

Minute of Stage 2 of the Annual General Meeting of the Scottish Rugby Union (Stage 2), held by video conference, on Thursday 26th November 2020 at 6.00pm.

Present

I Barr (President) in the Chair

C Rigby (Vice-President), G Thomson, G Tosh, E Hugh, B Frazer, M Gillanders, W Gardner, J O'Neill, AJ Forsyth, H Swankie, B Richmond, M Offord, K Knott, J Anderson and R Hume (Members of the Scottish Rugby Council); J Halliday and IT Rankin (co-opted Members of the Scottish Rugby Council).

J Jeffrey (Interim Board Chairman); LE Thomson and J Bracewell (Independent Non-Executive Directors); M Dodson (Chief Executive), RM Howat (Secretary), DC McKay (Chief Operating Officer) - Members of the Scottish Rugby Board.

WG Dixon, RW Flockhart and J Stevenson (Past Presidents)

S Begbie (Director of Rugby Development), SJH Gemmell (Technical Director), S Bell (Director of Human Resources), GA Ireland (Head of Regulation), RG McGhee (Regulatory and Technical Executive), A McCracken (Senior Solicitor), D Struth (Managing Director, Edinburgh Rugby).

Club, Associate Body and Associate Club area representatives comprising 179 individuals.

There were also in attendance: D Belmore (Championship Committee Convenor); E Cameron (sportscotland); representatives of the auditors, members of the press and members of staff.

Distributed for Meeting

- *Meeting Notice dated 29 July 2020 and Notice of Resumed Meeting of 29 October 2020 (including Agenda, Motions and Procedure)*
- *Championship Report*
- *Annual Review 2019/20*

Apologies for Absence

GB Masson, JHR Wright, B Duffy, AR Irvine and AJ Lawson (Past Presidents).

Welcome and Notice calling the Meeting

The President welcomed all present and referred to the Notice calling the Meeting, which is filed with this Minute, and proposed that it be taken as read. There was no dissent. He invited the Secretary to intimate apologies, which were as noted above.

The President confirmed that the meeting was quorate, having more than one third of the representatives entitled to attend and vote present.

The President intimated that club representatives must be members of the clubs which they represent.

The Secretary outlined the voting procedure, which would be conducted through the electronic voting platform

President, Chairman and CEO Reports

The President stated that the difficulties of recent times had highlighted that rugby was a force for good. He said that the decision to close the competitive season had been a very painful one to take but was absolutely right in order to protect communities, but that when it was safe to return to rugby the clubs would be supported. He thanked all the clubs and their volunteers, coaches, officials and players for the way they had responded to the crisis.

The President referred to the new Working Party on Governance, chaired by Gavin McColl QC, which had already held three meetings and he confirmed that it would be reporting to the 2021 AGM.

The President then invited the Interim Board Chairman, J Jeffrey, to address the Meeting.

The Chairman welcomed everyone and confirmed that this second part of the Meeting would be addressing rugby matters requiring wider debate and would also receive an in-depth financial presentation from the CEO.

The Chairman paid tribute to how the Union and the whole rugby community had tackled the ongoing global crisis but reassured everyone that the organisation was in good shape to deal with the challenges

ahead, especially thanks to all the hard work which had gone into securing the CVC investment in Pro14. He urged all to look ahead positively and come together as one to rebuild the game at every level.

The President invited the Chief Executive Officer, M Dodson, to address the Meeting.

M Dodson added his own welcome and reassured everyone that the business was stable and in the process of securing its medium-term future. The business was strong going into the crisis and would still be strong coming out of it. He outlined the key stages adopted by the Union to deal with the pandemic, being Respond, Reset, Rebuild and Recover. The immediate response to the crisis included setting up a Club Hardship Fund to help clubs, forming a Threat Management Group to deal with the crisis and concentrating on the return of professional and international teams to protect broadcast and sponsorship revenue. Key to this had been the creation of the Autumn Nations Cup. It had also been necessary to offset costs and in this regard various employees and players had accepted a salary cut and costs were being saved due to a reduction in non-core activities. The Government Job Retention Scheme had been a lifeline, with a large proportion of employees furloughed at least some of the time. All of this resulted in savings of around £14m to offset an anticipated shortfall of £18m.

As a consequence of the pandemic, and taking account of advice from the organisation's auditors, it had been necessary to delay publishing the 2019-20 accounts, but these would be available in advance of the third part of the AGM. They were expected to show income of £55.4m, which was down on the prior year due to a combination of the pandemic and the impact of RWC 2019 and Six Nations home game pattern. Expenditure of £60.7m resulted in an operating deficit of £5.27m. This was offset by Pro14 CVC investment income of £8.38m, generating a surplus of £3.1m; or £2.87m after tax and interest.

An anticipated shortfall for 2020-21, based on assumptions around the return of socially distanced spectators at 6 Nations matches, was being addressed and it was hoped that Government support, in line with that recently announced in England, would come to fruition. In the meantime additional borrowing capacity was being arranged to cover the severe downside risk of there being no spectators at the home 2021 6 Nations matches and a maximum crowd capacity of 25% at the 2021 Autumn Tests.

M Dodson concluded by looking ahead positively to an improvement in the national public health situation following the anticipated introduction of a vaccine, a hoped-for further CVC investment in the 6 Nations Championship and an eventual return to community rugby in Scotland.

Championship Report 2019/20

The President advised that the Championship Report had been distributed with the papers for the meeting and would be taken as read. He thanked the Championship Convenor and the Championship Committee for all their work during a trying season.

The President invited questions to the Championship Report. There being no questions the President then moved adoption of the Report. This was seconded by N Anderson, Kelso and put to the vote. Votes cast were as follows:

For: 163

Against: 2

The Championship Report was duly adopted.

Motions

The President advised that two Motions had been received, one from Currie Chieftains and one from Glasgow Hawks. One Amendment had been received to the Glasgow Hawks Motion, also from Glasgow Hawks.

The President confirmed that Motions and Amendments must stand or fall as put and could not be otherwise amended at the meeting.

The President advised that the Board and Council were adopting a neutral stance on the Motions and would not be commenting on them.

Majority

The President noted that ordinarily a simple majority of those voting was required for Motions and Amendments to succeed, other than for Bye-Law changes or special directions as to Finance (where a vote of two thirds of those present and entitled to vote would be required). As both Motions would involve changes to the Bye-Laws they would each require a two-thirds majority to succeed. The Amendment would require a simple majority of those voting to succeed.

**Motion 1 –
Currie**

The President invited P Thomas (Currie Chieftains) to speak to Motion 1.

P Thomas said that over the previous four years as a club representative he had found on repeated occasions that the Board had been unaccountable or had taken decisions which he had questioned. On each occasion his Council representative had said that they couldn't do anything because they did not have the power. The Dunlop Report had said, however, that, firstly, the power to run the business was conferred to the Board and, secondly, that the Board should be fully accountable to the members – with the Council being part of that mechanism. P Thomas said that this second facet had become eroded over the years and if the Union had the power to place all of its decisions in the hands of a single body it should also be able to claim back these powers. The Motion would give the power to the elected Council by making small, simple changes to the Bye-Laws which would fundamentally reset the way the Union worked and give confidence and strength to the Governance Working Party. P Thomas then commented on the issuing of paperwork for the Meeting, saying that the Board and Council claimed to have a neutral position yet issued a guidance note which sought to undermine the Motion; that the President had then distanced the Council from the comments and which P Thomas stated were not relevant and misleading; and that this process highlighted the problem which the Motion sought to address.

The Secretary confirmed that no questions had been received in advance and no questions had been submitted via the electronic platform at the Meeting on the Motion. The President therefore asked P Thomas to sum up. P Thomas concluded by saying that the Union needed to be receptive to change and to have the ability to change.

The President advised that the Motion had been formally seconded by Glasgow Academicals.

The President then called for a vote on the Motion and the votes cast were as follows:

Possible: 191

For: 157

Against: 16

Abstentions: 18

This represented a percentage of 82.2% of those present and eligible to vote in favour and the Motion was therefore carried.

**Motion 2 –
Glasgow Hawks**

The President invited K Hamilton (Glasgow Hawks) to speak to the Motion and the Amendment.

K Hamilton said that there was a growing concern amongst clubs that checks and balances had been lost. He highlighted the recent issues regarding the departure of the Director of Domestic Rugby, executive salaries, a bad playing structure, an acrimonious atmosphere and disproportionate fund distributions, adding that the Union was at its best when it worked co-operatively and different parties were able to disagree and debate in a mature way. He expressed the view that the case for approval of the Motion had been roundly made by the issue of the guidance note on the Motions which had been at best misleading and potentially dishonest. He stressed the need for a more transparent means of moving forward. He noted that the recent Governance Report had been comprehensively rejected but was still being promoted by at least one Board member. He commended the excellent note which had subsequently been issued by the President. He listed three reasons for proposing the Motion, being (1) to signal the expectations of the clubs on the forthcoming review of governance – whereby the Board and Council must be accountable to the member clubs; (2) to stay true to the Dunlop Report which required the actions of the Board to be at all time transparent to the Council; and (3) to give the support of the member clubs to the work of the President and Vice-President and get away from the culture of secrecy. K Hamilton concluded by pointing out that the Amendment simply clarified some of the clubs' expectations.

The President then called for a vote on the Amendment and the votes cast were:

For: 159

Against: 16

The Amendment was therefore approved.

The Secretary confirmed that no questions had been received in advance and no questions on the Motion had been submitted through the electronic platform at the Meeting. The President therefore asked K Hamilton to sum up. K Hamilton concluded by saying that if the voting on the Amendment was replicated in the vote for the Motion it would represent the clubs taking back control and he congratulated them on that.

The President advised that the Motion had been formally seconded by Grangemouth.

The President then called for a vote on the Motion as amended and the votes cast were as follows:

Possible: 193

For: 157

Against: 16

Abstentions: 20

This represented a percentage of 81.35% of those present and eligible to vote in favour and the amended Motion was therefore carried.

Results of Voting The President formally confirmed the results of the voting:

- The Championship Report had been adopted.
- Currie's Motion had been approved.
- Glasgow Hawks' Motion had been amended and the Motion (as amended) had been approved.

Questions and Answers

The President noted that a number of questions had been submitted in advance and there were also some outstanding questions from Stage 1 of the AGM.

Questions deferred from or to be updated after AGM Stage 1 along with the President's answers:

Cartha Queens Park (E A Crozier): "Will the Executive and Board confirm their support for the Glasgow Hawks Motion which calls for openness and transparency and, if not, why not?"

"At the August Meeting I advised that the Council and Board had not reached a concluded view on either of the Motions at that time but this would be done in advance of Stage 2, after the newly elected Council had also considered the Motions.

The two club motions were considered in detail by the new Council and by the Board (including the Executive Directors) and it was decided that a neutral stance would be taken on both and that it was entirely a matter for members to decide how to vote on those Motions. That was communicated in the meeting papers and again this evening, when the Motions were being proposed.

Increasing transparency and provision of information is important to us. Members may have noted that the Governance Report within the Annual Review gives additional information this year and that the provision of additional information to members in the Annual Report for future years is a continuing workstream for the Audit & Risk Committee."

Falkirk (B Faulds): "We were recently advised at the National 2/3 Forum that the CEO's 2019 bonus was not formulaic or quantitative in nature - is this correct? If correct, how was such an outstanding bonus qualitatively justified? Are currently running LTIPs similarly non quantitative? Will CVC funds contribute directly or indirectly?"

"I commented on this question at the Stage 1 meeting in August, explaining that the schemes are quantitative, and that for example under "financial performance" turnover, surplus and debt are considered and under "sporting performance" the performance of the senior international teams and professional teams are assessed against tournament results. There were also qualitative

elements including the Academy programme, rugby development, management structures and pathways.

I also advised that the Executive Directors had waived any annual bonus participation for financial year 2019/20 and the question would be readdressed at the Stage 2 Meeting.

The Annual Review document contains an expanded Remuneration Report this year, which explains the various schemes which were in place during the year, including the LTIP, how those work and the role of the Remuneration Committee.

The Report confirms that executive directors waived any bonus entitlement for 2019/20, and that the LTIP scheme has been terminated at year 18/19.

There will therefore be no LTIP awards for performance in 19/20, and the scheme has not been replaced. Proceeds from the CVC transaction completed during 19/20 would therefore not contribute to the LTIP.

Members will also have noted from the Report that investment activity was included within KPIs for the 19/20 annual bonus scheme, and that any potential awards in respect of that activity in 2019/20 were therefore also waived by the directors."

Croy (P Justice): *"With the likelihood of restricted capacity at Murrayfield for the "alternative" 6 Nations, what principles will you adopt regarding ticket allocations taking into account the interests of Member Clubs, Season Pass holders and debenture holders?"*

"I explained at the August meeting that capacities would be determined against the backdrop of Scottish Government restrictions and that further information on the approach to ticket allocations would be provided, hopefully in September.

Since then various information has been released to clubs and supporters including new ticketing schemes which provide access to tickets. 10% of the available stadium capacity has been set aside for clubs, as previously advised, albeit the actual numbers of tickets available will be limited by and overall capacity restrictions. Details are available via the website and Ticket Office."

Questions submitted in advance of meeting:

Cartha QP (Jamie Jamieson) *"Can Stakeholder Clubs be given confirmation of the process for appointing the new Chair of the SRU, along with an approximate timescale for doing so.*

Related from our Club's point of view we hope that given that due process, similar to that when Sir Moir Lockhead was appointed Chair, the position would attract applicants of the highest calibre with a demonstrated pedigree and track record of the requisite commercial experience for the role, underpinned with an inclusive empathy for Scottish Rugby's culture and value, both from a historical and contemporary point of view."

"This falls within the remit of the Nominations Committee, who discussed this on 4 November but as they have not yet had an opportunity to report back to the Board on that meeting it would not be appropriate to make further comment just now.

A full answer will follow once that's been done."

The Secretary advised that one further question had been received during the Meeting.

K Wallace (Haddinton): *"Adult playing numbers are one of the key issues for Clubs. The answer given to a question about them at AGM2 was "for those of you interested they will be presented at AGM2 with the Annual Report." Why has this not happened and what are they?"*

The President advised that he would revert to K Wallace with an answer to their question in due course.

The President then said he would deal with a question which had been raised at the 2018 AGM regarding settlement agreements but which had only been partially answered at the time. Haddington had asked how many compromise agreements there had been in total (both rugby and non-rugby) in the preceding five years to August 2018 and how much this had collectively cost including legal fees.

The President explained that settlement agreements, formerly called compromise agreements, were a recognised means of bringing an employment relationship to an end in a mutually agreed way. They were often used in situations where an employer and employee feel that their employment relationship is no longer working and a 'clean break' is the best way forward.

In these situations, both parties could agree the basis for bringing the employment to an end. They are entirely voluntary – they include terms and conditions that are mutually agreed, including mutual confidentiality clauses and the parties do not have to enter into them if they do not wish to do so. Independent advice is also taken by the employee and a certificate provided by the independent adviser, for the agreement to be valid in waiving employment rights.

It was also worth noting that the use of settlement agreements in elite sport and professional sports teams is not unusual and can help meet the needs of both parties.

They are used to facilitate early departures within coaching or playing personnel in the event of results targets not being achieved for example, bringing a contract to an end after a long period of injury and the individual is unable to re-establish themselves fully in a squad, or if a player is not playing regularly, to allow them to take up a new opportunity elsewhere. Agreement is then reached to settle the terms of the fixed term contract.

A total of 25 settlement agreements had been agreed in the 5 years preceding August 2018. Sixteen of the agreements related to the high performance side of Scottish rugby, involving professional rugby employees, specifically players and coaches on fixed term contracts, whose time with Scottish rugby was concluded early, by agreement. To put that in context, at any one time Scottish Rugby could have over 130/140 professional/contracted players on its headcount and over 30 high performance coaches. In these 16 high performance cases, using settlement agreements enabled individuals to negotiate an early release from a fixed term contract.

A total of nine off field employees had concluded their employment with Scottish Rugby through a settlement agreement between 2013 - 2018. Of those nine people, 5 individuals were directly linked to the professional game. To put that into context, over the 5 year period to August 2018, Scottish rugby employed an average of 400 employees across all its business areas.

The President noted some further points: (i) any monies paid out were not automatically a cost to Scottish Rugby; (ii) they were usually pre budgeted as salaries which would have been paid anyway over the duration of a fixed term contract, if it ran its full course; (iii) salaries for professional players and coaches also tended to fall at the higher end of pay scales; (iv) and in many cases a settlement agreement had enabled cost to be saved/reduced over a longer period of time which could then be reinvested in high performance or squad budgets.

The total payments made under those 25 agreements in that 5-year period amounted to £866,534, including contributions to legal fees. The total contribution to legal fees for those 25 agreements amounted to just under £14,400 – an average contribution of £576. In an off-field situation, even if a compensation payment was made due to a settlement agreement, that amount was sometimes offset if the vacant post was not filled at all, was vacant for an extended period of time, or if a newly appointed employee came in at a lower salary level. In summary,

just under three quarters of the total figures shared related to the agreements for playing or coaching employees.

Adjournment This concluded the business and the President formally adjourned the Meeting, advising that Stage 3 of the AGM would take place in a few weeks' time to consider the audited financial statements.

Meeting Close The Meeting, which had commenced at 6.00pm, closed at 7.21pm.

Draft