INTRODUCING FAIR GAME'S SUSTAINABILITY INDEX

Operationalising the Fan-Led Review of Football Governance and safeguarding the future of football.

Fair Game is a group of 34 value-driven football clubs working together to change the governance of football in England and Wales.

Over the last year, Fair Game has engaged with over 40 recognised experts in the field of sports governance to produce a coherent and effective set of proposals to the Fan-Led Review for the reform of the professional game in England.

The Sustainability Index integrates the key elements and this document shows how this is compatible with, and supports, the recommendations of the Fan-Led Review.

FAIRGAME In the wider interests of football

THE CREATION OF A SUSTAINABILITY INDEX

The Vision
The Fan-Led Review has put forward several recommendations that would be transformational for our National Game. Fair Game is fully supportive of them and wants to make sure they are properly embedded and secured.

In the Fan-Led Review, there are four key areas:

- Financial sustainability (chapters 3 and 9)
- Good governance (chapters 4 and 5)
- Equality standards (chapter 6)
- Fan engagement (chapters 7 and 8)

The four echoed the findings of Fair Game's own manifesto and they make up the four criteria of Fair Game's Sustainability Index.

Details of the four are outlined in *Appendix One*. In addition, examples of poor governance can be found in *Appendix Seven*.

The All-for-One Approach
The Fan-Led Review stresses that the four must be taken as a whole. It is not a pick-and-choose option. The Fan-Led Review clearly states this:

> *"...it is important to stress that the recommendations should be considered holistically and not as a set of individual options from which football can cherry pick."* [1]

Fair Game agrees.

Fair Game is proposing scoring all clubs on the four using a combined Sustainability Index. We believe this builds on the findings of the Review and offers the best solution to stop a pick-and-choose outcome.

Introducing the Carrot
The current sanctions outlined in the Fan-Led Review are focused on reactive and time-consuming investigations, fines, and using the nuclear option of revoking licenses as a means to ensure compliance. The proposed sanctions in the Fan-Led Review are outlined in *Appendix Two*.

Fair Game believes we need to also incentivise clubs to do well – the carrot to the Fan-Led Review's stick. The Sustainability Index is the mechanism to deliver that. Simply put, the higher a club scores on the Index the more money they receive.

So where can the money come from?

The Financial Pot
The Fan-Led Review identified two main areas of possible funds:

- New Solidarity Transfer levy[2]
- Parachute and Solidarity Payments[3]

The Fan-Led Review has already proposed that the new Regulator will be responsible for the funds raised by the New Solidarity Transfer Levy, which the Review believes if it was set at 10% it could raise £160m a year[4]. Fair Game backs a Levy at that level.

The amount of funding given to the EFL by the Premier League in Parachute and solidarity fundings is estimated to be £380m. This represents 16% of the amount of money that the Premier League receives in broadcasting revenue. [5]

The Fan-Led Review handed the responsibility of looking at distributing football's finances to the Premier League and the EFL and also set them a deadline to do so.

"Football should seek to resolve distribution issues itself. If no agreement can be reached by the end of 2021, the Premier League and EFL should commission research to find a solution, with backstop powers for IREF if a solution is still not found."[6]

The initial deadline has now passed and Fair Game believes the responsibility should now past to the Shadow Regulator proposed in the Fan-Led Review[7], before transferring to the Regulator when it comes into force.

A full explanation of parachute and solidarity payments, and the proposed New Solidarity Transfer Levy is explained in *Appendix Three*.

Financial Reallocation
In line with the English Football League, Fair Game believes the percentage allocated from the Premier League's broadcast rights (£2,340m according to Deloitte in 2020) should return to pre-Sky levels of 25%, equating to a sum of £585m.

If this split was achieved, and then combined with Fair Game's aspirations of a 10% Solidarity Transfer Levy, this would equate to a maximum available to be distributed throughout the pyramid of £745m.

This sum should then be split in three ways

1. Supporting independent football organisations and grassroots
2. Baseline funding for clubs
3. Distribution via the Sustainability Index

1) Supporting independent football organisations
Several organisations currently receive a significant proportion of their funding from the Premier League, largely through the Fans Fund. These include FSA, LMA, PFA, Kick It Out, and Level Playing Field. Fair Game believes that to ensure their true independence their funding should be increased and come from the Regulator. And of course the Regulator itself needs to be funded.

In addition, there is a need to improve grassroots funding through the Football Foundation.

Fair Game believe 10% of the pot should be used to fund these organisations.

2) Baseline funding
While the Sustainability Index represents an overhaul of funding towards a value-based approach, there does need to be some element of certainty year-on-year to existing clubs.

Fair Game believes that 15% of the pot should be provided as baseline funding for all the clubs from the Championship to National League North and South, and clubs in the Women's Super League and Women's Championship.

This figure should be brought in on a phased approach, beginning with 50% in year one, 30% in year two and 15% in year three. (The reduction going directly to funding for the Sustainability Index).

3) Sustainability Index
If the maximum available funding of £745m (as outlined above with the various conditions being overcome), this would leave a total of £372m to be reallocated using the Sustainable Index in year one, rising to £559m in year three.

The Index will score each club from the Premier League to National League North and South, and clubs in the Women's Super League and Women's Championship on the following four criteria:

- Financial sustainability
- Good governance
- Equality standards
- Fan engagement

The higher the club scores on the Index the more money they are entitled to. To simplify the grading process, each club will be given a category from One to Four.

A breakdown of how the criteria will be scored and operationalised has been developed by independent regulator specialists Lane, Clark & Peacock LLP.

Funding from Sustainability Index
Not only should funds be allocated according to the criteria, the distribution also needs to reflect which division the club is in.

The Index works by assigning a set percentage of the pot to the following divisions:

- Championship
- League One
- League Two
- National League
- National League South
- National League North
- Women's Super League
- Women's Championship

The divisional pot is then split between the clubs in each division. An individual club's share of their divisional pot will depend on their Index score.

Our proposed allocation to each division is outlined below.

The issue of weighting
There are two main concerns around how football finances are currently distributed:

1. Divisional split
2. Cliff edges between divisions

The issue around the parachute payments given to clubs being relegated from the Premier League to the Championship is outlined in Appendix Four.

Current basis of allocation and Fair Game proposals

1) Divisional Split
Currently the distribution of TV funding is decided by the EFL and is set out in their articles of association.

The EFL split the money they currently receive from the Premier League (£327m) in the following way:

- 80% Championship (a vast majority of which covers parachute payments)
- 12% League One
- 8% League Two

The National League, National League North, National League South, Women's Super League and Women's Championship receive no funding from this.

Currently £380m is given to the EFL (representing 16% of the total broadcasting revenue from the Premier League as outlined above).

Of that 16%:

- 11.5% goes on Parachute Payments (all clubs relegated from Premier League and not promoted back in last three years – maximum nine clubs, minimum six clubs)
- 3.2% goes to Championship clubs not in receipt of parachute payments
- 0.7% goes to League One clubs
- 0.5% goes to League Two

Note: EFL and Fair Game are calling for a return to pre-SKY TV deal percentage split of revenue, which would see 25% going to the rest of the pyramid

That split does not reflect either the current voting structure of the EFL or the current average attendances - and of course does not account for any divisions outside the EFL.

Voting

- 50% Championship
- 33% League One
- 17% League Two

Attendances

- 60% Championship
- 25% League One
- 15% League Two

Fair Game believes that the distribution of funds should reflect these figures and also include funds being given to the National League, National League North, National League South, the Women's Super League and the Women's Championship.

There are also significant concerns around the 'cliff edges' operating throughout the rest of the pyramid.

2) Cliff Edges Between Divisions
A cliff edge is the difference in the amount the EFL gives to each division

Currently the rough gap on average between clubs in:

- The Championship and League One is £13.8m per club
- League One and League Two is £2.1m per club
- League Two and National League is £1.4m per club

The situation between the Premier League and the Championship is covered in Appendix Three.

Fair Game weighting proposal
Using these two criteria, Fair Game proposes the following new divisional distribution:

- 46% Championship (24 teams)
- 24% League One (24 teams)
- 13% League Two (24 teams)
- 7% National League (24 teams)
- 3.5% National League North (22 teams)
- 3.5% National League South (22 teams)
- 2% Women's Super League (12 teams)
- 1% Women's Championship (12 teams)

Note that with a complete redistribution of parachute and solidarity payments this would mean only clubs that had been relegated from the Premier League in the last two years would see a decline in income (a maximum of six out of the 164 clubs below the Premier League covered by Fair Game's plans).

How the money should be spent
There is a very legitimate argument that just giving more money further down the pyramid without effective central controls doesn't solve the cultural problem in the game.

Accrington Stanley chairman Andy Holt: "Football has been incapable of managing formulae like FFP (Financial Fair Play) and SCMP (Salary Cost Management Protocol). A landscape littered with broken clubs amply demonstrates this."

Ian Mather, CEO of Cambridge United: "There are only two businesses that budget for a loss: start-ups and football clubs. Cambridge United is a 109-year-old start up."

Liam Scully, CEO of Lincoln City: "All clubs should be encouraged to ensure a long-term sustainable future so that our traditions and heritage should never be put at risk. Football should be at the heart of a community."

And there are examples where it has gone wrong.

Championship clubs spent 107 per cent of their revenue on wages in 2018-19[8].

And in the case of Reading FC, their published accounts for the year ending June 2019 showed they spent £225 for every £100 of income on player wages.

Fair Game believes clubs should be encouraged to use the reallocated funds to create long-term sustainable revenues. These should include community projects, capital expenditure and academies.

Here are some illustrative examples of the costs some clubs incur:

- £60,000: Maidstone United's new toilets
- £250,000: Accrington Stanley's new bar
- £865,000: Cambridge United's Category 3 Football Academy.
- £5.4m: Charlton Athletic's award-winning community programme costs
- £32m: AFC Wimbledon's 10,000 all-seater stadium

Appendix Seven outlines a couple of case studies.

Who Should Run the Index
Fair Game believes the Index should be run and be operated free of vested interest and the obvious operator would be the proposed Independent Regulator.

APPENDIX

APPENDIX 1

The four components

1) Financial sustainability

The Fan-Led Review

Key findings are:
"a) The incentives in the game are leading to many clubs with fragile finances which were further exposed by COVID-19.
b) Many clubs are poorly run, with reckless decision making chasing an illusion of success and a disconnect between the interests of fans and owners.
c) Regulation and oversight of the game at the domestic level is not up to the challenge of solving the structural challenges and specialist business regulation that will be needed."[9]

The Fan Led Review also notes that "the long-term health of football relies on clubs being run sensibly, making rational decisions and planning for a long-term sustainable future"[10] and that "any regime should prioritise long-term sustainability and cost controls"[11] , which is in line with Fair Game's principle of sustainability.

Fair Game
Financial sustainability is one of the principles of Fair Game.

Two main concerns are set out in the Fair Game manifesto:
1. Liquidity: Clubs experience financial distress when they lack the cash required to make payments as they fall due.
2. Solvency: Clubs are at greater risk of financial distress when they lack the ability to repay both short and long term borrowings.

2) Good governance

The Fan Led Review

Key findings are:

"An owner should be a suitable custodian of a community asset"[12]
The Review also recommends that there "should be a new, compulsory corporate governance code for football"[13]

It then goes on to add that "good corporate governance can help with decision making, providing a diversity of opinion and expertise to clubs' decisions, as well as transparency and accountability"[14] and that "a proper system of corporate governance would have subjected the very risky business decisions by ... clubs to scrutiny and challenge."[15]

The Fan-Led Review further recognises that "good corporate governance ... delivers better business outcomes, ensuring effective decision making through diversity of opinion and expertise. It can help a company regulate and reduce risk as well as allowing challenges on unilateral decision making and accountability for business actions, which can lead to positive performance and financial viability."[16]

Fair Game

Fair Game backs good corporate governance as key in ensuring financial sustainability (one of the Fair Game principles) in football. Fair Game clubs surveyed also showed wide support for stronger scrutiny of owners and directors than that currently in place.

Football clubs have numerous different structures, often lack full transparency, and have multiple different accounting structures. This approach becomes hard to monitor and makes identifying potential pitfalls and problems very difficult. Good corporate governance is a clear solution to this.

There is a multitude of research on the consequences of poor governance in general (lower profits, poor decision-making, short-termism affecting the long-run sustainability of a company) and in sport (corruption scandals, liquidation of clubs and subsequent effects on communities, tax evasion).

As a result of these issues, there have been a number of sport governance codes brought in globally (examples include those issued by Sport Australia, Sport New Zealand, and the European Commission). The UK's A Code for Sport Governance is based on the UK Corporate Governance Code and is in place for sports organisations wishing to obtain government funding. From a football perspective, FIFA have recently introduced the FIFA Compliance Handbook (which does not, however, cover clubs) and the FA have introduced the Code of Governance for County FAs.

There is very little research looking at the overall governance of clubs in the UK, but what does exist shows that there is a lot of scope for improvement as clubs demonstrate governance standards below that of other businesses.

Alongside the Fan-Led Review proposals, Fair Game also support the idea of environmental governance. Football has been criticised by fans and other stakeholders for its collectively poor response to environmental and ethical (particularly with regards non-player staff remuneration) concerns. As an industry, football systematically limits integration of material environmental, social and governance issues, and climate change into its activities. Financial compliance and regulators are increasingly recognising the importance of environmental governance as part of governance as a whole, and Fair Game support its inclusion in measures of governance.

3) Equality standards

The Fan-Led Review

The Review is very clear on their stance on equality, diversity, and inclusion: "EDI should form a strong pillar of good corporate governance. It should be seen as a central part of any organisation's business plan and not an 'add on'."[17]

Fair Game
There is a large body of literature that shows the importance of EDI for good governance and greater profitability. Fair Game believe EDI strategies and policies are not sufficiently embedded beyond that of a tick-box exercise in the legislation, governance, policies and procedures of governing bodies or football clubs and therefore support the Fan-Led Review's holistic approach.

4) Fan engagement

The Fan-Led Review
The Review clearly recognises the importance of fans to the game: "football clubs are not simple economic assets, and are part of the heritage and culture of their local communities and the country more generally. Items such as club stadium, colours and badge are an important part of this".[18]

The Fan-Led Review also notes that "Clubs should employ an 'engage and consult' ethos. It will also have an important role in providing transparency for the wider fanbase."[19]

Fair Game
Football fans are critical stakeholders who need to be engaged and listened to. The best clubs see fans as a key resource to a club. Fair Game clubs believe that the long-term sustainability of a club is directly linked to good "Fan Engagement". Good practice has emerged at several clubs but Fair Game considers it important that best practice becomes the norm across football both formally and informally.

APPENDIX 2

The Fan-Led Review sanctions timeline:

1) Monitoring prior to breach[20]:
IREF will be able to demand proportionate information from clubs, to assess compliance. Information must be provided in a timely way and be accurate, with legal mechanisms for IREF to obtain information even if a club is reluctant or not cooperative.

2) IREF should have interim powers for suspected licence breaches in order to immediately stop or alter particularly heinous actions by clubs, pending an investigation. This will, of course, need appropriate checks and balances, and include[21]:

2.1. Short term: Compelling/ordering a club to stop non-compliant behaviour or forcing a club to meet its obligations:

2.1.1. Reputational regulation – e.g. naming and shaming

2.2. Longer-term: Compelling/ordering a club to stop non-compliant behaviour or forcing a club to meet its obligations:

2.2.1. Fines. (and Compensating those that have been adversely affected)
2.2.2. Points deductions (and relegations)
2.2.3. Transfer bans
2.2.4. Individual sanctions against owners and directors, including bans from involvement in football

3. At the most extreme end, owners could be forced to pass stewardship/control of certain decisions within a club, to an IREF appointed administrator

4. Revoke license[22]

APPENDIX 3

1) Parachute and Solidarity Payments

A parachute payment is given to clubs relegated from the Premier League. For the 2018/19 season this provided payments for clubs that had been relegated in the last three years and in some cases this has even been extended to four years. The payments stop if they are promoted back to the Premier League and decrease in value for each additional year they are outside the top flight

2018/19 payments per club[23]:

- Year One: £43.943m (3 clubs)
- Year Two: £35.953m (3 clubs)
- Year Three: £15.979 (1 club)
- Year Four: £17.674m (1 club)
- Total £273.34m

In addition the Premier League gives solidarity payments to every club in the EFL. These figures are no longer published but the best estimates for the 2021/22 season is a total of £107m.

The current estimated combined total of parachute and solidarity payments is around £380m a year.

This represents 16% of the total received by the Premier League each year in broadcasting rights. The EFL believes this figure should return to the pre-Sky level of 25%.

2) Solidarity Transfer levy

The Fan-Led Review spells out clearly what the Levy should look like and how much it could potential raise.

"The levy would be paid by Premier League clubs on any player transfer within the Premier League or any international transfer. IREF would ensure funds have been paid."[24]

"This levy could raise significant sums for the pyramid. Transfer fees can be opaque, but based on estimated values in the last five years, Premier League clubs have spent in the region of £9.9bn on transfer fees.55 If a 10% levy had been applied in that period, excluding transfers from EFL clubs, an estimated £160 million per year could have been raised for distribution."[25]

"By excluding EFL players from the levy, they become more attractive, shifting money back to the EFL. This would encourage domestic player development. In addition, EFL clubs are excluded from the levy on transfers they make, which is an indirect form of support. All considered, this proposal would be a substantial source of support to EFL clubs."[26]

APPENDIX 4

Parachute payments and competitive balance

The interaction between parachute payments and competitive balance is a subject of much debate. Their removal or decrease would affect the competitive balance of the leagues but the questions are in which direction and how?

Recent research by Wilson et al[27] has revealed:

1. an increase in the number of clubs with parachute payments and the overall value of these payments coincides with a reduction in competitive balance in the Championship.
2. clubs with parachute payments are twice as likely to be promoted to the Premier League and considerably less likely to suffer further relegation to the third tier (League 1).
3. on the pitch, parachute payment clubs earn five more points per season (on average) than non-parachute payment clubs.

The Fan-Led Review also raises significant concerns about the impact parachute payments have on the competitive balance of football:

"The impact of the current system on the Championship in terms of both competition and the economics of the league means that reform is needed."[28]

"A more even distribution of these funds would support the sustainability of the pyramid, raise the level of competitiveness in the leagues and help create a more diverse and competitive set of entrants to the Premier League."[29]

APPENDIX 5

The breakdown of scoring

1) The weighting per division as outlined above is called the divisional value.

2) All the clubs in that division are placed into one of four categories and then are given a category coefficient

- Category 1: 1
- Category 2: 0.75
- Category 3: 0.5
- Category 4: 0

Category 4 is zero-rated and reserved for clubs who are in serious breach of Fan-Led Review guidelines

3) Once all clubs have been graded this data is used to produce a Sustainability Index coefficient. This looks at the number of clubs in each category across all the divisions and produces a weighted average income per club.

4) The amount of money each club receives is then calculated using the following formula:
division value x category coefficient x SI coefficient

Example case studies

Based on these assumptions:

- Transfer levy introduced
- Parachute and solidarity payments raised to 25% of TV revenue
- Fair Game weighting proposals adopted
- All League One clubs have achieved Category 1 status

A Championship club currently not receiving parachute payments in category 1 would receive £13,079,109 - an uplift of £7,979,109

- This would be enough to fund an award-winning community programme and a Category 3 football academy for a year

A National League North club in Category 1 would receive £940,617 (the first time they would have received any funding)

- This would be enough funding to fully pay for a Category 3 football academy for a year

APPENDIX 6

Examples of poor governance in football

There are a large number of governance failures in football that have affected stakeholders, a sample of which are discussed in this section:

Bury FC: Bury were expelled from the EFL following financial turmoil including unpaid wages. There were suggestions that they were handing out big contracts to players in League Two which they couldn't afford. From a corporate governance perspective, the question is why that was approved as a strategy and why the board (if there was one) agreed to it. The effects of Bury on its supporters has been well-documented, including in the BBC series Out of Our League.

Macclesfield Town: Macclesfield also exhibited instances of poor financial management and governance failures. Winding up petitions issued by HMRC for chronically unpaid taxes eventually led to the club being wound up in 2020. Similar concerns have been raised about Southend.

Wigan Athletic: Wigan Athletic went into administration weeks after a change of ownership and then faced relegation, administration, and potential liquidation in 2020. The controllers of the club were approved under the EFL's owners and directors test. From a corporate governance angle, independent board members would have been valuable in challenging parts of the initial sale and then the subsequent sale which led Wigan down the path to administration. The due diligence was clearly poor as the board should have been asking questions and challenging. It is also unclear (lack of transparency and accountability being an issue here) how the board justified collectively approving the sale.

Darlington FC: Financial mismanagement at Darlington resulted in the club going into administration in 2012. Not having a decent board with the ability to ask questions and challenge a dominant owner and Chair probably contributed to the objectively disastrous decision to build an arena the club didn't need and couldn't maintain.

Portsmouth FC: Portsmouth faced a period of ownership issues and financial concerns in the period 2005-2011. The risk-taking and failure of a board to question whether the decisions being made were justifiable and appropriate is a feature of poor corporate governance. It also highlights concerns over owners and directors tests, with two former club owners jailed.

Birmingham City: The then owner of Birmingham, Carson Yeung, was convicted on money-laundering charges in 2014, demonstrating a need for more robust owners and directors tests.

Leeds United: Leeds United borrowed heavily against future gate receipts and TV money based on European football figures and then faced financial ruin in the early 2000s. It has been reported that the owner, Peter Ridsdale, and the board were aware of the risks of borrowing against future gate receipts. It is unclear if Ridsdale was just the Chair or was effectively an Executive Chair doing both the CEO and Chair roles. If the latter, this is in breach of corporate governance best practice. If the former, it represents a blurring of the lines between the roles of executive management and non-executive oversight (which the Chair is supposed to do from a position of independence).

ENDNOTES

1 Fan-Led Review, pg9
2 Fan-Led Review, paragraph 9.28, pg 114
3 Fan-Led Review, paragraph 9.10, pg 110
4 Fan-Led Review, paragraph 44, pg 20
5 In the 2017/18 season, the last available official figures from the Premier league, £100m was given to the EFL in Solidarity payments (https://www.premierleague.com/news/691073). This is believed to have now risen to £107m.
Meanwhile, The Deloitte 2020 report (Table 6, pg17) puts the total amount of Parachute payments given to relegated clubs at £273.4m. Making a total of £380m.
Deloitte also conservatively estimated the total amount of the EPL TV broadcasting revenue at 2,340m. The £380m represents 16% of that total.
6 Fan-Led Review, Recommendation 38, pg 113
7 Fan-Led Review Recommendation 6, pg 136
8 Deloitte 2020 report
9 Fan-Led Review, paragraph 11, pg 14
10 Fan-Led Review, paragraph 1.22, pg 29
11 Fan-Led Review, paragraph 3.18, pg56
12 Fan-Led Review, paragraph 21, pg 16
13 Fan-Led Review, paragraph 26, pg 17
14 Fan-Led Review, paragraph 1.23, page 29
15 Fan-Led Review, paragraph 1.24, pg 29
16 Fan-Led Review paragraph 5.2, pg 56.
17 Fan-Led Review, paragraph 6.9, pg 85
18 Fan-Led Review, paragraph 8.1, pg 98
19 Fan-Led Review, paragraph 7.20, pg 93
20 Fan-Led Review, paragraph 2.42 pg 47
21 Fan-Led Review, paragraph 2.45 pg 47
22 Fan-Led Review, paragraph 4.26 pg 72
23 Deloitte 2020, Table 6, pg 17
24 Fan-Led Review, paragraph 9.29, pg 114
25 Fan-Led Review, paragraph 9.30 pg 114
26 Fan-Led Review, paragraph 9.33, pg 115
27 Wilson, R., Ramchandani, G. and Plumley, D. (2018). Parachute payments in English football: softening the landing or distorting the balance? Sheffield Hallam University Research Archive (SHURA) at: http://shura.shu.ac.uk/17115/
28 Fan-Led Review, paragraph 9.16, pg 111
29 Fan-Led Review, paragraph 9.29, pg 114