body role and the operator of the England team and the FA Cup needs to be looked at' and that 'serious consideration should be given to moving those more commercial operations away from the body which has responsibility for governing the game.'[15] However, there is no genuine conflict of interest in controlling the FA Cup and the England team, and being the governing body. To govern effectively an organisation needs to maximise

[15] The Football Association: Committee Reports Received at the Council Meeting Held on 15th March 2004: Special Board Meeting (meeting as General Purposes Committee), minutes of a meeting held on 20th January 2004.

the resources available to it, and to have control over resource allocation. Thus, suggestions to separate resources from governance are misplaced and would appear to be motivated by the simple desire to prise the FA's most valuable properties out of the hands of the organisation as a whole.

The Professional Game Board (PGB) has been formed as a vehicle through which such an agenda can be pursued. At the same FA board meeting, Rupert Lowe argued that 'greater responsibility for commercial matters should rest with the PGB' and that 'a large part of responsibility for the FA as the leadership of the game would be addressed through this … without the need for unnecessary reviews and initiatives.' Lowe also argues that the 'structure of the FA should alter to allow it to focus on its regulatory role'.[16] However, a prime regulatory objective of the FA is to promote 'the long-term financial viability of the game as a whole' (The FA, 2002, p. 7), therefore it is essential that it retains responsibility for financial regulation.

There is little doubt that the professional game, through the PGB and other structures will continue to pursue this agenda. Since its formation, the issue of payments by the FA to clubs for the use of its international players has been a running theme, despite such payments being against FIFA regulations (FIFA, 2004, p. 17). Nevertheless, a number of club chairmen have stated that they are in favour of payments.

The professional game is pursuing its own agenda: to gain control and influence over the FA's most valuable commercial properties, and to gain an ever-increasing control of the money flowing through the game. The consequences could be disastrous, not only for the equitable distribution of the money that football generates (the National Football Centre has been mothballed despite the poor showing of the England team in Euro 2004[17]), but also for the already compromised neutrality of decision-making within the governing body. Furthermore, the demands for greater control over the FA's revenues have only come since the FA itself created extra value from its commercial assets (see Holt, Michie and Oughton, 2003, p. 136). This points to little other than the eagerness of the professional game to grasp the extra resources that it is yet to fully control. We would argue that not only is this blinkered and characterised by self-interest, but that it is also out of touch with supporters and others working directly within the game, across the various leagues, divisions and organisations.

Press comment in the aftermath of Palios' resignation saw advocacy for government intervention and the amalgamation of the FA, FL, and FAPL.[18] Neither seems a likely scenario at present. Government has essentially absolved itself of responsibility with its rejection of an independent regulator following the reports of the Football Task Force. Also, the FAPL is unlikely to surrender its financial autonomy by agreeing to an amalgamation of the three authorities. Nevertheless, we do believe that the opportunities exist through which football governance can be reformed in order to restore balance, stability and integrity to the game.

We recommend, in order to restore neutrality and impartiality to FA decision making, that the structure of the Main Board of the FA be modified. As we reported in *The State of the Game 2003*, the FAPL currently commands four seats on the FA Board compared to two for the FL. Given that FAPL clubs represent only 20 of 92 professional clubs, we believe the number of FAPL positions on the Board should be reduced. Following the lead of the FL, we would also support the introduction of independent non-executive directors on to the FA Main Board. This would instil greater independence into decision-making, and would also bring the organisation into line with the recommendations of the *Combined Code*, which states a board should: 'include a balance of executive and non-executive directors (particularly independent non-executive directors) such that no individual or small group of individuals can dominate the board's decision making'. Such appointments should be 'independent in character and judgement' and procedures for appointment should be 'formal, rigorous and transparent' (Committee for Corporate Governance, 2003, pp. 7-8).

The use of independent co-options to FA committees would also instil greater independence to FA procedures. The appointment of Kate Barker and Dan Corry to the FAC has added credibility and has lead to the introduction of positive policy initiatives. As the committee responsible for the financial structure of English football, and the introduction of new regulatory initiatives, we would also support the strengthening of the FAC by increasing the number of independent

[16] The Football Association: Committee Reports Received at the Council Meeting Held on 15th March 2004: Special Board Meeting (meeting as General Purposes Committee), minutes of a meeting held on 20th January 2004.

[17] According the www.thefa.com, the centre was to provide 'a state of the art facility for all aspects of the game in this country' including 'coach education, player development, research, sports science … The new centre will also play a pivotal role for all England's National Teams.'

[18] James Lawton, 'Men of Principle Must Rescue National Game from Disgrace' *The Independent*, 2nd August 2004; Henry Winter, 'Merger of the Big Three Can Save the Game' *The Daily Telegraph*, 3rd August, 2004.

members serving the committee. We would also recommend that the FAC commission independent research into the relevant financial and governance issues in order to fully inform the decisions taken by the committee.

There is support within the FA board for the introduction of new people and skills. Peter Hough of the Dorset FA has argued that there 'is great merit in a comprehensive co-option policy to introduce talent on to FA Committees'. Chairman Geoff Thompson agreed. Barry Bright (Kent FA) and Roger Burden (Gloucestershire FA), however, were both 'sceptical that the Council would see any merit in changing the constitution'.[19] Again, for such a policy to be effective there must be a rigorous, transparent and meritocratic co-option procedure in place.

Whilst changes to the composition of the FA main board and FA committees would be welcome, more fundamental change will be required to make the FA the modern, dynamic, and – crucially – representative organisation it needs to be. Other initiatives need to be considered that do not just tinker with the existing structures of the FA, but constitute a real change in the way the FA. is structured.

Both the All Party Football Group, and the IFC argued in favour in broadening representation within the Council. Both focus on the need for greater ethnic representation (IFC, 2003, p. 37; APFG, 2004, p. 17). A recent report by the Commission for Racial Equality also notes a 'striking disparity' between the high number of black footballers and the under-representation of ethnic minorities in the national football organisations (CRE, 2004: p. 42). The FAPL chairman Dave Richards has also advocated a broadening of the Council. At an FA board meeting earlier this year, Richards stated that 'the Council needs to be fully representative of all aspects of the game in order to have credibility. Mr Richards did not believe that this was the case at present.'[20]

We would concur. Given that the FA Council currently includes the anachronistic representatives of the Independent Schools, Oxford and Cambridge University, the Army, RAF, and Navy, the inclusion of representatives of supporters (especially given the formalisation of their representative structures), professional footballers, and referees and officials, should not be beyond the realms of possibility. Inclusion should not mean some dubious exercise in 'consultation', but full incorporation of those that are not simply 'stakeholders', but fundamental participants in English football. Unfortunately, a broadening of the FA Council is not something we should readily expect. The FA Board has already rejected the possibility of supporter representation through the Football Supporters' Federation, arguing that it was 'not appropriate in the light of the constitution of the Football Association'.[21]

Nevertheless, the FA has much to gain both in terms of its credibility and its ability to make balanced and creative decisions.

3.2 The Independent Football Commission

One of the most interesting developments in football governance in the last three years has been the formation and work of the Independent Football Commission (IFC). The IFC has been criticised for being funded by the authorities it polices, and for lacking authority to impose its recommendations. The football authorities had lobbied vigorously against the formation of a Football Audit Commission with teeth, as recommended by the Football Task Force (Football Task Force, 1997). The acquiescence of the government led to the formation of the IFC, a diluted version of Task Force proposal.

It is not the purpose here to evaluate all the recommendations made by the IFC, but to evaluate the IFC in relation to football's governing structure. The three-year term of the IFC ends in December 2004, and in the summer of 2004 it was agreed to extend the IFC's term of office under essentially the same remit.

Initially, the football authorities were less than co-operative with the IFC. There was scepticism about its role, and efforts to limit its work to a strict interpretation of its terms of reference. According to the IFC itself:

> 'The football authorities referred the commission regularly to its terms of reference with clear determination that they should be narrowly and strictly interpreted … this manifested itself in a reluctance to share information, and to allow the

[19] The Football Association: Committee Reports Received at the Council Meeting Held on 15th March 2004: Special Board Meeting (meeting as General Purposes Committee), minutes of a meeting held on 20th January 2004.
[20] The Football Association: Committee Reports Received at the Council Meeting Held on 15th March 2004: Board Meeting (meeting as General Purposes Committee), minutes of a meeting held on 20th January 2004.
[21] The Football Association: Committee Reports Received at the Council Meeting Held on 18th March 2003: Board meeting (meeting as General Purposes Committee), minutes of a meeting held on 14th February 2003.

> IFC access to materials it asked to see, and resulted in frustration on behalf of the commission' (IFC, 2004, p. 11).

Indeed, there remains a diversity of views with regards to the *modus operandi* of the IFC:

> 'Two of the governing bodies stand at opposite ends of the spectrum in reflecting on working relations with the IFC. One felt that mutual trust was improving but could be further improved, and that the IFC is still sometimes perceived as unnecessarily assertive. The other welcomed the warm working relationship, the trust and confidence that had been established, and the help the IFC has provided in pushing change agendas forward. The third governing body stood somewhere between these two views, with nonetheless clearly expressed confidence in the IFC' (IFC, 2004, p. 12)

However, as the IFC point out, 'some degree of tension between a regulatory body and those whose work it is scrutinising is usual and healthy' and also that in 2003 'working relations between the IFC and the governing bodies settled into an easier pattern of operation' (IFC, 2004, p. 11). Moreover, it is much more difficult to create a new organisation than to dispose of an existing one, and encouragingly the IFC reports that the football authorities accept the IFC as part of football's infrastructure, and expect it to continue (IFC, 2004, p. 12).

A major question for the football authorities, and for the governance structure of English football as a whole, is the role of the IFC for the future. More specifically, this relates to the funding, the constitution, and more broadly the level of access, independence and authority that the IFC will have in the coming years.

Both the source and level of the IFC's funding are issues that require resolution. The IFC argues that although it receives money from the authorities it oversees, this does not compromise its work, and is typical of self-regulatory regimes. However, the All Party Football Group recommended that the IFC receive money directly from government in order to demonstrate 'genuine independence' (APFG, 2004, p. 19). Indeed, the IFC itself notes that, 'as the funders and creators of the IFC they (the football authorities) expect to decide its future role and to appoint, under the Nolan principles, its chairman' (IFC, 2004, p. 12).

It is difficult to see how an organisation can be wholly independent, when the appointment of the key figure is in the hands of those being scrutinised. If it is to be an effective independent regulator, it should not be financed by the bodies it seeks to regulate. Regardless of the model adopted – self-regulation or independence - it seems clear also that the IFC's resources need to be increased. The revelation that the IFC has a £1000 a year rent budget (IFC, 2004, p. 18) is an indication that the ability of the organisation to fulfil its responsibilities as effectively as possible, may be affected by the limitations of its resources. The IFC has also reported problems regarding access to information held by the governing bodies. Clearly, this is a critical issue, as informed opinions and recommendations can only be made on the basis of full information, which can only be gained from near full access.

Critically, the level of independence and the authority the IFC has will define whether the IFC can provide a long-term sustainable structural solution to some of the problems that characterise the peculiar governance issues facing the football industry. As the IFC has pointed out these range from the absence of normal market forces, the history of government intervention, to the fact that football has three regulatory bodies – the FA, the FAPL and the FL. The IFC also conclude that there are public interest issues in common with other regulated industries, which come from both the emotional and financial investment the nation makes in football (IFC, 2004, pp. 21-22).

In their report on self regulation, the IFC articulated six different options for the future of both the IFC and regulation in general, ranging from discontinuation to statutory regulation. The IFC favoured what it termed 'a radically revised role and structure for the IFC'. The IFC's favoured proposal included the following measures:

- A stronger funding base – based on a small levy on football clubs, collected and delivered by a separate Board of Finance.
- Greater independence and authority.
- The investigative function to continue broadly as present.
- IFC responsibility for a new and powerful complaints mechanism (based on a rigorous code of practice, with the FA ceding some of the complaints role).

- Acceptance of the code, recognition of the IFC and its authority, and right to information written into the governing bodies' regulations as a condition of membership.
- DCMS encouraged to support the changes to the IFC's status as an alternative to statutory regulation.
- IFC commissioners to comprise lay representatives (majority) and experience from football industry.
- An increase in staffing.

As noted above, in the summer of 2004 it was decided that the IFC should continue under its current remit. However, we think that some of the above proposals are worthy of further consideration. While we don't necessarily agree with the proposal that the IFC should attain its funding from the clubs, there is a case for giving the IFC a broader range of powers, including the capacity to ensure that existing rules and regulations are adhered to and the capacity to ensure their recommendations are acted upon. Whatever form such moves might take, the IFC needs to be given sufficient authority to help restore the integrity of decision making.

4. Conclusion

Those responsible for governing English football face a challenging year. Much has been achieved over the last twelve months. The Football League in particular has introduced a series of initiatives that have the capacity to promote financial stability. The formation of the Financial Advisory Committee of the FA is also to be welcomed, and it is to be hoped that the committee, with the assistance of the FA's Financial Advisory Unit, can build on its achievements and make progress with its priority tasks. The introduction of the IFC has also changed the governance landscape. The IFC's brief should be extended, and its authority consolidated within the structures of the domestic game.

On an international level, UEFA has also taken a more proactive approach to regulating the clubs that participate in its competitions. UEFA Licensing, if rigorously enforced and extended should impact positively on the management and governance of clubs, especially as the demands become more stringent. It is to be hoped that the impact will trickle down to clubs in the lower leagues. Additionally the proposals to limit squad sizes and increase the number of homegrown players, if advanced and implemented, will help improve competitive balance in UEFA and other competitions. Given that the European Commission is coming to play an increasingly interventionist role in sport, we believe that the problems of governance and regulation will also be increasingly found at a pan-European level.

English football, however, remains characterised by the competition for resources and conflicts of interest. The fragmentation of the governance structure has left the FAPL with unequalled influence within the decision-making structures, which has in turn hampered the ability of the FA to govern independently and effectively. Any moves towards greater influence of the professional game over the governance of football should therefore be resisted. Every concession made to the FAPL will inevitably be followed by new demands. Such a process would be continually damaging. Increased control by the professional game would not just threaten the grassroots game and the financial well being of lower league clubs, it would also compromise the independence and neutrality of the governing body.

Any future structure for the game should be shaped by the wide range of participants involved in English football, rather than the present exclusive coterie. Sometimes the regulatory framework will favour one interest to a greater extent than another. Football's participants have different objectives and requirements, and interests will naturally diverge. This means, however, that the game requires a strong governing body, with a balanced composition, and a broad and inclusive approach to governance rather than the further accumulation of authority and control by the professional game.

References

All Party Parliamentary Football Group (2004) *First Enquiry Report: English Football and its Finances*, February

Committee on Corporate Governance (2003) *The Combined Code on Corporate Governance*

Commission for Racial Equality (2004) *Racial Equality in Football: A survey*. CRE Research Findings no. 2004/01

Conn, D. (1997) *The Football Business: Fair Game in the 90s?* Edinburgh, Mainstream

Conn, D. (2004) *The Beautiful Game? Searching for the Soul of English Football*, London, Yellow Jersey

Deloitte and Touche (2004a) *Annual Review of Football Finance*, August

Deloitte and Touche (2004b) ‘Football Finance: Improving Finance at Premier League Clubs’. Press Release, 4th April

Deloitte and Touche (2004c) *The Rich List: The Money League of the World’s Top Twenty Clubs*, March

FIFA (2001) *Regulations for the Status and Transfer of Players*

The Football Association (2002) *The Football Association Handbook: Season 2002-03*

The Football Association (2003) *The Football Association Handbook: Season 2003-04*

The Football Association (2004) *The FA Annual Review 2003-2004: Putting Football First*

The Football Association Premier League (2004) *The Football Association Premier League Handbook*: Season 2004-2005

Football Supporters Federation (2003) *FSF News*, May

Holt, M., Michie, J. and Oughton, C. (2003) ‘Corporate Governance and the Football Industry’ in Trenberth, L. (ed.) *Managing the Business of Sport*. Palmerston North, Dunmore Press

Independent Football Commission (2002) *Annual Report 2002: Pushing the Pace of Reform*

Independent Football Commission (2003) *Annual Report 2003: A Call for Unity of Purpose*

Independent Football Commission (2004) *Report on Self Regulation*, May

Szymanski, S. and Kuypers, T. (2000) *Winners and Losers: The Business Strategy of Football*. London, Penguin

Chapter 2

FA Premier League and Football League Clubs

The past year has seen a rise in the risks facing football clubs that underlines the need for good corporate governance. The sources of increased risk include: uncertainty over the future value of broadcasting rights in the light of the proposed European Commission settlement; increased league fragmentation associated with widening gaps in financial performance between the top Premiership clubs and the rest and between the Premiership and the Championship (old Division One); and signs that attendance at Premiership matches may have peaked. In addition to these risks, football clubs have to balance the competing demands of attaining sporting success and running a business. To deal with these risks, and the difficult or 'peculiar'[1] economic environment of the football industry, it is important that clubs have appropriate corporate governance systems in place.

In the UK, most football clubs are incorporated as companies and are therefore regulated by company law, employment law, consumer law and competition law. In recent years employment law and competition law has had an increasing impact on the football industry. Football has also come under increasing regulatory scrutiny from the competition authorities, though in the United States and in some European countries sports leagues have been exempted from these laws because of the peculiar economics of football and recognition of the need to organise leagues collectively. Football clubs are also regulated by the football authorities including the Football Association, league organisations, UEFA, FIFA and the Independent Football Commission.

The final area of regulation concerns corporate governance. A 'best practice' model of corporate governance was set out in the Combined Code (CC) which came into effect for companies listed on the London Stock Exchange (LSE) in 1998. The code is voluntary, in the sense that companies must comply with it or issue a public statement setting out each and every case of non-compliance and the reasons for it. Compared to other forms of regulation, corporate governance regulation is distinctive in that it is the companies themselves that are the main beneficiaries of the regulation (FRC, 2003a), although customers and stakeholders, such as employees, shareholders and local communities may also benefit.

Since the introduction of the CC six years ago there has been a marked improvement in the degree of compliance and the proportion of companies adopting best practice governance. In 1999 only 10.5 per cent of companies claimed to comply with all aspects of the code; by 2003 this figure had increased to 58 per cent (PIRC, 2003). Moreover, over the past 5 years higher standards of 'best practice' governance have been set. Following a series of government reports on: the role of non-executive directors (Higgs, 2003); the role of shareholder activism and institutional investors (Myners, 2001); and the role and function of audit committees and risk management (Smith, 2003), a new combined code, that sets higher standards and allows more variation for different sizes of company, was introduced in 2003.

This chapter provides an analysis of the state of corporate governance in the Premier and Football Leagues based on results from our survey of football clubs, and on our analysis of corporate governance statements published by listed clubs. The analysis in this chapter is based on the 1998 Combined Code since the 2003 code (FRC 2003b) applies only to company reporting years that commenced on or after the 1st November 2003. Thus, and the vast majority of companies reporting in 2004 are only required to comply with the 1998 code.

Our results reveal that in some areas there have been significant improvements in governance, particularly in relation to risk assessment and business planning. On the whole, Premiership clubs and clubs listed on the stock markets have a greater degree of compliance with best practice but their corporate governance performance is still below that of the company sector as a whole.

1. Compliance with company law and corporate governance

The shareholders of a company have rights enshrined under company law that are designed to protect the interests of owners of the company. These rights cover a wide range of areas, including the right to attain information on the ownership structure of the company (as set out in the share register), its constitution and objectives. Access to the share register is important for two reasons. Firstly, if any individual owner wishes to influence company strategy or policy it will often be necessary to put a resolution to the AGM. The chances of such a resolution being successful will depend on the amount of shareholder support. Gaining support requires providing supporting documentation to all shareholders to inform them of the resolution and its rationale. This requires access

[1] The peculiarity stems from interdependence between clubs. There is a vast literature on the 'peculiar economics' of professional sports leagues, much of it dating from Neale's (1964) seminal article.

to an up-to-date copy of the share register providing the contact details of all shareholders, ideally in electronic form, since for companies with many thousands of shareholders it is often not practicable to type out the names and addresses from a paper copy. Secondly, if shareholders are unhappy about the way a company is run they have the option of selling their shares, or of increasing their shareholding with a view to gaining a controlling interest or making a takeover offer with a view to changing the management and strategy of the company.

Over the past 4 years we have asked clubs whether they would provide a copy of the share register to shareholders that request it. The vast majority of clubs (81 per cent in 2004) said that they would do so. This represents a slight deterioration on last year's figures but is still significantly above our baseline figure of 67 per cent in 2001. However, it is disconcerting that around 20 per cent of clubs do not appear to be aware of their obligations under company law. Moreover, only a minority of clubs (16 per cent) would provide the share register in electronic format. We did not ask clubs whether they would circulate shareholder resolutions free of charge to all shareholders. However, some clubs have done this and it is widely regarded as best practice; it was also a recommendation of the Company Law Review (2001).

The degree of compliance with company law is higher for provision of the Memorandum and Articles of Association, with 93 per cent of clubs responding to our survey stating that they would provide a copy of this on request, though again only around one fifth of clubs (19 per cent) would provide an electronic version - this represents an improvement compared to last year's survey.

A handful of clubs stated that they would charge shareholders for a copy of the share register or the M&AA. Although companies are allowed to charge at the statutory rate, this is widely regarded as bad practice, and given that the statutory rate is very low (5 pence in the case of the M&AA) it would appear that there is a small minority of clubs that are unaware of company law in this regard – a conclusion supported by the fact that a high proportion of clubs did not answer this question.

1.1 The Annual General Meeting (AGM)

The AGM and a club's Annual Report are the main mechanisms via which clubs disclose information on the financial performance and strategy of the club. The AGM is also used to elect directors and to vote on directors' pay. For the AGM to be an effective vehicle to engage shareholders it is important that sufficient notice of the AGM and adequate information are provided to enable shareholders to participate and to make informed judgements about how the company is run. Results from this year's survey indicate that this is an area where there has been a noticeable improvement in corporate governance.

Table 2.1 Disclosure of Information to Shareholders

	Percentage of Respondents			
	2001	**2002**	**2003**	**2004**
Clubs stating that they would provide a copy of the Share Register in paper or electronic format	67	79	86	81
Clubs stating that they would provide a copy of the Share Register in electronic format	Not Available	Not Available	18	16
Clubs stating that they would provide a copy of the Memorandum and Articles of Association in paper or electronic format	77	95	88	93
Clubs stating that they would provide a copy of the Memorandum and Articles of Association in electronic format	Not Available	Not Available	8	19

Table 2.2 Board Use of the AGM to Disclose Information to Shareholders				
	2001	**2002**	**2003**	**2004**
Board gave at least 20 days notice of the AGM	Not Available	87	87	94
Board circulated Agenda for the AGM in advance	Not Available	91	84	90
Board circulated Annual Report or Accounts before the AGM	70	95	85	83
Directors' histories/resumes disclosed and/or circulated before the AGM	Not Available	Not Available	17	31
Directors' attendance records disclosed and/or circulated before the AGM	12	7	8	45
Details of Directors' pay provided before or voted on at the AGM (Listed Clubs)	10	4	36	36

In terms of providing adequate notice of the AGM, 94 per cent of clubs responding to our survey stated that they provided at least 20 days notice and 90 per cent of respondents stated that an Agenda was circulated in advance of the meeting. Both of these figures are an improvement on the previous year's. There was also a noticeable improvement in the proportion of clubs that provided details of directors' histories and experience, up from just 17 per cent in 2003 to 31 per cent in 2004. Disclosure of this information is important so that shareholders can make informed judgements about the election of directors to the board. The increase in disclosure between 2003 and 2004 is most probably a reflection of the introduction of a fit and proper person test which has raised awareness about the importance of disclosure of information on the history and experience of directors. Despite this welcome improvement, the disclosure of directors' biographies in football is low compared to companies listed on the LSE where disclosure rates are over 90 per cent.

Only 10 per cent of respondents provided information of the attendance records of directors, up slightly from last year but still the vast majority of clubs do not disclose how many directors actually turn up for meetings. The final area of disclosure and consultation relates to directors' pay. This is the area where there has been the most marked improvement in performance. Most of the improvement is attributable to a change in the law on 31st December 2002 that required companies to produce a remuneration report to be voted on at the AGM. The Directors' Remuneration Report Regulations require all listed British companies to produce a remuneration report to be voted on at the their AGM. In 2001 only 10 per cent of listed clubs provided details of, or voted on, directors' remuneration at the AGM. In 2003 the figure rose to 36 per cent and it has remained at this level in 2004.

1.2 Dialogue with shareholders

Good corporate governance requires effective communication between the board of directors on the one hand and shareholders and other stakeholders, such as employees, customers and the local community, on the other. Effective communication and dialogue between the board and its stakeholders is important because stakeholders can contribute to the long-term success of the company (OECD, 1999, p. 35, Committee on Corporate Governance). In addition to encouraging investors and other stakeholders to attend the AGM, the chairman and, where appropriate the senior independent director, should ensure that there is sufficient communication with shareholders to gauge their views and concerns. It is best practice to nominate a senior independent non-executive director to liase with shareholders. Our survey shows that 34 per cent of clubs stated that they had made a senior independent non-executive director available to shareholders to facilitate communication.

Whilst the disclosure of information to shareholders and other stakeholders can be fairly straightforward, engaging in effective dialogue requires a certain level of cooperation and trust that can normally only be builtover a period of time. We asked clubs about how difficult they found it to disclose information and enter into dialogue with shareholders and other stakeholders. We also asked them to rate their effectiveness at carrying out these activities. The results are presented in Tables 2.3, 2.4 and 2.5.

Table 2.3 Information Disclosure and Consultation with Shareholders*

	Percentage of Respondents			
	2001	**2002**	**2003**	**2004**
How difficult do you find disclosing information to shareholders?				
Not at all difficult	44	46	40	41
Moderately Difficult	47	50	60	59
Very difficult	0	2	0	0
N/A	9	2	0	0
How difficult do you find consulting with shareholders				
Not at all difficult	40	39	35	33
Moderately Difficult	49	57	61	64
Very difficult	2	2	4	2
N/A	9	2	0	0

* Figures may not sum to 100 per cent due to rounding and some respondents ticking 'don't know'.

The results in Table 2.3 show that while clubs find consultation with shareholders more difficult than information disclosure; the vast majority of clubs state that they have no, or only moderate difficulty in consulting with this group of stakeholders. A very similar picture emerges for consultation with fans. Nearly all clubs responding to our survey stated that they had little difficulty consulting or maintaining a dialogue with fans (see Table 2.5). However, the view from our survey of supporters' trusts is quite different - see Table 2.4. The majority of supporters' trusts state that clubs are only moderately effective at information disclosure (55 per cent) and consultation (61 per cent) with shareholders. Moreover, a sizeable minority of 1 in 5 supporters' trusts state that their club is 'not at all effective' at disclosing information to, or consulting with shareholders. While these figures represent an improvement on previous years, it is still the case that there is a difference of opinion between clubs and supporter trusts about information disclosure and consultation, with the majority of clubs stating that they have little difficulty in disclosing information and consulting with shareholders and the majority of supporter trusts stating that the clubs' efforts in this regard are either ineffective (20 per cent) or only moderately effective (61 per cent), with only 7 per cent of trusts stating that the club is 'very effective'. The difference in opinion expressed by clubs and supporter's trusts may reflect the fact that clubs see the Annual Report as the main form of information disclosure. This is fairly easy to disseminate and 83 per cent of clubs distributed a report in advance of the AGM.

In contrast, supporters expectations may be driven by what is widely regarded as best practice disclosure and consultation on issues that affect the performance of the company such as directors' activities and pay. The low level of disclosure of such information to shareholders (as reported by the clubs) would seem to suggest that clubs do encounter some difficulty or resistance, perhaps from the board or certain board members, to disclose this type of information and that as a result they *choose* not to disclose it, even though failure to do so goes against good corporate governance. So while the clubs report that they experience no or little difficulty in disclosing the information they *choose* to disclose, supporters' trusts view the clubs as only moderately effective at disclosing the kind of information that they *expect* a club following good corporate governance to disclose. As we commented last year, the contrasting perceptions of clubs and supporters trusts suggests that there is a need to establish a clearer understanding of the type of information and dialogue it is reasonable for shareholders to expect and clubs to provide. It is however, encouraging that the gap between the views of clubs and supporters' trusts has narrowed significantly this year which suggests that clubs and trusts are beginning to converge towards a common understanding.

Table 2.4 Information Disclosure and Consultation with Shareholders: Supporter Survey Results*

Percentage of Respondents	2001	2002	2003	2004
How effective is your club at disclosing information to shareholders?				
Not at all effective	23	19	28	20
Not very or moderately effective	45	53	53	55
Very effective	8	8	7	7
How effective is your club at consulting with shareholders?				
Not at all effective	30	34	34	20
Not very or moderately effective	39	39	40	61
Very effective	4	3	9	3

* Figures may not sum to 100 per cent due to some respondents ticking ‘not applicable’ or ‘don’t know’.

Table 2.5 Dialogue/Consultation Between the Club and Fans*

Percentage of Respondents	2001	2002	2003	2004
Club Survey				
How difficult do you find consulting or maintaining a dialogue with fans?				
Not at all difficult	35	46	50	35
Moderately difficult	63	55	50	63
Very difficult	0	0	0	2
Supporter Survey				
How effective is your club at maintaining a dialogue with fans?				
Not at all effective	26	17	26	8
Moderately effective	53	58	60	85
Very effective	17	22	14	7

* Figures may not sum to 100 per cent due to some respondents ticking ‘not applicable’ or ‘don’t know’.

1.3 Consultation with fans

The OECD *Principles of Corporate Governance* state that active cooperation between corporations and stakeholders that enhances the financial sustainability of enterprises should be encouraged. This is especially the case in football where the relationship between the club and its fans differs in a number of important respects from the normal ‘business-customer’ relationship. Football fans are more than just customers, they are key stakeholders that have a vested interest in the survival of their club and will often invest in it to ensure its future viability. Clubs may consult with fans and supporter representatives via a variety of mechanisms, including fans forums. Table 2.5 provides an analysis of the effectiveness of clubs’ dialogue with fans from the perspective of both fans and clubs. Again it can be seen that the views of clubs and supporters are beginning to converge. In 2003 half of the clubs responding to our survey stated that they had no difficulty in consulting and maintaining dialogue with fans. At the same time, most supporters felt that the club was not very effective in maintaining dialogue and over a quarter (26 per cent) stated that their club was ‘not at all effective’ in this regard. This year there appears to be a greater awareness among clubs that maintaining effective dialogue is likely to involve some degree of difficulty, while from the fans’ perspective the percentage of respondents stating that clubs were not at all effective has fallen from 26 to 8 per cent.

A similar picture emerges in relation to the effectiveness of Customer Charters. In 2004, 30 per cent of clubs stated that they had no difficulty in implementing their customer charter, 68 per cent stated that they had only moderate difficulty and only 2 per cent reported that implementation was ‘very difficult’. However, results from our supporter survey confirm that only a tiny minority of supporters find their club charter is very effective at protecting and promoting the interests of fans; 42 per cent find the charter ‘moderately effective’ and 19 per cent find it ‘not at all effective’; a further 32 per cent, responded ‘don’t know’. We also asked clubs about the effectiveness of the customer charter. The results, which are presented in the final row of Table 2.6, show that clubs’ rate the effectiveness of the customer charter more highly than supporters.

This year, a higher proportion of supporters’ trusts stated that they had used the Charter to enforce good practice: 17 per cent in 2004, compared to 12 per cent last year. While the results for 2004 represent a moderate improvement, it is still the case that the vast majority of supporters responding to our survey either do not know about the charter or feel that if offers only moderate or no protection to fans. This suggests that there is a need to review the charter system with a view to increasing its effectiveness. One area for improvement would be to enforce the use of clear, measurable standards of improvement of service. At

Table 2.6 The Implementation and Effectiveness of Customer Charters*				
	Percentage of Respondents			
	2001	2002	2003	2004
Club Survey				
How difficult is it for you to implement the customer charter?				
Not at all difficult	25	40	29	29
Moderately difficult	57	59	62	68
Very difficult	0	0	0	2
Not applicable	17	2	10	2
Supporter Survey				
How effective is your club's customer charter at protecting and promoting the interests of fans?				
Not at all effective	20	8	26	19
Moderately effective	33	34	33	42
Very effective	2	4	4	2
Not applicable/ Don't know	24	54	37	32
Club Survey				
How effective is your club's customer charter?				
Not at all effective				6
Moderately effective				81
Very effective				10
Not applicable/ Don't know				2

* Figures may not sum to 100 per cent due to rounding and some missing responses.

present, only 73 per cent of clubs stated that these were incorporated into the charter.

1.4 Dialogue with Supporters' Trusts

Over the past 4 years supporters' trusts have established themselves as an effective vehicle via which supporters and shareholders can gain voice. Supporter's trusts now exist (or have been agreed) at 61 Premier and Football league clubs and 22 of these have a supporter elected director on the board. At clubs where there is a supporters' trust, 83 per cent of the clubs responding to our survey stated that they met on, at least a quarterly basis, with 62 per cent meeting at least once a month – see Table 2.7.

Table 2.7 Clubs, Supporters' Trusts and Frequency of Meetings		
	Percentage of Respondents	
Club Survey	2003	2004
If there is a supporters' trust at your club, how often do you meet?		
More than once a week	0	7
Weekly	28	31
Monthly	28	24
Bi-monthly or Quarterly	14	21
Other	24	10
Infrequently	7	7

All supporters' trusts responding to our survey stated that promoting the involvement of supporters in the running of the club was an important objective, along with 'strengthening the bonds between club and community' and 'acquiring a collective shareholding for the trust'. Two thirds of clubs responding to our survey stated that they had received financial support from their supporters trust (although only 68 per cent of these trusts received shares in return). Our club survey indicates that 83 per cent of clubs with a supporter trust would be interested in working further with their trust on joint initiatives. The most important areas for joint club-trust work are: fundraising to improve facilities at the club; fundraising for local initiatives; community-based action supporting projects within local schools, youth development and social inclusion. These figures illustrate that supporter trusts provide an important stakeholder mechanism that not only provides supporters with a voice with a view to improving the way the clubs are run, but also facilitates a link between clubs and community stakeholders. A more detailed analysis of the role of supporters' trusts is presented in Chapter 4.

2. Corporate governance and the Combined Code (CC)

The Combined Code (CC) sets out principles of good governance and a code of best practice for companies. The code represents a benchmark designed to enhance business performance and protect the interests of shareholders and other stakeholders. The CC is part of the listing requirements of the London Stock Exchange (LSE) and companies must either comply with the code or issue a public statement explaining the rationale for each case of non-compliance with the code's provisions. This allows companies a degree of flexibility: if a company has a good reason for non-compliance it can explain this to shareholders and other stakeholders and they can make their own judgement on how this might affect the company's governance structures and performance.

The Combined Code is based on 5 sets of principles regarding:[2]

A. The Board of Directors
B. Directors' Pay
C. Accountability and Audit
D. Relations with Shareholders
E. Institutional Shareholders

Each set of principles has a number of provisions with which companies should comply. Since the introduction of the code in 1998 the proportion of companies complying with all of its provisions has increased significantly (PIRC, 2003). At the same time, the code has evolved as a number of reviews have added more detailed guidance on how to implement aspects of the code. These include: the Turnbull Guidance on internal control (relating to accountability and audit (principle C); the Smith Guidance relating to the use of audit committees (principle C); and the Higgs recommendations on the role of non-executive directors (principles A, B, D and E). In 2003, the guidance and suggestions of these reviews were incorporated into a revised Combined Code (CC 2003) which came into effect for reporting years beginning on or after the 1st November 2003.

A criticism of the combined code is that companies may adopt a 'tick box' approach to corporate governance – conforming with the *provisions* of the code but failing to embed the *principles* of good governance throughout the company. The more detailed guidance included in the 2003 code mitigates against this criticism. In particular, the *Higgs Suggestions* relate the role of the board and non-executive directors directly to entrepreneurial leadership and strategy.

The idea of combining high standards of corporate governance with effective business strategy formulation, implementation and review is embodied in the concept of *Enterprise Governance* (IFA, 2004). Enterprise governance combines *conformance* with *performance*, where conformance is related primarily to corporate governance and performance is concerned with business governance, resource utilisation, strategy and value creation. In this report we provide, for the first time, an analysis of the business management and resource utilisation of clubs.

2.1 Listed clubs

The number of clubs listed on one of the three main share markets (the LSE, AIM and OFEX) continues to fall. In our first *State of the Game* report (2001), 22 Premier and Football League clubs were listed. As can be seen from Table 2.8, this figure is now down to 16, with Chelsea and Leeds being the two most recent clubs to de-list.

[2] Note that these are listed using the alphabetical ordering published in the 2003 Combined Code, which differs from that used in the 1998 CC, though the principle headings remain the same.

Table 2.8 Listed Clubs: FA Premier and Football League

LSE	AIM	OFEX
Aston Villa	Birmingham City	Arsenal Holdings
Manchester United	Bolton Wanderers	Manchester City
Newcastle United	Charlton Athletic	
Sheffield United	Millwall Holdings	
Southampton Leisure	Preston North End	
Sunderland	Watford Leisure	
Tottenham Hotspur	West Bromwich Albion	

3. Compliance with the Combined Code

While the Combined Code is only a requirement for companies listed on the LSE, it is widely regarded as best practice and many companies listed on AIM and OFEX also publish corporate governance statements related to the code. Therefore, the results presented in this report cover all Premier and Football League clubs listed on the LSE, AIM or OFEX. The data presented in the tables below have been drawn from our analysis of companies' statements of corporate governance published in their Annual Reports and the returns from our survey. We also include data from PIRC's 2003 Review of Corporate Governance to serve as a benchmark against which to judge the performance of listed clubs. Because nearly all clubs' reporting years began before November 2003 (i.e. before the CC 2003 came into effect) the results below are based on the 1998 CC. However, our commentary provides a review of the extent to which clubs are set up to meet the requirements of the 2003 code.

3.1 Board size and composition

The combined code sets out a number of principles regarding the board of directors. Prime amongst these is that, 'Every company should be headed by an effective board which is collectively responsible for the success of the company. The Board's role is to provide entrepreneurial leadership of the company within a framework of prudent and effective controls which enables risk to be assessed and managed.'[3] The board is also responsible for setting the strategy of the company and reviewing managerial performance. The composition of the board is known to be an important factor determining its successful operation. The CC 1998 sets out a number of provisions regarding board composition. First, there should be a separation of powers between the Chair (who runs the board) and the Chief Executive (who runs the business). Boards should also have a balanced membership of executive, non-executive (NEDs) and independent non-executive directors (INEDs), such that no small group can dominate the board's decision making. More, specifically, under the 1998 CC the non-executive directors should comprise at least one-third of the board and a majority of non-executives should be independent. Finally, 'there should be a formal and transparent procedure for the appointment of new directors to the board'.[4]

The Higgs Review (2003) reported that the average size of board for all listed companies was 7, comprising 3 executive directors, 3 NEDs and a Chairman. Higgs welcomed the trend towards smaller boards as several submissions of evidence to his Review cautioned against boards that are excessively large or small. The Higgs recommendation that , 'An effective board should not be so large as to become unwieldy'[5] was incorporated into the new CC (2003).

Table 2.9 provides figures on average board size and average numbers of NEDs and INEDs by league/ division. The data show that average board size varies very little across leagues and divisions (from 5.5 in Division 2 to 7.1 in the Conference). Moreover the average for all clubs is only slightly below the average for small companies listed on the LSE. Thus, it would appear that on average clubs have boards of an appropriate size for effective decision-making and entrepreneurial leadership.

[3] Committee of Corporate Governance, LSE, 2003, p. 4.

[4] Committee of Corporate Governance, LSE, 1998 A.5.

[5] Higgs (2003, p. 22 paragraph 4.10).

Table 2.9 Average Board Size and Composition by League			
	Average No. of Board Members	**Average No. of Non-Exec. Directors (NEDs)**	**Average No. of Independent Non-Exec. Directors (INEDs)**
Premier League	6.0	3.8	2.9
Division 1	6.3	3.4	1.2
Division 2	5.5	2.1	0.8
Division 3	6.9	3.0	1.0
The Conference	7.1	1.9	0.5
Premier & Football League	6.2	3.0	1.4
PL, FL & Conference	6.4	2.8	1.2
Small Companies on LSE*	7.3	41% with a majority of NEDS on board	64% have a majority of INEDs among NEDs
FTSE All-Share companies*	8.5	4.6	73% have a majority of INEDs among NEDs

*Figures for companies listed on the LSE are from PIRC (2003) pp. 17-18. Figures for clubs are from our survey.

The Combined Code 1998 states that non-executive directors should make up at least one-third of the Board and that a majority of these should be independent. On average clubs responding to our survey complied with the provision of the code regarding the proportion of non-executive directors (see Table 2.9). The highest proportion of non-executive directors was observed in the Premier League (63 per cent) but all leagues had an average of at least a third with the exception of the conference where the figure (27 per cent) was reasonably close to the requirement and where the (high) average board size of 7.1 – made the required number of non-executive directors harder to attain. Compliance with the requirement that a majority of non-executives should be independent is less good. On the basis of average league figures only the Premier League met this provision.
More detailed analysis of board structure and composition based on individual club returns rather than league averages is presented in Table 2.10. The 1998 Combined Code requires that there is a separation of powers between the Chair, who runs the board, and the Chief Executive who runs the business. The proportion of clubs that comply with this aspect of the code is 67 per cent for listed clubs and 84 per cent for all Premier and Football League clubs. Hence, this is an area where non-listed clubs out-perform their listed counterparts. However, listed clubs perform better (50 per cent) than all clubs (43 per cent) in terms of having an agreement that clearly sets out the roles of the Chair and Chief Executive in writing.

The combined code sates that non-executive directors should make up at last one-third of the board. 75 per cent of listed clubs and 69 per cent of Premier and Football League clubs comply with this provision. Comparison with all companies in the LSE All Share Index shows that this is an area where the football industry lags behind the company sector as a whole, where 96 per cent of companies have boards that comprise at least a third non-executive directors. Premier and Football League clubs also perform relatively poorly in terms of their use of independent non-executive directors. Only 44 per cent of listed clubs and 33 per cent of all Premier and Football League clubs responding to our survey comply with the 1998 CC provision that a majority of non-executive directors should be independent. This compares with a compliance rate of 75 per cent for the All-Share Companies listed on the LSE.

There are signs however, that football clubs are beginning to increase their use of independent non-executive directors. Last year only 81 per cent of listed clubs and 55 per cent of all Premier and Football League clubs responding to our survey had at least one independent non-executive director. This year the figure increased to 100 per cent for listed clubs and 75 per cent for all clubs.

3.2 The Nominations Committee and appointment of new directors

In order that the board has the necessary human resources and range of skills to run the business of the board effectively, it is necessary that directors are appointed under a transparent and meritocratic procedure. To this end, the 1998 CC requires every board, with the exception of small boards (defined by PIRC as boards with less than 6 members), to have a nominations committee that makes recommendations on the appointment of new directors. The nominations committee should have a majority of non-executive directors and be chaired by the Chairman or a non-executive Director. The members of the committee and the Chair should be clearly identified (normally) in the Annual Report.

While there has been a modest improvement over the past year, the appointment of directors is an area where football clubs perform significantly below best practice. Only 36 per cent of listed clubs have a nominations committee comprising a majority of non-executive directors, compared with 79 per cent for all listed companies. This figure falls to just 4 per cent for all Premier and Football League clubs responding to our survey.

Despite the low prevalence of a formal nominations committee, there has been an increase in the percentage of listed clubs that state that they have a

Table 2.10 Board Composition and Separation of Powers

	Percentage of Clubs/Companies Complying					
	Listed Clubs		All Clubs		All-Share Companies on the LSE[6]	
	2002/3	2003/4	2002/3	2003/4	2002/3	2003/4
Do non-executive directors comprise at least one-third of the board?	94*	93	Not Available	69	95	96
Is a majority of non-execs identified as independent?	44	44	Not Available	33	65	75
Has the company stated that there is at least one non-executive director?**	81	100	55	75	96	96
Are the roles of Chairman and CEO separate?	69	67+	82	84	90	90
Is the division of responsibilities between the Chair and CEO set out in writing?	43	50	38	43	Not Available	Not Available

*This figure includes 1 club that did not identify directors as executive, non-executive and independent non-executive in their Annual Reports but indicated in response to our survey that a majority of the Board are independent non-executive directors. If these two clubs are excluded the figure falls to 44 per cent.
** Two listed clubs did not disclose this in their annual reports.
+Excludes one club listed on AIM that does not mention this in its annual report.

[6] These data are from PIRC (2002) Corporate Governance: Annual Review. PIRC, London.

transparent procedure for appointing new directors – up from 29 per cent last year to 60 per cent. However, this remains significantly below the rate (97 per cent) for all companies listed on the LSE. For all Premier and Football League clubs responding to our survey, less than one third (32 per cent) stated that they had a transparent procedure for appointing new directors. Half of listed clubs had a senior independent non-executive director available for shareholders to consult; this is an improvement on last year's figure of 41 per cent.

tailored induction…Once in post, an effective non-executive director should seek continually to develop and refresh their knowledge and skills' (CC 2003 p. 63). In addition, the effectiveness of the board and of individual directors should be reviewed annually.

Table 2.12 sets out the results from our survey on these matters and compares them where possible with the performance benchmark of companies listed on the LSE. It can be seen that this is an area where clubs perform particularly badly, though the performance of listed clubs is better than that of all clubs in terms of induction, training and appraisal of directors.

Table 2.11 Nomination Committee and Appointments to the Board

	Percentage of Clubs/Companies Complying					
	Listed Clubs		**All Clubs**		**All-Share Companies on the LSE**	
	2002/3	**2003/4**	**2002/3**	**2003/4**	**2002/3**	**2003/4**
Is there a nominations committee comprising a majority of non-executive directors?	33	36	Not Available	4	77	79
Is there a transparent procedure for appointing new directors?[7]	29	60	31	32	87	97
Is there a senior independent non-executive director available for shareholders to consult?[8]	41	50	34	Not Available	Not Available	Not Available

3.3 Induction and training for directors

The Higgs' review set out a number of suggestions designed to embed good practice regarding the use of non-executive directors. The aim of the suggestions is to take compliance with the Combined Code beyond a tick box approach to ensure that the company has effective procedures in place to ensure that non-executives can fulfil their role of: providing entrepreneurial leadership; setting the strategic direction of the company and ensuring the company has sufficient resources to implement its strategy; monitoring resource utilisation; reviewing management performance; setting the values and standards of the company; and ensuring that obligations to shareholders and other stakeholders are met (CC 2003, p. 63).

Higgs argued that to be effective non-executive directors need to have 'a comprehensive, formal and

The Higgs review also argued that non-executive directors tended to be drawn from a narrow pool of 'like-minded' people and that given the importance of bringing a fresh perspective and of questioning company strategy, it would be desirable to draw non-executives from a much wider pool. The use of supporter-elected directors, many of whom have significant professional experience, is an ideal way for football clubs to achieve this, although once on the board, the supporter-elected director, like all directors, is obliged to act in the interests of the company as a whole. A quarter of clubs responding to our survey have a supporter-elected director on the board. This is an area where non-listed clubs out-perform their listed counterparts (see the final row of Table 2.12).

[7] Figures for listed clubs responding to our survey.
[8] Figures for listed clubs responding to our survey.

Table 2.12 Induction, Training and Appraisal of Directors

	Percentage of Clubs/Companies Complying					
	Listed Clubs		All Clubs		All-Share Companies on the LSE	
	2002/3	2003/4	2002/3	2003/4	2002/3	2003/4
Is there an induction procedure or training for new board members?	43	33	12	4	Not Available	Not Available
Is there an appraisal procedure for directors?	0	20	10	9	8	4
Is training provided and required for directors?	0	40	2	13	46	Not Available
Is there a supporter elected director?	6	17	16	25	Not Available	Not Available

3.4 Directors' pay and the Remuneration Committee

There is a considerable amount of research that shows that when left unchecked the directors of a company tend to set levels of remuneration that are too high. To guard against this the CC requires companies to have a remuneration committee comprised wholly of independent non-executive directors, so that no individual executive director is involved in setting their own salary. From 31st December 2002 listed companies were also required to put a report on directors' remuneration to be voted on by shareholders at the AGM.

Our analysis shows that 81 per cent of listed clubs have a remuneration committee of the appropriate structure as compared with 88 per cent of All Share Companies listed on the LSE – see Table 2.13. The performance of all clubs is significantly worse: only 10 per cent of clubs had a remuneration committee comprised wholly of independent non-executive directors. Table 2.13 also shows the impact of the change in the law requiring companies to put a report on directors' pay to the AGM: this had the effect of shifting the degree of compliance up from 33 per cent to 99 per cent for all companies on the LSE and of increasing the compliance of listed clubs from 43 per cent last year to 80 per cent in 2003/4.

Table 2.13 The Remuneration Committee

	Percentage of Clubs/Companies Complying					
	Listed Clubs		All Clubs		All-Share Companies on the LSE	
	2002/3	2003/4	2002/3	2003/4	2002/3	2003/4
Is the remuneration committee wholly comprised of independent non-executive directors?	44	81	Not Available	10	86	88
Is a remuneration report put to the AGM for approval by shareholders?[9]	43	80	Not Available	13	30	99

[6] See text for important change in the law affecting the comparison of these results.

Table 2.14 looks at the percentage of clubs responding to our survey that stated that they had procedures in place to evaluate the effectiveness of the board, its committee structures and the performance of individual directors. Only 28 per cent of clubs stated that they had a procedure in place to evaluate the board's performance. This fell to 13 per cent for the performance of the board's committees and 17 per cent for the performance of individual directors. Clearly this is an area where there is significant room for improvement.

Table 2.14 Board Evaluation: Percentage of Respondents

Does the Board undertake and evaluation of the following?	Yes	No	Don't Know/ Not Applicable
Board's own performance	28	57	15
Performance of its committees	13	64	22
Performance of individual directors	17	72	11

The 1998 CC requires companies to have an audit committee with at least 3 non-executives and a majority of independent non-executives. Table 2.15 shows that 37 per cent of listed clubs comply with this provision of the code, up from 31 per cent last year. The performance of all clubs is significantly worse at just 12.4 per cent. Just over two-thirds of listed clubs put a report on internal audit controls to the board: this is significantly below the performance (96 per cent) of the All Share Companies listed on the LSE. In view of the increasing risks facing the football industry it is important that clubs seek to make improvements in this regard.

Table 2.16 looks in detail at the type of risk assessment and management activities that clubs carry out. It can be seen that overall there has been a welcome improvement over the past year. However, there are still areas of concern. In particular, only 66 per cent of clubs carry out an evaluation of the risks facing their club and only 32 per cent undertake specific risk studies and assessment. Moreover, around one third of clubs do not put a 3-year business plan to the board for approval and 25 per cent of listed clubs and around two-thirds of all clubs do not have procedures to limit exposure to loss of assets and fraud.

Table 2.15 The Audit Committee

	Compliance Rate (%)					
	Listed Clubs		All Clubs		All-Share Companies on the LSE[10]	
	2002/3	2003/4	2002/3	2003/4	2002/3	2003/4
Is there an audit committee with at least 3 non-execs and a majority of independent non-execs?	31	37	Not Available	12.5	87	96
Did the board receive a report on internal audit controls?	38	67	Not Available	10.4	87	96

3.5 Risk, internal control and The Audit Committee

Managing risk is an essential part of any organisation's activity. The importance of effective and independent auditing has been highlighted by the recent crises at Enron and Tyco. Closer to home, the collapse of the ITV digital broadcasting contract and the escalation of players' wages have underlined the need for clubs to undertake regular assessments of the risks facing their club and the sector as a whole.

Overall, the results on risk management and business planning suggest that while there has been a significant improvement in many areas of club activity,

[10] The figures for All-share LSE listed companies show the proportion of companies that met all the requirements. Performance may be better on any one individual area indicated in this table.

there is still a sizeable proportion of clubs that do not have the risk evaluation and business planning procedures in place to effectively manage the risk facing their clubs and to plan accordingly.

per cent were ‘very concerned’. Around one-fifth of clubs (21 per cent) reported that they were ‘not concerned’ about debt levels. This is an improvement on last year when only 6 per cent of clubs reported that they were ‘not concerned’.

Table 2.16 Risk Assessment and Management: Club Survey Results

	Percentage of respondents that indicated they had carried out the following risk evaluation processes			
	Listed Clubs		All Clubs	
	2003	2004	2003	2004
An evaluation of the nature and extent of the risks facing the club	71	83	47	66
The likelihood of the risks concerned, materialising	86	75	41	40
Specific risk studies and assessment of impact	86	75	26	32
Controls and procedures to limit exposure to loss of assets and fraud	100	75	45	43
Board approval of a 1-year business plan	Not Available	83	Not Available	85
Board approval of a 3-year business plan	86	67	48	62

4. Enterprise Governance

While good corporate governance can enhance company performance, the success of a company also depends on its business strategy, which includes resource utilisation and value creation. The term *enterprise governance* has been used to capture both the governance and strategic determinants of business performance. In this section we look at two strategic aspects of enterprise governance: financial management and resource utilisation.

4.1 Financial Management and Regulation

The football industry has gone through a difficult period of financial upheaval following the collapse of the ITV digital contract and deregulation of the labour market that has tended to put upward pressure on wages. As a result many clubs have incurred increased debts. We asked clubs how concerned they were about the levels of debt in their company. The results are presented in Table 2.17 which shows that around 80 per cent of clubs were concerned about the level of debt and 15

Table 2.17 Levels of Debt: Premier and Football League Clubs *

How concerned are you about the levels of debt in your company?	2003	2004
Not concerned	6	21
Moderately concerned	79	64
Very Concerned	15	15

*Figures may not sum exactly due to rounding.

An important part of a company's financial performance is determined by cash flow management. There has been a marginal improvement in this regard with an increase in the proportion of companies conducting weekly and monthly cash flow projections, up from 86 per cent in 2003 to 92 per cent in 2004 (see the first two rows of Table 2.18).

Table 2.18 Cash Flow Projections: Premier and Football League Clubs

How often are your cash flow projections updated?	**Percentage of Respondents**	
	2003	**2004**
Weekly	24	27
Monthly	62	65
Quarterly	4	2
6-Monthly	4	4
Other	4	2

*Figures may not sum exactly due to rounding.

Clubs use a variety of cash flow management techniques. The most common of these are: deferring capital expenditure and extending credit periods from suppliers. Use of both of these techniques increased in 2004 as compared with 2003. Clubs have also made increasing use of new equity issues and disposal of assets. There was a marginal reduction in the proportion of Premier and Football League clubs that raised new debt in 2004 compared with the previous year. This might explain why there was a higher proportion of clubs that stated that they were not concerned about debt in 2004 as compared with 2003 (as reported in Table 2.17).

Table 2.19 Cash Flow Management: Premier and Football League Clubs

Methods of active cash flow management used in the last 3 months:	**Percentage of Respondents**	
	2003	**2004**
Deferring capital expenditure	36	49
Extending credit periods from suppliers	40	45
Raising new debt	21	19
Raising new equity	30	36
Disposing of assets	17	23

One of the factors that may have encouraged clubs to make greater use of cash flow management techniques *other than* debt is the introduction of penalty point deductions for clubs that go into administration. We asked clubs whether they were in favour of sporting sanctions for clubs that enter administration and 81 per cent supported such sanctions. Thus, this regulatory change appears to have widespread support and may also have made clubs think more carefully about the use of debt as an instrument to manage cash flow.

4.2 Resource Utilisation

Football players represent one of the most valuable assets of a club. Following the Bosman ruling, it is essential that clubs have in place a process for tracking players' contracts to ensure that players do not leave on a free transfer. In 2004, nearly all Premier and Football League clubs responding to our survey said that they had a method of tracking players' contracts. As can be seen from Table 2.20, this is a significant improvement on last year when the figure was just 78 per cent.

Table 2.20 Monitoring Players' Contracts: Premier and Football League Clubs

Do you have a method in place for 'tracking' players' contracts (e.g. to prevent players leaving on a Bosman)?	**Percentage of Respondents**	
	2003	**2004**
Yes	78	98
No	16	2
Don't Know	6	0

Another key resource of clubs is the stadium. Table 2.21 shows the extent of commercial use of clubs' stadia. The data show that the vast majority of clubs responding to our survey have a shop and directors' boxes. However, only 54 per cent of clubs have a bar that it utilised outside of match days and only 31 per cent have a restaurant. Thus, there are strategic opportunities for clubs to make greater use of their stadia both on match days and outside of the fixtures schedule. Enhancing the utilisation of clubs' assets is an important part of enterprise governance and the variation in the rate of utilisation suggests that there is room for significant improvement at some clubs.

Table 2.21 Stadium Utilisation: Premier and Football League Clubs

	Percentage of Respondents
Does your stadium have?	**2004**
A club shop	96
Hotel	8
Rented office space	23
Nightclub	10
Restaurant	31
Bar open to public outside of match days	54
A health centre	17
Rented retail outlets	8
Directors' match boxes	75

5. Conclusion

When the Combined Code was introduced in 1998, the proportion of companies complying with all aspects of the code was relatively low (PIRC, 2003). In the six years since the code has been in operation, the rate of compliance has increased significantly. The CC has also had a spillover effect on companies generally, with many companies listed on AIM and OFEX as well as many unlisted companies complying with some or all of the code.

Our analysis of the corporate governance of Premier and Football League clubs shows a similar pattern for football clubs. Over the past four years our results record significant improvements in many of the governance practices of clubs – this is true for both listed and unlisted clubs, though the proportion of clubs complying with best practice tends to be higher for listed clubs. There are however some notable exceptions, for example, the use of supporter-elected directors is higher for non-listed clubs.

Areas where there have been marked improvements in corporate governance include: information disclosure and consultation; the use of independent non-executive directors; board approval of directors' pay and disclosure of directors' histories; and improvements in risk evaluation. There is, however, considerable room for further improvement, for example, only 62 per cent of clubs stated that their board approved a 3-year business plan and only a minority of clubs stated that they had mechanisms in place to evaluate board performance and the performance of individual directors.

In 2003, the CC was updated to reflect improvements in best practice governance and guidance was introduced to encourage companies to embed the principles of the code into their governance procedures. These changes have come into effect for reporting years beginning on or after 1st November 2003. Thus, with effect from November 2004, the 2003 CC has become the required benchmark for all LSE listed companies and other companies wishing to follow best practice. Football clubs would benefit from adopting many of the changes, particularly the *Higgs Suggestions for Good Practice* on the role of the board and independent non-executive directors, and the *Smith Guidance on Audit Committees*. The new combined code also makes greater allowance for differences in the requirements of small and large companies.

Over the past year or so the Football Association has been working on the development of a code of corporate governance for football clubs. Our analysis shows that the introduction of such a code, tailored to the football industry, would do much to improve the governance of football clubs. Just as the Combined Code led to similar codes being adopted in other countries, the introduction of an FA Code of Corporate Governance for Football Clubs would set an international standard for best practice governance in the football industry.

References

Financial Reporting Council (FRC) (2003a) *Regulatory Impact Assessment: Combined Code on Corporate Governance*. July, Financial Reporting Council, London

Financial Reporting Council (FRC) (2003b) *The Combined Code on Corporate Governance*. Financial Reporting Council, London

FGRC (2003) *The State of the Game: The Corporate Governance of Football Clubs 2003*, Research paper 2003, No. 4, Football Governance Research Centre, Birkbeck, University of London

Higgs, D (2003) *Review of the Role and Effectiveness of Non-Executive Directors*. Department of Trade and Industry, London: The Stationery Office

Holt, M (2003) A 'Fit and Proper Person' Test for Football? Protecting and Regulating Clubs, *Football Governance Research Centre Research Paper Series 2003, No. 2*. Birkbeck, University of London

International Federation of Accountants (2004) *Enterprise Governance*, IFA, New York. www.ifac.co.org

Neale, W C (1964) The Peculiar Economics of Professional Sports, *Quarterly Journal of Economics*, 78:1-14

Turnbull Committee (1999) *Internal Control: Guidance for Directors on the Combined Code*. London: Institute of Chartered Accountants

Committee on Corporate Governance, The London Stock Exchange (1998) *The Combined Code*. London, Gee Publishing Ltd

OECD (1999) *Principles of Corporate Governance*. Paris, OECD

Myners, P (2001) *Institutional Investment in the UK: A Review*. HM Treasury, the Stationery Office, London

Pensions Investment Research Consultants (PIRC)(2002), *Corporate Governance Annual Review 2002.*December, PIRC, London

Pensions Investment Research Consultants (PIRC)(2003), *Corporate Governance Annual Review 2003*. December, PIRC, London

Smith, R (2003) *Audit Committees Combined Code Guidance*, The Financial Reporting Council, London

Chapter 3

The State of the Game in the Football Conference

The purpose of this chapter is to discuss current developments in the Football Conference (FC) and to analyse the state of corporate governance in contrast to clubs in the Premier League (FAPL) and Football League (FL). The subject of governance at semi-professional level has previously not been addressed. However, in light of recent developments below the FL, we decided to extend our survey to include the Football Conference National Division - the top tier in semi-professional football – hereafter referred to as the Football Conference or FC.

1. Current developments in the Football Conference

The FC has been the top level in semi-professional football since 1979, although in recent years it has often been described as a 'fifth division' in English football due to a narrowing gap between it and the FL, thus moving it away from the traditional notion of semi-professional, non-league football. Indeed, the last two years has seen a number of developments that serve to illustrate the growth and importance of the football industry 'below' the FL. These developments include:

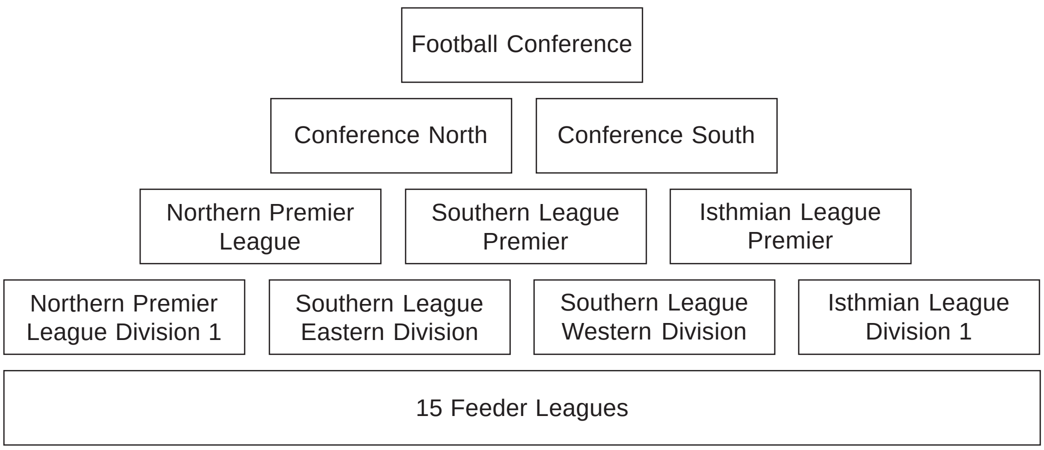
i. The restructuring of the semi-professional game in place for season 2004/05
ii. An increase in attendance figures
iii. A rise in professionalism
iv. Improved recognition by the Football League
v. The development of the Football Conference as an organisation

1.1 Restructuring the semi-professional system

The most significant recent change within the semi-professional game concerns the structural developments in place for season 2004/05. Not since the development of the FC in 1979 has the top level of the non-league system undergone such structural transformation. Restructuring has been an issue since 2000, when the FC, the Northern Premier League (NPL) and the Southern League (SL) wanted the FA to review the organisation of the non-league system and to consider the potential for restructuring. Between 2000 and 2003, the FC, NPL, SL and Isthmian League (IL) each put forward proposals on how the pyramid system below the FL could be restructured, in addition to a proposal made by the FA National League Systems Committee. The calls for restructuring were backed by research, taken from a survey of 220 football clubs consulted, which revealed that out of an 85 percent response rate, 92 per cent were in favour of some form of restructuring (www.thefa.com). In January 2003, after 63 out of 69 of the clubs from the NPL, SL and IL indicated their interest in joining a new two-feeder league structure, the FA National League Systems Committee asked the FC for further details of the proposal for restructuring (www.thefa.com).

In June 2003, the FA Council approved the plans, with the changes to be implemented for the start of the 2004/05 season. The structural changes to the pyramid system involve the extension of the FC to include two new feeder divisions. These divisions – the Conference North (CN) and the Conference South (CS) - will become the two feeder leagues into the newly named Conference National division. The three original feeder leagues to the FC – the NPL, the SPL and the ILP will feed into the new CN and CS.

Figure 3.1. The Restructured Pyramid System

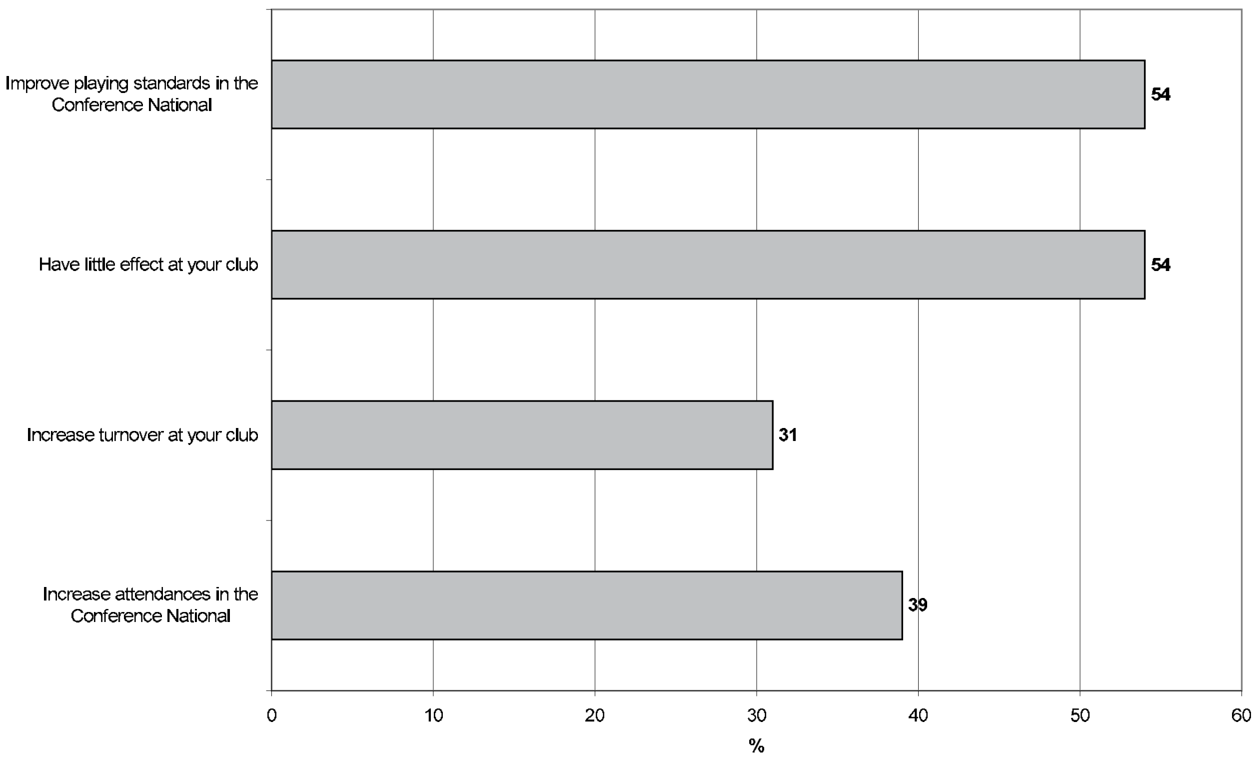


There are a number of reasons behind the restructuring of the semi-professional game. Perhaps the most important is that the new system will provide more opportunities for progressive clubs to advance up the pyramid system. The previous structure only allowed the winner of each of the three feeder leagues into the FC, thereby making it very difficult to achieve promotion as 69 clubs were effectively competing for 3 promotion places. The new system will reduce that to 44 clubs competing for the 3 promotion places. The winners of the CN and CS will be promoted automatically, with the clubs finishing in second, third, fourth and fifth places in each league competing in a play-off system to decide the third promotion place.

Not only is this more equitable as it will provide more opportunity to achieve promotion in the semi-professional game, but it should also increase the level of competition and generate excitement through the end of season play-offs, potentially leading to an increase in attendances. Additionally, reducing 69 clubs to 44 should raise the standard of football at the level below the FC. With the size of the FC increasing from 22 clubs to 66, it should also provide the opportunity to deliver more consistency with regard to rules, regulations and ground requirements.

The effects that the changes will have on the non-league system will become more apparent after the inaugural season of the restructuring. However, in our *State of the Game* survey, the clubs in the FC were asked whether they felt that the restructuring would have a specific impact upon their club. Just over half the clubs (54 per cent) responding thought that the restructuring would have little effect at their club. Moreover, only 31 per cent felt their turnover would increase as a result of the restructuring and just 39 per cent believed that attendances would rise in the Conference National as a result. However, 54 per cent thought that the restructuring would improve the playing standard in the FC National Division.

Figure 3.2 Restructuring in the Football Conference



1.2 Rising attendances

Table 3.1 shows the average attendance figures for each FC season since its inception in 1979. The overall trend for the 25-year period illustrates that average attendances have risen, albeit with a certain degree of fluctuation. In 1979, the average attendance was 1218, which has risen to 1902 in 2004 – a 56 per cent rise over the 25-year period. In contrast, the growth in attendances for the FAPL, the Football League Championship, League One and League Two over the period 1979 to 2004 were 33 per cent, 16 per cent, 0.1 per cent and 24 per cent respectively (www.european-football-statistics.co.uk). Moreover, 15 out of the 22 clubs in the FC increased their average attendance figures in 2004 from 2003, with an average rise of 34 per cent (www.european-football-statistics.co.uk).

Table 3.1 Football Conference Average League Attendance 1979–2004

	Average Attendance	% Increase / Decrease
2003-04	1902	+17.7%
2002-03	1616	+18.0%
2001-02	1370	-12.3%
2000-01	1563	-3.4%
1999-00	1618	-0.6%
1998-99	1627	+10.2%
1997-98	1476	+17.3%
1996-97	1258	+19.4%
1995-96	1054	-0.9%
1994-95	1064	-3.4%
1993-94	1101	-10.4%
1992-93	1229	+0.65%
1991-92	1221	-13.7%
1990-91	1415	-1.0%
1989-90	1429	+8.7%
1988-89	1315	+5.7%
1987-88	1244	+35.4%
1986-87	919	+18.6%
1985-86	775	-4.2%
1984-85	809	+1.4%
1983-84	798	-12.2%
1982-83	909	-2.3%
1981-82	930	-7.6%
1980-81	1007	-17.4%
1979-80	1218	N/A

Source: www.european-football-statistics.co.uk

Taking the two most recent increases in attendance figures, it is possible to identify a number of explanations, although the two most influential factors have been the impact of the relegated clubs from the FL and the introduction of the play-off system in 2002-2003. Clubs relegated from the FL tend to have a significant fan base that helps to push up the average attendance figure for the FC. For instance, Shrewsbury Town and Exeter City, both relegated to the FC in 2003 maintained average attendance figures of 4,007 and 3,665 respectively. In addition to this, the introduction of the play-off system in 2002-2003 has had an important role in sustaining interest in end of season games that would previously have been of less significance, thus helping to maintain high crowd levels.

A number of other, less influential factors can also help to explain the rise in attendances. For instance, as the cost of watching FAPL and FL football has risen, the FC has benefited by offering more affordable, community-oriented football with improving standards. Tied to this, requirements on ground standards have resulted in an improvement in facilities, a critical factor in attracting family oriented support. These four reasons have contributed to the significant growth in attendance figures over the past two seasons.

1.3 Professionalism

The substantial growth in attendance figures over the previous two seasons has concurred with a rise in the number of clubs making the transition to full-time, professional status. Although the FC is considered semi-professional, there are currently 12 clubs that maintain full-time playing squads. Given that a number of FAPL and FL clubs are in financial difficulties, illustrated by one in five FL clubs entering into administration or a CVA in 2002 and 2003 (IFC, 2003: 16) this is a significant development. One explanation for the increase in full-time football clubs within theFC is the decision by many of the relegated clubs from the FL to continue to maintain full-time playing squads in order to maximise their chance of promotion.

After promotion and relegation between the FL and the FC was approved in 1986, this initially proved to be a successful strategy, with Lincoln City, Darlington and Colchester United all experiencing promotion to the FL a year after relegation. However, as the playing standard within the FC has improved, and with only one promotion place available until the change in 2003, many clubs have been relegated from the FL

and struggled to achieve promotion. The FC now includes seven clubs relegated from the FL[1].

With these continuing as full-time, professional clubs, it has become increasingly difficult for the clubs maintaining semi-professional status to compete. Last season, seven of the top eight clubs employed full-time playing staff, indicating a growing gap between the full-time and part-time clubs. This gap has prompted other clubs to consider full-time football in a bid to compete, including Morecambe in 2002 and Woking in 2003. From this season, both Aldershot Town and Accrington Stanley will also have made the transition from part-time to full-time. In the case of Accrington Stanley, paying player wages for 52 weeks instead of 38 will add £130,000 to costs (www.thisislancashire.co.uk). However, the club maintains that they are in a strong financial position. For Aldershot, turning full-time this season has meant that the club has come full circle since 1992 when the previous Aldershot Town went into liquidation and ceased to operate with debts of £1.2 million, thereby losing their place in the FL. The club reformed but had to take their place lower down the football pyramid from which they have been working their way up since.

1.4 Improved recognition by the Football League

Even though the FC became the top level of semi-professional football in 1979, it took until 1986 for the FL to grant automatic promotion rights to the winners of the FC. Even so, promotion was dependent upon meeting FL criteria, with the standard of grounds a pertinent issue. Promotion has been achieved in the majority of years since 1986, although a 3-year period between 1994 and 1996 saw Kidderminster Harriers, Macclesfield Town and Stevenage Borough rejected for FL membership on the basis of inadequate ground facilities. However, in recent years there have been repeated calls to increase the number of promotion places from the FC to the FL. Despite the calls for reform, many FL clubs rejected the prospect of a two-up, two-down system.

However, the strong performances by previously promoted FC clubs coupled with the introduction of parachute payments for the relegated FL clubs were influential factors in determining the success of the vote at the FL AGM in June 2002 (www.thefa.com). A two-up, two-down system introduced using a play-off system to decide the second promotion place between the clubs finishing between second and fifth. This change has increased competition for promotion places and illustrates that the FL and member clubs recognise the progress and developments that the FC has made over recent years.

1.5 The development of the governing body

The governing body for the FC - the ‘Football Conference Limited’ - is the association that represents the interests of the member clubs. Like the FAPL and the FL, it is responsible for the administration of the FC and for enforcing the rules. The governing body became incorporated in 1997 taking over from the previously unincorporated association – the Football Conference (Football Conference, 2003: 2). This itself is an indication of increasing professionalism, although two developments in particular are indicative of the increasing influence and commercial progression of the FC.

The first is the expansion of the remit of the governing body, from administering a league of 22 member clubs to controlling three leagues with a total of 66 member clubs, thus granting the FC more influence in the semi-professional game. This change follows the restructuring process of the semi-professional game, and will see all member clubs of the Conference National Division constituted as full members of the FC with clubs playing in the CN and CS as associate members (Football Conference, 2003: 11).

Secondly, the FC has developed a greater awareness of available commercial opportunities, taking advantage of different forms of revenue stream to generate more income for member clubs. For example, this year has seen the extension of their sponsorship deal with the Nationwide Building Society until 2007, despite their withdrawal from sponsorship of the FL. This deal is worth £1.9 million over the next three years to the FC. Moreover, Sky has committed a minimum of £1 million over the next three years for the rights to show a number of live games, providing more revenue for the FC and increasing the level of media coverage for the league – a critical factor in encouraging new support.

2. Corporate governance in the Football Conference

Chapter 2 focused on the standards of corporate governance at FAPL and FL clubs. However, the development of the FC and the increase in the number

[1] This list includes Barnet, Carlisle United, Exeter City, Halifax Town, Hereford United, Scarborough and York City. Although Aldershot Town and Accrington Stanley were once Football League clubs, the current clubs were reformed after Aldershot left the League due to liquidation with debts of £1.2m in 1992 and Accrington ceased operating in the Football League in the 1961/62 season, reforming in 1968.

of member clubs making the transition from a part-time to a full-time basis mean that good governance is increasingly important at semi-professional level, with clubs operating sound business principles limiting the potential for financial problems.

The current chapter assesses the survey returns from the FC clubs. Section 2.1 looks at issues related to the internal procedures of governance at clubs in the FC, and compares the responses to those received by the FAPL and FL clubs. Although in some cases there are substantial differences, all clubs in the FAPL and the majority of clubs in the FL have a level of turnover that far exceeds the clubs in the FC, so it is to be expected that governance standards will generally be higher. In particular, the FAPL and FL clubs listed on the Stock Exchange should comply with the principles of the Combined Code and should certainly therefore have a greater awareness of best practice corporate governance.

2.1 Internal governance procedures

The extent to which the Combined Code (CC) applies to clubs in the FC is limited. For instance, the CC outlines principles of best practice for listed companies to follow, and even acknowledges that certain provisions of the code are not applicable for companies outside the FTSE 350. The clubs in the FC are small, unlisted companies; therefore there is a limit to the relevance of the guidelines set out in the CC. Despite this, certain aspects of governance practice transcend these varying levels of business. This section looks at the internal governance procedures of the clubs in the FC, using the CC as a broad framework on which to base the analysis, whilst appreciating the need for a code outlining best practice specifically adapted for the needs of smaller football clubs.

Board composition and responsibilities

Table 3.2 presents the survey results for board composition and responsibilities. It shows that 46 per cent of clubs in the FC have at least one non-executive director on the board of the football club, with the roles of Chief Executive and Chair separate in 54 per cent of cases. These results are somewhat behind the FAPL and FL in terms of best practice where the responses were 75 per cent and 84 per cent respectively. Furthermore, at board level, 83 per cent of clubs in the FC indicated that there is a 1-year business plan in place, with 50 per cent indicating that there is a 3-year plan in place.

These compare favourably with the results for the FAPL and FL where 85 per cent have board approval of a 1-year plan and 62 per cent for a 3-year plan. It is a positive sign to see that the vast majority of clubs in the FC are putting in place a business plan, particularly those with 3-year plans. This indicates an understanding at board level of the need to run the football club in a business-like manner in order to achieve sustainability.

Additionally, 92 per cent of clubs in the FC agreed that the board of the company had a clear understanding of its duties and responsibilities, almost identical to the FAPL and FL response of 91 per cent. In view of the fact that the clubs in the FC are only small companies,

Table 3.2 Board Composition and Responsibilities

	Conference (%)	FAPL and FL (%)
At least 1 Non-Executive Director	**46**	**75**
The roles of the Chief Executive and Chair are separate	**54**	**84**
1-year business plan approved by the board	**83**	**85**
3-year business plan approved by the board	**50**	**62**
Board undertake an annual evaluation of board performance	**25**	**28**
Board undertake an annual evaluation of individual directors	**25**	**17**
Division of responsibilities between the Chief Executive and Chair set out in writing and agreed by the board	**15**	**43**
Board has a clear understanding of its duties and responsibilities	**92**	**91**

these results appear particularly encouraging. However, despite this, there is room for improvement concerning activity at board level. For instance, only 15 per cent of clubs set out in writing the division of responsibilities between the Chief Executive and Chairman, compared to 43 per cent in the FAPL and FL. Equally, only 25 per cent of boards at clubs in the FC undertake an annual evaluation of its own performance while 25 per cent evaluate the performance of individual directors. The results are similar to those of the FAPL and FL. We would see such an evaluation as universally applicable.

Information disclosure and consultation with shareholders

The clubs in the FC have to adhere to the requirements of Company Law. On the issue of disclosure of information to shareholders, the Company Law Act of 1985 states that copies of the share register and the Memorandum and Articles of Association must be made available on request. However, figure 3.3 indicates that only 54 per cent of clubs would provide paper copies of the share register, while 77 per cent of clubs would provide shareholders with a paper copy of their Memorandum and Articles of Association – the response rate in the FAPL and FL was 72 per cent and 80 per cent. This shows that in some cases there is a lack of understanding of company law concerning the rights of shareholders to company information.

With regard to consulting with shareholders, 69 per cent of clubs in the FC indicated that they do not find it difficult, although in only 8 per cent of cases is there a senior independent director available for the shareholders. This is an aspect of governance where the FAPL and FL differ, with some 34 per cent having an independent director available for shareholders. However, the chair/board discuss governance and strategy with shareholders in 46 per cent of the clubs in the FC that responded – an almost identical response rate to that of the FAPL and FL with 49 per cent.

Use of the AGM to disclose information to shareholders

The AGM provides the means by which a company can disclose information to the shareholders, and offers the shareholders the opportunity to question the performance of the board. The survey asked the clubs in the FC the nature of the questions at the last AGM, with the majority - 69 per cent - responding that these were constructive and in 23 per cent of cases, very constructive. This is encouraging, more so if the clubs take on board the constructive comments made by shareholders.

Figure 3.3 Disclosure of Information to Shareholders

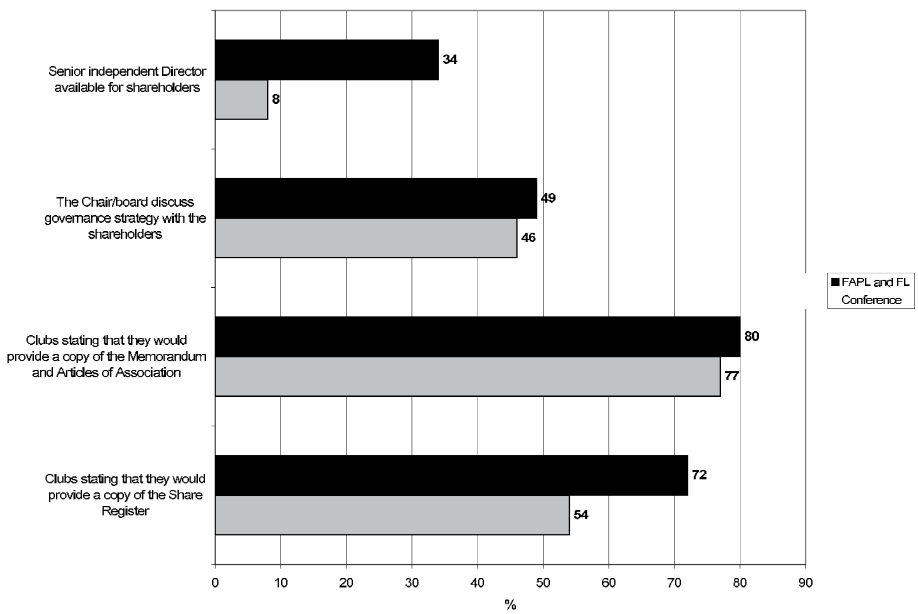


Figure 3.4 reports that all the clubs in the survey provided adequate notice of the venue and date of their last AGM. With regards to the level of information circulated prior to the AGM, again, all provided details of the agenda. Some 69 per cent of clubs distributed accurate minutes from the previous AGM and 77 per cent copies of the annual report. These results are encouraging, and are very similar to those for the FAPL and FL. However, there are still areas where more transparency is needed. In particular the disclosure of directors' histories/resumes, as only 8 per cent of clubs indicated that they did this, and also in providing directors' attendance records as none of the respondents disclosed this detail. This is an important aspect of governance as it enables shareholders and supporters to know who is running the club. This is an area where FAPL and FL could also improve, with only 31 per cent providing details of directors' histories/resumes and just 10 per cent providing details of directors' attendance records.

Dialogue/consultation between club and fans

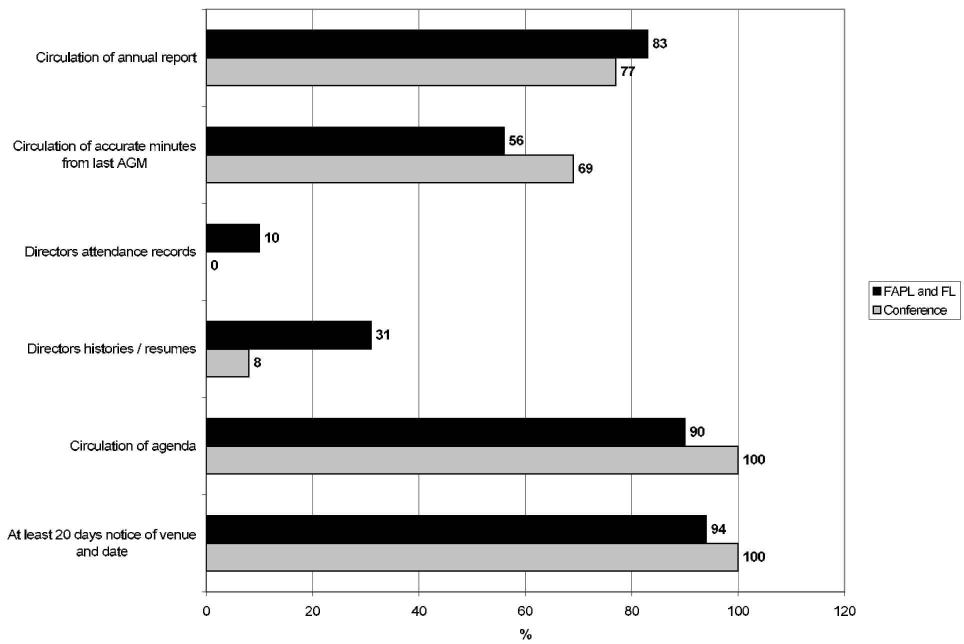
Although providing information to company shareholders is considered good governance practice, in the case of football clubs, a number of stakeholder groups exist, the most significant being supporters. Our survey results indicate that 85 per cent of clubs in the FC claim that it is not difficult to maintain a dialogue with fans. This compares with 65 per cent in the FAPL and FL. Furthermore, 77 per cent of FC Clubs report no difficulty in publicising the club's position on major policy initiatives – a similar response rate to that of the FAPL and FL of 72 per cent.

The relative ease that clubs in the FC have in maintaining a dialogue with fans - as opposed to the FAPL and FL clubs - suggests that there may be a different form of relationship that is not as commercially-oriented as in the FAPL in particular, and one that is sustained through greater proximity to the supporters. However, 67 per cent of FC clubs would support the introduction of a customer charter to provide a more formal framework that outlines the clubs' supporter-based policies and is intended to improve the dialogue between the club and fans.

Risk assessment and management

While the survey of FAPL and FL clubs revealed that 32 per cent are concerned about the level of debt at their club, a figure of 25 per cent indicates that concern over debt is not so great in the FC. However, it is still essential that proper procedures be in place to minimise risk factors.

Figure 3.4 Board Use of the AGM to Disclose Information to Shareholders



The survey results show that 50 per cent of clubs in the FC have in place a process for identifying and evaluating risks. This is slightly less than the 66 per cent of clubs in the FAPL and FL that have such a procedure in place. However, given that there is greater concern over levels of debt, coupled with the fact that the clubs in the FAPL and FL are, in many cases, considerably larger businesses than those in the FC, this is to be expected. Figure 3.5 outlines in more detail at the types of risk assessment and management activities that the clubs in the FC carry out.

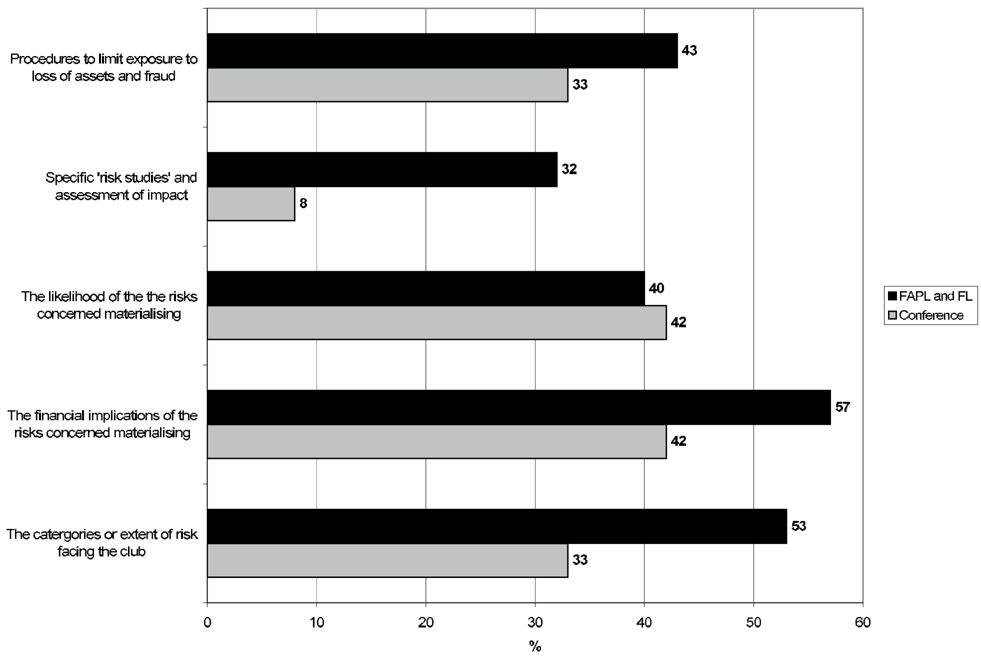
The results in figure 3.5 show that risk assessment and management is an area where clubs in the FAPL, the FL and the FC could improve. Looking at the FC in particular, only 33 percent of clubs that responded identify the categories of risk facing the club and have in place procedures to limit exposure to the loss of assets and to fraud. Moreover, only 8 percent of clubs in the FC indicated that they conducted specific ‘risk studies’ and assessment of impact, in contrast to 32 percent of clubs in the FAPL and FL. These results suggest that business planning is an area where many FC clubs can look to improve in the future. With the increase in the number of clubs in the FC turning to full-time football, it is an area that is of critical importance for clubs in the FC to manage risk and to plan appropriately.

In addition to the risk evaluation process, one specific area of risk where almost all respondents from the FC (92 per cent) and the FAPL and FL (98 per cent) are aware concerns the implications of the Bosman ruling that allows a player freedom of movement at the end of a contract. Consequently, it is important for clubs to track player contracts to minimise the risk of losing a player for nothing at the end of a contract. It is encouraging to see that virtually all clubs monitor the progress of player contracts.

Case: Telford United

Telford United, a founder member of the FC in 1979 went into liquidation in June 2004. The circumstances surrounding the liquidation point to poor financial management, a failure to assess potential risks to the club, and a lack of transparency. The club was losing an estimated £16,000 per week, had a debt of over £1million, and was unable to continue to meet the contractual commitments made to the playing squad (www.telfordunited.co.uk). The extent of the mismanagement had not been disclosed and the supporters were unaware of the underlying problems. Indeed, the financial problems were so critical that the club could not enter into a CVA due to the lack of finance.

Figure 3.5 Risk Evaluation Process



Background

In 1998, local businessman Andy Shaw was appointed Chairman of the football club. Previously, he had occupied a seat on the board of directors for 14 months. With his Chairmanship, he brought ambitious plans for the development of Telford United, aimed at progression into the FL. The plans included the development of a new stadium and switching to a full-time playing squad. The changes were expensive, with the new stadium reportedly costing £14 million by the time it was completed in 2003. The latest accounts for Telford United in Companies House illustrate the extent of the financial problems: in 2001, long-term debt stood at £4.9 million with the club running at a loss of £1.9 million, against assets recorded at £3.6 million. By 2002 the situation had worsened: long-term debt had increased to £5.3 million and the club recorded a loss of £2.3 million for the year, with assets reported at £3.5 million. However, much of this debt was in the form of a loan from the Miras Contracts Group, a firm set up in 1991 by Andy Shaw that employed 400 people and specialised in the refurbishment of hospitals and hotels (www.bbc.co.uk). Companies House information further reveals that Telford United was 100 per cent owned by Miras Contracts. Therefore, Shaw was effectively financing the redevelopment of Telford United through his main business interest, at a personal cost of over £1million per year between 1998 and 2003.

What happened?

In March 2004, Miras Contracts went into receivership, unable to repay a bank loan with the Bank of Scotland. In addition, Telford and Wrekin Council, who had granted a 999-year lease to the football club, owned the land on which the new stadium had been built. However, Shaw had organised a re-mortgage deal to fund the development of the stadium and had used the lease on the stadium as security. Therefore there were two problems. The first was the fact that the business that had effectively been supporting the football club was no longer able to provide financial assistance. With the club losing £16,000 a week and with a high level of debt, the club needed an investor. The second was that the football club faced the prospect of not having a ground to play on, should the bank decide not to allow Telford access to the stadium. Between March and May, the directors of the football club, the Independent Supporters' Organisation – now the Supporters' Trust – and even the players who agreed a 50 per cent wage deferral, were unable to save the club, predominantly due to the high level of debt. Without serious financial investment, and no way of meeting financial commitments, the club was forced into liquidation, thus conceding their position as a member club in the FC. However, the Telford United Supporters' Trust have formed a new club - AFC Telford, have negotiated a new lease on the ground and have been accepted into the NPL Division One for this season, ensuring that the town retains a senior football side.

Analysis

The case of Telford United raises an important point surrounding the governance, and in particular the ownership of football clubs. In the short-term, it may seem an attractive option for a club to be funded by a rich individual such as at Chelsea with Roman Abramovich, Wolverhampton Wanderers with Sir Jack Hayward, and Fulham where £91 million out a total debt of £133 million is in the form of 'soft' loans (Deloitte and Touche, 2004: 55). However, the dangers are illustrated by Rushden and Diamonds, for example, which has traded at a loss for a number of years, reliant upon the financial support of Max Griggs: since he stepped down from the role of Chairman, the club has been close to administration and is looking to cut costs by £1.5 million this season. In the Telford example, it is clear that the football club could not operate on a self-sustaining basis, unable to rely solely upon income through the turnstiles and commercial revenue. Without the investment that Andy Shaw had been providing over the last few years, the club were forced into liquidation. The issue is whether ownership of a club in the hands of one individual is beneficial in the long-term. If that individual puts into place good business practice that allows a football club to operate in a sustainable manner then to some degree it can be a workable framework for ownership. Nevertheless, while the Telford example illustrates the potential long-term problems that develop if a club becomes reliant upon one benefactor who cannot sustain the level of investment, there are other factors that impact upon a football club. In addition to ownership concerns, the importance of sound business practices and proper regulatory controls are also crucial to long-term sustainability.

2.2 Regulatory issues

Redistribution

The issue of redistribution of income towards the FC was raised in the All Party Parliamentary Football Group Report in February 2004. One of the recommendations made was that an additional 5 per cent of the total broadcasting revenue that the FAPL receives – therefore doubling the amount from the current 5 per cent - should be redistributed to the FL and the FC by phasing it in over the period of the next broadcasting deal that runs until the 2007/08 season (APPFG Report, 2004: 5). Unsurprisingly, table 3.3 indicates that 100 per cent of FC members would support increased redistribution from the FAPL and FL to the FC.

The survey responses also indicate that 92 per cent of the clubs would favour greater redistribution of the TV revenue within the FC, with the increased level of media coverage from Sky in particular generating a new revenue stream for the member clubs. The survey also revealed that all the respondents from the FC believe that redistribution would help improve their financial position, enable them to compete financially, reduce the level of risk at the club and help them to compete on the field.

Table 3.3 Redistribution in the Football Conference

	Percentage of Respondents in agreement
Would you favour greater redistribution of TV revenue from the Premier and Football League to the Conference?	**100**
Would you favour greater redistribution of TV revenue within the Conference?	**92**
Would you favour sharing a proportion of gate revenue?	**31**

However, redistribution is not limited to broadcasting revenue alone. Between 1920 and 1983, 20 per cent of the gate receipts were kept by the away team in the FL, the principle aim being to act as a subsidy for smaller clubs (Szymanski and Kuypers, 1999: 265). In the FC, the rules state that the home club is to keep all gate receipts (Football Conference, 2003: 63). The majority of clubs support this rule, indicated by the fact that only 31 per cent of clubs responded that they would favour sharing gate receipts.

Approved playing budget

Season 2003/04 was the first year the FC introduced their 'Approved Playing Budget', a salary-capping scheme designed to promote financial stability in the league by restricting the percentage of turnover that a club can spend on player wages. The 'Approved Playing Budget' - unlike the standardised aggregate player wage cap of 65 per cent of turnover imposed in the FL2 last season – is based upon an average of two years audited turnover. Two factors are then used to decide the playing budget. The first is a baseline figure, dependent upon the level of turnover at the club. The second is either 25 per cent average of two years' turnover or 25 per cent of the previous year's turnover, dependent on which figure is greater. These two figures are then combined to give the budget for playing staff, which is to include player wages, signing-on fees, expenses, loyalty bonuses and any other additional payments (Football Conference, 2004: 77).

As a consequence of this scheme, the percentage of turnover that can contribute towards the playing budget is dependent upon each individual club and will decrease in percentage terms the greater the level of turnover. In effect, this should help to increase competitive balance in the FC, as it should bring aggregate wage levels more in line. A standard salary cap level of 65 per cent would not do this. Instead it would continue to maintain the financial gap between clubs with a large turnover and those with a smaller level.

At this stage it is difficult to analyse the effect of the 'Approved Playing Budget' on competitive balance in the FC, although figure 3.6 shows that 50 per cent of clubs believed that the league was more competitive as a result of the budget. However, further analysis of the survey responses on the playing budget shows that the results are more mixed. For example, they do not suggest that the budget has been a significant factor in maintaining financial stability within the FC. While advocates of a salary-capping scheme believe that it would improve financial management, after the first year only 42 per cent of clubs in the FC reported that it has helped to improve their financial management, although 42 per cent reported that it had improved risk management. Additionally, only 25 per cent of clubs reported that the playing budget has enabled them to compete financially.

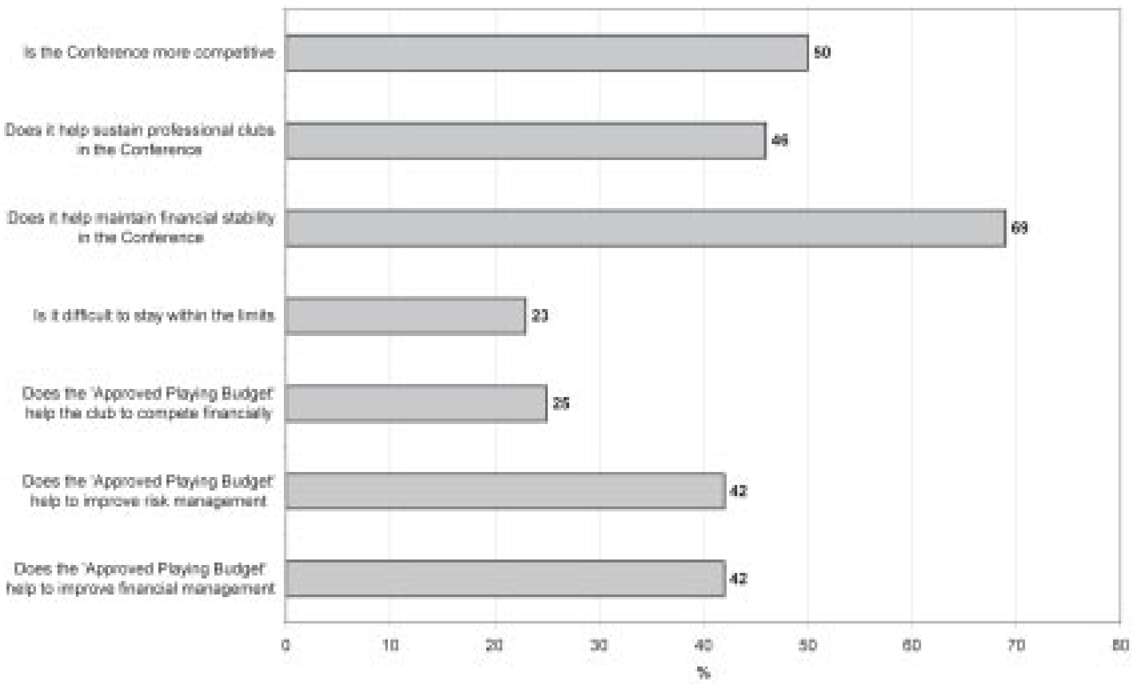
Despite these results, 69 per cent of clubs indicated that they felt the budget has helped to maintain financial stability in the FC – a positive endorsement, as this is the fundamental role of an aggregate salary cap scheme. However, in FL2 where a salary capping scheme has also been in place for a year, the survey results for the clubs that responded revealed that 91 per cent felt the scheme had improved financial management, 82 per cent revealed that it had improved risk management, and 64 per cent answered that it helped them to compete financially. Overall 84 per cent favoured capping players salaries as a percentage of turnover in FL2. These results suggest that the majority of clubs in FL2 have accepted the salary-capping scheme implemented by the FL for season 2003/04 as a necessary regulatory intervention and believe that it has had clear financial benefits.

The responses of the clubs in the FC to the 'Approved playing Budget' are not as favourable as the replies of the clubs in the FL2 to the salary-cap scheme in place. One explanation for this discrepancy may be that the clubs in the FC operate a high level of financial management and the implementation of an aggregate salary-capping scheme has had limited effect. With only 23 per cent of clubs responding that they found it difficult to stay within the limits of the 'Approved Playing Budget', this appears a legitimate argument.

The Football Creditors Rule

During the past year the Inland Revenue challenged the football creditors rule after Exeter City, a member club of the FC entered into a Corporate Voluntary Arrangement (see below). The ruling ensures that in the event of a football club restructuring its debts, all creditors within the football industry have to be paid in full. The rationale behind the ruling is to achieve stability in the football industry because preferential status does not allow football debts to be written off due to financial mismanagement, thereby protecting other stakeholders within the game. However, while the ruling was put in place to protect the financial stability of the industry, the legality of treating football debts as preferential has been questioned. For instance, the All Party Parliamentary Report recommended that the rule should be abolished as it discriminates against other non-football creditors (APPFG, 2004: 12). However, the survey results for the FC clubs diverge from this view, with 85 per cent stating that they are in favour of retaining the football creditors rule. Similarly, 80 per cent of clubs in the FAPL and FL indicated that they are in favour of the regulation.

Figure 3.6 The Approved Playing Budget



However, does the fact that three-quarters of FC clubs have not found it difficult to stay within the limits of the playing budget raise questions over the implementation and enforcement of the regulation by the governing body? The Telford United example is a case in point. That the club were losing £16,000 per week and were unable to operate without financial assistance from Andy Shaw raises questions as to how they were able to stay within the limits of their 'Approved Playing Budget'.

Sporting sanctions

The 2004/05 season sees the introduction of a nine-point penalty deduction for clubs that enter administration in the FAPL and a ten-point deduction in the FL. The results from the survey show that 75 per cent of clubs in the FC and 81 per cent of clubs in the FAPL and FL support this regulation. Moreover, figure 3.7 reports that 50 per cent of clubs in the FC and 40 per cent in the FAPL and FL would support more severe sanctions. However, sporting sanctions for other financial indicators such as clubs in debt is not as well supported, with just 25 per cent of FC clubs and 28 per cent of FAPL and FL clubs taking this view. Nevertheless, the survey results show that both FAPL and FC clubs do not consider that the threat of sporting sanctions will have a dramatic effect in changing club behaviour. In the FC, only 33 per cent thought the new regulations would improve financial management and enable them to compete financially and on the field of play. Only 25 per cent thought they would improve risk management.

Case: Exeter City

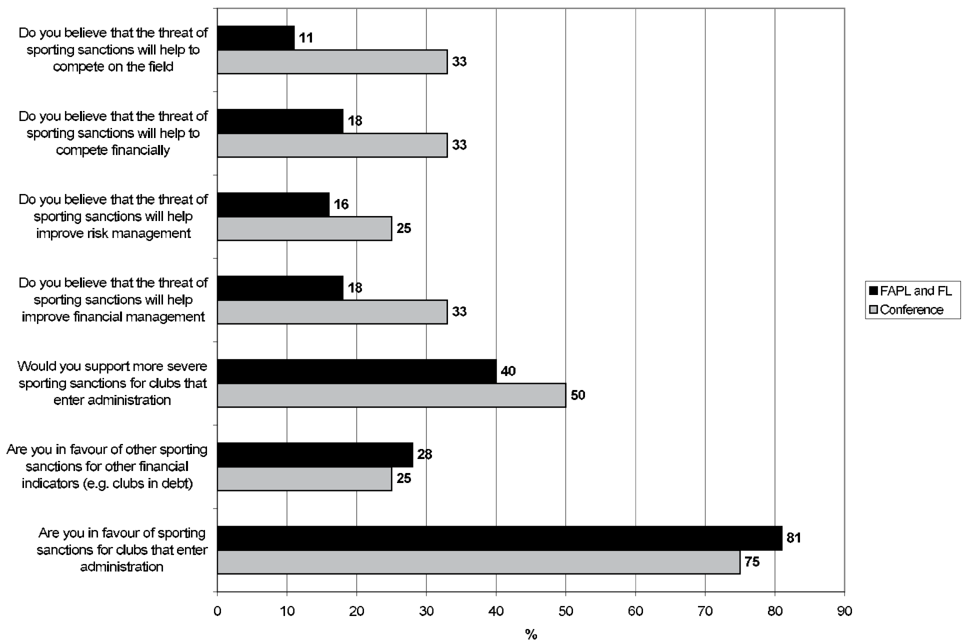
In May 2004, the Inland Revenue withdrew their legal challenge that had been brought against Exeter City concerning the legality of the football creditor ruling after the football club had entered into a Company Voluntary Arrangement (CVA) whereby the Inland Revenue were no longer given preferential status. Between October 2003 and May 2004, the legal challenge by the Inland Revenue caused significant conflict between the FC and Exeter City.

Background

In September 2003, Exeter City Supporters' Trust took control of the football club after the former chairman Ivor Doble transferred his majority shareholding to the Trust. Companies House records for 2002 - the Report of the Directors and Financial Statements - show that the club were in financial difficulties with an overall debt of £5.4 million having made a loss for the year of £2.1 million. With a turnover of £1.9 million, the Trust had little option but to apply to enter into a CVA, which was successfully negotiated in October 2003 after 88 per cent of creditors accepted. However, the rules of the FC state that:

> "If any club shall enter into an arrangement with its creditors or some part of them in respect of the payment of its debts or any part of them the Company Voluntary Arrangement under the Insolvency Act 1986 or Scheme of Arrangement under the Companies Act 1985 that club shall be deducted 12 points"
> (Football Conference, 2003:37-38)

Figure 3.7 Sporting Sanctions



Therefore, Exeter faced a sporting sanction due to their CVA. However, in November 2003, the Inland Revenue applied to have the CVA revoked on the basis that the football creditor rule meant that they were unfairly prejudiced. Previously, the Insolvency Act of 1986 meant that in the event of a company entering into a CVA, debts due to the Inland Revenue were regarded as preferential. This legislation was removed in The Enterprise Act 2002, although it did not take effect until September 2003. Consequently, Exeter City was the first football club to enter into a CVA after the new legislation took effect. This left the club in a difficult situation. If they were to lose their case against the Inland Revenue, it would mean that they would have to renegotiate the terms of their CVA, which would mean discarding the football creditor ruling. If they were to do this, the club faced the prospect of expulsion from the FC. In effect, the football club were caught between the football authorities and the Inland Revenue – the club were following the rules of the FC only to be challenged by the Inland Revenue for doing so.

What happened?

An issue such as this required co-operation between the club, the FC and the football authorities in order to challenge the Inland Revenue as the football creditor rule was in place to protect the football industry. However, at this stage no such agreements were in place. The club appealed to the FA as to whether the sporting sanction was valid with the PL and FL not introducing sporting sanctions until season 2004/05. Their appeal was extended in December, with no clear decision reached by January. At this point, Exeter felt it necessary to take legal action questioning whether the decision by the FC to impose the football creditor ruling was lawful. This would have meant substantial costs to the FC for which member clubs would have been accountable, and as a result, Exeter received criticism from many of the clubs in the FC and from the FC themselves. Nevertheless, by March 2004 the FC agreed not to impose the 12-point deduction on Exeter, and to bring the sporting sanction ruling into line with the FAPL and FL, thereby delaying its implementation by a year. They also agreed that it was critical to work with Exeter concerning the legal challenge by the Inland Revenue, as this issue affected regulatory arrangements of all professional English football clubs. However, the case never went to court as the Inland Revenue withdrew their challenge in May after a similar case against Wimbledon (MK Dons) failed in the court of law, primarily because without the option of a CVA Wimbledon would have had no alternative to liquidation. The situation concerning Exeter was similar, with the CVA offering the only way for the club to continue to operate.

Analysis

The withdrawal by the Inland Revenue concerning the case against Exeter City following their defeat in the courts over their challenge against Wimbledon Football Club means that the football creditors rule is still in place in the football industry. However, the issue has not been permanently resolved and will continue to be a concern so long as clubs maintain the option of a CVA in order to restructure their debts. As one of the responses to our survey indicated, it might be better to accept that the football creditor ruling will be beaten in court at some point in the future, and by working with the Inland Revenue it may be possible to put into place a phased withdrawal of the ruling over a period of time that is accepted by all parties concerned.

3. Conclusion

This is the first year that clubs from the FC have been included in our annual State of the Game survey, and the results have been particularly encouraging, particularly when contrasted to those of the FAPL and FL. Although a good standard of corporate governance does not guarantee business success, it will help to minimise risk. In the football industry, there is a high level of risk as balancing financial success can often conflict with sporting success, and there is the temptation to pursue the latter at all costs. Within the FC in particular, there is an increasing element of risk as the introduction of a play-off system enabling two promotion places into the FL and the rise in the number of clubs turning to full-time, professional football may result in more clubs taking a financial gamble to achieve promotion.

Nevertheless, while there are some areas where standards of governance could be improved in respect of the principles of the CC, the clubs in the FC are only small businesses, and the applicability of the CC is not as relevant as it is to listed companies. This highlights the need to develop a code of corporate governance that would outline principles specifically tailored to the needs of the smaller football club. Although there is no such code in place at the moment, it is still critical that member clubs continue to consider the issue of governance as a necessary measure for long-term sustainability.

References

All Party Parliamentary Football Group (2004) *English Football and its Finances*, All Party Parliamentary Football Group

Deloitte and Touche (2004) *Annual Review of Football Finance*, Deloitte and Touche

Football Conference (2003) *The Nationwide Conference Handbook, 2003-2004*, Football Conference

The Independent Football Commission (2003) *Annual Report*, IFC

Szymanski, S and Kuypers, T (1999) *Winners and Losers: The Business Strategy of Football*, Penguin, London

Turnbull Committee (1999) *Internal Control: Guidance for Directors on the Combined Code*, Institute of Chartered Accountants, London

www.european-football-statistics.co.uk

www.thisislancashire.co.uk

www.thefa.com

www.bbc.co.uk

www.telfordunited.co.uk

Report of the Directors and Financial Statements for the Year Ended 30 June 2002 for Exeter City AFC Limited

Telford United Football Club Limited: Report and Abbreviated Accounts Year Ended 31 December 2002

Chapter 4

Supporters' Trusts

Previous *State of the Game* Reports (2001, 2002, 2003) used returns from a variety of different supporter organisations in its sample including independent supporters' associations, supporters' clubs, shareholder associations, travel clubs, fanzines and supporters' trusts. While this provided breadth in terms of representation among fans, the focus of these organisations was not always directed towards the corporate governance of clubs. With the growth of the supporters' trust movement and the development of a fan-based organisation with an intrinsic concern for and focus on the corporate governance of clubs, this year's survey focuses solely on trusts as the primary supporter-based stakeholder organisation. Our survey received 62 returns from trusts at all levels of the football pyramid. A breakdown of trust respondents according to league/division is provided below.

Tracking the progress of supporters' trusts, this year's survey demonstrates. that the movement continues to grow. There are 70 supporters' trusts established (or in the process of being established) at football clubs throughout the FAPL, Football League and Football Conference, an average of over 60 per cent in each division.

Aggregate memberships of trusts and average membership per trust has increased significantly since last year. Equally, fundraising figures, turnover of trusts and the amount of investment in football club shares has also increased significantly.

1. Number of trusts agreed and established

With the growth of the supporters' trust movement has come a corresponding increase in supporter influence in and ownership of football clubs; in some cases this has lead to majority control or ownership of the football club. The numbers of trusts with board representation, significant or majority shareholding in the football club and joint club/trust initiatives has increased year on year since the inception of Supporters Direct, the supporters' trust initiative in September 2000.

Tables 4.1 to 4.5 provide a breakdown of the progress of individual supporters' trusts by League and Division and a summary of the trust growth over the past four years:

Our findings show that there are a total of 70 supporters' trusts across the FAPL, the Football League and the Football Conference, an overall average of over 60 per cent in each division. Divisions Two and Three report the highest numbers of established trusts with 71 per cent and 75 per cent respectively of football clubs with a trust in operation.

Figure 4.1 Supporters' trust respondents by League/Division

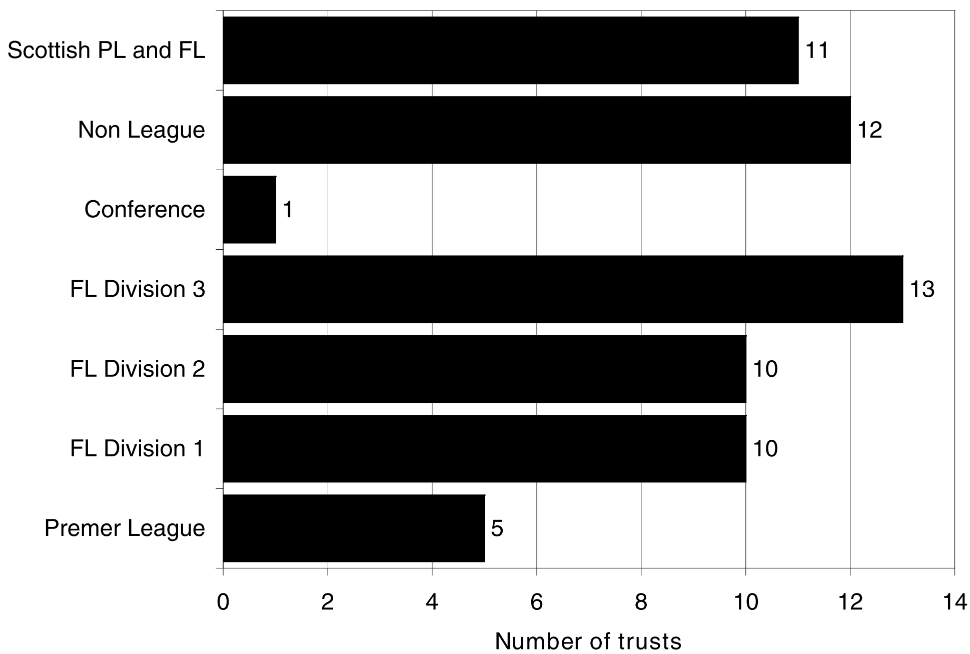


Table 4.1 Supporters' trusts in the FAPL							
CLUBS	Trust established (or agreed)	Shareholding[1]			Membership as a % of the average home gate[2]	Supporter representation on club board[3]	Joint club/ trust initiatives
		Nominal	Significant[4]	Majority or control			
Arsenal	✓	✓			1		
Aston Villa	✓	✓			1		
Birmingham City							
Blackburn Rovers							
Bolton Wanderers							
Charlton Athletic						✓[5]	
Chelsea							
Everton							
Fulham	✓				6		
Leeds United	✓	✓			1		
Leicester City	✓		✓		6	✓[6]	✓
Liverpool							
Manchester City							
Manchester United	✓		✓		15		
Middlesbrough	✓[7]						
Newcastle United	(✓)						
Portsmouth							
Southampton							
Tottenham Hotspur	✓	✓			2		
Wolverhampton Wanderers	✓				1		
2001: number (%)	2 (10%)	1 (5%)	0 (0%)	0 (0%)		1 (5%)	0 (0%)
2002: number (%)	4 (20%)	2 (10%)	1 (5%)	0 (0%)		1 (5%)	0 (0%)
2003: number (%)	10 (50%)	6 (30%)	2 (10%)	0 (0%)		2 (10%)	0 (0%)
2004: number (%)	10 (50%)	6 (30%)	2 (10%)	0 (0%)	Average 4%	2 (10%)	1 (5%)

[1] Shareholding includes share capital owned outright by the trust and shares whose votes are proxied to the trust.
[2] Figures have been rounded up to the nearest whole percentage.
[3] The corporate governance structures of football clubs can be complex with characteristics such as holding companies and two tier boards making the term 'board representation' mean different things according to the specific context of the club, however the term 'board' is used here to indicate the structure that conducts the strategic and financial decision-making for the club.
[4] The classification of significant shareholding varies according to the type of company structure the football club adopts. At listed plc clubs, such as Manchester United and Arsenal, a significant shareholding can be defined as anything over one per cent of the issued share capital (including proxy votes), while at private limited companies or plcs that are not listed a significant shareholding is defined as over five per cent of the issued share capital, including proxy votes.
[5] Although there is no trust at Charlton, the club does have a supporter-elected director.
[6] The Foxes Trust has an observer attending the board meetings of Leicester City football club.
[7] Middlesbrough Supporters' Trust formed in 1991 and although the organisation has never been formally wound up has since become dormant.

Table 4.2 Supporters' trusts in the Football League Division One

CLUBS	Trust established (or agreed)	Shareholding Nominal	 Significant	 Majority or control	Membership as a % of the average home gate	Supporter representation on club board[3]	Joint club/ trust initiatives
Bradford City	✓				6		
Burnley	✓	✓					
Cardiff City							
Coventry City	(✓)						
Crewe Alexandra							
Crystal Palace	✓				6		
Derby County	✓				2		
Gillingham	✓		✓		1		
Ipswich Town	✓		✓		2		
Millwall	✓	✓			1		
Norwich City	✓	✓			3		✓
Nottingham Forest							
Preston North End							
Reading	✓	✓			11		
Rotherham United	✓				8	✓	✓
Sheffield United							
Stoke City	(✓)						
Sunderland							
Walsall	✓	✓			1		
Watford	✓				11		✓
West Bromwich Albion	✓[1]						
West Ham United	✓	✓			N/A		
Wigan Athletic							
Wimbledon (MK Dons)							
2001: number (%)	3 (13%)	2 (8%)	1 (4%)	0 (0%)		0 (0%)	0 (0%)
2002: number (%)	6 (26%)	3 (13%)	1 (4%)	0 (0%)		0 (0%)	0 (0%)
2003: number (%)	14 (61%)	7 (30%)	2 (9%)	0 (0%)		1 (4%)	1 (4%)
2004: number (%)	16 (70%)	10 (44%)	4 (19%)	0 (0%)	Average 5%	1 (4%)	3 (13%)

[8] While Shareholders 4 Albion established themselves as a shareholders association they bear the primary characteristics of a supporters' trust in that they are democratic, not-for-profit and broadly representative of the fan-base.

Table 4.3 Supporters' trusts in the Football League Division Two							
CLUBS	Trust established (or agreed)	Nominal	Shareholding Significant	Majority or control	Membership as a % of the average home gate	Supporter representation on club board	Joint club/ trust initiatives
AFC Bournemouth	✓		✓		29	✓	✓
Barnsley	✓				2		
Blackpool							
Brentford	✓			✓[1]	26	✓	✓
Brighton & Hove Albion							
Bristol City							
Chesterfield	✓			✓	39	✓	✓
Colchester United							
Grimsby Town	✓	✓			4		✓
Hartlepool United							
Luton Town	✓		✓		16	✓[2]	✓
Notts County	✓		✓		24	✓	✓
Oldham Athletic	✓	✓			8	✓	✓
Peterborough United	✓	✓			10	✓	✓
Plymouth Argyle	✓	✓			N/A	✓	✓
Port Vale	✓	✓			1	✓[3]	✓
Queens Park Rangers	✓	✓			2		
Rushden & Diamonds							
Sheffield Wednesday	✓		✓		5		✓
Stockport County	✓	✓			1		
Swindon Town	✓	✓			N/A		✓
Tranmere Rovers	✓				N/A		
Wrexham	✓				N/A		
Wycombe Wanderers							
2001: number (%)	6 (25%)	4 (17%)	1 (4%)	0 (0%)		2 (8%)	3 (13%)
2002: number (%)	11 (46%)	5 (21%)	3 (13%)	1 (4%)		4 (17%)	4 (17%)
2003: number (%)	17 (71%)	11 (46%)	3 (13%)	1 (4%)		6 (25%)	9 (38%)
2004: number (%)	17 (71%)	14 (58%)	6 (25%)	2 (8%)	Average 13%	9 (38%)	12 (50%)

[9] Strictly speaking Bees United are not shareholders in the football club, but they do have a one-year option to obtain the majority shareholding in both Brentford FC Ltd and Griffin Park Stadium Ltd, the companies that own the football club and the ground respectively, for £1 each, subject to being able to relieve the current owner of the bank guarantees currently securing the overdraft; this option runs until 31 May 2005. The trust have control over the club through having the majority of directors on the club's board and an arrangement with shareholders the gives them the rights of a shareholder.
[10] The supporter-elected director at Luton Town Football Club, Yvonne Fletcher, resigned her position on the board in April 2003, however since the club's exit from administrative receivership in July this year the supporters' trust's place on the board has been reinstated.
[11] The supporters' trust at Port Vale, VaST, have representation on an interim board or sub-board of the club, but do not have full director status. Port Vale is an example of a club with a two-tier board system.

Table 4.4 Supporters' trusts in the Football League Division Three

CLUBS	Trust established (or agreed)	Shareholding Nominal	Significant	Majority or control	Membership as a % of the average home gate	Supporter representation on club board	Joint club/ trust initiatives
Boston United							
Bristol Rovers	✓				1		
Bury	✓		✓		16	✓	✓
Cambridge United	✓		✓		11	✓	✓
Carlisle United	✓		✓		15	✓	✓
Cheltenham Town							
Darlington	✓				42	✓	
Doncaster Rovers	✓	✓			8	✓	✓
Huddersfield Town	✓				12		✓
Hull City	✓	✓			N/A		
Kidderminster Harriers	✓	✓			4		
Leyton Orient	✓	✓			2	✓	✓
Lincoln City	✓			✓	36	✓	✓
Macclesfield Town							
Mansfield Town	✓		✓[1]		4		✓
Northampton Town	✓		✓		12	✓	✓
Oxford United	✓				3		
Rochdale	✓				10		
Scunthorpe United							
Southend United	✓	✓			28		
Swansea City	✓		✓		18	✓	✓
Torquay United							
Yeovil Town							
York City	✓			✓	61	✓	✓
2001: number (%)	6 (25%)	2 (8%)	1 (4%)	1 (4%)		4 (17%)	2 (8%)
2002: number (%)	10 (42%)	4 (17%)	3 (13%)	1 (4%)		4 (17%)	4 (17%)
2003: number (%)	18 (75%)	12 (50%)	6 (25%)	1 (4%)		7 (29%)	10 (42%)
2004: number (%)	18 (75%)	13 (54%)	8 (33%)	2 (8%)	Average 17%	10 (42%)	11 (46%)

[12] Team Mansfield, the Supporters' Trust at Mansfield Town, have negotiated a 3.3% stake in the football club by purchasing 'community shares', which are governed by a shareholders' agreement with clauses specifically designed to protect the trust's rights as minority shareholders. As such, they have been classified as having a 'Significant' shareholding.

Table 4.5 Supporters' trusts in the Football Conference

CLUBS	Trust established (or agreed)	Shareholding Nominal	Shareholding Significant	Shareholding Majority or control	Membership as a % of the average home gate	Supporter representation on club board	Joint club/ trust initiatives
Accrington Stanley							
Aldershot Town							
Barnet							
Burton Albion							
Chester City	✓		✓		N/A	✓	
Dagenham & Redbridge							
Exeter	✓			✓	45	✓	✓
Farnborough Town	✓						
Forest Green Borough							
Gravesend and Northfleet	✓	✓	✓		17		
Halifax Town	✓		✓		26	✓	✓
Hereford United	(✓)	(✓)					
Leigh RMI							
Margate	(✓)						
Morecambe							
Northwich Victoria	(✓)				14		
Scarborough							
Shrewsbury Town							
Stevenage							
Tamworth							
Telford United[1]	✓			✓	N/A	✓	✓
Woking							
2001: number (%)	1 (5%)	2 9%)	1 (5%)	0 (0%)		1 (5%)	0 (0%)
2002: number (%)	4 (18%)	2 (9%)	1 (5%)	0 (0%)		2 (9%)	0 (0%)
2003: number (%)	5 (23%)	4 (18%)	3 (14%)	0 (0%)		3 (14%)	2 (9%)
2004: number (%)	9 (41%)	6 (28%)	5 (23%)	2 (9%)	Average 25%	4 (18%)	3 (14%)

[13] As a consequence of Telford United going into liquidation on the 27th May 2004, a supporters' trust has formed a completely new football club, AFC Telford United, which they wholly own. AFC Telford United have moved from the Football Conference and play in the Unibond First Division.

[14] Deloitte & Touche (2004) *Annual Report on Football Finance*, Deloitte and Touche Sport, Manchester, p. 6.

Table 4.6 Supporters' trusts at clubs in FAPL, Football League and Football Conference undergoing insolvency proceedings between 2000 – 2004

CLUBS	Shareholding			Membership as a % of the average home gate	Club board representation
	Nominal	Significant	Majority or control		
Barnsley				2	
Bradford City				6	
Bury			✓	16	✓
Carlisle United			✓	15	✓
Chesterfield			✓	39	✓
Darlington		✓		42	✓
Exeter City			✓	45	✓
Halifax Town		✓		26	✓
Huddersfield Town				12	
Hull City	✓			N/A	
Ipswich Town		✓		2	
Leicester City		✓		6	✓
Lincoln City			✓	36	✓
Luton Town		✓		16	✓
Notts County	✓	✓		24	✓
Oldham Athletic	✓			8	✓
Port Vale	✓			Below 1%	
Queens Park Rangers	✓			2	
Swansea City		✓		18	✓
Swindon Town		✓		N/A	
Telford United			✓	N/A	✓
Wimbledon (MK Dons)					
York City			✓	61	✓
Number (%)	19 (86%)	15 (68%)	5 (23%)	Average: 20%	14 (64%)
Average across trusts in FAPL, Football League and Conference (%)	43%	22%	5%	Average: 12%	22%

[15] Deloitte & Touche (2004), p.7.
[16] The case of Wimbledon FC, or MK Dons at it is now, and its supporters' trust is a unique and highly controversial issue. The Dons' Trust, was originally set up as the supporters' trust for Wimbledon FC in the 2002/03 season, but then broke away from the club following its decision to relocate to Milton Keynes and set up a completely new club, AFC Wimbledon. For the purposes of statistical reporting, MK Dons are taken as not having a supporters' trust and are excluded from the statistical analysis.
[17] Adapted from Hope S (2003) *The Ownership Structure of Nationwide League Football Clubs 2002-03*, FGRC Research Paper No. 5, Birkbeck, University of London, p. 42.

Division One has historically been a slow developer in terms of trust growth with only 13 and 25 per cent of clubs in 2000 and 2001 respectively having a trust in operation (Table 4.2). However, the collapse of the ITV Digital contract in 2001 changed this. In the context of Football League revenue falling by 12 per cent between the 2001/02 and 2002/03 seasons, the Division One clubs were hit the hardest having to absorb a drop of some 14 per cent of revenue in the Division over the same period[14]. Now 70 per cent of the Division's clubs have an established trust, with further trusts at Stoke City and Coventry City in the pipeline.

In terms of numbers of trusts established or agreed, the FA Premier League (FAPL) clubs have seen no new trust development since the end of the football season 2003; 50 per cent of FAPL of football clubs have a supporters' trust in operation. Given that the FAPL is not directly affected from the loss of ITV Digital monies - the average FAPL club has revenue almost six times greater than a Division One club[15] - the failure of this figure to grow is perhaps not surprising.

There appears to be a strong correlation between the success and strength of supporters' trusts - measured in terms of acquisition shareholding, membership figures and representation on the club board - and whether or not the football club is facing some form of insolvency proceedings. All twenty-three[16] football clubs in the Football League and Football Conference that have faced some form of insolvency proceedings or entered a Creditors Voluntary Agreement (CVA) from season 2000/01 to the 2003-04 season have seen the formation of a new supporters' trust or the reinvigoration of an existing one. Table 4.6 provides a breakdown of the clubs concerned[17] and shows indicators of the strength of the trust measured in terms of achieving shareholding according to nominal, significant and/or majority interest; board representation on the football club; and membership expressed as a percentage of the home gate.

When compared against the average across all supporters' trusts our survey results reveal that trusts that have operated in an environment of a club facing some form of insolvency proceedings have considerably higher percentages across all the variables of trust strength and success.

In terms of shareholdings, 86 per cent of trusts operating in an environment where the club has recently faced insolvency proceedings have some form of shareholding, compared with 43 per cent all trusts in the FAPL, the Football League and the Football Conference; 68 per cent of trusts operating at recently insolvent clubs have a 'significant' shareholding, compared with an average across the League/Divisions of 51 per cent; and 23 per cent of trusts operating at recently insolvent clubs have a 'majority' shareholding, against only 5 per cent of all trusts in the Leagues/Divisions.

Trusts operating in a context of club insolvency also have higher membership rates if compared with supporters' trusts generally, with an average 20 per cent of the average home gate, compared to just 12 per cent of trusts generally.

The percentage of supporters' trusts achieving club board representation in the context of or following club insolvency is also significantly higher than the average figure for trusts generally: 59 per cent of trusts that have experienced club insolvency proceedings have some form of representation, against an average 21 per cent of all trusts in the Leagues/Divisions.

Table 4.7 Legal form of supporters' trusts

	Percentage of respondents
Unincorporated Association	2
Company Limited by Guarantee	5
Industrial and Provident Society	94

Our survey shows that the trend for supporters' trusts incorporating as community-based Industrial and Provident Societies (IPSs) continues, with 94 per cent of trusts preferring the Community Mutual status.[18] The Northampton Town Supporters' Trust originally set up as an unincorporated association in 1991, but has recently decided to convert to the IPS structure, and others such as Walsall Supporters' Trust and Shareholders 4 Albion, the supporters' trust at West Bromwich Albion, are considering this option.

2. Supporter representation on the board of the football club

25 per cent of clubs in the FAPL, Football League and Football Conference (28 clubs in total) have supporter representation on the board of the company running

[18] The IPS Constitution was developed as a set of 'Model Rules' by Kevin Jaquiss of Cobbetts Solicitors that supporters' groups seeking to establish themselves as trusts can use as a template and adapt according to the particular circumstances that exist at their football clubs. See Kevin Jaquiss (2003), *Model Rules for a Football Community Mutual* FGRC Research Paper, Birkbeck, University of London for details. Also available from www.football-research.bbk.ac.uk/research.htm

the football club. With the exception of Charlton Athletic and Leyton Orient who acquired representation through their supporters' clubs, these places on the board are due to the work and influence of supporters' trusts.

As with other indicators of trust strength and success, the numbers and percentages of trusts achieving board representation at football clubs differs throughout the divisions and leagues. Only two trusts operating in the FAPL (10 per cent) have any form of representation: Leicester City and Charlton Athletic. At Leicester City the form of representation is only observer status at present rather than a full directorship registered at Companies House. Similarly, in Division One only one trust at Rotherham United has supporter representation on the board of the club from the trust (four per cent).

In Divisions Two and Three of the Football League, supporter representation at board level is more widespread and growing year on year. Table 4.3 shows that in Division Two, 38 per cent of clubs now have supporter representation on the club's board. In Division Three the figure is even higher with 42 per cent of football clubs with supporter representation at board level (Table 4.4).

Table 4.5 reports 18 per cent of Football Conference clubs having supporter representation on the football club board.

The type of representation differs from club to club. Most supporter representation is in the form of full directorships, with the director acquiring the same legal rights as other directors on the board. Examples of other forms of representation throughout the Leagues and Divisions also exist, such as at Leicester City where the supporters' trust has a place on the board running the football club, but only with observer status, and at Port Vale where the trust has secured a place on an intermediate or 'sub board', as opposed to the board of the company running the football club itself.

For the majority of supporters' trusts board representation means just one place on the football club board; however some trusts, such as Bees United at Brentford and Chesterfield Supporters' Society, have secured several places on the football club board.

3. Trust/club initiatives

An indicator of the relationship between football clubs and supporters' trusts is the number of joint initiatives between them. The definition of joint initiative is purposely broad and examples cited in the survey returns include community events, joint communication in the media for the benefit of the club or co-operation in submitting a planning application for a new stand at the ground. The significance of this variable is that it is indicative of co-operative practice between club and trust.

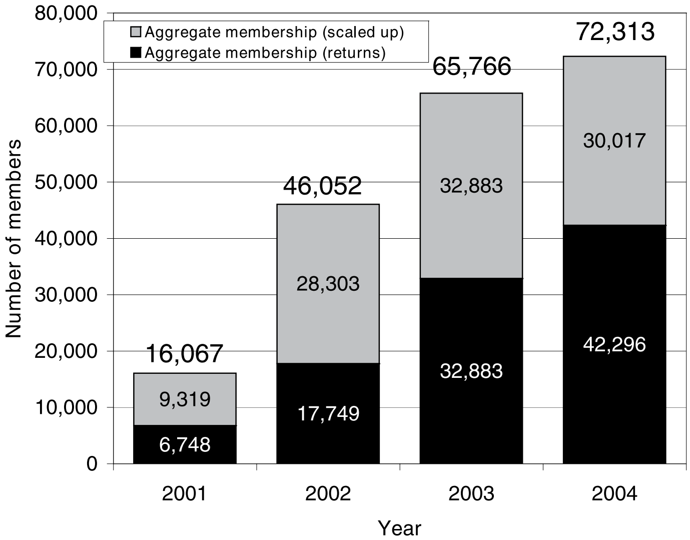
Our survey findings indicate a growth in the number of joint trust/club initiatives throughout the Football League and Football Conference, but the rate of growth differs markedly according to the League/ Division they operate in. In Division One only 13 per cent of clubs have seen some form of joint club/trust initiative, up from four per cent last year. Returns from Division Two indicate 42 per cent of clubs now have joint initiatives. Division Three reports joint initiatives at 46 per cent of clubs.

In the Football Conference our survey indicated that only 14 per cent or three clubs have evidence of joint club/trust initiatives, although the comparatively low (but growing) number of supporters' trusts throughout the League must be taken into account here – only 41 per cent of clubs have a trust. In the FAPL our survey indicated that only one club conducted joint club/trust initiatives.

4. Membership

Following the pattern of previous years, our survey found membership of supporters' trusts continuing to grow. Over the 2001 to 2004 period aggregate membership of trusts has grown year on year from 6,748 in 2001, to 17,749 in 2002, to 32,883 in 2003, to 42,296 in 2004 - see Figure 4.2 for details. Figure 4.2 also shows that if these figures are scaled up to reflect the total number of supporters' trusts – 106 at the time of writing - then the aggregate membership of trusts has increased year on year from 16,067 in 2001, to 46,052 in 2002, to 65,766 in 2003, to 72,312 in 2004. This represents a compound annual growth rate of 45 per cent.

Figure 4.2 Aggregate supporters' trust memberships 2001 - 2004

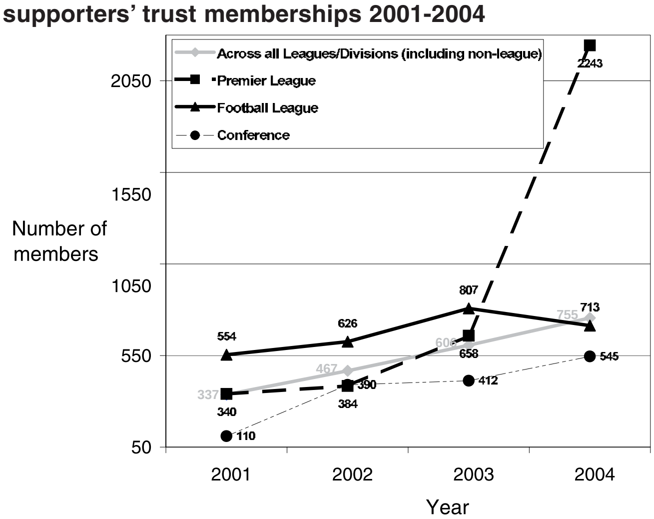


Our survey found that average memberships of all supporters' trusts has also continued to grow from 337 in 2001, to 467 in 2002, to 606 in 2003, to 755 in 2004; this represents a compound annual growth rate of 22 per cent. The blue line in Figure 4.3 represents these increases graphically. Figure 4.3 also shows the average memberships of supporters' trusts broken down by League/Division for the past four years. The overall trend in each League/Division is an upward one, including the figure for average trust membership across all leagues and divisions. It is worth noting that the graph line for average membership of a FAPL trust is distorted by the large membership of over 9,000 for the supporters' trust at Manchester United, Shareholders United.

If membership figures for supporters' trusts in the FAPL, the Football League and Football Conference are aggregated there are a total of 35,047 members in these Leagues and Divisions, making an average of 855 members per trust. Perhaps the most meaningful measure of membership for trusts is membership expressed as an average of the football club's home gate. Expressed in this way, the average trust membership across the FAPL, the Football League and the Football Conference is 13 per cent.

Expressed as a percentage of the average home gate and broken down by League and Division, the average membership of a trust increases with each step down the football pyramid. For trusts based in the FAPL

Figure 4.3 Average supporters' trust memberships 2001-2004



membership averages out at four per cent; for a Division One trust it is five per cent; for a Division Two trust it is 13 per cent; for a Division Three trust it is 17 per cent; and for a Football Conference trust it is 25 per cent.

5. Turnover of supporters' trusts

The results from our survey indicate that the capacity of supporters' trusts to raise funds remains impressive. Figure 4.4 indicates funds raised by supporters' trusts last season at £2,103,726, up slightly from £2,039,788 in the 2002/03 season. Over the past 3 seasons trust fundraising amounts to £6,835,494.

Figure 4.5 shows the aggregated turnover of supporters' trusts broken down by FAPL, the Football League and the Football Conference. Given that Divisions Two and Three contain the most supporters' trusts - 17 and 18 respectively at the time of writing - it should not be surprising that these Divisions produce the largest aggregate turnovers - £561,427 and £648,580 respectively.

Figure 4.4 Supporters' trust fundraising 2001/02 – 2003/04

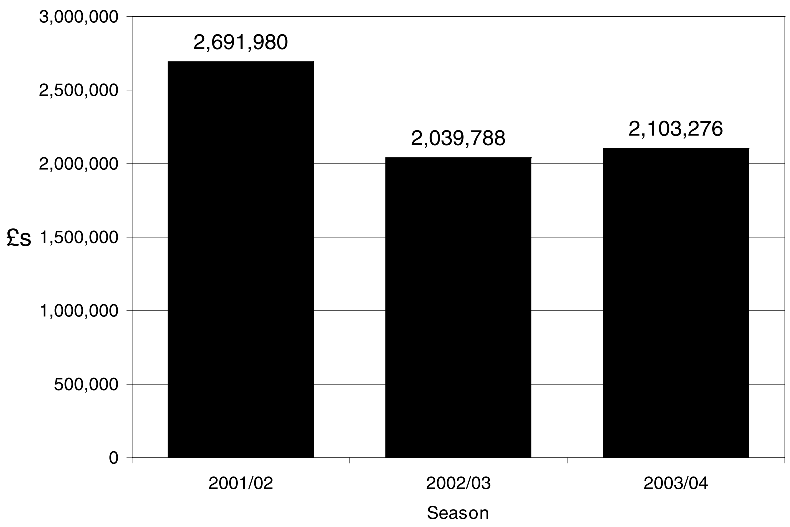
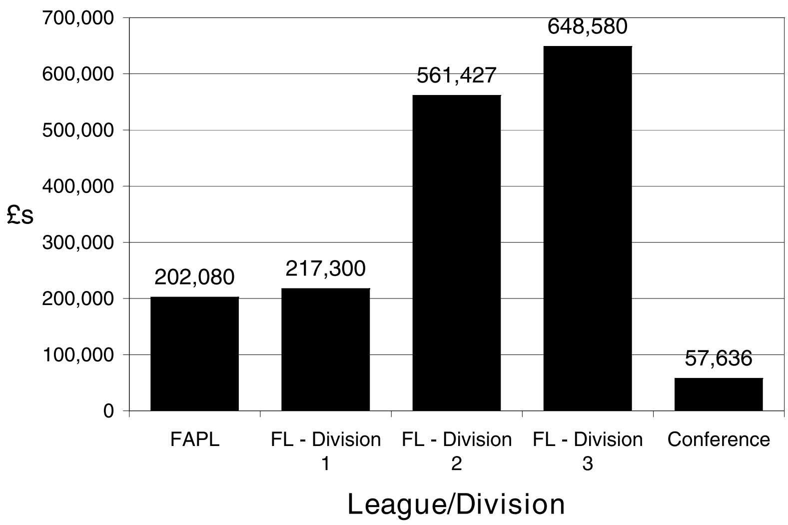


Figure 4.5 Aggregated turnover of supporters' trusts by League/Division



When asked how supporters' trusts raise the bulk of their funds most responded that membership fees (92 per cent) and individual donations (89 per cent) accounted for most of the monies raised. Fundraising through community events was also a popular method of raising money with 56 per cent of trust respondents stating that they these events contributed to their overall fundraising effort (Figure 4.6).

What is surprising is that only 10 per cent of supporters' trusts have generated funds through community grants or awards. A third of trusts indicate that they have been successful in attracting grants, but the vast majority of these grants are from Supporters Direct, and very few from other sources, such as the Community Fund or the Neighbourhood Renewal Fund, to which trusts are eligible to apply (Table 4.7).

6. Trust donations and investments in football clubs

Our supporters' trust questionnaire made a distinction between monies *invested* in the football club, for which the trust received shares in return, and monies *donated* to the club, for which the trust would not necessarily receive anything in return. Figure 4.7 reveals that trusts are donating substantial sums of money to clubs for which they do not necessarily receive shares in return. These results are surprising because one of the founding principles behind the supporters' trust movement is that trusts should campaign for ownership stakes in clubs in return for investments. One factor may be that at clubs where the trust has the majority shareholding in the football club the distinction between donation and investment is perhaps no longer as important. However, this would not account for all returns regarding donations to clubs.

Figure 4.6 What methods did your trust use to raise money?

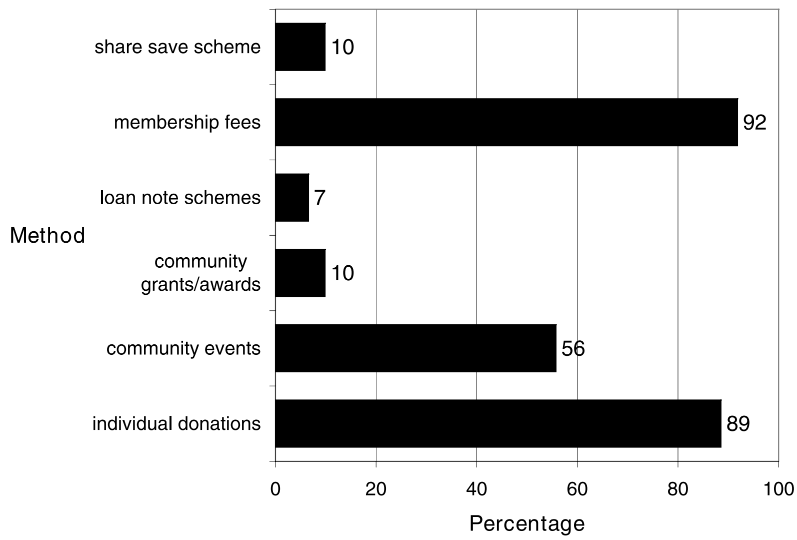
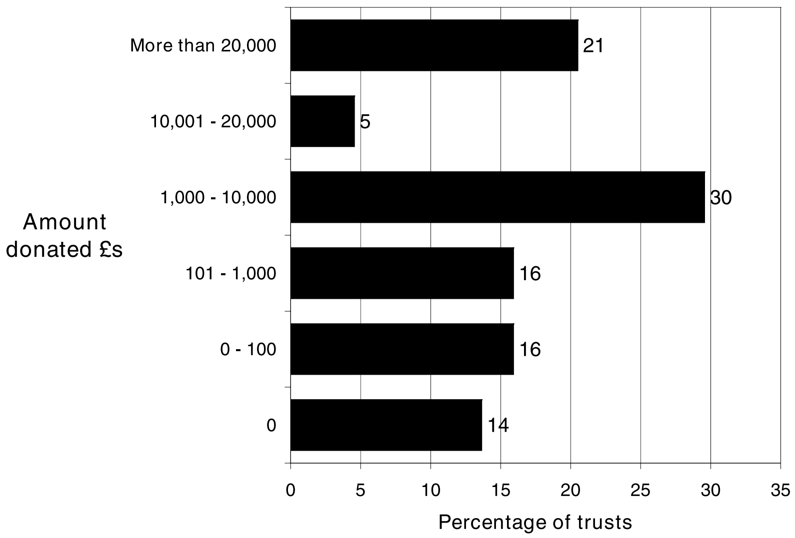


Table 4.8 What funding streams or organisations has your trust applied to?

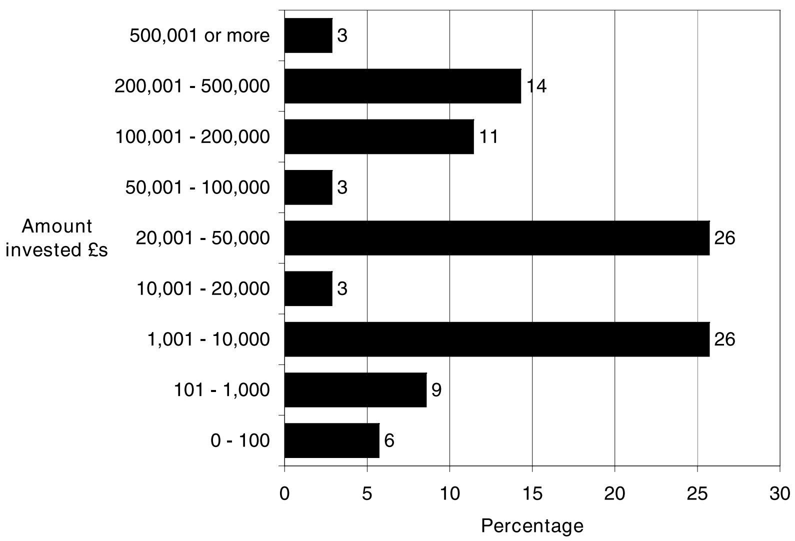
	Percentage of respondents
Community Chest	5
Community Fund	5
Neighbourhood Renewal Fund	2
Local council funding	7
Supporters Direct	72

Figure 4.7 Trust donations to football clubs



Our survey found that two thirds of trusts (66 per cent) this year indicated that they had invested money in the football club, up marginally from 62 per cent last year. As with last year, the amounts invested by these trusts varies considerably. Figure 4.8 shows the 'investment for shares' breakdown for these 66 per cent of trusts over the past 3 years.

Figure 4.8 How much did your trust invest in the football club in the last year



Some trusts have been investing significant sums, with 25 per cent of the 'investing trusts' putting in between £100,000 and £500,000 in one year.

7. Trust ownership and control of clubs

Tables 4.1 to 4.5 indicate the degree of trust ownership and control of football clubs, including 'majority shareholding'. However this term needs some clarification as majority shareholding can mean different things according to the context the trust is operating in. Some trusts, for instance AFC Wimbledon, have 100 per cent ownership of the football club, whereas other trusts, such as those at

Chesterfield, Exeter City and York City have majority ownership of the shares in the club, 70 per cent, 62 per cent and 85 per cent respectively. At Lincoln City the situation is more complex, as the trust own 36 per cent of the football club outright and then have control of a block of nearly 14 per cent of the shareholding via proxies.

In the case of Brentford, the supporters' trust, Bees United, runs the day-to-day affairs of the club and has a majority of directors on the board, but does not own the majority shareholding. It does however have an option, valid until July 2005, to acquire the 60 per cent majority shareholding in the football club from the current owner. The option can only be taken up on condition that the trust finds a way of releasing the owner from the £4 million bank guarantees that currently bankroll the club. Therefore, Bees United has control over the club, but has not yet secured ownership.

Eight supporters' trusts now have either majority ownership or control of their football clubs (Table 4.8).

Table 4.9 Trust ownership and control of football clubs

Trust	Ownership stake/directorships
Brentford	60 per cent option/4 directors on the board
York City	85 per cent
Lincoln City	36 per cent (+ 14 per cent via proxy)
Chesterfield	70 per cent
AFC Wimbledon	100 per cent
Exeter City	62 per cent
Enfield Town	100 per cent
AFC Telford	100 per cent

8. Corporate governance of supporters' trusts

In addition to ensuring the football club has adequate corporate governance procedures and mechanisms, supporters' trusts themselves need to ensure that they employ best practice. Our questionnaire asked trusts a number of questions regarding what mechanisms they had to ensure their organisation ran efficiently.

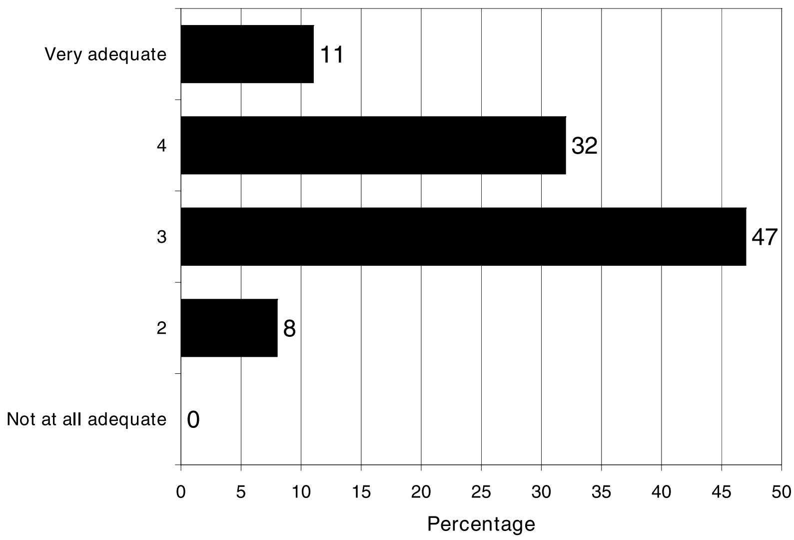
Nearly all trusts have allocated individuals to the key positions of Chair, Treasurer and Secretary, and a significant majority of trusts (74 per cent and 75 per cent) have a membership secretary and a communications officer respectively (Table 4.10). Only just over half the number of trusts, 54 per cent, have an officer on the board dedicated to fundraising. And only 20 per cent have a nominated person to deal with legal issues, although many trusts indicated that the Secretary covered this role. Regarding legal expertise on the Board, 38 per cent of trust respondents indicated that they had this capacity.

Table 4.10 What officers does your trust board have

	Percentage of respondents
Chair	98
Treasurer	97
Secretary	98
Fundraising	54
Membership	74
Media/Communications	75
Legal	26

Asked to gauge the adequacy of skills on the board in terms of developing the trust, respondents were given a five point scale ranging from 'Very adequate' to 'Not at all adequate': 43 per cent of supporters' trust respondents feel they have adequate skills on the board, but at least 55 per cent of respondents indicate that there is some scope for improving their skills base and capacity. Somewhat worryingly, 8 per cent of trust respondents feel that their skills are best described as being closer to the 'Not at all adequate' classification than the 'Very adequate'. Clearly there is scope for improving the skills base of trusts. Figure 4.9 summarises the responses.

Figure 4.9 Adequacy of skills base on the board of the supporters' trust



Despite the majority of trusts feeling that there is room to develop skills on their boards, only five per cent of trusts indicated that they have conducted any training needs analysis. There is no doubt that this exercise would be a useful exercise to conduct and would highlight the gaps in experience and ability on the trust board.

The Industrial and Provident Society rules that apply to the overwhelming majority of trusts require trusts to co-opt board members[19]. The purpose of this requirement is to ensure that trust boards have the skills and experience to operate effectively; the interests of the community served by the trust are adequately represented; and the level of representation of different groups on the trust board strikes an appropriate balance having regard to their legitimate interest in the trust's affairs. Yet 25 per cent of trusts indicated that they have no co-opted members on to their board.

Our survey found that nearly all trusts meet to discuss strategy and business (98 per cent), but only 42 per cent of trusts have either a one, three or five-year business or strategy plan. Of these trusts only 39 per cent had the plan approved by the membership at a General Meeting (Table 4.11).

Our survey also found that 10 per cent of supporters' trusts have now employed staff to help run the organisation and develop the trust's activities. Some trusts revealed considerable creativity in the way in which they went about obtaining and funding the post.

[19] Kevin Jaquiss (2003), clause 56.

Table 4.11 Strategy and business plans of supporters' trusts

		Percentage of respondents
Does board meet to discuss strategy?	**Yes**	98
Do you have a business or strategy plan?	**Yes**	42
If 'yes', what kind of plan do you have?	**1 year**	57
	3 year	29
	5 year	14
Is the plan approved by the membership at a General Meeting?	**Yes**	39

The Owls Trust for instance have appointed a dedicated Chief Executive Officer (CEO) to manage the trust's work for the past four years. The salary for the employee was initially underwritten by a local 'trust friendly' firm for two years at £15,000 a year on condition that once this initial period was over the CEO would generate their own wages through business sponsorship and fundraising; indeed this aspect of the job was part of their job description. In return, the firm received benefits in kind from the trust, such as advertising on the website. The venture proved successful with the initial two-year funded period giving the CEO enough time to get to grips with the job and build up links for further funding. The CEO now generates funds over and above their salary costs.

9. Trust links with bodies and organisations in the community

Returns from the survey indicate that supporters' trusts are making significant headway in establishing links and relationships with a range of community groups and stakeholders in the football club. Across the different stakeholders identified in our questionnaire the number of trusts with established links has either remained constant or increased.

Virtually all trusts (86 per cent) now report links with other supporters groups, up from 77 per cent last year. Trusts can also act as vehicles to reach out to community groups and organisations. Indeed, for those trusts with Industrial and Provident Society constitutions this is a requirement. 36 per cent of trusts now have links with local schools, up from 29 per cent in 2003, and 37 per cent reported a relationship with disabled groups, an increase of 11 per cent on last year's return.

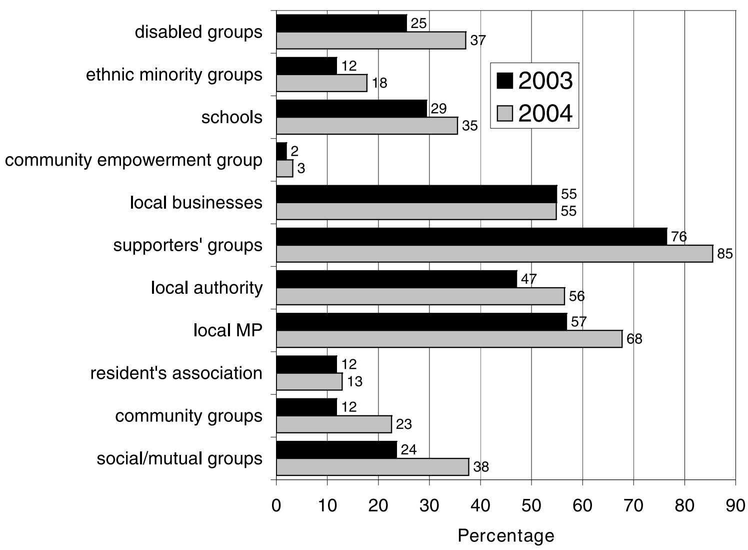
The percentage of supporters' trusts reporting established links with their local MP(s) and the local authority has also increased since last year with 68 per cent and 57 per cent of groups reporting such contacts (up from last year's figures of 57 per cent and 47 per cent respectively). 55 per cent of trusts have established links with the local business community in their area, the same percentage as last year.

The significance of these survey findings lies in the fact that football clubs depend on the support from the local community and trusts can act as catalysts in reaching out and revitalising the club's links with various groups. This can result in, for example, the renting out of stadia facilities, as well as expanding the fan base.

10. The attitude of clubs to trusts

Our survey continued to track and analyse the relationship between trusts and clubs and highlight potential for joint initiatives. Clubs indicate that they would work co-operatively with trusts on a variety of joint initiatives including: supporting social inclusion (56 per cent); fundraising to improve facilities (81 per cent); fundraising for the supporters' trust (78 per cent); fundraising for urban regeneration (50 per cent); fundraising for other local initiatives (22 per cent); supporting projects within local schools (66 per cent); supporting outreach work with local groups and

Figure 4.10 Supporters' trust links and relationships



organisations (66 per cent); supporting youth development (50 per cent); and supporting social inclusion (56 per cent). However, this year's returns indicate a drop in the percentage of clubs that would want to work co-operatively with trusts across many of the categories, compared to last year's figures.

In general terms, though, the relationship between trusts and clubs appears to be improving. This year's survey reveals that 61 per cent of all supporters' trusts' surveyed reported that they had received some form of support from the football club, up from 52 per cent last year. Examples of club support for the trust include use of the club's facilities, such as room hire free of charge, joint publicity to promote the club and its initiatives; and most commonly, participation in the joint initiatives with the club's football in the community scheme. Evidence of club support for supporters' trust activities is shown in Figure 4.12 broken down by League/Division, revealing that the majority of trusts indicate that they do now receive support from the club.

Figure 4.11 Joint initiatives football clubs would work with trusts on

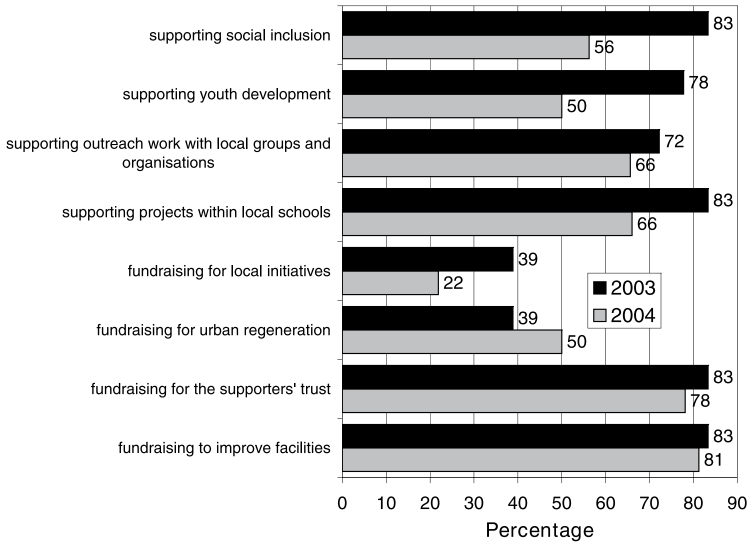
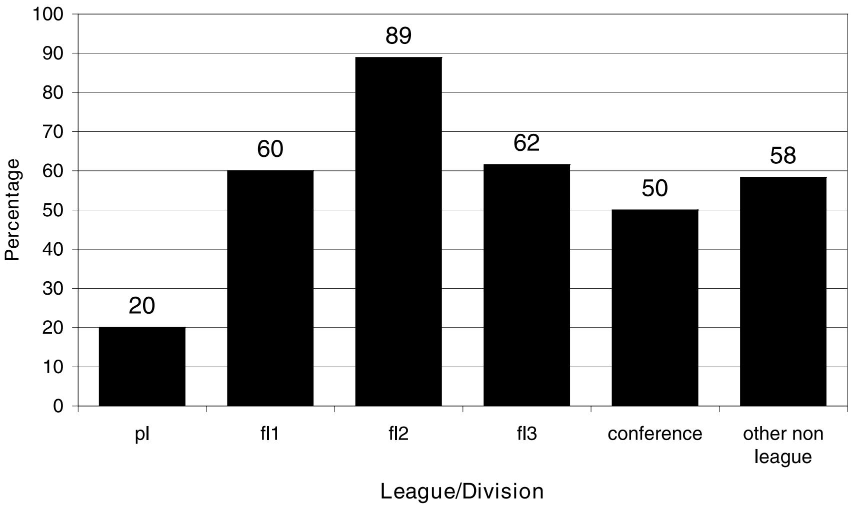


Figure 4.12 Supporters' trusts receiving support from the football club



References

Deloitte & Touche (2003), *Annual Report on Football Finance,* Deloitte and Touche Sport, Manchester

Deloitte & Touche (2004), *Annual Report on Football Finance,* Deloitte and Touche Sport, Manchester

FGRC (2001), *The State of the Game: The Corporate Governance of Football Clubs 2001*, Research Paper No. 2, FGRC, Birkbeck, University of London

FGRC (2002), *The State of the Game: The Corporate Governance of Football Clubs 2002*, Research Paper 2002, No. 3, FGRC, Birkbeck, University of London

FGRC (2003), *The State of the Game: The Corporate Governance of Football Clubs 2003*, Research Paper 2003, No. 4, FGRC, Birkbeck, University of London

FGRC (2003), *Building Sustainable Supporters' Trusts in the West Midlands: Interim Report*, Research Paper 2003, No.3, FGRC, Birkbeck, University of London

Hope, S. (2003), *The Ownership Structure of Nationwide League Football Clubs 2002-03*, Research Paper 2003, No. 5, FGRC, Birkbeck, University of London

Jaquiss, K. (2003), *Model Rules for a Football Community Mutual*, Research Paper 2003 No.1, FGRC, Birkbeck, University of London

McClean, M. (2003), 'Stadia as Hubs for Communities: Opportunity, Access and Entitlement', in S. Hogan (2003) *Back Home: Returning Football Clubs to their Communities*, Mutuo, London

Mills, C. (2003), 'Community Ownership - A Quiet Revolution', in Hogan S (2003) *Back Home: Returning Football Clubs to their Communities,* Mutuo, London

Appendix: Survey of Clubs and Supporters' Trusts

The analysis in this report is based on the following data and information sources:

1. The results from our questionnaire survey of all clubs in the English Premier and Football Leagues. This includes the clubs that were relegated to the Football Conference in 2004. The survey was conducted between June and September 2004. Of the 92 clubs surveyed 48 responded: a response rate of over 52 per cent, which is very high for an in-depth postal survey of this kind.

2. The results from our questionnaire of all clubs in the Football Conference. This includes the clubs that were promoted to the Football League in 2004 and the clubs that finished in the relegation places, although no club was officially relegated that year. The survey did not include Telford United who went into liquidation in June 2004. Of the 21 clubs surveyed, 13 responded: a response rate of 62 percent, an extremely high return rate for an in-depth postal survey of this kind.

3. The results from our questionnaire survey of supporters' trusts at English Premier and Football League clubs. Of the 106 trusts surveyed 62 responded, giving a response rate of over 66 per cent which is very high for an in-depth postal survey of this kind.

4. Analysis of the corporate governance statements and Annual Reports of clubs listed on the London Stock Exchange (LSE), AIM and OFEX.

5. The results from PIRC's analysis of the corporate governance statements of all LSE listed companies published in their December 2003 *Annual Review of Corporate Governance*.

6. The collation of financial accounts and performance contained in the latest Deloitte and Touche *Annual Review of Football Finance*, and PricewaterhouseCoopers *Financial Review of Scottish Football*.

Our dual surveys of clubs and supporters' trusts provide comparative data allowing analysis and insights from both perspectives.

This is our fourth annual review of the corporate governance of professional football clubs based on our dual survey methodology. We now have a longitudinal data set covering football clubs and supporters' trusts for the past four years. The data set has now expanded this year to include the Football Conference. In this report we have provided where appropriate historical comparisons to identify trends in corporate governance in professional football.

Name and Subject index

Other Publications in the Series

Unless otherwise stated, all publications are available for £5 (including post and packaging) from the FGRC at the address on the back cover. Please make cheques payable to Birkbeck College. Also downloadable free of charge from: www.football-research.bbk.ac.uk

Fresh Players, New Tactics: Lessons from the Northampton Town Supporters' Trust -
Phil Frampton, Jonathan Michie and Andy Walsh
This paper provides an in-depth analysis of the Supporters' Trust at Northampton Town football club. It investigates the challenges facing an established Supporters' Trust and what can be done to facilitate the growth of the Trust, increase its influence with the club and strengthen its ties with the local community.

The State of the Game: The Corporate Governance of Football Clubs – 2001 to 2004[1] - FGRC
Four annual *State of the Game* reports from 2001- 04 provide a comprehensive overview of the corporate governance of the football industry based on survey returns from clubs and stakeholders, interviews with key players and analysis of Companies House data. The reports focus on the role of the authorities in regulating the industry; track the developments in corporate governance procedures at professional football clubs; and analyse the emergence and growth of supporters' trusts within football.

Model Rules for a Football Community Mutual - Kevin Jaquiss
These Model Rules were produced as a collaborative effort between Cobbetts, Birkbeck and the Co-operative Union, along with the pioneering groups of supporters who first set up the new wave of supporters' trusts. The Industrial & Provident Society Model for a football community mutual has now been used many times by groups of supporters advised by Supporters Direct.

A 'Fit and Proper' Person Test for Football? Protecting and Regulating Clubs **-** Matthew Holt
This research paper considers the regulation of football clubs' owners and major shareholders. It looks at the possibility of introducing a 'fit and proper' person test as recommended by the Football Task Force, and the role of the Football Association in promoting best practice and improving corporate governance at clubs.

Building Sustainable Supporters' Trusts in the West Midlands: Interim Report **-** FGRC and The Co-operative College
Using the principles of action research this report identifies the training and support needs of supporters' trusts in the West Midlands. The Report also explores the potential for trusts to develop links and joint initiatives with wider community stakeholders at football clubs.

Building Sustainable Supporters' Trusts in the West Midlands: Final Report **-** FGRC and The Co-operative College
This Report provides an overview of the Building Sustainable Supporters' Trusts in the West Midlands action research project and its findings.

Building Sustainable Supporters' Trusts in the West Midlands: A Training Manual[2] **-** FGRC and The Co-operative College
The Training Manual is a set of teaching materials designed to train members of supporters' trusts. The materials incorporated within the Training Manual can be used by trusts as text-based resources or by facilitators to guide a series of interactive workshops. A CD ROM accompanies the pack that enables users to download and print out the materials, exercises and handouts for further use.

The Ownership Structure of Nationwide League Football Clubs 2002-03 - Stephen Hope
Using detail from the last annual returns and accounts from Companies House, this research paper focuses on the ownership of football clubs in the Football League, and includes a 'club by club' summary of their legal structure and shareholding concentrations.

Professional Footballers Association: A Case Study of Trade Union Growth - Geoff Walters
In the context of a declining trade union movement, this research paper charts the remarkable growth and development of the Professional Footballers Association throughout the 1980s and 90s.

Competitive Balance in Football: Trends and Effects - Jonathan Michie and Christine Oughton
This paper provides an analysis of trends in competitive balance over the last fifty years and looks at their determinants and effects. In the light of this analysis the paper makes a number of recommendations for regulatory reform.

---

[1] Copies of State of the Game reports 2001, 2002 and 2003 are available for £5; copies of the 2004 report are available for £25, with a discounted rate of £5 for supporters' trusts, club officials and students.
[2] The 190 page Training Manual (including CD ROM) is available in hard copy for £50, with a discounted rate of £20 for supporters' trusts, club officials and students.

Football Governance Research Centre

The Football Governance Research Centre (FGRC) is a recognised research centre of Birkbeck, University of London. The research and publications focus on sport management and the governance and regulation of professional football and sports leagues. The FGRC is part of the School of Management and Organizational Psychology located in the Clore Management Centre. The school offers a number of Masters programmes in Sport Management and the Business of Football, including an MSc and an MRes. Both of these degrees have ESRC recognition for awards of scholarships for postgraduate study leading to a PhD degree. More information about the FGRC can be found at www.football-research.bbk.ac.uk

Football Governance Research Centre
Birkbeck, University of London
Malet Street
London WC1E 7HX
Tel: 020 7631 6871
Fax: 020 7631 6872

www.football-research.bbk.ac.uk
enquiries@football-research.bbk.ac.uk

Further copies are available for £25.00 (including post and packaging) (£5.00 for students, club officials and supporters' trusts) from the FGRC. Also downloadable free of charge from www.football-research.bbk.ac.uk

ISBN 0-9549012-1-5

ISSN 1473-7884