

SCOTTISH RUGBY UNION LIMITED

**MINUTE OF MEETING OF THE BOARD OF SCOTTISH RUGBY UNION LIMITED
HELD AT 11AM ON THURSDAY 2 DECEMBER 2021**

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
Mark Dodson	(MD)	Chief Executive
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 OF INDIVIDUAL REDACTED]	()	[] (<i>Minute Taker</i>)

ACTION

1. INTRODUCTION & OPENING REMARKS

The Chairman noted that a quorum was present and opened the Meeting. There were no apologies.

A special welcome and congratulations were offered to CR on his appointment to the Board.

There had been a change to the originally circulated Agenda to bring forward an update regarding the ongoing Governance Review.

There would be a short briefing session after the Meeting with updates being provided by the Chief Financial Officer and the Director of Rugby Development, in lieu of elements of the Board strategy implementation session which had been planned for 3rd December but had been postponed until the New Year.

The Chairman acknowledged the sad news of the passing of Siobhan Cattigan. There had been an outpouring of sympathy from around the world, and Scottish Rugby had expressed its condolences to Siobhan's family. A moment of silence was observed by the Board to honour Siobhan's life.

2. ACTION LIST

2.1 From People

VP to speak with Council regarding increased attendance at Women's games – this had been actioned.

2.2 From Company Secretary's Report

Membership Roll Update – this had been actioned.

2.3 From Stakeholder

(i) Previous action point on provision of feedback and research by SCOG including alternative structures to be revisited – this had been actioned by SCOG, with further information to be provided later in the Meeting by the President.

(ii) Further meeting to be scheduled with Chairman and NEDs – information on this would be provided later in the Meeting.

3. MINUTES OF PREVIOUS MEETINGS

The Minutes from the Board's Meeting of 28 October 2021 had previously been approved by the Board by separate resolution, electronically. These had since been published on the Scottish Rugby website.

4. STAKEHOLDERS

4.1 Governance/SCOG Update

The Chairman noted that there had been a lot of conversation and activity in relation to the ongoing Governance Review in the preceding days. Although there continued to be differing views among internal stakeholders about the best way to proceed, it was hoped that the issues raised could be worked through during discussion. The Chairman reminded Board members, in their capacity as directors of the Company and members of the Scottish Rugby Board, of their duties to the organisation.

The President was then invited to provide an update to the Board on SCOG's ongoing deliberations.

The President advised that there had been a detailed discussion of SCOG's proposals at a recent Council meeting, with many views being expressed. It had been agreed at that meeting that SCOG's current set of consultation papers should be sent out for consultation to members, whilst making it clear that the content was not itself endorsed by Council. It had been felt that this process would provide the members with an opportunity to shape the proposals whilst seeking further consultation with Board and Council early in the New Year.

There was still not a full consensus within SCOG itself on the final proposals, but it was hoped that once further club feedback was received, SCOG could use this information to finesse the proposals and produce a final version which everyone had had an opportunity to contribute to.

It was noted that the Independent Chair of SCOG had resigned. The President explained that Mr MacColl had felt that it was important for a fresh person to take over the project.

An interim Chair (Bobby Frazer) had been appointed from within the existing members of SCOG meantime, with other candidates being identified to fill the position on a permanent basis.

In addition, the Secretary to the Council (who had been providing administrative support to SCOG) had stepped down due to the risk of divergent views creating the potential for a conflict of interest to arise for her, as an employee.

The Interim Chair and the President had met with external solicitors to clarify some technical points surrounding the proposals. An updated advice note had been received that morning. The remaining members of SCOG were due to meet later that day, following the Board meeting, to discuss potential new appointments to replace those members who had resigned, and a timetable for issuing the next phase of consultation to clubs.

There followed a robust period of detailed discussion, where the following topics were deliberated:

(i) *Consolidated annual accounts approval and signing process*

The initial legal advice received by SCOG from its external advisers had not addressed whether the suggested NewCo was to be a parent company or a holding company only for reporting purposes.

If it was a parent company, it would be responsible for the consolidated audited annual accounts of the group and associated reporting obligations and a letter of representation would need to be provided by its directors to the company's auditors. The President confirmed that the latest advice received had confirmed that NewCo would be both a parent and holding company.

The Chief Financial Officer asked whether specific advice had been obtained from external lawyers around the role of the proposed NewCo "custodians" in the approval and signature of consolidated statutory accounts of NewCo, and whether advice had been taken from auditors or accountants on the issues.

She explained that as proposed, the NewCo custodians would not be officers or directors of Scottish Rugby Union Limited (whose trading made up the bulk of the accounts), and they would not be able to give representations themselves about the accuracy of that element of the consolidated accounts. The individuals who were appointed as custodians would need to fully understand the responsibilities and potential liabilities that came with the role. This could open the custodians up to personal liability if the required procedures were not followed.

It was noted that this point had been raised some months earlier but had remained unresolved so far. Further queries were raised regarding requirements under banking facilities and whether the NewCo custodians – as the directors of the parent vehicle - might have to take on some responsibility for those also.

In connection with the comparative roles of custodians and the Council in relation to accounts, it was noted that Council's involvement was limited; the Bye-Laws delegated responsibility for the management of the affairs of the Union (which in

practice included the responsibility for approving and signing the consolidated accounts) to the Scottish Rugby Board, which consisted of the directors of the Company. This was different from SCOG's proposed new structure, where NewCo's custodians would have their own legal responsibilities due to NewCo's status as a separate limited company.

The President relayed the view of SCOG, who had not wanted to go into too much detail on specific technical points at this stage. However, the President undertook to find out more details about the points raised and reply to the Chief Financial Officer. It was also suggested that Scottish Rugby's auditors be contacted for feedback on their views on the suggested new processes and how they might envisage those working. The CFO was happy to facilitate that contact. **IB/HSp**

Other Board members considered that this issue and its implications were fundamental to the future regulatory and accounting compliance of the organisation. The roles and responsibilities of the NewCo custodians and the other directors needed to be clearly understood. Failing to examine this carefully now ran the risk of a change in proposal being required later.

The President confirmed that the Chief Financial Officer would be invited to meet with members of SCOG to discuss this point specifically, and it was hoped that this discussion could take place prior to the consultation papers being issued. **IB**

(ii) Directors' duties

It was highlighted that under the current proposals the NewCo custodians would be subject to the directors' duties and other obligations set out in the Companies Act, which were very significant. Consideration would need to be given to the requirements of the Act and the intended role and responsibilities of the NewCo custodians under it. Elements of the Act involved criminal sanctions if the requirements were not met.

Some concerns were raised that this did not appear to have been fully considered or fully understood prior to creating the latest set of proposals. The President advised that SCOG was satisfied that the proposals were legal and compliant.

He also explained that advice received from external solicitors confirmed that the proposals did not contravene corporate governance standards.

The Company Secretary suggested that some care be exercised in how this was interpreted. With the exception of standards imposed by Sportscotland under the grant funding agreements with them, other codes such as the UK Corporate Governance Code, UK Sport Code and Wates Principles were voluntary for an organisation of Scottish Rugby's size. The standards varied depending on which Code was selected. At present, Scottish Rugby governance exceeded the standards set in some of these governance codes and it was for the organisation to decide what standards it wished to follow, beyond the legal requirements of the Companies Act.

(iii) Timing of publication of proposals

In light of the outstanding points, the Chairman asked whether there was merit in delaying the start of the next consultation period for a few days to seek clarity

from SCOG's external legal advisers and consider the additional input provided by the Council and Board.

The President explained that the members of SCOG and Council had been unanimous that the proposals were issued as soon as possible and that failing to do so risked reputational damage to the organisation.

However, the importance of confirming that the structures suggested would work from an audit / accounting and legal perspective before issuing the papers was also noted, recognising that there was also a risk of reputational damage in issuing a proposal that might need to be rectified further down the line.

As there were still some differing opinions and unresolved questions amongst Scottish Rugby's internal stakeholders about the proposals, it was suggested by some members of the Board that it would on balance be beneficial to take a little extra time to work through some of the larger issues raised (particularly in relation to audit and accounting) before issuing anything externally.

After a further period of discussion, the following conclusions were reached:

- (i) The President thanked the Board for the manner in which they had raised their comments and concerns during the Meeting. The President took on board the concerns raised and would discuss these at the SCOG meeting which was scheduled for later that day.
- (ii) A meeting would be arranged with SCOG's external legal advisers as soon as possible to discuss the points raised during the Meeting. The Chief Financial Officer and JB would provide assistance to the President in framing the technical questions they thought should be posed and would attend the meeting with the external legal advisers. **IB, HSp, JB**
- (iii) The President felt that this process could be concluded quickly and was confident that SCOG would agree to a delay of a few extra days to carry out this additional due diligence prior to issuing the documentation for consultation.
- (iv) The Chief Financial Officer would arrange a meeting with Scottish Rugby's auditors to discuss the accounts sign-off process in light of the governance proposals. **HSp**
- (v) As comments from clubs on the first proposal had not been included in the second proposal, the comments provided by the independent Non-Executive Directors on the first proposal should also be excluded. The President agreed to advise SCOG that this suggestion be taken on board. The Non-Executive Directors would be free to submit further comments on the consultation proposals as part of the process. **IB**
- (vi) At the President's request, Scottish Rugby's Legal department would be available to assist with the framing of any additional questions to SCOG's external legal advisers, and to provide guidance on legal aspects and practical implications of SCOG's proposals, as required.
- (vii) Once SCOG's proposals were in a more final form, it was noted that the Board might seek additional external legal advice – this had not been sought to date while the proposals had continued to evolve.

4.2 *Matters from Council/Council Meetings*

The President noted that the Council had met on 18, 22 and 29 November.

On 18 November a presentation had been provided on the Women's game to update Council on how they could support the work being undertaken.

The new Chief Financial Officer had attended the quarterly meeting on 22 November. The CFO had offered to meet Council members individually to brief them on various financial matters and structures, which had been welcomed.

The Council had also discussed and supported the suggestion that caps should be awarded to players who had played for Scotland in games which did not fully qualify as full international games at that time.

The then Chair of SCOG had attended the meeting to provide an update on governance.

At the meeting of 29 November SCOG's current governance proposals had been discussed, along with a timeline for the next phase of consultation.

4.3 *Audit & Risk Committee – 25 November 2021*

The Chair of the Audit & Risk Committee confirmed that the Committee had been provided with a presentation from one of the firms involved in the ongoing audit tender process at the Committee's most recent meeting on 25 November. A second firm was also due to present.

4.4 *Nominations Committee – 2 December 2021*

The Chairman reported that the Nominations Committee had met earlier that day, with the following recommendations being made to the Board:

- (i) **THAT** Colin Rigby be appointed to the Investment Committee, Remuneration Committee and SWDI Committee; and
- (ii) **THAT**, recognising that Julia Bracewell's first term in office as an Independent Non-Executive Director was due to expire at the beginning of April 2022, her valuable contribution to the organisation to date and the advantages of continuity while the Governance Review progressed, Julia Bracewell be invited to serve as an Independent Non-Executive Director for a further term of three years from 2 April 2022, subject to the outcome of the Governance Review.

The Committee's recommendations were both **APPROVED**, with JB recused from participation in the decision on the extension of her appointment.

JB thanked the Board for the invitation and confirmed her willingness to serve for a further term as outlined, subject to the outcome of the Governance Review.

The Chairman advised that the Committee had also noted the upcoming retirement of LT in September 2022 as the Senior Independent Non-Executive Director and had agreed that a process would be established in the New Year to identify a new Independent Non-Executive Director, although this would be subject to the outcome of the Governance Review, once known.

5. PEOPLE

5.1 *People Matters*

The Chief People and Engagement Officer referred to her People Report, which was taken as read. The following points were raised:

- i) *CCO Appointment* - Julian Momen would start his role as Chief Commercial Officer on 4th January 2022. He had attended the Scotland v Japan match and would be coming up on 13 December for a week to meet some direct reports and key personnel as part of the induction process.
- ii) *Welfare* – thanks were expressed to the personnel who had provided support to Scottish Rugby’s people following Siobhan Cattigan’s recent passing. Wellbeing support and counselling was available if needed.
- iii) *Employee survey* – the Chief People and Engagement Officer discussed some of the results of a recent employee survey, noting that further work was required to ensure effective collaboration across Scottish Rugby. The Board and Council had a role in leading from the top, and by example.

An update on the People aspects of the Board’s strategy would be provided to the Board in due course. Some external assistance might also be sourced to support the Board with leadership dynamics. This would be a more useful exercise once there was further clarity on a new governance structure.

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 Chief Executive referred to the Health and Safety Report, which was taken as read, with no questions posed on the Report itself.

JB noted an incident she had witnessed on a recent match day in the car park area which had not appeared in the reporting. The Chief Executive would raise this with the Stadium Operations team. **MD**

The Chief Executive advised that the facilities for the women’s toilets at BTM were of a poor standard. Crowd demographics had changed in recent years and more and better facilities were needed. This was being examined, with proposals to be prepared to improve the situation.

6. BUSINESS

6.1 *CEO Update*

The Chief Executive provided an update on the following items:

- (i) *URC and Covid* – there had been some disruption to the Championship following the emergence of the new Covid Omicron strain. A charter flight had been sent to South Africa to retrieve some of the affected teams, but some squads had been affected by positive tests, with some players having to quarantine in South Africa. There had been a large-scale logistics operation to get people home. The affected teams would not be able to fulfil fixtures during their isolation period and for a period after this to allow re-conditioning of players.

Different isolation rules would apply in different countries, which would affect upcoming matches. Some disruption to scheduled EPCR games was also likely, due to some teams being unable to field a team at all or having to field a weakened team. Significant work was being done to plan ahead and protect player welfare. The situation was being monitored closely.

- (ii) *Events* – [REDACTED – COMMERCIALY CONFIDENTIAL]
- (iii) *Future Pro Team Investment* – initial documentation had been prepared with a view to seeking external investment for the Pro Teams as part of the Strategic Plan. Market approaches were being postponed for the time being due to ongoing uncertainty around the Governance Review, and the current Covid-related impacts on the tournaments.
- (iv) *Player recruitment 22/23* –recruitment for22/23 was almost complete, with only a small percentage of the squads left to finalise. [REDACTED – PERSONAL DATA].

6.2 *Commercial Report*

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

6.3 *Finance Report*

The Chief Financial Officer referred to her Report, which was taken as read. The following points were highlighted:

- (i) changes had been made to the Report structure to provide more information about anticipated positions for year-end;
- (ii) [REDACTED – COMMERCIALY CONFIDENTIAL]
- (iii) Autumn Test ticket sales had ended up being ahead of budget by almost [REDACTED – COMMERCIALY CONFIDENTIAL], which was slightly offset by some additional operational costs associated with Covid compliance;
- (iv) risks and opportunities were being managed proactively, with reporting being constantly reviewed. Thoughts and suggestions from Board members were welcomed as to what they would like to see in future reports;
- (v) the Chief Financial Officer was meeting with Council members to provide them with greater insight and understanding on how money flows through the business; and

- (vi) there would be some discussion at a future Board meeting about the status of the organisation's Revolving Credit Facility and the pooled bank funding facility, along with the Scottish Government loan received earlier in the year. This would be tied up in wider discussions about the Board's overall appetite for debt.

6.4 *Communications, Media and External Affairs*

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

6.5 *Company Secretary's Report*

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

6.5.1 *Membership Roll Changes*

The following approvals were sought:

- (i) *Change of Team Name* - Montrose and District RFC had requested that for the remainder of Season 2021/22 permission be given for the club to re-name its Caledonia Midlands Regional Division 3 team from "Montrose" to "Montrose and Arbroath". It was noted that Arbroath RFC had withdrawn from the Regional Leagues for this season, Arbroath's players were now participating for Montrose and that both clubs would wish their name to be recognised in the joint team name. Next season the intention would be for the team to revert to being called "Montrose" and for Arbroath to participate in its own right in Caledonia Midlands Regional Division 4;
- (ii) *Change of Council Area* – University of the Highlands & Islands RFC was currently an Associate member registered in Scottish Rugby's Midlands Area. This arose out of the historic membership application being made by students based at the former Perth College. It was now some years since the Perth based group has been active and the UHI's rugby activity was now centred around its Inverness campus. In view of this UHI RFC had requested that they be permitted to change Council Area from the Midlands to the North.

In exercise of the powers delegated under the Scottish Rugby Union Bye-Laws to the Board, the applications for change of team name and Council Area were **APPROVED**, with the Membership Roll to be adjusted accordingly.

RH

6.5.2 *SGM Update - Amendment*

An amendment had been submitted by Currie RFC, suggesting that the Council should make the decision on the method of holding a general meeting rather than the Board, as had been proposed in the SGM Motion.

As provided for in the Bye-Laws, the Board had historically made the decision on the location and timing of the AGM, with the Motion being consistent with that approach and avoiding splitting the decision-making responsibility and responsibility for implementation.

The Board observed that in practice the Council would consult with relevant colleagues within the organisation (including those in the legal, events and health and safety departments) as well as the Board before forming a view on the method of holding a meeting.

Following discussion, the Board concluded that the Union's members should be advised at the forthcoming SGM that the wording in the Motion was the Board's preferred approach and the reasons for that but that this was not a strongly held view and that either outcome was workable.

6.5.3 *Other Matters*

- (i) There had been some recent reports of an alleged initiation ceremony at Edinburgh University RFC. The Rugby Development department was awaiting a report from the University to determine whether Scottish Rugby needed to take any action. It was suggested that a letter be sent to the Deans of all Scottish Universities to remind them of the standards expected from university rugby clubs. **RH**
- (ii) Jonathan Anderson had stepped down from the Council, creating a vacant position for Schools Representative, which would be filled in due course. There was also a vacant position for an Exiles Representative following the resignation of Malcolm Offord.
- (iii) A request was made to set up a small sub-committee of the Board to approve proposed changes to Scottish Rugby Discipline Rules arising from impending alterations to World Rugby Regulations and to Anti-Doping Regulations relating to changes from UKAD, once the consultations on the proposed changes had been completed.

It was proposed that the Sub-Committee consist of the CEO, the President or Vice President, and one other Board member. One member of the Sub-Committee should also be a member of the SWDI Committee (due to the wellbeing aspect of Anti-Doping matters). This was **APPROVED**.
- (iv) Discussions continued amongst Unions regarding transgender participation in rugby union. Once an aligned view had been reached, this would be taken to the SWDI Committee for review.

7 Rugby

7.1 Rugby Development

The Chief Executive referred to the Rugby Development Report, which was taken as read.

The Chief Executive had been invited to the Rugby Development Department's recent session on strategy. It had been an animated and informed discussion and very successful. A lot of good work was being undertaken by a strong and committed team.

7.2 *Performance Rugby*

The Chief Executive referred to the Performance Rugby Board Report, which was taken as read, with no questions posed.

JB advised that the Scotland v Japan women's international match at the DAM Health Stadium had felt very different to an international men's match, with there being less of a sense that it was a Scottish national team playing due to the stadium being largely branded for Edinburgh Rugby. It was requested that further thought be given on how to make the women's matches there more of an event. It was hoped that the DAM Health Stadium could become the new home of women's rugby and in due course further work would be put into building a sense of belonging in that location.

It was agreed that consideration would be given to the structure of the Performance Rugby Report, with Women's Rugby being given greater prominence within that report. **MD**

8 **AOB**

The Chief People and Engagement Officer noted that there had been some external discussion around Exeter Chiefs' branding. Following a consultation exercise, Glasgow Warriors would be discouraging Exeter supporters from wearing faux-Native American headdresses at the home game at Scotstoun.

The results of the consultation would also be discussed at the upcoming SWDI meeting. Other teams had also taken a firm approach on this issue.

With no further business being raised, the Chairman thanked everyone for their input and closed the Meeting. An informal update on aspects of the strategy plan implementation would follow.

The next Board Meeting would be on 20th January 2022.

APPROVED BY THE BOARD
5 January 2022