

# Digital, Culture, Media and Sport Committee

House of Commons, London SW1A 0AA

Tel 020 7219 6120 website [www.parliament.uk/cms](http://www.parliament.uk/cms)

Debbie Jevans CBE  
Executive Chair  
English Football League

Greg Clarke  
Chairman  
The Football Association

Jonathan Taylor QC  
Partner  
Bird & Bird

Nigel Adams MP  
Minister of State (Minister for Sport, Media and Creative Industries)  
Department for Digital, Culture, Media and Sport

By email

4 November 2019

During our inquiry on the administration of football clubs we have heard compelling evidence of failings at every level of football governance—from the clubs themselves to the English Football League and the Football Association as overall governing body. This led to the hugely regrettable situation of Bury FC being expelled from League One following years of financial mismanagement by its owners. The same thing nearly happened to Bolton Wanderers this summer, and concerns have also been raised about the future of Macclesfield Town and Oldham Athletic football clubs. We believe decisive action is now needed from the football authorities to ensure that clubs are complying fully with the EFL's football finance rules and regulations. A failure to enforce these rules effectively will see more clubs entering administration and at risk of expulsion from the Football League.

We would like to take this opportunity to outline our conclusions and recommendations from this inquiry. We have copied this letter to Jonathan Taylor QC, and request that it is treated as the Committee's formal response to his review of the events leading up to Bury's expulsion, and the wider financial sustainability of EFL clubs.

## The situation at Bury FC

From the evidence we have received, we believe that the EFL's failure to enforce its own rules and regulations both prior to and following Mr Dale's takeover of the club contributed to the problems that ultimately led to Bury's expulsion. The EFL was warned about the club's finances and ownership, and had multiple opportunities to intervene, but did not do so in an effective or timely enough way to prevent the club's problems from escalating. As such, we conclude that the EFL has failed in its duty to Bury FC and its supporters.

In particular, we believe that there are lessons to be learnt from the fact Mr Dale was able to buy the club before passing the Owners' and Directors' Test, and from the subsequent administration of both the test and the associated financial checks. We also hold that the state of the club's finances present serious questions about the effectiveness of the EFL's Salary Cost Management Protocol.

**We recommend that the EFL formally apologises to the club's staff and supporters** for its failings, and makes reparations for associated loss of earnings.

The problems at Bury preceded the tenure of the current owner, Mr Dale, and the EFL must share the blame for having allowed the situation at the club to have deteriorated for so long. In particular, we are seriously concerned about the introductory fee associated with the sums loaned to the club by Capital Bridging Finance Solutions and urge Mr Taylor to investigate this further in his review.

The Committee has seen the draft accounts of Bury FC for 2017/18 which have been supplied to us with the agreement of the club's Chairman. These show the rapidly worsening financial situation of the club, and that it was clearly trading outside of the League One Salary Cost Management Protocol. How can the EFL say it ensures clubs comply with its rules when it allows people to buy clubs without proof of funds, and does not have access to up to date financial reports from the clubs? The EFL's rules on club financing seem to rely on self declarations from the clubs on income and loan arrangements and credit facilities provided by owners which are at best opaque and uncertain, and more likely deliberately deceptive.

### The Taylor review

We are concerned that supporters remain unclear about the Taylor review's terms of reference, unsure about how to contribute to it and unconvinced that it will be fully independent or its findings fully implemented. We recommend that the EFL and Mr Taylor immediately publish the full terms of reference for his review, including clear instructions about how all interested parties can share their views with him.

The EFL has already noted that any recommendations made by Mr Taylor will have to be considered and accepted by its Board and member clubs; however, we are not confident that the clubs themselves will necessarily accept reforms that might subject them to tighter scrutiny. We request that the EFL writes to our successor Committee following its 2020 AGM to outline exactly how it **intends to implement Mr Taylor's** recommendations. We **also recommend that the FA withholds approval of the EFL's** updated rules until they fully incorporate the **review's** recommendations.

### Wider problems in football governance

Our inquiry has highlighted the fact that the events at Bury FC are symptomatic of structural failings throughout the administration of football clubs.

We repeat our recommendation, previously made in our 2011 report on *Football Governance*, that a formal system of licensing is introduced for professional English football clubs to promote good ownership and sustainable business plans. It should underpin enhanced self-regulatory and financial fair play rules and provide a mechanism for an independent licensing and regulatory authority to enforce those rules in a meaningful way.

The licensing system should make provision for the following:

- anyone wishing to acquire or increase control of a club must apply for prior approval from the licensing authority;
- sanctions for non-compliance with the licensing framework or other rules and regulations should be taken against individuals, rather than clubs;
- owners should be required to pay a bond to the licensing authority that will be forfeited in the event of default in payment of wages, suppliers or taxes;
- robust change of control procedures should include the ability to bring about compulsory sale of an **owner's interest in a club** in cases where they fail to meet the required standards.

We endorse the proposals of the Football Supporters' Association for enhanced regulatory responsibilities to be concentrated in the FA, and welcome the FA Council's decision of 17 October to instruct the executive to take the lead in producing firm proposals for reform. We request that the FA updates our successor Committee on how this work is progressing no later than 1 February 2020, and then at six monthly intervals thereafter.

### The Owners' and Directors' Test

In addition, we recommend that the following changes are made to strengthen the Owners' and Directors' Test, which should be a key component of the new licensing model:

- The test should be administered and passed before a new owner is allowed to acquire a club. In the absence of a licensing system as outlined above, and if this condition is not met, a club should be immediately suspended from the league until the tests are passed. Likewise, all financial information required from owners of clubs should be received, scrutinised and approved before a club is able to participate in the league under new ownership.
- The disqualifying conditions should be extended, so that all corporate insolvencies are treated as equivalent to insolvencies at football clubs.
- Owners should be required to publish business plans prior to acquiring a club, and ahead of each season. These plans should, at a minimum, demonstrate the requirements detailed in Appendix B of **the Football Supporters' Association's proposals on improving the regulation of football clubs**.
- The test should take account of **owners' and directors'** previous business experience, relevant skills and capabilities and motives for acquiring a club. We recognise that this will depart from the current **objective 'pass/fail' nature of the test and introduce an element of subjective judgment; however**, the effective functioning of regulatory systems in other industries, such as broadcasting, demonstrates that this is not a barrier to a fair and robust test.

### Financial rules

We recommend that the following changes are made to existing financial rules:

- There should be an outright ban on clubs borrowing against fixed assets, including stadiums, other than for related capital projects.
- Estimated turnover figures provided by clubs for the purposes of the Salary Cost Management Protocol should be fully audited against actual turnover.
- The Football Creditors Rule should be abolished.

### Ensuring supporters' voices are heard

Supporters are often the first to identify concerns about clubs' finances or how they are being run. Yet we have heard numerous representations from supporters who feel that there is no effective channel through which they can make representations to the football authorities. At present, it is felt that the EFL is not responsive to supporters' concerns, but acts primarily in the interests of owners.

We recommend that the FA, EFL and Premier League work together to establish a **supporters' ombudsman** who will provide a formal route through which supporters can have their concerns heard and acted upon.

### The role for Government

This is not the first time that our Committee has identified serious challenges in how football is governed in the country. We do not believe that the governance of football is sufficiently independent of clubs and their owners to ensure that the necessary reforms will be made.

The Government's written evidence to our inquiry maintains the position that it is the "responsibility of the football authorities to govern the sport"; however, we believe that if the Government is serious about tackling the systemic failings in football governance, it must act now to do something about it.

If the football authorities fail to implement these reforms, or conclude that a statutory framework is needed to give them full effect, we recommend that the Government immediately brings forward the necessary legislation to introduce a fully independent system of football licensing and regulation.

Yours sincerely,