

**SCOTTISH RUGBY UNION LIMITED****MINUTE OF MEETING OF THE BOARD OF SCOTTISH RUGBY UNION LIMITED  
HELD AT 2 PM ON 6 JUNE 2021****MEETING HELD BY AV TELECONFERENCE****Present:**

John Jeffrey	(JJ)	Chairman
Ian Barr	(IB)	President
Shona Bell	(SB)	Chief People and Engagement Officer
Julia Bracewell	(JB)	Independent Non-Executive Director
Mark Dodson	(MD)	Chief Executive
William Gardner	(WG)	Council Nominated Non-Executive Director
Andrew Healy	(AH)	Finance Director
Bob Richmond	(BR)	Council Nominated Non-Executive Director
Lesley Thomson	(LT)	Senior Independent Non-Executive Director

**In Attendance:**

Robert Howat	(RH)	Company Secretary & General Counsel
Colin Rigby	(CR)	Vice-President (Observer)
[ Name redacted]	( )	(Minute Taker)

**1. Introduction & Opening Remarks****ACTION**

The Chairman noted that a quorum was present and opened the Meeting.

The Chairman explained that the purpose of the Meeting was to discuss the Board's position on three AGM motions which had been received ahead of the AGM due to be held on 14 August 2021.

The Chairman thanked all attendees for making time available at short notice to meet on a weekend, which had been necessary to allow the Board to consider the motions so that the Board's views could be provided at the Council meeting scheduled for the following day.

Apologies had been received from David McMillan and Malcolm Offord, both of whom had prior commitments but had provided their comments to the Chairman ahead of the Meeting.

Copies of each motion had been circulated to the Board ahead of the Meeting, along with a paper from the Chief Executive setting out his thoughts on each motion. All papers were taken as read.

The Chairman asked Board members to declare whether they had any relationship with any of the clubs proposing, seconding or supporting the motions. It was noted that the

Finance Director was a country member of Glasgow Hutchesons' Aloysians RFC and the Chairman was a member of Kelso RFC.

The Chairman explained the nature of each of the three motions which had been submitted, noting concerns that elements of the motions appeared to seek to overturn previous decisions made, make directions as to finance, and raised employee-related and operational issues which were properly matters for the Board.

It was noted and acknowledged, with disappointment, that the President and Vice President had not been made aware of the motions in advance of their submission by clubs.

The Chairman stated that, in his view, the motion being proposed by Haddington created particular concern as it was perceived as an attack on the organisation's Legal and Governance department.

## 2. **Motion from Glasgow Hawks RFC**

The Chief Executive referred to the motion submitted by Glasgow Hawks RFC, seconded by Falkirk RFC and the accompanying rationale.

The Chief Executive identified two parts to the motion:

- i) A request for information around allocation of Scottish Government grant and loan funding within Scottish Rugby. This fell in line with discussions that had already taken place within the Audit and Risk Committee in relation to the publication of grant funding made available to clubs and more generally, and the Chief Executive did not have any concerns over the requested information being made available.
- ii) A request for guarantees that Scottish Government funding would not be used "directly or indirectly" to support the recruitment of non-Scottish qualified players. Whilst it was noted that it was very unlikely to be the intention of the proposing club, there were concerns that implementing the suggested guarantee could constitute direct or indirect discrimination under the Equality Act 2010. If so, any direction to act in this way would not only be unlawful but also contrary to the requirements in the grant agreement with the Scottish Government, including adherence with all applicable laws. There was the potential for conflict with Scottish Rugby's own policies in relation to inclusion and diversity, and World Rugby's Code of Conduct. Further, conduct that was viewed to be discriminatory would risk damage to the reputations of both Scottish Rugby and member clubs.

The Board concurred with the Chief Executive's view in relation to the first part of the motion.

The second part of the motion was then discussed by the Board, who considered that the proposing club should be made aware of the potential Equality Act implications. The Board also considered that it had a duty to make the members aware of these potential implications, so they had all relevant information when considering how to vote on the motion in due course.

It was noted that in these circumstances, even if the motion was passed in its current form, the Board may be both unwilling and unable to act on a direction which was unlawful.

To that end, a legal opinion should be sought from external solicitors as soon as possible. The Board would then consider proposing an amendment to the motion.

### 3. **Motion from Glasgow Hutchesons' Aloysians RFC**

The Chief Executive referred to the motion submitted by Glasgow Hutchesons' Aloysians RFC, seconded by Hawick RFC and the accompanying rationale.

This motion sought to re-establish an inter-district championship and to redirect funds allocated to the Super 6 competition for these purposes.

The Vice-President noted that during consultations with clubs around season structure, the prospect of re-establishing an inter-district competition had been mooted but ultimately had not been taken forward. Thought would have to be given as to how this new competition could be fitted into a season, and it was noted that if progressed it could lead to increased costs in the Rugby Development Department budget.

Whilst the Board did not raise any issue with the principle of having some form of inter-district competition if this is what clubs wished (albeit with some potential challenges being noted over the more practical aspects of fitting this into the existing season structure), it was strongly felt that this should not be at the expense of the Super 6 competition. Super 6 was an integral part of Scottish Rugby's high-performance strategy and was funded from the high-performance budget.

Queries were raised as to whether the motion could amount to a "direction as to finance" pursuant to Bye-Law 18 on the basis that it may then require funds to be diverted from the high performance budget to the Rugby Development Department budget.

It was further noted that Super 6 licence agreements were in place until the end of the 23/24 season, so there may be potential legal issues in the Super 6 competition terminating before those agreements came to an end. The alternative would be to have an overlap of the two competitions, which could prove costly and difficult to manage. Similar issues would arise with sponsors and broadcasters of the Super 6 competition.

There was some additional concern that players may not have been consulted about what type of competition they wished to play in. The Board's view was that prior to reinstatement of an inter-district competition consultation should be carried out with all interested parties.

The Board fully supported continuing consultation on the domestic season but it was considered that the high-performance pathway should not be affected. The wide benefits of Super 6 as a pathway for players, coaches, officials and backroom support were noted. It was proposed that Super 6's position within the performance pipeline and the high-performance strategy more generally be explained in detail to members.

External advice should also be sought to confirm on the following points:

**[REDACTED – CONFIDENTIAL – BASIS OF INSTRUCTION FOR LEGAL ADVICE]**

The Board would then consider whether to propose an amendment to the motion.

#### **4. Motion from Haddington RFC**

The Chief Executive then referred to the third motion, proposed by Haddington RFC and seconded by Currie RFC ,and the accompanying rationale.

This motion related to the Scottish Rugby’s Legal and Governance team/ secretariat and required that the Council conduct a review on the “efficacy, efficiency and propriety” of the team, the potential for conflict where legal team members provided advice to various entities within the overall structure, and relative advantages and disadvantages of outsourcing the legal function.

The Chief Executive expressed his extreme concern and disappointment at this motion.

The Board concurred and was of the unanimous and firm view that it represented an unwarranted attack on legal personnel, who had worked tirelessly to support all facets of the organisation - never more so than during the Covid-19 pandemic – and should be resisted.

A number of points were raised, including:

- i) a query as to whether a motion could properly seek to instruct Council to conduct a review into employee - related matters and operational functions which were managed on a day-to-day basis by the Executive, in turn reporting to the Board;
- ii) that those proposing the motion were significantly underestimating the extent of the work undertaken by a very busy legal function, and the very substantial cost involved in outsourcing to provide an equivalent service;
- iii) the support provided to the Council by the Council Secretary, which was considered both necessary and invaluable by all Council Appointed Board members;
- iv) the President stated in particular his appreciation for the Council Secretary, noting that they went above and beyond in carrying out their duties, including by attending meetings outside normal working hours and often at short notice, and that it was the President’s desire to keep that person in the role;
- v) the potential effects on the morale of the Legal and Governance team of questions, which the Board considered to be unfounded, being raised regarding their abilities , propriety and performance, and creation of doubts over future job security with the accompanying risk of valued employees seeking employment elsewhere;
- vi) the extent of legal knowledge and experience within the legal team and the support the team provided to the organisation, the Board, and individual Board members at induction and on a continuing basis, which would be lost if the internal function was outsourced; and

- vii) the President confirmed his view that the Council was very happy with the legal and secretariat support it received. He did not believe that the suggested review was necessary or appropriate and considered that the Council was likely to share that view and would not in any event wish to take on the suggested task.

There was a period of further discussion, with the Board again noting its appreciation of the work carried out by the Legal and Governance team.

Concern was raised for the wellbeing of the Legal and Governance team in light of the motion. The Chief People and Engagement Officer was asked to ensure that appropriate support was put in place for the affected employees. Initial conversations had taken place with team members, and these would continue. **SB**

It was agreed that due to the conflict of interest involved, the Chief People and Engagement Officer would seek an external legal opinion on various aspects of the motion, including **[REDACTED – CONFIDENTIAL – BASIS OF INSTRUCTION FOR LEGAL ADVICE.]** **SB**

Information should also be collated to demonstrate the significant cost savings and practical benefits of having an internal legal function rather than outsourcing to a third party.

## 5. Next Steps

With all motions having been discussed, the following next steps were identified :

- i) The Chief Executive and the Chairman would prepare a paper to present to Council setting out the Board's conclusions and next steps, with this to be discussed with the Council at its meeting the following day.
- ii) The Council would have its own discussions and reach its own position on each of the three motions. Although it was thought likely that the Council would reach a similar position on each motion and a joint position adopted, the independence of each body to form its own views was recognised and acknowledged.
- iii) The Chief People and Engagement Officer would continue to work with her Communications team on a detailed communications strategy for the weeks leading up to the AGM. An external consultant had been engaged for a short period to provide additional support for the team in producing a refreshed and updated format for the Annual Review, reporting on the previous 12 months.
- iv) The President confirmed that the Standing Committee on Governance would shortly be issuing a timetable for the conclusion of its governance review which would also be circulated to the Board. It was hoped this would provide stakeholders with some comfort that governance matters were progressing.
- v) External legal opinion would be sought on various aspects of each of the motions, as highlighted during discussions, and would be shared with the Council.

## 6. Close

The Chairman thanked everyone for their time, support and contributions and closed the Meeting.

**APPROVED BY THE BOARD**

2 July 2021