

## APPENDIX 6 - CLUB FINANCIAL REVIEW PANEL

**1 DEFINITIONS**

- 1.1 **Additional Member** means a person who:
- 1.1.1 meets the criteria set out at paragraph 2.3; and
  - 1.1.2 is appointed by Sports Resolutions or such other body as The League may determine from time to time.
- 1.2 **Business Plan** means the terms of a business plan prepared in accordance with Regulation 16.20.
- 1.3 **CFRU Decision Review** means:
- 1.3.1 a dispute brought by a Club arising from a decision of The League in the context of the Financial Regulations; and/or
  - 1.3.2 Review Applications (as defined in Appendix 5 part 1);
- 1.4 **Chair** means a person who:
- 1.4.1 meets the criteria set out at paragraph 2.2; and
  - 1.4.2 is nominated by Sports Resolutions or such other body as The League may determine from time to time.
- 1.5 **Compliance Matters** means:
- 1.5.1 any allegation brought by CFRU that a Club is in default of any obligation or other requirement as set out in any Financial Regulation(s) (whether such allegation was made by the CFRU (or The League) prior to the creation of the CFRP);
  - 1.5.2 ratification of Agreed Decisions proposed by a Club and CFRU in relation to matters concerning the Financial Regulations in accordance with the procedures set out in Regulation 85 as if the same were set out in this Appendix 6;
  - 1.5.3 disciplinary cases brought by CFRU in relation to a Club's alleged non-compliance with any decision made pursuant to any of the Financial Regulations prior to the date of the adoption of this Appendix 6.
- 1.6 **Financial Regulations** means:
- 1.6.1 Regulation 16 (Club Financial Records);
  - 1.6.2 Regulation 17 (HMRC Reporting); and
  - 1.6.3 the Financial Fair Play Regulations.
- 1.7 **Vice-Chair** means an Additional Member elected to that position in accordance with Paragraph 2.4.

**2 COMPOSITION OF THE CFRP**

- 2.1 The CFRP will comprise of:
- 2.1.1 a Chair; and
  - 2.1.2 no less than 4 Additional Members but no more than 6 Additional Members, of which 1 will be the Vice-Chair.
- 2.2 The Chair must meet the following criteria:
- 2.2.1 be qualified in accordance with the provisions of Regulation 98;
  - 2.2.2 have extensive knowledge of best practice in the area of sports related dispute resolution;

- 2.2.3 have recent, relevant experience in sports regulatory proceedings, including acting as chair of any:
- (a) Disciplinary Commission; or
  - (b) League Arbitration Panel; or
  - (c) commission or panel of an equivalent standing that was established in accordance with the rules or regulations of any Sports Governing Body (as defined in Appendix 3 of the Owners' and Directors' Test); or
  - (d) ordinary and/or appeal arbitration panel of the Court of Arbitration for Sport; and
- 2.2.4 have recent, relevant experience in financial regulatory matters in a sector or industry outside of professional sport; and
- 2.2.5 have been ratified by an ordinary resolution.
- 2.3 An Additional Member must meet the following criteria:
- 2.3.1 be either:
- (a) qualified in accordance with the provisions of Regulation 98 (a **'Legally Qualified Person'**);
  - (b) hold an appropriate qualification awarded by a qualifying body (as defined in part 16 of the Companies Act 2006) with 10 years post qualification experience inclusive of both accountancy and auditing (an **'Audit Person'**); and/or
  - (c) have extensive and demonstrable experience in football administration (a **'Football Person'**); and
- 2.3.2 have a working knowledge and awareness of the obligations of:
- (a) the Financial Regulations; and
  - (b) a Club and its auditor pursuant to Parts 15 and 16 of the Companies Act 2006 and any applicable reporting standards.
- 2.4 The Vice-Chair:
- 2.4.1 must be an Additional Member; and
  - 2.4.2 a Legally Qualified Person; and
  - 2.4.3 have been ratified by an ordinary resolution.
- 2.5 The Chair and Additional Members must not:
- 2.5.1 be a representative or employee of The League, Premier League or the Football Association (other than by virtue of their appointment under this Appendix 6 or any equivalent panel constituted under the rules of either the Premier League or Football Association);
  - 2.5.2 be a Relevant Person, Official or Associated Party of a Club (or hold any equivalent position in respect of any Premier League club);
  - 2.5.3 accept any instruction, whether appearing as advocate or otherwise, from a party to any proceedings or process before the CFRP; and
  - 2.5.4 be appointed or to continue to be appointed where they are subject to a Disqualifying Condition (as defined in Appendix 3 – Owners' and Directors' Test).

### 3 MATTERS RESERVED TO THE CFRP

- 3.1 The CFRP will have jurisdiction over Compliance Matters and CFRU Decision Reviews.

### 4 REFERRAL OF COMPLIANCE MATTERS TO THE CFRP

- 4.1 The CFRU will be responsible for referring Compliance Matters to the CFRP.
- 4.2 When referring a Compliance Matter to the CFRP the CFRU will be required to submit a report to the Chair and the Club concerned which will include the following as a minimum requirement:
- 4.2.1 the CFRU's results of its review and questions that it has put to the Club;
  - 4.2.2 the Club's responses to any questions raised by the CFRU; and
  - 4.2.3 the CFRU's recommendation, (the **'Report'**).
- 4.3 Within 14 days of receiving the report, the Club will confirm whether it agrees with the Report and any recommendations contained therein or not.
- 4.4 Where the Club confirms that it does not agree with the Report (or any part of the Report), the Club will at the same time, provide the CFRP and the CFRU with its written observations, together with any supporting documentation.
- 4.5 The Club will not be permitted to submit any further documents to the CFRP after that deadline save:
- 4.5.1 in exceptional circumstances and with the consent of the CFRP; or
  - 4.5.2 where the CFRU consents; or
  - 4.5.3 where the CFRP request additional documentation from the Club.
- 4.6 If the Club does not agree with the recommendation of the CFRU, both the CFRU and the Club will have the right to request a hearing before the CFRP. The Chair also has the right to order that a hearing take place where it deems appropriate.

### 5 REFERRAL OF CFRU DECISION REVIEWS TO THE CFRP

- 5.1 A Club will be responsible for referring CFRU Decision Reviews to the CFRP.
- 5.2 When referring a CFRU Decision Review to the CFRP a Club will be required to submit a report to the Chair and the CFRU which will include the following as a minimum requirement:
- 5.2.1 details of the decision made by the CFRU;
  - 5.2.2 the Club's submissions to the CFRU to date which relate to the decision of the CFRU and any responses received by the CFRU;
  - 5.2.3 a statement describing the nature of the Club's dispute and the relief claimed, a **'CFRU Decision Review Report'**.
- 5.3 A Club must submit a CFRU Decision Review Report within 14 days of the relevant decision of the CFRU being made.
- 5.4 Within 7 days of receiving the CFRU Decision Review Report, the CFRU will either:
- 5.4.1 confirm whether it agrees with the CFRU Decision Review Report; or
  - 5.4.2 confirm that it does not agree with the CFRU Decision Review Report (or any part of the CFRU Decision Review Report) and will at the same time provide the Club and CFRP with its written observations, together with any supporting documentation.
- 5.5 Neither party will be permitted to submit any further documents to the CFRP after the relevant deadlines save:

- 5.5.1 in exceptional circumstances and with the consent of the CFRP; or
- 5.5.2 where the other party consents; or
- 5.5.3 where the CFRP request additional documentation from the Club.
- 5.6 Both the CFRU and the Club will have the right to request a hearing before the CFRP. The Chair also has the right to order that a hearing take place where it deems appropriate.
- 5.7 In respect of CFRU Decision Reviews, the CFRPs sits as a review body exercising supervisory jurisdiction and this Rule shall not operate to provide an appeal against the decision and shall operate only as a forum and procedure for a challenge to the validity of such decision under English law on the grounds of:
- 5.7.1 ultra vires (including error of law); or
- 5.7.2 irrationality; or
- 5.7.3 procedural unfairness,
- and where the decision directly and foreseeably prejudices the interests of a person or persons who were in contemplation of The League.

## 6 HEARINGS

- 6.1 Any hearing must take place within 28 days of the Chair receiving the Report or the CFRU Decision Review Report.
- 6.2 All hearings shall take place in front of the Chair (or Vice-Chair) and at least 1 Additional Member who is an Audit Person and at least 1 Additional Member who is a Football Person.
- 6.3 The Club Financial Report Panel sits as an expert panel and not as an arbitral panel or an Applicable Tribunal. Appendix 2 therefore does not apply.
- 6.4 Hearings may be attended by:
- 6.4.1 the Club and its Officials; and
- 6.4.2 The League; and
- 6.4.3 any other person with the permission of the Chair.
- 6.5 The CFRP may at any time make a decision, and make more than one decision at different times on different aspects of the matters to be determined.
- 6.6 The Chair will have overall control of the conduct of the hearing and shall decide all procedural matters and will not be bound by any judicial or evidential rules in relation to such matters.
- 6.7 Subject to paragraph 11, all hearings are confidential and the content may not be disclosed or published.

## 7 DUTIES OF PARTICIPANTS

- 7.1 The League (including its officers) and the Club (including any Official or Relevant Person of the Club) must fully co-operate with any matter referred to the CFRP.
- 7.2 Any failure to fulfil a duty of co-operation will allow the CFRP to draw adverse inferences.
- 7.3 Any member of the CFRP must disclose any circumstance that might give rise to a conflict of interest in respect of any matter that is referred to the CFRP. In the event of any dispute the matter shall be finally determined by the Chair (or, if the matter relates to the Chair, the Vice-Chair).

## 8 DECISIONS

- 8.1 Save for those matters reserved to the Chair, the CFRP will make its final decision on all matters by a majority with abstentions being taken into account and in the event of a tie the Chair will have the casting vote. Where the Chair has removed themselves from deliberations, the Vice-Chair will have the casting vote.

- 8.2 Where a hearing has taken place, any Additional Member who did not attend the hearing will abstain from voting on any decisions relating to that matter.
- 8.3 Following deliberations, the CFRP has the power to:
- 8.3.1 determine whether the Club has breached any requirements set out in the Financial Regulations;
- 8.3.2 require the Club to provide further information;
- 8.3.3 exercise the powers of The League as set out in Regulation 16.20;
- 8.3.4 impose any sanction that could be imposed by a Disciplinary Commission in accordance with Regulation 93;
- 8.3.5 ratify the terms of an Agreed Decision;
- 8.3.6 ratify the terms of a Business Plan;
- 8.3.7 where a Club has failed to comply with its obligations under the Financial Regulations to provide information to the CFRU, without prejudice to any other sanction that the CFRP deems appropriate:
- (a) direct The League to suspend making interim payments from the Pool Account to the Club (in accordance with Article 45); and/or
- (b) order the withdrawal or loss of benefit otherwise available to the Club by way of basic award or ladder payment,
- for such a period of time until the Club complies in full with its obligations under the Financial Regulations (following which the withheld basic award will provided to the Club in full) or such other period of time as the CFRP deems appropriate;
- 8.3.8 determine any question of law or fact arising;
- 8.3.9 determine any question as to its own jurisdiction;
- 8.3.10 make any other decision as the CFRP may think fit.

- 8.4 Decisions of the CFRP will be binding on the Club and The League.

## 9 COSTS

- 9.1 The League and the Club will bear its own costs in relation to proceedings before the CFRP unless provided for in the Financial Regulations.

### Guidance

*For example the costs associated with assessment of Fair Market Value in accordance with P&S Rule 2.2.*

- 9.2 The CFRP will have the power to make an order that the Club pays the costs (or a proportion thereof) of the CFRP.

## 10 PUBLICATION

- 10.1 Any CFRP may publish any decisions subject to appropriate redaction to protect third party confidentiality.

### Guidance

*The starting position is that all decisions will be published but it is not the intention that all P&S and SCMP results will be published having been referred to the Panel as passes.*

## 11 APPEAL

- 11.1 Either The League (acting via the CFRU) or the Club may appeal a decision made by the CFRP in respect of a Compliance Matter relating to that Club only (a '**CFRP Appeal**').

## SECTION SIX | EFL REGULATIONS

- 11.2 A decision made by the CFRP in respect of a CFRU Decision Review is final and binding may not be subject to an appeal.
- 11.3 A preliminary or procedural decision of the CFRP may not be subject to a CFRP Appeal unless:
- 11.3.1 the decision is dispositive (i.e. it amounts to a final resolution of the matter); or
  - 11.3.2 the decision though not dispositive of itself, is subsequently incorporated into a final decision.
- 11.4 A CFRP Appeal shall be heard and determined by the League Arbitration Panel sitting as an appeal body in accordance with the provisions of:
- 11.4.1 in the context of decisions made by the CFRP in relation to charges of Misconduct, Regulation 96.5; 11.4.2 in all other matters, Regulation 96.4, supplemented by the provisions of Section 9 and this Appendix 6. In the event of any conflict between Section 9 and this Appendix 6, this Appendix 6 will prevail.
- 11.5 Any party wishing to bring a CFRP Appeal must, within 14 days of the making of the final order by the CFRP, serve on The League (acting via the CFRU) and any other party to the original proceedings:
- 11.5.1 written notice of the intention to bring a CFRP Appeal; and
  - 11.5.2 a statement setting out the grounds of the CFRP Appeal.
- 11.6 A Club wishing to bring a CFRP Appeal shall also lodge with The League (acting via the CFRU) a deposit of:
- 11.6.1 £10,000 for a Club in the Championship division;
  - 11.6.2 £3,000 for a Club in League One; and
  - 11.6.3 £1,500 for a Club in League Two,
- in respect of the costs of the CFRP Appeal.
- 11.7 Unless otherwise agreed by the parties or so ordered by the League Arbitration Panel, the League Arbitration Panel shall hear any CFRP Appeal within 28 days of the documents referred to at paragraph 11.3 being served in accordance with that paragraph.
- 11.8 Any party against whom penalties were imposed under this Appendix 6 may apply, initially in writing, to the League Arbitration Tribunal for an order that such penalties be suspended pending the resolution of the CFRP Appeal. The League Arbitration Tribunal shall determine any such application having regard to the merits of the CFRP Appeal and the representations of the other parties.
- 11.9 No new evidence shall be admitted in respect of a CFRP Appeal unless the League Arbitration Panel determines that:
- 11.9.1 the evidence was not available at the time of the hearing before notwithstanding the exercise of reasonable diligence by the person seeking to introduce it;
  - 11.9.2 the evidence is credible; and
  - 11.9.3 the evidence is relevant.
- 11.10 Following a CFRP Appeal, the League Arbitration Tribunal shall have the power to:
- 11.10.1 confirm the decision; or
  - 11.10.2 set aside the decision in whole or in part and substitute a new decision; or
  - 11.10.3 order a rehearing in front of the CFRP.