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SCOTTISH RUGBY UNION LIMITED

**MINUTE OF MEETING OF THE BOARD OF SCOTTISH RUGBY UNION LIMITED
HELD AT 11AM ON THURSDAY 31 MARCH 2022**

MEETING HELD BY AV TELECONFERENCE

Present:

John Jeffrey	(JJ)	Chairman
Ian Barr	(IB)	President
Shona Bell	(SB)	Chief People and Engagement Officer
Julia Bracewell	(JB)	Independent Non-Executive Director
David McMillan	(DMcM)	Independent Non-Executive Director
Bob Richmond	(BR)	Council Nominated Non-Executive Director
Colin Rigby	(CR)	Vice-President and Council Nominated Non-Executive Director
Hilary Spence	(HSp)	Chief Financial Officer
Hazel Swankie	(HSw)	Council Nominated Non-Executive Director
Lesley Thomson	(LT)	Senior Independent Non-Executive Director

In Attendance:

Robert Howat	(RH)	General Counsel & Company Secretary
[NAME REDACTED]	()	[] (<i>Minute Taker</i>)
Julian Momen	(JM)	Chief Commercial Officer
Lorne Crerar	(LC)	Independent Chair of Standing Committee on Governance (Item 4.1 only)
[NAME REDACTED]	()	Trainee Solicitor, Harper MacLeod (Item 4.1 only)
Mark Walker	(MW)	Secretary to Standing Committee on Governance (Item 4.1 only)

Apologies:

Mark Dodson	(MD)	Chief Executive
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ACTION

1. INTRODUCTION

The Chairman noted that a quorum was present and opened the Meeting.

Apologies were received from the Chief Executive, who was on leave. JM, who had joined Scottish Rugby in January as Chief Commercial Officer, was welcomed to the Meeting as an Observer.

The Chairman noted that a large portion of the Meeting would be dedicated to a discussion on the Standing Committee on Governance (SCOG) updated governance proposals. The Independent Chair of SCOG would talk the Board through the proposals, and there would be a question and answer session.

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Papers for other items of business would be taken as read. Other business had been postponed to ensure sufficient time was available to discuss the governance proposals.

2. MINUTES OF PREVIOUS MEETINGS

The Minutes from the Board's Meeting of 20 January 2022 had previously been approved by the Board by separate resolution, electronically. These had since been published on the Scottish Rugby website.

3. ACTION LIST

3.1 *From Other Matters*

Letter regarding initiation ceremonies to be sent to Scottish Universities – this had been completed.

3.2 *From Stakeholder*

- i) *Company Secretary to write to Chair of SCOG on timings/process* – this had been completed.
- ii) *SCOG to consider Inclusion and Diversity in governance proposals* – this would be discussed during the course of the Meeting.

3.3 *From Audit and Risk Committee*

- i) *Managed handover with Johnston Carmichael* – this was underway.
- ii) *MIPF to be made aware of change of Company Auditors* – this had been completed.

3.4 *From Commercial Report*

CCO to attend Board Meetings as an Observer – this had been actioned, and JM was in attendance.

3.5 *From Finance Report*

Discussion to take place with Board regarding investment opportunities at BTM – this would be scheduled for a later date.

3.6 *From Company Secretary's Report*

Transgender policy/external advice – this would be covered later in the Meeting.

3.6 *From Strategic Plan – Women and Girls Update*

- i) *Women and Girls Strategy for Board – end of March/April* – due to the time constraints, an update would be circulated separately to the Board in April.
- ii) *Consider early actions* – following circulation of an update, the Board would be able to determine whether there were actions which could be taken quickly and easily to progress the strategy.

4. STAKEHOLDERS

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4.1 Governance/SCOG Update

LC, as Independent Chair of SCOG, was invited to talk the Board through the updated governance proposals which had been circulated to the Board prior to the Meeting.

The Chairman also thanked LC for his hard work with SCOG since he had joined earlier in the year. LC introduced [**NAME OF PERSON REDACTED**], a trainee at Harper MacLeod who had been assisting him with his presentation, and MW, who was the newly appointed Secretary to SCOG.

LC gave a short presentation which highlighted the key points from the circulated Report.

Introduction

- In preparing the Report, a number of resources had been considered. Detailed and helpful responses had been received from Executive and Non-Executive Directors. All minutes from SCOG and SRUL meetings had been reviewed and the previous Chair of SCOG had been consulted. The Dunlop Report and Gammell/Murray Report had also been considered. Advice had also been taken from external legal advisers and, in relation to the ultimate beneficial ownership of the shares in SRUL, from Senior Counsel. LC had drawn on his own experience and knowledge of other organisations.
- The conclusions which had been reached in the Report came after many years of governance discussions, set against a backdrop of a historic lack of trust between clubs and the Union, which needed to be resolved. The Executive and Non-Executive Directors were also clear on this as a key aim of the governance review. Some clubs remained unhappy about their involvement in what mattered most to them – namely the community game. LC did not perceive that clubs wanted full control over all of Scottish Rugby's affairs, but rather oversight and influence as the ultimate owners.
- LC would provide a much more detailed report in due course, however the current Report set out the key governance principles that he hoped to address in SCOG's detailed proposals.
- The proposals were split into two parts. Part One was being led by LC and dealt with general governance issues and corporate structures, and Part Two was being led by a separate group within SCOG and dealt with proposals relating to the creation of a Club Rugby Board and the running of the community game.

Part One

LC highlighted the following SCOG recommendations:

- i) The creation of a new company limited by guarantee ("CLG"), which was a common vehicle for sporting bodies. This would replace Scottish Rugby Union, acquiring the assets held by it including the shares held by the Trustees of the SRU Trust (and a legal opinion had been obtained to confirm the legalities of this). CLG itself would be owned by the members.
- ii) That the CLG be called Scottish Rugby Union (a company limited by guarantee). The existing SRUL entity would therefore need to change its name, possibly to Scottish Rugby Limited or something similar.

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- iii) The purpose of the CLG would be:
 - a. To hold the assets of Scottish rugby;
 - b. To exercise oversight of the activities of SRUL;
 - c. To regularly report to the members of CLG , as owners.
- iv) SRUL would continue as before, except for certain reserved matters for the CLG, where the CLG would have a right of approval. A relationship management agreement would be put in place between the CLG and SRUL, which would outline how the relationship between the two bodies would work. It would set out the process for the two bodies to meet to discuss matters of importance. It was not envisaged that this would be a long document and it would set out clear and important processes which would allow for an exchange and discussion of ideas in a collaborative way.
- v) CLG reserved matters would be budget, strategic plan, and the appointment of the Chair of SRUL.
- vi) The Board of CLG would be comprised of directors, who would be called ‘custodians’. They would be the ‘custodians’ of the assets and brand of Scottish Rugby now and for generations to come. Positions would be unremunerated, and skillset would be key – candidates would be required to have a standing in rugby, a commitment to collaborative working and also demonstrate experience of working in a business environment and in providing a constructive overview. LC had spoken with recruitment consultants and had been assured that it would be possible to find such skilled people.
- vii) Membership of the CLG would comprise the President, Vice-President and the Immediate Past President, along with two people elected from the membership, two independents appointed with assistance from recruitment consultants, and an independent chair, who would have a background of collaboration and an understanding of the world of business. Custodians other than the President, Vice-President and Immediate Past President would be entitled to hold a maximum of two three-year terms of office. Under the proposals, SRUL’s Chief Executive and Chief Financial Officer would be ‘standing invitees’ to CLG meetings but would not be directors of the CLG or have a vote.
- viii) SRUL would not change in terms of how it functioned, save for the CLG having certain, limited reserved matters for approval, a name change, and the President and Vice-President no longer being members of the SRUL Board. Under the contemplated structure and arrangements SRUL would have the tacit and active consent of the owners – through the CLG’s role - to be able to carry out its business in the usual way.
- ix) The two other current Council-nominated SRUL Board members would remain on the SRUL Board meantime until their existing terms concluded, and then it would be decided whether there was a still a need for those roles to remain on the SRUL Board.

Part 2

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MW then commented on the proposals in Part Two of the Report, noting that the creation of a Club Rugby Board (CRB) had been broadly supported by Council at its recent meeting as the way forward for the domestic game.

MW explained that, under current proposals, the CRB would be made up of 15 people and chaired by the Vice-President, with members being elected from a number of constituencies. SCOG had recognised the importance of inclusion and diversity and was proposing that new election rules would be developed for the constituencies to facilitate a fair and formal process in which key principles of inclusion and diversity would be addressed. It was proposed that the Director of Rugby Development also sat on the CRB, and that it would have a number of standing attendees, including the President, a representative from SRUL's Finance Department, and secretariat support.

It was proposed that the CRB would be responsible for formulating the strategy for the domestic game in conjunction with the Rugby Development Department, whilst SRUL would continue to focus on the professional and international game. It was felt that this new structure would enable a much more collaborative and collegiate approach to addressing the concerns of clubs as to the management of the community game and would create a clearer path for the dissemination of information about strategy and spending from the Rugby Development Department to the elected members.

There were some discussions about how the suggested CRB role and arrangements might work in practice, taking account of the reporting lines and employment terms and conditions of Rugby Development personnel, responsibility for budget implementation (as opposed to budget oversight), financial controls, and the legal status of the CRB. It was important that this was clarified, both from a people and employment perspective and to prevent issues in obtaining funding from the likes of sportScotland. LC agreed that some further thought was needed on the issues raised, and a fully considered response would be provided to the Board in due course.

Conclusion

LC hoped that the proposals created a new language of collaboration for the future. It was acknowledged that there was 'governance fatigue' and a desire to put new structures in place and move on. LC believed that the structures proposed would help to achieve that aim.

Question and Answer Session

There followed a period of further questions, where the following topics were discussed:

i) Diversity and Inclusion

The Board members emphasised the importance of Diversity and Inclusion to the organisation, and it being an integral part of the strategic plan. It was also a key criterion in relation to the receipt of funding from external bodies. Whilst Scottish Rugby's Board had a high level of female representation, this was not always replicated within clubs, and principles of diversity and inclusion were not currently specifically referred to and enshrined within the governance proposals. Absent specific wording, the proposals would not, for example, satisfy an equality impact assessment, if one were to be conducted.

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LC and SCOG were asked to reflect on this point and make specific reference to inclusion and diversity within the recommendations, for example by mentioning a targeted recruitment strategy or within election criteria or within an overriding mission statement indicating that a key driver for the custodian group was to have a body which is representative of the make-up of society.

LC noted that the Board's position was in line with SCOG opinions and other feedback - member clubs, the Executive and Non-Executives had all mentioned the importance of improving the gender balance within the game. Inclusion and Diversity and, for example, the Nolan Principles had been taken as a "given" by the Report but LC confirmed that he would work with LT, as Chair of the SWDI Committee, to ensure that best practice regarding inclusion and diversity was specifically acknowledged and reflected within the next iteration of the governance proposals. LC envisaged that the SWDI Committee would have a regular opportunity to engage with the CLG on these issues through the meetings with SRUL Board Committees referred to in the Report.

ii) Oversight and Reserved Matters

There was some discussion regarding the proposed CLG reserved matters and how responsibility for approving and implementing the content of budgets and business plans/strategy would work in practice in a 2-tier structure and with the intended CRB role. LC noted that the clubs, as the ultimate owners, had an interest in the budget and business plan for the organisation – consultation responses had indicated that member clubs felt excluded and not fully informed. The proposals were an opportunity for change and to introduce a new way of working. LC envisaged that 'sign off' of these matters would still be carried out by SRUL, but with CLG carrying out a 'light touch' scrutiny and approval function for the members.

There was some discussion regarding whether as a matter of law, the proposals created a formal parent company relationship between the CLG and SRUL. The role and need for Independent Non-Executive Directors on the SRUL Board if budget and strategy were reserved to the CLG with its own Independent Non-Executives providing an oversight function on those elements was also commented on.

LC explained that the proposals contemplated SRUL being able to have any experience or bespoke skills it considered relevant on its Board and that it would continue to run Scottish Rugby operationally. This unfettered opportunity to run its Board as it saw fit only required regular reporting to CLG, as the nominees of the owners, to enable the owners to then be kept informed of activity.

There was some discussion as to how the broader collaboration between SRUL and the CLG would work in practice, and whether having a formal parent company of the group may change the overall dynamic. To further explore this point, LC would arrange for JB to speak to SCOG's external solicitors, who had provided some advice on these issues. LC noted that there was no intention for the CLG to interfere with the day-to-day operations of SRUL or second-guess SRUL decision-making or remove responsibilities from SRUL. SRUL would continue to drive the commercial aspects of the game. The new arrangement would depend on effective collaboration between all stakeholders.

iii) Nominations and Skillsets

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It having been noted that Custodians would be required to have a rugby standing, a business skillset and collaborative approach, LC was asked how he envisaged appointments being made.

It was confirmed that the Chief People and Engagement Officer would be asked to assist with the process, alongside external recruitment consultants. It was important to recruit people who embraced collaboration, whose skills were meaningful to the role identified and not operating to an agenda. It was envisaged that the CLG may have its own nominations committee, separate from the nominations committee of SRUL but the detailed process was still to be explored further.

iv) Finance and Accounting Considerations

The Chief Financial Officer asked LC to provide further clarity on who would have responsibility for preparation and signing of Scottish Rugby's annual accounts, and whether and where the accounts might need to be consolidated.

LC advised that SCOG's external legal advisors had been in touch with Scottish Rugby's previous auditors to discuss this point, and would now be in touch with Johnston Carmichael, Scottish Rugby's new auditors, to work out the mechanics of what was envisaged.

There was some discussion regarding whether CLG would have "control" from a formal legal and accounting perspective, in which case accounts would need to be consolidated. This would be investigated, but LC felt that this point could be addressed within clearly drafted new articles of association. The next step would be to involve the Company Secretary and General Counsel, Scottish Rugby's auditors, and SCOG's external legal advisors to engage with the Chief Financial Officer to work through the finer details of the proposals.

There was some further discussion regarding investment into BT Murrayfield, and whether the new structures might impede Scottish Rugby's ability to raise funds or seek external investment. LC explained that authority for investment decisions would sit with SRUL, who would discuss these with the CLG and keep the CLG informed. Some checking would be needed to assess any impact on Scottish Rugby's existing banking arrangements. LC did not see the new structures as a barrier to external investment being obtained.

Next steps

LC asked that the Board provide their views on the proposals as soon as possible. Draft motions were being prepared in relation to a proposed SGM and the Company Secretary would be asked to provide assistance in moving that forward. The motions would be accompanied by detail and a rationale to enable member clubs to make an informed decision. LC had been receiving approaches from the media for comment and was keen to issue a statement later that day and to include a statement from the Board with its view on the proposals.

LC confirmed that the proposals had received full support from the Council, with the exception of one Council member, who had raised issues around the approach to diversity and inclusion.

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It was hoped that if the proposals were passed at an SGM, they could be progressed prior to the AGM in August, and then appointments into the new structures could be made at the AGM.

The Chairman thanked LC, MW and [NAME OF PERSON REDACTED] for their time, effort and input. LC, MW and [NAME OF PERSON REDACTED] left the Meeting.

There followed a period of discussion regarding the presentation and proposals, with contributions from the Board members present.

The explanations provided, the collaborative approach outlined and vision expressed were considered to be positive and helpful. Further details and conversations were needed to enable the Board to have a more complete understanding of how the proposed arrangements would work in practice and from a legal and accounting perspective before being able to express a concluded view. The follow-up conversations and activity discussed during the earlier Meeting should be progressed. The detailed position reached would ultimately then need to be included within new constitutional documents.

Overall, there was support for the direction of travel, with it being recognised that several outstanding points needed to be worked through, namely:

- accounting processes and technical questions around consolidation and control and responsibility for accounts;
- how the structure might impact on SRUL's ability to seek external investment or funding;
- practical aspects of division of oversight, decision-making and operational and financial responsibility between the CRB and SRUL;
- the nominations and appointments processes and skillsets; and
- the emphasis to be placed on inclusion and diversity.

It was hoped that if the proposals were approved, training and engagement would help to facilitate true collaboration between members of the bodies within the new structures.

It was agreed that a note would be provided from the Chairman to LC later that day on behalf of the Board, noting that the Board was supportive of the direction of travel but highlighting the points where further information and discussion would be needed to enable allow the Board to reach a more-fully formed view.

JB would pick up with LC and SCOG's external solicitors, and the Chief Financial Officer would talk to Scottish Rugby's auditors to discuss investment and accounting processes for the new structure.

4.2 *Investment Committee – 17 February 2022*

DMcM, as Chair of the Investment Committee provided an update from its most recent meeting. Approval had been provided to the Executive to conclude Project Hexagon (the expansion of URC to include SARU teams) and enter into the formal legal documentation. An update had also been provided on Old Glory DC, including discussion around future potential investors, future funding needs and the equity positions of the existing investors. This would be brought to the Board at a later date.

4.3 *Audit and Risk Committee – 24 March 2022*

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LT, as Chair of the Audit and Risk Committee, reported that the Committee had met earlier that month. A representative from the new auditors, Johnston Carmichael, had attended. The Committee had received a detailed presentation from the Chief Financial Officer covering various aspects of ongoing activity.

5. PEOPLE**5.1 *People Matters***

The Chief People and Engagement Officer referred to the People Report, which was taken as read, with no questions posed.

5.2 *Safeguarding*

The Chief People and Engagement Officer referred to the Safeguarding Report, which was taken as read, with no questions posed.

5.3 *Health and Safety*

The Health and Safety Report was taken as read, with no questions posed.

6. BUSINESS**6.1 *Commercial Report***

The Chief Commercial Officer referred to his Report, which was taken as read, with no questions posed.

6.2 *Finance Report*

The Chief Financial Officer referred to her Report, which was taken as read, with no questions posed.

6.3 *Stadium Operations*

The Chief Financial Officer referred to the Stadium Operations Report, which was taken as read, with no questions posed.

6.4 *Communications, Media and External Affairs*

The Chief People and Engagement Officer referred to the circulated Report, which was taken as read, with no questions posed.

6.5 *Company Secretary's Report***6.5.1 *Approvals***

The Company Secretary referred to his Report, which was taken as read. A number of approvals were sought.

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- i) Change of Entity in Membership/Change of Team Name
 - a) Ayr RFC (an unincorporated members club) had indicated that they would be transferring all of the club's assets and liabilities to Ayr Rugby Football Club Ltd (a company limited by guarantee with charitable status), and had requested that the club's membership of the Union be transferred to the new entity.
 - b) Stirling County had requested that permission be given for the club to re-name its Super6 XV with immediate effect from "Stirling County" to "County Wolves". The club had also requested to re-name its club XVs from "Stirling County Wolves" to "Stirling County RFC" with effect from the start of the 2022/23 season.

APPROVAL SOUGHT: That the changes to the Membership Roll noted above be approved and the Membership Roll be adjusted accordingly. This was **APPROVED** in each instance by the Board, in exercise of the powers delegated to it as the Scottish Rugby Board, under the Scottish Rugby Union Bye-Laws.

- ii) Disciplinary Panel Membership

Following the departure of another member, in order to improve the resilience of Scottish Rugby's Citing function it was proposed that [**NAME OF PERSON REDACTED**] be added to the Discipline Panel members (and join the list of Citing officials). Subject to Board approval for his appointment, [**NAME OF PERSON REDACTED**] would commence his Citing Commissioner training during the forthcoming Super6 sprint series.

APPROVAL SOUGHT: That [**NAME OF PERSON REDACTED**] be added to the list of Discipline Panel members with immediate effect. This was **APPROVED** by the Board, in exercise of the powers delegated to it as the Scottish Rugby Board, under the Scottish Rugby Union Bye-Laws.

- iii) Super 6 Tournament Rules

The Company Secretary referred to the proposed changes to the tournament rules which were outlined in his Report.

Once the proposed rules were in final detailed form, a Board approval would be needed for the changes. Previously, completion of that process had been delegated to a Sub-Committee of the Board. It was proposed that a similar approach be adopted on this occasion also.

APPROVAL SOUGHT: Delegated authority be provided to a subcommittee of the Board comprising the President or Vice-President, the Chief Executive (whom failing 1 of the other executive directors) and one other non-executive director to approve (on behalf of the Board) the 2022 Super6 Tournament Rules and Player Protocol. This was **APPROVED** by the Board, in exercise of the powers delegated to it as the Scottish Rugby Board, under the Scottish Rugby Union Bye-Laws.

- iv) Change to Auditors

The decision to appoint Johnston Carmichael as new auditors had been progressed, with engagement letters (two were needed – one for SRU and one for SRUL and subsidiaries) close to being finalised. One of the appointments (the statutory appointment for SRUL as a

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limited company) was governed by Companies Act 2006 procedures and was more complicated as a result. It required a formal ratification by the Company's shareholders i.e. the SRU Trust/ Trustees , which in turn meant either a written resolution, or more likely, a motion to be dealt with by those shareholders at a special general meeting of the Company. The Company Secretary was preparing the necessary documentation with assistance from external legal advisors.

APPROVAL SOUGHT: Authority was sought from the Board for the Company Secretary to (i) intimate a written resolution in the required terms on behalf of the Company to the relevant parties for the appointment of Johnston Carmichael as auditors or (ii) call a Special General Meeting of the Company for the purpose of considering, and if thought fit, passing the motion to appoint Johnston Carmichael as auditors. This was **APPROVED**.

v) Contract signing authorities and bank mandates

The Company Secretary referred to the proposed changes to contract signing authorities and bank mandate signatories, as set out in his Report.

APPROVALS SOUGHT:

That:

- (a) The updated list of contract signing authorities set out in Appendix 1 be approved; and
- (b) **[NAME OF PERSON AND JOB TITLE REDACTED]** be approved as an "A" signatory for bank payments.

In each instance this was **APPROVED**.

6.5.2 Disputes

The Company Secretary referred to his Report, which was taken as read.

[REDACTED – CONTAINS LEGAL ADVICE – CONFIDENTIAL AND PRIVILEGED]

7 RUGBY**7.1 Rugby Development**

The Rugby Development Report was taken as read, with no questions.

7.2 Performance Rugby

The Performance Rugby Report was taken as read, with no questions posed.

8 AOB

The Vice -President noted that he had attended four regional workshops on women and girls' rugby and had found them to be open and constructive forums with innovative ideas.

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With no further business being raised, the Chairman thanked everyone for their input and closed the Meeting. The next meeting would be in-person in May.

APPROVED BY THE BOARD

28 APRIL 2022