

**Department for Culture, Media and Sport's Expert Working Group on Football  
Supporter Ownership and Engagement**

**Memorandum of Written Evidence to the Committee – January 2015:**

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**Introduction**

1. Dr Sara Ward, Dr Tom Scanlon and Professor Tony Hines form the Football Research Cluster at MMUBS. Since 2009, they have analysed governance structures within supporter owned football clubs. Sara Ward's research focused on six football clubs adopting varying supporter ownership models with differing fortunes.<sup>1</sup> The sample encompassed clubs who had matured with the model (Hamburger SV), clubs who had adopted it out of financial necessity (Brentford FC, Stockport County FC & Exeter City FC) and newly formed clubs (Chester FC & FC United of Manchester) which have evolved using the model. Results from their research form the basis of this submission.<sup>2</sup>

**Key Recommendations**

2. The Authors recommend:
  - (i) Introduction of an annual licensing system similar to that already in operation in Germany to prevent football clubs getting into such financial 'dire straits'.
  - (ii) Tax incentives and financial benefits given to supporter owned football clubs to alleviate budgetary constraints.
  - (iii) Sharing of revenue within and between leagues to ease the need to over-spend to compete in an uneven playing field.
  - (iv) Legislation to allow one 'fan' Director to be elected onto every Football Club's Board to ensure long-term sustainability of their club.
  - (v) Introduction of an independent modern day regulator to audit and govern the football industry in the U.K.

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<sup>1</sup> Ward, S. (2013) *A Critical Analysis of Governance Structures within Supporter Owned Football Clubs*, PhD Thesis, Manchester Metropolitan University

<sup>2</sup> Ward, S., Scanlon, T., Hines, A. (2013) *Mutuality Ownership Form in Professional Sports: Football*, Nonprofit & Voluntary Sector Quarterly, 42(4), p. 763-780

### Consider the Role of Supporter Ownership in a Football Club's Long Term Sustainability

3. In Germany, the '50 + 1' rule (51% majority shareholding to the fans and 49% to private investors) and a strict club licensing scheme are particularly important to the German model<sup>3</sup>. Arguably, the current German regulatory system in operation is more desirable than the English one in terms of encouraging financially sustainable practices. However, the German model, which is influenced by legal frameworks and cultural expectations, aims to achieve more diverse and inclusive football club boards. The question we need to pose is do we need to look at Germany for solutions? Alternatively, is English football and the environment it operates in so fundamentally different that such radical changes would be impossible, even if they were judicious?
4. In England, 68 football clubs have entered into administration since the founder members of the Premier League took the decision to break away from the Football League in 1992<sup>4</sup>. In a business sector that at any given time consists of just 92 football clubs this is a staggering number. Which in any other sector would automatically attract the attention of Parliament.
5. Two specific financial aspects can be contributed to the financial troubles within so many football clubs in the English game. Firstly, the continuing operation of companies with unsustainable high debt levels and the inability of clubs to control their biggest cost, that of players' wages, is having a detrimental impact on the sport. The injection of cash by private 'benefactors', whether in the form of 'soft loans' or as equity, amounts to risky financial practice in an attempt to buy success and show the 'benefactors' ambition. The main danger to the football club is when the steady supply of unearned income ceases, for example, Portsmouth FC, Rangers FC, Leeds United FC<sup>5</sup>. From 2015-16, new regulations will affect Championship clubs in England designed to prevent owners from funding their clubs through loans.<sup>6</sup> These new

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<sup>3</sup> Ward, S., Lammert, J., Hines, A. (2015) Mutuality and German Football – an Exemplar of Sustainable Sport Governance Structures?, Unpublished Journal Article, Work in Progress

<sup>4</sup> Beech, J., Horsman, S., Magraw, J. (2008) *The Circumstances in which English Football Clubs Become Insolvent*. The CIBS Working Paper Series – no. 4

<sup>5</sup> Draper, R. (29<sup>th</sup> December 2013) *How Successive Foreign Owners betrayed the Supporters of Portsmouth*, The Mail on Sunday

<sup>6</sup> BBC (25<sup>th</sup> April 2012) Championship clubs vote in favour of Financial Fair Play

regulations are based on UEFA's break-even model of Financial Fair Play and come after the Football League's research revealed the 72 clubs of the Championship, League One and League Two are on course to accumulate £2bn of debt.<sup>7</sup>

6. Such events can happen because of the 'benefactor' suddenly finding their core business, which generates the funding getting into trouble, or the personal circumstances of the 'benefactor' changing. If this happens, the club is inevitably facing financial problems. The business is suddenly unsustainable and in particular is in a weak position to repay any 'soft loans' which have abruptly been recalled. In short, this model of regular cash injections from 'benefactors' is highly risky and all too often proves unsustainable as shown by events at Brentford FC<sup>8</sup> and Exeter City FC. Furthermore, it is based on an approach that distorts the competitive balance of a League through endeavours, which are not based on sports performance, which many would see as unethical in a sports context.
  
7. There are other worrying consequences of injecting unearned income into clubs. 'Benefactor' driven clubs help to fuel the already high rate of wage inflation in the transfer market. There is a tendency for such clubs to influence other clubs to adopt this process in their pursuit for success. To be ambitious necessarily means finding investment to compete with others in the same position. As the wages spiral escalates, the scale of operation financially becomes more stretched up and down the footballing pyramid. The differences between wages in different tiers of the pyramid becomes ever more pronounced. Consequently, this leads to high volatility for football clubs who are relegated down a League and presents major challenges for those promoted to a higher League.
  
8. Our studies have highlighted that in terms of its effect on the game in England the alternative model of supporter ownership not only potentially avoids these pitfalls, it also brings the club back to legal ownership as well as psychological ownership in the club's community. Fans, in effect, have taken back the club from owners who pursue

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<sup>7</sup> Deloitte (2013) *Annual Review of Football Finance* (season 2012/2013), Manchester

<sup>8</sup> Ward, S., Scanlon, T., Hines, A (2015) *Mutuality and Football – A Perfect Match?*, Unpublished Journal Article, Work in Progress

personal agendas and who may have no commitment or connection with the community. By adopting the legal format of supporter ownership (or as an Industrial Provident Society), fans operate their own clubs as businesses, setting the club's strategic objectives themselves rather than leaving these objectives to the type of absentee owners driven by a profit or a 'celebrity status' motive.<sup>9</sup>

9. Our research has highlighted that supporter ownership ensures that the club is owned by a body who are unequivocally focused on the value of the stadium as the club's home, rather than as a financial asset and who are much less likely to sacrifice the medium term future for short term glory. Supporter ownership is both transparent and democratic, involving hundreds or thousands of supporters, meaning there is a less stringent need for the 'fit and proper persons' tests.<sup>10</sup> Clubs are less likely to go into debt, due to their non-profit, mutual legal structure preventing them from going into administration, and Board officials are more likely to act as custodians than gamblers. This helps to reduce the need for top-down measures such as the football creditors rule and points deductions for insolvency.
  
10. We suggest that supporter ownership would greatly benefit the game in the U.K. After years of failure to self-regulate, English football has now attracted the interest of politicians due to clubs' failure to operate within a financially sustainable model. The two areas English football could choose to implement are the introduction of effective club licensing and a major shift from the culture of dependency on so-called benefactors to a model which has fan ownership embedded in it. The German '50+1' model offers an example of good practice from which they can learn.

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<sup>9</sup> Jaquiss, K., (2000), *'Football, fans and fat cats: whose football club is it anyway?'* in S. Hamil, J. Michie, C. Oughton and S. Warby (eds), *Football in the Digital Age: Whose Game is it Anyway?*, Edinburgh: Mainstream

<sup>10</sup> Supporters Direct (2011) *Developing Football Regulation to Encourage Supporter Community Ownership in Football*, Briefing Paper No. 2, London:Supporters Direct

## **Which Governance Structures are the most Appropriate for Supporter Owned Football Clubs to Operate Effectively?**

11. The English football market finances appear to be in very good health and impervious to the current Euro-wide financial crises. Yet beneath the apparent financial buoyancy a different story emerges, one of fan exploitation, spiralling debt with the threat of bankruptcy hanging over many clubs. The ‘peculiar’ economics of sport has always raised governance questions.<sup>11</sup> It has been widely accepted that the championship race being the joint product of the participating clubs, requires more than the degree of regulation typical for other industries. Over the course of the last few years, the football authorities have taken steps to improve standards of corporate governance at football clubs. These have included introducing a ‘fit and proper persons’ test to clubs Directors, improving the transparency of agent dealings through an annual report (Football League) and establishing sporting sanctions for clubs in administration. However, Lord Triesman recognises current regulation is not conducive to supporter owned clubs *‘broadly speaking we are organised around companies and company law and I think that is a reality of our circumstance’*.<sup>12</sup>
  
12. For many years political commentators have hailed the German society for the responsible form of ‘social capitalism’ its businesses have pioneered. While the need for a commercially successful economy was accepted, so too was the necessity for industry to consider its wider social responsibilities by participating in important social welfare programmes, a so called ‘middle way’ was established (similar to the ‘Big’ Society idea pioneered by the coalition Government in 2010). The model has important lessons for those currently involved in the debate about English football’s future. While the problems brought by increasing commercialisation cannot be ignored for much longer, simple calls for regulation and price capping powers are likely to fail on legal grounds and increase tension between different sections of the footballing community.

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<sup>11</sup> Neale, W.C. (1964) *The peculiar economics of professional sports*, Quarterly Journal of Economics, MIT Press:New York, 78 (1), p 1-14

<sup>12</sup> Conn, D. (8<sup>th</sup> February 2011) *Lord Triesman reveals a bullied and impotent F.A. to Commons inquiry*

13. The Burns Review recommended the creation of a semi-autonomous ‘Regulations and Compliance Unit’ to govern the English game.<sup>13</sup> Furthermore, the Football Governance Research Centre<sup>14</sup> have consistently called for tighter regulation, arguing that the F.A. has failed in its responsibility to ensure the highest individual and organisational standards in English football, especially in terms of financial probity and the regulation and ownership of clubs. A number of reports into the regulation of football have recommended that the F.A. introduce compliance mechanisms, in order to ensure financial stability and the integrity of the game.<sup>15</sup> Yet the recommendations contained within these reports have either been implemented in a diluted form or not been acted upon. The growing consensus is that a possible solution to this problem is to by-pass the F.A. with a modern day regulator. A claim which has been endorsed by key respondents interviewed for this research.
14. Findings from our study have certainly provided much needed empirical evidence to this area of concern. The select committee’s recommendations from the 2011 Parliamentary Inquiry into football governance were in the main focused on radical reforms of the F.A. and the introduction of a licensing system. Whilst the committee acknowledged that financial regulations had been tightened in recent years they were still left unconvinced that these new rules adopted by the Premier League and the Football League are in themselves sufficient enough to curb English football finances. The committee state that, *‘often their rules appear to be in response to events rather than being proactive. It is right that clubs going into administration should be deducted penalty points, but it is important that the F.A. adopts more effective pre-emptive measures that anticipate rather than simply follow events.’*<sup>16</sup> The recommendation of the adoption of a licensing system similar to that already in operation in Germany could review financial performance and urge clubs to promote a sustainable and long-term business plan.

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<sup>13</sup> A full outline of the Burns Review terms of reference, submissions, and conclusions can be viewed at: Burns, L. (2005) *Structural Review of the F.A. - Conclusions*

<sup>14</sup> Football Governance Research Centre (Michie, J., Oughton, C., Waters, G.) (2001-2006) *The State of the Game: The Corporate Governance of Football Clubs*, London: Birkbeck College

<sup>15</sup> All Party Parliamentary Football Group (2009) *English Football and its Governance report* London: HMSO

<sup>16</sup> House of Commons Culture, Media & Sport Committee Enquiry 2011: The Governance of Football

15. Our research concurs with these recommendations especially the proactive nature of the licensing system to pre-empt football clubs like Chester City FC's financial mismanagement going unnoticed until the 'final hour'. Despite the good work conducted by the select committee and the substantial recommendations the researchers' remain sceptical that the proposed radical changes to the football industry in England will come to fruition. This is the fourth such inquiry in the last ten years and as with the other reports the proposed reforms have not been actioned.
16. Several state that Supporter Trusts are seen by many as '*an ambulance service to lower league clubs*', a statement our research has not been able to disprove. Most Trusts only get the opportunity to be involved in the running of their club when it has gone into administration or under the threat of liquidation. The Trust Boards at Exeter City FC, Stockport County FC<sup>17</sup> and Brentford FC<sup>18</sup> were faced with serious inherited financial irregularities and mismanagement. Key personnel at these two clubs have called for tighter regulation to be introduced to prevent football clubs being allowed to get into such financial 'dire straits' in the future. They believe if this were introduced with tougher penalties and a governing body set up to audit the changes then supporter ownership in football could have a better chance of survival.
17. It would appear that insolvency has become almost a 'legitimate' tactic in a football club's business strategy. The moves by both the Premier League and the Football League to penalise clubs for going into administration or failing to negotiate a Creditor Voluntary Agreement (CVA) can be interpreted as a move to outlaw this tactic. They suggest that the high level of football clubs becoming insolvent might be an emergent tactic rather than an intended one.
18. The difficult challenge for the game's authorities now is to design and implement new policies that lower debts, whilst gradually withdrawing current policies within the

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<sup>17</sup> Ward, S. (2010) Mutuality and Professional Football, Master of Research Dissertation, Manchester Metropolitan University

<sup>18</sup> Ward, S., *The 3rd Annual MMU Football Conference, 'Football and its Communities', The Challenges of Operating as a Supporter Owned Football Club in the English Football League: A Case Study of Brentford FC*, National Football Museum, Manchester. (July 13, 2014 - July 14, 2014)

industry. The sharing of revenue within and between leagues is of fundamental importance; a point that has been endorsed by the Club and Trust Board Directors interviewed for our research.

19. The Football League advised clubs to introduce a '60/40' ratio in relation to overall wage expenditure and the football club's turnover (i.e. 60% of turnover can be spent on wages). However, this policy does not carry any legal requirement or financial penalties if not followed. Exeter opted to adhere to the 60% wage ratio when competing in League One, which in turn has ensured financial stability, whilst Brentford FC under the ownership of Bees United did not set out to achieve this ratio playing in the same League. The English supporter owned football clubs interviewed all felt that they are competing in an uneven playing field with no legal or financial incentives given for being a supporter-owned, community invested football club. Our research provides empirical evidence to the current debate that, unless there is drastic change to the way football is regulated in the U.K. it will always remain a huge task for supporter owned clubs to succeed.

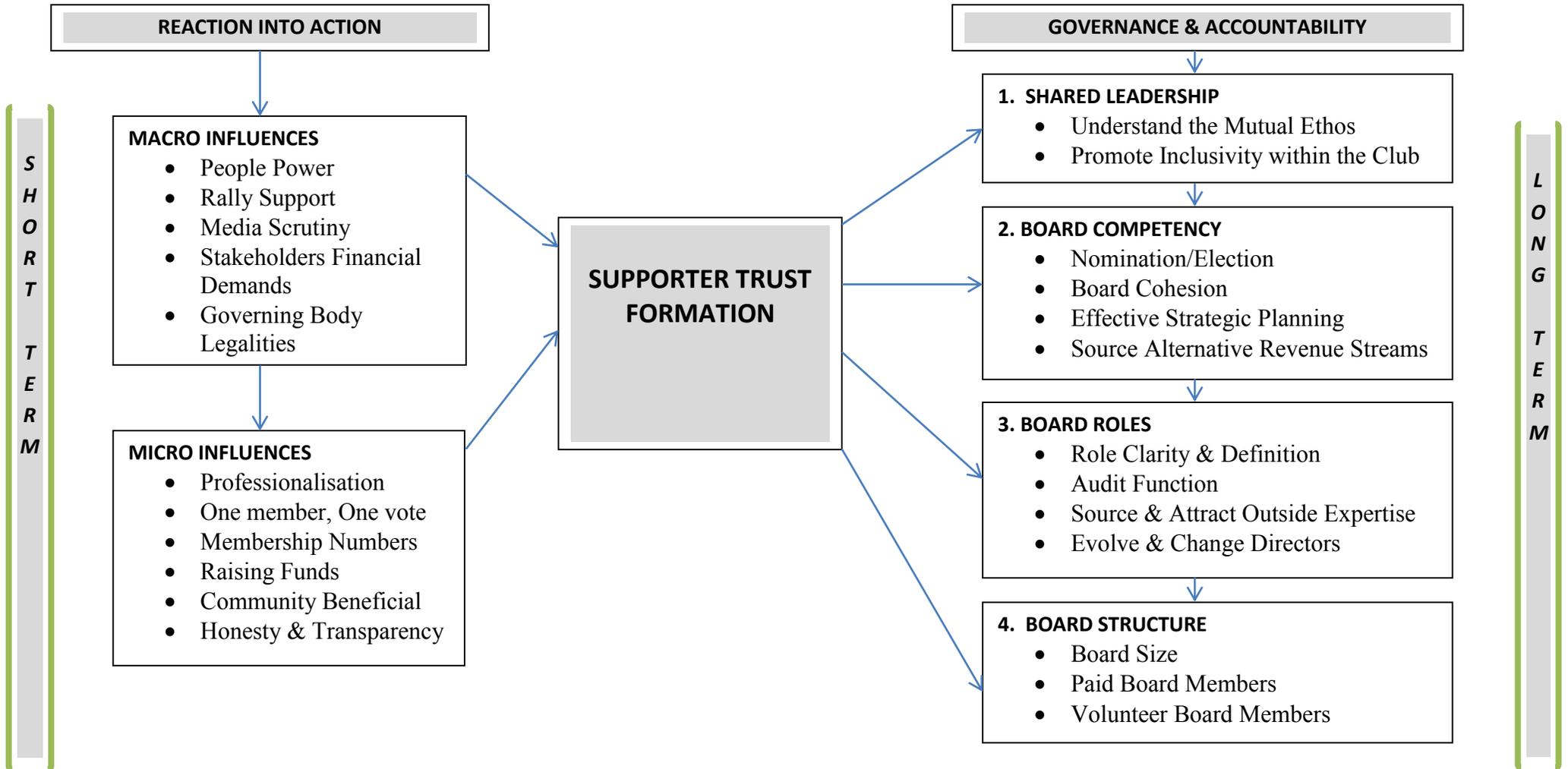
#### **The Development of a Governance Framework for Supporter Owned Football Clubs**

20. Figure 1 documents the researchers' newly formed governance framework for supporter owned football clubs. The framework illustrates a clear pattern of macro and micro influences that affected the six Supporters' Trusts interviewed for our research. Managing and co-ordinating 'people power' to form a coherent and compatible business plan was a prominent feature. Dealing with raw emotions from a diverse range of fans from differing backgrounds to achieve a common purpose was a difficult but necessary task. Once this coherency had been achieved, Supporters' Trusts needed to rally support from other relevant external stakeholders, utilising differing forms of the media to achieve this unison.
21. Our research also highlighted that the clubs that were more successful than others were conforming to the core of the non-profit constitution and applying the 'one member, one vote' principle. The clubs who showed evidence of this were also found to be more community beneficial and adopted a more honest and transparent approach (Hamburger SV (HSV), FC United of Manchester, Chester FC). Due to this ethos, these clubs also

benefited from increased membership and were able to raise valuable funds. The second section of the framework presents the longer-term governance and accountability factors, which need to be put into place once the Trust becomes the majority shareholder of the football club. These factors have been split into four main areas of Shared Leadership, Board Motivation, Board Roles and Board Structure.

22. The researchers have written key areas for consideration within these four sections, which were highlighted as applicable and common practice from the respondents' data. The first area entitled 'Shared Leadership' highlighted how successful the Supporters' Trusts were in implementing what they set out to achieve before they took ownership. The ability of the Trusts in promoting inclusivity within the club, primarily through democratic decision-making varied between clubs. This variance was found to be a key factor in whether Supporter Ownership succeeded or not within the clubs visited. Another theme prominent in our analysis was the level of understanding of the Directors from the Trust and Club Board on the ethos of supporter ownership. The Supporters' Trusts endeavoured to change the management and/or operational structure of their football club. In order to do this all personnel involved in this change management process needed to fully embrace and understand the true purpose of a non-profit football club.
  
23. The second area entitled 'Board Competency' proved to be vital for the short and long term success of Supporter Ownership due to the complexities of running a non-profit football club governed by a strict constitution and operating in a challenging and financially strained internal environment. Clubs that have failed in this venture have inherited personnel who have not embraced, felt comfortable or understood supporter ownership. In addition, the Board members motivations, reasons for joining, individual skill base and ability to work where two Boards operate has again been a key for success or failure. Within this section, the levels of understanding of the ethos of supporter ownership influenced the football clubs' ability to operate effectively. The lack of understanding found in some of the football clubs was due to inherited personnel who had no desire to embrace the ethos and were very sceptical of the business model working. The majority of the original steering committees involved before the Trust took full control recognised that Directors who volunteered for nomination needed to

Figure 1 - Governance Framework for Supporter Owned Football Clubs



demonstrate their desire and passion for what the Supporters' Trusts believed in. The football clubs who were able to overcome these problems and achieve a common goal within their Board(s) were more successful than the clubs who failed in this venture.

24. The third area focused on 'Board Roles' which was also indicated as an important function from the respondent's interviews. Once Directors had been elected and the mission statement and strategic direction was set it was very important to define the roles between the two Boards. Again, the football clubs who organised their tasks effectively were able to engage and receive benefits from their external stakeholders and also decrease the level of internal politics within the business. This achievement of role clarity was more evident in the clubs who were able to source and attract relevant outside expertise. The clubs that were able to recruit experienced and appropriate business people demonstrated a more streamlined and organised internal operational system than the clubs who did not succeed in this area.

25. Finally, the fourth area of 'Board Structure' indicated that the larger the size of the Board the more successful the club was. HSV had the most superior and effective organisational structure in place. One Board seemed to be the preferred option by Chester FC and FCUM clubs but with an odd number of Directors to ensure a positive vote. The other three English football clubs (Brentford FC, Stockport County FC & Exeter City FC) had differing structures but both relied heavily on volunteers within the football club and on the Trust Board. The ability of the football club to work effectively with both paid and voluntary Board members was another key theme to succeed in a non-profit football club. There was evidence to show that more responsibility appeared to be taken if Board members were paid.

### **Supporter Ownership – The Key to Success**

Football clubs that have been owned and/or run by the fans through Supporters' Trusts have generally shown themselves to be more prudent and have developed better business practices. In the cases of Exeter City FC, Brentford FC and Chester FC's becoming supporter owned went

a considerable way to appease local creditors (e.g. caterers, breweries, publishers, launderettes) thus allowing future business partnerships to be developed. The supporter ownership business model helped develop a community base for the club and provided governance benefits, particularly by not allowing the club to be run by a single ‘benefactor’ . However, Board members within the six clubs visited have freely admitted to making mistakes in their business strategies and underestimating the steep learning curve they have had to undertake. By recruiting outside expertise and continuously assessing and evolving their key personnel they have been able to tackle the clubs forever-changing problems and issues.

The Combined Code (2003)<sup>19</sup> stresses that company Boards must avoid being too large and unwieldy, and hence ineffective in decision-making. The Higgs Review (2003) revealed that for the smaller listed companies outside the FTSE 350 the average size of the Board was six. Our research found that the football clubs operating with two Boards had on average between five and seven Board members on the Club Board but exceeded the recommended number on the Trust Board (Exeter City FC, Stockport County FC, Brentford FC, and HSV). Chester FC and FCUM had opted for between eleven and thirteen Directors on their main Board. These findings found evidence that on the Club Board side of the football business were consistent with smaller listed companies and in line with the recommendations made by Higgs (2003)<sup>20</sup> meeting twelve times a year at least. However, the large number of members on the Trust Board

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<sup>19</sup> Committee on Corporate Governance: The London Stock Exchange (2003), The Combined Code, Gee Publishing, London

<sup>20</sup> Higgs, D. (2003) *Review of the role and effectiveness of non-executive directors*, Department of Trade and Industry, The Stationery Office:London

proved to be unwieldy at times and difficult to achieve coherence among the Trust Directors. These large numbers were attributed to the fact that the positions were voluntary and the required expertise was diverse to meet the demands of the club. What has become clear to the researchers is that to become a successfully managed supporter owned football club the need to clarify clear roles and responsibilities is of paramount importance.

Our research has highlighted that in practice the presence of two Boards, or in HSV's case more than two, can be effective if implemented correctly. HSV's system of setting agreed boundaries for the Club Board to operate within seems to be the most sensible method of working and makes the club more able to adapt to the changing external environment. A consistent finding was the friction between the Club and Trust Board on key decisions relating to sustainability. The Club Boards within HSV, Brentford FC, Stockport County FC and Exeter City FC proved to be quite ambitious in their plans and were regularly frustrated with the Trust Board's audit role. Despite this evident friction within these clubs HSV and Exeter City FC were seen to have found ways to work around these internal problems and both Boards were unanimous in their belief that supporter ownership was the only option for their football club.