

Report & Recommendations of the Scottish Rugby Council's Standing Committee on Governance

Recommendation One - Player Payment

The Standing Committee on Governance recommends:

(a) **General prohibition on payment to play rugby**

There shall be a general prohibition on Scottish rugby clubs paying individuals to play matches for or train with their clubs. With a view to providing clubs with an opportunity to plan for this change to player payments, this general prohibition will take effect from the start of the 2020/2021 season.

(b) **Reasonably incurred expenses**

This general prohibition does **not** preclude clubs meeting travel and other properly and reasonably incurred expenses (as that term is used within SDR 4.1) for players.

(c) **Incidental benefits**

This general prohibition does **not** preclude clubs from providing players with (a) access to medical/physiotherapy services; (b) food and drinks during the course of (or immediately following) training and matches; and (c) kit.

(d) **Player Coaches**

Clubs are entitled to pay individuals to act as coaches. The general prohibition does **not** preclude individuals who are paid to act as coaches from playing matches for or training with their clubs.

(e) **Exempted clubs**

(1) For the avoidance of doubt, the general prohibition set out at paragraph (a) above will not apply to full time, professional rugby clubs directly owned or authorised as such by the Scottish Rugby Union or Scottish Rugby Union Limited (presently Edinburgh Rugby and Glasgow Warriors) or in respect of any player employed directly as a player by the Scottish Rugby Union or Scottish Rugby Union Limited.

- (2) The general prohibition set out at paragraph (a) above will not apply to rugby franchises playing in the “Super 6” competition (or any successor competition thereto), but only in relation to those players contracted to “Super 6” franchises. In other words, any club which has a Super 6 franchise will **not** be entitled to pay players to play for (or train to play for) their club’s non-Super 6 teams.
- (3) For a period of **one year** from the commencement of the general prohibition set out in paragraph (a) (ie for the 2020/21 season), the general prohibition set out in paragraph (a) will not apply to clubs playing in the Premiership (or any successor league thereto) in relation to players playing for (or training to play for) that club in the Premiership (or successor league). Prior to the end of the 2020/21 season, the issue of the exemption of Premiership clubs from the general prohibition on payments should be reviewed (that review to include the desirability of continuing the exemption and the separate issue of whether a cap on the level of any permissible payments should be introduced).

Reasons for the recommendations re player payment

Background:

At the 2018 AGM, the Standing Committee on Governance was tasked with bringing forward recommendations in relation to three issues of significant importance to the domestic game in Scotland. These are: (a) player payments; (b) the placing of Super 6 Club XV's within the domestic league structure; and (c) future domestic league structures.

Since the AGM, the Standing Committee has met regularly, conducted surveys on these issues, considered all further representations received from interested parties (including representations made by way of club forums) and sought and obtained independent third party advice (from data analysts and solicitors).

Having given full and detailed consideration to all of these sources of information, the Standing Committee makes the attached recommendations in relation to **player payment**.

The following paragraphs set out the basis upon which the Standing Committee takes the view that these recommendations are appropriate.

General Approach

The Standing Committee has approached the issue on the basis of the following general principles:

- **Addressing Club concerns re player payments** – As discussed in greater detail below, it is apparent that there is very broad support for a significant restriction of player payment within the domestic game. While the remit given to the Standing Committee is for it to make its own recommendations – not merely to repeat the views of the clubs – the Standing Committee has proceeded on the basis that it would be appropriate to take into account and give significant weight to any clear view expressed by the clubs.
- **Sustainability** – The Standing Committee's recommendations proceed on the basis that it is appropriate to take steps to encourage sustainability within the domestic club game. With that in mind, the Standing Committee adopts the position that it is rational

and reasonable to put in place a structure in which monies are not spent needlessly or without a clearly beneficial purpose (and which ultimately provides no overall positive benefit to the game of rugby in Scotland).

- **Practicality** – The Standing Committee has sought to produce recommendations which can be implemented within an appropriate timescale and which will provide clubs with an appropriate window within which they may revisit their existing arrangements.

The prevailing club view – player payments should not be permitted

- The survey conducted in relation to this issue has disclosed that there is a clear majority in favour of a significant restriction in player payment within the domestic game. There is plainly a genuine and significant will on the part of the clubs as a whole to restrict the scope for player payments to be made and for funding (which could be used for other purposes, including player welfare) to be diverted into payments.
- The survey indicated the following views in relation to permitting player payment:
 - (a) It should be **permitted** in the Premiership (or successor competition at the level immediately below the Super 6). This view was held by a relatively narrow majority of clubs (55%). The majority in favour of such payment being allowed in the Premiership was found in responses from both National League (57%) and Regional League (53%) clubs.
 - (b) There were significant majorities that player payment should **not be allowed** in all lower leagues (62% against payment in National 1, 77% against payment in National 2, 78% against payment in National 3, 83% against payment in Regional 1 and 84% against payment in other regional competitions).
 - (c) Clubs were also clearly in favour (82%) of permitting clubs to pay players for undertaking non-playing roles. This included the role of player-coach, albeit by a slightly narrower majority (78%).

(d) Clubs were again clearly in favour of permitting the payment of expenses (as currently permitted under SDR 4.1) (94%).

- As discussed above, the Standing Committee has proceeded on the basis that it would be appropriate to take into account and give significant weight to any clear view expressed by the clubs. The recommendations made, however, are those of the Standing Committee and are not (and should not be read as) merely a transposing of survey data.

The way forward

Against the foregoing background, the Standing Committee on Governance makes the recommendations set out above. The following points should be noted:

- The Standing Committee recommends that the most appropriate way to take matters forward, and taking into account the weight of the views expressed by the clubs, is to impose a general prohibition on paying individuals to play matches for or train with their clubs at all levels below Super 6 (subject to the comments made below). There is no proper or practical basis to seek to carve out from this general prohibition individual players (“marquee players”).
- This general prohibition should be introduced in the season 2020/2021. This will allow clubs a window in which to plan for this change to the present situation (particularly with regard to player recruitment).
- The general prohibition should not extend to the Premiership (or any successor league) in season 2020/2021. However, prior to the end of the 2020/21 season, the issue of the exemption of Premiership clubs from the general prohibition on payments should be reviewed (that review to include the desirability of continuing the exemption and the separate issue of whether a cap on the level of any permissible payments should be introduced). This recommendation reflects the fact that the majority in favour of player payment in the Premiership is relatively narrow and that the present background circumstances are likely to change (in light, in particular, of the introduction of Super 6 and the imposition of the general restriction on payments in other leagues).

- The Standing Committee is of the view that there is no reasonable basis for seeking to restrict the reimbursement of expenses properly and reasonably incurred by players (should clubs wish to reimburse these).
- Similarly, the Standing Committee is of the view that there is no proper or reasonable basis for restricting payments made by clubs for work carried out for clubs by those who also happen to be players. This includes allowing player coaches to be paid (for their work as coaches).
- The Standing Committee is of the view that incidental benefits (such as access to medical/physiotherapy service, food and drinks and kit) should be permissible. Indeed, it strikes the Standing Committee that clubs should be encouraged to view the provision of benefits which genuinely enhance player welfare as a (potentially) sensible part of their role.
- The Standing Committee has deliberately not made recommendations as to the manner in which these recommendations (if accepted) should be policed or audited. This is, in our view, not a matter within the scope of the task remitted to us.

Recommendation Two - Placement of Super 6 "Club XV's"

The Standing Committee on Governance recommends:

- (a) The "Club XV's" of Scottish rugby clubs holding a Super 6 franchise should, in the season in which the Super 6 league commences (2019/2020) play in National 1.
- (b) In seasons 2019/2020 and 2020/2021, one club should be relegated from the Premiership (or successor league) to National 1 and one club should be promoted from National 1 to the Premiership.
- (c) National 1 sides will be promoted into the Premiership (or successor league) in accordance with their league positions at the end of season 2018/2019, so as to populate the Premiership with the requisite number of teams. For the avoidance of doubt, there will be no relegation from the Premiership at the end of season 2018/2019.
- (d) Relegation will take place from National 1 in accordance with the presently operating competition rules.
- (e) Promotion and relegation will take place from National 2 and all lower leagues in accordance with the presently operating competition rules.

Reasons for the recommendations re placement of Super 6 “Club XV’s”

Background:

At the 2018 AGM, the Standing Committee on Governance was tasked with bringing forward recommendations in relation to two issues of significant importance to the domestic game in Scotland. These are: (a) player payments; (b) the placing of Super 6 Club XV’s within the domestic league structure; and (c) future domestic league structures.

Since the AGM, the Standing Committee has met regularly, conducted surveys on these issues, considered all further representations received from interested parties (including representations made by way of club forums) and sought and obtained independent third party advice (from data analysts and solicitors).

Having given full and detailed consideration to all of these sources of information, the Standing Committee makes the attached recommendations in relation to **the placing of Super 6 Club XV’s within the domestic league structure.**

The following paragraphs set out the basis upon which the Standing Committee takes the view that these recommendations are appropriate.

General Approach

The Standing Committee has approached the issue on the basis of the following general principles:

- **Implementing the 2018 AGM remit** – The 2018 AGM indicated that the issue of the placement of the Club XV’s of clubs which have acquired Super 6 franchises is a source of particular (and understandable) concern to a wide range of Scottish rugby clubs. It is against that background that the Standing Committee has been tasked (by the AGM) with making recommendations in relation to the placing of those Club XV’s within the league structure. However, it is important to note that the Standing Committee does not have any remit in relation to the implementation of Super 6 itself – this is a matter being dealt with by others. In particular, it is not a matter for the Standing Committee to make any recommendation as to the desirability or otherwise of a delay in the

commencement of Super 6. On that basis, the recommendations are made on the basis that Super 6 will commence in season 2019/2020.

- **Practicality** – Unlike the position in relation to player payments, there is no overall consensus as to where the Club XV's of Super 6 franchise holding clubs should play. In these circumstances, the Standing Committee has sought to produce recommendations which strike a practical and pragmatic balance, taking into account all of the representations that have been made to us (both by way of survey returns and other communications). The Standing Committee acknowledges that, when dealing with a matter that is contentious, it is inevitable that not all interested parties will be happy with the outcome.

Reasons for the recommendations

The Standing Committee would make the following observations in relation to the recommendations made:

- The survey responses have not produced any clear or consistent view as to the league in which Super 6 Club XV's should play. Views from maintaining the status quo (with the Club XV's playing in the Premiership), through the Clubs XV's being required to play in all of the National Leagues to the Club XV's being placed within reserve leagues all had their supporters.
- In light of this disparity of view, the Standing Committee has not been able to discern any general consensus.
- The Standing Committee has, in the foregoing circumstances, sought to strike a balance between the various views that have been expressed. The Standing Committee has, in particular, taken into account the general view that the status quo (*ie* Club XV's playing the Premiership) does not reflect either the equities of the situation – where it would be thought that clubs who have had the benefit of a Super 6 franchise should not also be permitted to retain the benefits of playing in the Premiership – or the practicalities – the movement of players between teams consequent upon Super 6 will mean that it would not be appropriate for Club XV's to

play at the Premiership level but, equally, the Club XVs should not play at too low a level (where there would be regular mismatches).

- The Standing Committee has also taken into account representations made by the SRU's Chief Medical Officer in relation to the need to take steps to ensure that players play at appropriate levels, where mismatches (and the consequent risk of injury) are avoided (where possible). In the view of the Standing Committee, this is a factor which points squarely away from placing Club XVs in reserve leagues.
- The proposed restriction of promotion and relegation between the Premiership and National 1 to one team in each of the next two seasons is made with a view to providing a period within which the new Super 6 and Club XV structure can become embedded, without too great a fluctuation in the compositions of the leagues.

Recommendation Three - Domestic League Structures

The Standing Committee on Governance recommends:

- (a) Further to recommendation two above, a league structure comprising a 10 team Premiership and three 12 team National Leagues should remain in place for season 2019/2020 and season 2020/2021.

- (b) This position should be revisited for the commencement of season 2021/2022.

Reasons for the recommendations re future domestic league structures

Background:

At the 2018 AGM, the Standing Committee on Governance was tasked with bringing forward recommendations in relation to two issues of significant importance to the domestic game in Scotland. These are: (a) player payments; (b) the placing of Super 6 Club XV's within the domestic league structure; and (c) future domestic league structures.

Since the AGM, the Standing Committee has met regularly, conducted surveys on these issues, considered all further representations received from interested parties (including representations made by way of club forums) and sought and obtained independent third party advice (from data analysts and solicitors).

Having given full and detailed consideration to all of these sources of information, the Standing Committee makes the attached recommendations in relation to **future league structures**.

The following paragraphs set out the basis upon which the Standing Committee takes the view that these recommendations are appropriate.

General Approach

As with recommendation 2, the Standing Committee has approached the issue on the basis of seeking (a) to implement the 2018 AGM remit, and (b) offering a practical view as to the best way forward at the present time.

Reasons for the recommendations

The Standing Committee would make the following observations in relation to the recommendations made:

- The Standing Committee acknowledges that its recommendation as to the placement of the Club XV's of clubs with a Super 6 franchise will inevitably give rise to a

significant degree of change in the present leagues. This is, in our view, a significant background factor which points away from further alterations to the number of clubs in different leagues at the present time.

- By retaining the present league structures (in terms of a 10 team Premiership and three 12 team National Leagues) for a period at least until the commencement of season 2021/2022, this allows a further period for the changes made to become embedded without facing, at the same time, the challenge of revisiting the league structures. This is of some importance given that, amongst other matters, there were clear concerns that moving to any different structure may give rise to very significant disruption.
- The Standing Committee is also aware that significant work is being done by other SRU bodies which is likely to impact upon desirable future league structures – it would be beneficial for this to be available to inform any additional changes in the future.

Gavin MacColl QC

Independent Chair – Scottish Rugby Council Standing Committee on Governance

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