

**RESPONSE OF THE PREMIER LEAGUE TO THE ALL PARTY
PARLIAMENTARY FOOTBALL GROUP'S INQUIRY INTO
ENGLISH FOOTBALL AND ITS GOVERNANCE**

1. Introduction and overview

- 1.1 The Premier League welcomes the opportunity to make this submission to the All Party Parliamentary Football Group (APFG) inquiry into English football and its governance. As well as providing this submission, the Premier League would welcome the opportunity to appear before the APFG. We would also be happy to respond to any additional issues the APFG wishes to address in writing.

- 1.2 The Premier League organises the top division of English football, with the 20 Clubs at any one time in the League being the Shareholders. Each Club considers itself to be a Premier League Club, and looks to the League to act as its trade association as well as its competition organiser and regulator. The competition comprises 380 games in a season, attracts in excess of 360,000 fans each match weekend with an average occupancy in the season just completed of 92.8%. Aggregate attendance in 2007/8 was 13,736,623, an increase of 4.9% on the previous season and the highest achieved in the sixteen seasons since the creation of the Premier League. It is the highest attendance in the top flight of English football for over 35 years. Media audiences are also buoyant both in the UK and internationally. Although the competition will always be the Premier League's principal concern, we are also committed to football solidarity and corporate social responsibility. In season 2007/8 contributions from the Premier League to other levels of football in England and beyond exceeded (£120m), the highest ever achieved, and probably without parallel in the rest of British, European or world sport.

- 1.3 English football as a whole continues to be healthy. Attendances in the Football League have more than doubled since the mid-1980s, have exceeded 16m for four consecutive seasons, and the Championship is the 4th most watched division in Europe, ahead of Serie A and behind only Spain, the Bundesliga and the Premier League. League Cup attendances grew by 21% in 2007/8, and the popularity shown by rapid growth in attendances has also been reflected in the Football League's broadcast revenues. The FA have also shared in this general prosperity, with significant increases in broadcast revenues and strong attendances at England internationals.

- 1.4 These levels of success are the product of a virtuous circle, whereby high playing standards generate high levels of interest, which in turn drive commercial revenues which are then invested in football's fundamentals – players, youth development, coaching, stadium facilities, and training ground improvements. This high level of investment improves playing standards still further, raises the quality of provision for fans and thus generates further high interest and commercial revenues. One striking outcome of this investment is the continual improvement of stadium facilities - since 1992/1993 football clubs in the Football and Premier Leagues have invested over £2.4bn in stadia and other facilities. As a result, grounds in English football are vastly improved in terms of fan comfort, safety, sightlines and facilities.
- 1.5 Success at the elite level also provides the basis for investment in the grassroots. The Football Foundation, jointly funded by the Premier League, the FA and DCMS has committed over £600m to the development of grassroots football (and other sports) in the last 6 years. Participation levels remain high and in some areas are increasing, for example football has become the fastest growing sport for girls. The Premier League also has a strong record of working with statutory bodies, the voluntary sector and commercial partners to promote health, education, equalities and social inclusion. Such work has included using the power of football to promote anti-racism (such as Kick It Out), engage with learning (such as our Playing for Success partnership with the Department for Children, Schools and Families), encourage volunteering (such as our work with the volunteering charity v) and combat anti-social behaviour (such as our Kickz programme in partnership with the Police). Premier League Clubs also initiate localised projects to promote healthy lifestyles, for example the Everton 'Healthy Bus' visits local schools, using the power of football to promote active lifestyles and improve attitudes to diet and exercise.
- 1.6 The Premier League recognises the importance of relationships with supporter groups and we provide funding that is channelled to the Football Supporters Federation and Supporters Direct, the latter helping smaller Clubs in lower leagues to organise themselves and secure better standards of governance and financial accountability, and longer-term to acquire a

collective shareholding in their clubs on a not-for-profit basis for re-investment.

1.7 As a result of this high level of investment, the Premier League has become much more than just the United Kingdom's most popular regular sporting competition. It has also become an important economic agent, with a significant impact on employment, GDP, national and local economies and the source of substantial Exchequer revenues (over £500m in 2006/7 alone). A number of related industries have benefited from the Premier League's strength, including broadcasting, marketing and other communications industries, and the travel, tourism and hospitality industries. Premier League Clubs have become the social focus of many urban communities and are often the most prominent symbol of their cities in the UK and around the world.

1.8 The general health of football in England does not mean that the game is without problems and challenges. Individual clubs will encounter difficulties, just as others will emerge and do well. Governance of the game is constantly under review to ensure that problems are recognised and dealt with, and the last few years have seen a series of changes in governance to meet new challenges. For example, the Premier League commissioned the Inquiry by Lord Stevens into alleged irregular payments in the transfer market and has made a series of changes to improve the regulation of Agents and of Third Party Ownership.

1.9 This paper deals with the eight areas of football governance proposed by the APFG. Some of the responses are necessarily short or of a preliminary nature, due to the limited information provided on the eight areas, however the Premier League is happy to amplify any points the APFG would wish it to address.

2. The inter-relationship between the Premier League, the Football League and the Football Association

- 2.1 The inter-relationship between the Premier League, the Football League and The FA is constitutionally simple and operationally complex. It is simple because each has clearly defined roles. It is operationally complex because in order to advance the best interests of football in this country at all levels, there is an extensive web of highly co-operative inter-relationships which reflect the straightforward way the various bodies work together to achieve this mutually desired end.
- 2.2 On a simple level, The FA is the overall governing body for the sport of football in England. It is affiliated to FIFA and is entrusted with custody of the Laws of the game in England and with either conducting or supervising disciplinary proceedings at all levels of the game from the Premier League to the grass roots. It exists to enforce its Rules, which emanate from its own experience in regulating the game in England and also from directions it is given by FIFA.
- 2.3 The Premier League is a company incorporated in England and Wales by the 20 Clubs making up the highest league in England to organise their competition, to exploit their rights, and to pass and police those rules which fall within the Premier League's remit. Although the Premier League is a company incorporated in England under the Companies Acts, its Board of Directors has less power to manage its affairs than in a normal company. Premier League shareholders (being the 20 Clubs plus The FA who hold a golden share) are more active in making decisions concerning the company's affairs than would be normally the case in a commercial company because they are consulted and take decisions on all significant commercial and operational decisions.
- 2.4 The Football League is a company, similarly structured, representing the interests of the 72 clubs outside of the Premier League but competing within the Football League's competitions - the Championship, Football League One and Football League Two.
- 2.5 At every level from their respective Boards and senior managements downwards, The FA and Premier League work closely together. The links are formalised in the constitutions of each body, but extend down to the close personal relations between staff of both organisations at all levels. From time to time each body may have a different approach to a particular issue and

where this is the case formal mechanisms and informal relationships ensure that debate between the two bodies is full, free and constructive.

- 2.6 The paragraphs below set out the formal rights that The FA and Premier League each have in the constitution of the other. These rights are contained in the articles of association of each body and are matters of public record (Companies House, www.thefa.com, www.premierleague.com). Broadly, they give each body the right of veto over changes to key constitutional provisions (save that the Premier League can only exercise its right of veto in respect of The FA jointly with the Football League).

The FA as special shareholder in the Premier League

- 2.7 The Premier League is a limited company with 21 shareholders made up of its 20 individual member clubs and The FA. The 20 Clubs are ordinary shareholders, but there are special rights attaching to The FA's share. These rights are set out in the Premier League's articles of association and give The FA a veto over changes to various corporate and operational matters set out in the Premier League's articles of association and rules. They include the following:

- 2.7.1 the Premier League's Objects;
- 2.7.2 the issue of shares in the Premier League to any body other than a football club entitled to be a member of the Premier League;
- 2.7.3 the number of directors (2) of the Premier League and how they are appointed;
- 2.7.4 the requirements that the Premier League adhere to FA Rules and for each club to enter The FA Cup;
- 2.7.5 the provisions in the articles of association applicable should the Premier League be wound up;
- 2.7.6 the company name;
- 2.7.7 the voting rights attaching to Premier League shares;

- 2.7.8 the number of Premier League clubs (20) and the provisions as to promotion and relegation;
 - 2.7.9 the criteria for membership of the Premier League;
 - 2.7.10 the ownership of more than one club; and
 - 2.7.11 any rules common to the Premier League and Football League.
- 2.8 The FA (usually the Chairman and the Chief Executive or other senior representative) attends every Premier League General Meeting. This facilitates a valuable two-way exchange of information and opinion, ensuring that The FA hear the views of Premier League Clubs directly and vice versa.

The Premier League and Football League as joint special shareholder in The FA

- 2.9 The Premier League and Football League jointly hold a share in The FA. The rights attached to it mirror the rights that The FA has as the Special Shareholder in the Premier League. The Premier League and Football League can jointly agree to veto changes to the following:
- 2.9.1 the split of excess FA revenue (50% goes to the national game, 50% to the professional game);
 - 2.9.2 provisions concerning share capital and the rights attached thereto;
 - 2.9.3 provisions concerning the Chairman, The FA Council, and the constitution, proceedings and powers of The FA's Board of Directors and Professional Game Representatives;
 - 2.9.4 provisions concerning the winding up of The FA; and
 - 2.9.5 the procedures for changing the articles of association and Rules of The FA.

Premier League and Football League representation on FA formal bodies

- 2.10 We understand that a full analysis of the work undertaken by relevant FA bodies forms part of The FA submission to the APFG, however highlighted below is the work of three of the key FA bodies in which the Premier League plays a full and active role.

2.11 The FA Board

The FA Board is made up of the Chairman, the Chief Executive, 5 representatives of the professional game and 5 representatives of the national game. Three of the professional game representatives are appointed by the Premier League and two by the Football League.

The FA Board manages the affairs of The FA and has wide powers which can be found in The FA's articles of association. It is appropriate that there is representation from the two professional leagues and from the national game, thereby ensuring a balance of representation between these two key stakeholders.

2.12 The Professional Game Board

Many of The FA Board's powers are delegated to committees and boards; for present purposes one of the most important is the Professional Game Board which consists of 4 members each from the Premier League and the Football League.

The PGB makes recommendations to the main FA Board about matters of importance to professional football. Its remit includes:

- Administrative and operational issues in relation to the FA Cup (but not its rules or its commercial exploitation);
- Administrative and operational issues in relation to the England team (but not commercial/broadcasting issues);
- Deciding on the allocation of monies which are due to the professional game under the FA's Articles of Association and monitoring any conditions attached thereto;
- Making recommendations to the main FA Board about fixtures, medicine and sports science, relations with other bodies such as UEFA and FIFA insofar as these issues affect professional football.

2.13 Football Regulatory Authority

The FRA was established by the Council of The FA to be The FA's

regulatory, disciplinary and rule-making authority. It is responsible for monitoring compliance by participants in football at all levels with the rules of The FA and other relevant bodies, and for conducting disciplinary proceedings. It formulates any amendments to The FA's rules and regulations.

The FRA has representation from the professional game and from the national game together with independent members. Currently there are more national game than professional game representatives as transitional provisions continue to apply, but eventually this representation will be equal. The FRA members representing the professional game are nominated by the Professional Game Board, and include a representative from each League.

“Joint Ventures” between The FA, Premier League and Football League concerning specific aspects of the game

2.14 The Professional Game Match Officials Limited

This company is jointly owned by The FA, the Premier League and the Football League¹. Its remit is to organise, train and employ all referees and match officials officiating at professional football matches in England. Its board of directors consists of a Chairman and the Chief Executives of each of the three organisations².

2.15 The Professional Football Negotiating and Consultative Committee

This body considers questions concerning players' remuneration and terms and conditions of employment, and facilitates consultation between its members on any matter relating to professional football to help further the best interests of the game. The members are the two professional leagues, the Professional Footballers' Association and The FA. It is a further, long-established, example of how the various football bodies work together constructively.

¹ Article 3 of the Articles of Association of Professional Game Match Officials Limited.

² Article 25 of the Articles of Association of Professional Game Match Officials Limited.

2.16 Youth Development Group

In the 2007-08 season the two Leagues and the Football Association agreed a new governance structure to manage and improve the professional game framework for youth development and to enhance the leadership and coordination of youth development between the three bodies. The three bodies will each be represented on the new Professional Game Youth Development Group which will be a sub-committee of the Football Association's Professional Game Board.

For several years now an Academy system has regulated the development of young players at Premier League Clubs (and many Football League clubs). To comply with the infrastructure and personnel requirements of this system, Clubs operating football academies have had to make substantial investment in facilities and staffing; in 2007/8 Premier League Clubs invested more than £30m in youth development. We highlight this to set the context of the new Professional Game Youth Development Group: it does not represent a new commitment by Premier League Clubs to the vital issue of youth development; rather it represents a refinement and development, and an acknowledgement that on this issue, as with so many, the three bodies work better together than apart.

Other examples of close co-operation between The FA, the Premier League and the Football League

2.17 There are many operational matters which each organisation relies heavily on the involvement and support of the other. These include the scheduling of fixtures, work permits for players, the regulation of player's agents [see paragraph 4.12], and by way of further example two areas of cooperation are explained in more detail at 2.18 and 2.19.

2.18 Player transfers and registrations

This is an area of extensive regulation³, and every transfer agreement and every player's contract is scrutinised by both The FA and the Premier League

³ See for example Sections K, L and M of the Rules of the Premier League and Form 13A (the standard contract of employment of a professional footballer).

to ensure that all transfer and employment arrangements are fully compliant with the regulatory requirements of the various football bodies (FIFA, The FA and the Premier League). Both organisations must approve the registration of a player before he can play for his club.

2.19 FMT (Football Management Team)

In addition to the discussions which take place at the more formal levels described above, directors of The FA, Premier League and Football League meet fortnightly at FMT to discuss the major issues affecting the game and each organisation.

2.20 In short, the structures of The FA, the Premier League and the Football League are close and integrated, and work together for the benefit of the English game. The Premier League is of the view that the governance structures of all three bodies do indeed achieve this aim.

3. Disparities in the standards of governance between the Leagues

3.1 There are no disparities in the standards of governance between the Leagues. The Premier League and the Football League have different decision making processes, which reflect their different features and the different issues which concern them [see section 4 below]. Each League is governed to the highest standards.

4. Representativeness of the Leagues and the Boards

4.1 There are certain constitutional differences between the Leagues because Leagues have adopted constitutions appropriate to their size: 20 member clubs in the case of the Premier League and 72 member clubs in 3 different divisions in the case of the Football League. Each body's Rules cover similar ground with regard to the regulation of core issues affecting good governance, with minor differences of emphasis.

How each League is run

4.2 Both follow the usual corporate pattern of having a Board which runs the day-to-day affairs of the League while reserving certain key matters for the member clubs to decide in general meetings.

- 4.3 The Premier League is a smaller constituent body; with 21 shareholders (the 20 member clubs plus the FA) who approve all Rules and material commercial matters, it is possible to run the day-to-day affairs of the Company with a Board consisting of the non-executive Chairman and the Chief Executive. Full general meetings of the 21 shareholders are held 5 times a year (including a 2 day summer conference and annual general meeting in the close season) with the effect that all substantial operational and strategic issues affecting the League are debated with Club Chairmen and Chief Executives, with the FA also in attendance.
- 4.4 A resolution put to a general meeting of the Premier League requires at least 14 member Clubs to approve it⁴. This figure provides the Premier League with constitutional strength because it ensures that there is broad consensus of agreement to any change (broader than would be achieved if decisions were made by a simple majority of Clubs), but is not so large that a small group of Clubs can in effect block a resolution.
- 4.5 In addition to the full general meetings of Club Chairmen and Chief Executives, the Premier League executive schedules regular meetings of the 20 Club commercial managers, the finance directors, Club Secretaries, the community heads, the Safety Officers, the Customer Charter representatives and the press officers.
- 4.6 The Football League has club representatives on its main Board (3 from the Championship, 2 from League 1 and 1 from League 2) in addition to the Chairman, Chief Executive and any independent non-executive director(s). The Football League also holds regular general meetings of all clubs, plus separate divisional meetings of clubs in each division

Core football governance issues

- 4.7 The 2 Leagues have approved detailed regulations and controls concerning the following core governance issues. While there are differences of detail in the precise letter of the rules and regulations of each concerning these issues, the general aim and effect of the rules of each League is comparable. One exception is the “Third Party Investment” Rule, where the Premier League

⁴ Subject to any statutory exceptions where a larger number is required.

will shortly vote formally on a restriction regarding third party investors following extensive consultation with Clubs (there has consistently been a consensus among Premier League clubs to outlaw this; a formal rule change will be put to the Annual General Meeting in early June 2008). The Premier League has taken the lead on this issue, with the Football Association and Football League not yet being in a position to formalise new rules on this point (although we understand that their intention is to do so).

Third Party Investment

- 4.8 For several years the Premier League has imposed a requirement on Clubs prohibiting them from entering into a contract which enables any other party to the contract to acquire the ability to materially influence its policies or the performance of its teams. FIFA recently introduced a similar rule, based on the Premier League wording, an action which we endorse and welcome.
- 4.9 However, with the advent of third parties – i.e. bodies which are not football clubs - purporting to have financial interests in footballers, the Premier League came to the view that it needed to go further. The rule against third party influence described above, and recently adopted by FIFA, did not prevent such third parties from having financial rights in players entitling them to potentially large sums on each occasion that the player moved club. The Premier League therefore wishes to introduce further safeguards to outlaw this practice, and at its annual general meeting in June of this year, following extensive consultation with Clubs and with their full support, a Rule change will be tabled which will apply when a Club acquires a player from abroad where third parties other than Clubs own financial interests in the player. A Premier League Club in these circumstances will be permitted to buy out the interests of that third party, but aside from those payments the third party will not be able to continue to own any registration or economic rights or the like in the player following registration.
- 4.10 We would also support the introduction of a similar rule by The FA in respect of third party investment in players at all levels of the English game.

Insolvency of clubs

4.11 A Premier League Club which suffers an insolvency event runs the risk of onerous sanctions. 9 points are immediately deducted from the Club, a sanction which it can only appeal against in particular circumstances⁵. Ultimately, the Board can expel such a Club from the Premier League, but it is more likely, at least in the first instance, to suspend the Club. While suspended, the Club may not play competitive games, and the Premier League can pay sums directly to the Club's football creditors (which include other clubs and all the Club's employees and former employees) from central funds such as monies due from broadcasters. The Football League has similar rules on club insolvency.

Agents

4.12 In 2006, after full consultation with the Premier League, The FA introduced new domestic regulations to govern the activities of football agents in England. Those regulations were significantly revised in 2007, and the regulations now contain the following key provisions:

- The requirement for all agents operating within England, even those licensed by a different national association, to be registered with the Football Association and subject to its rules and jurisdiction;
- A prohibition on the agent acting for both the club and the player.

Unlike the Football League, the Premier League does not contain provisions about agents in its Rules because this is covered by the Football Association's Agents' Regulations by which all Premier League Clubs and players are bound.

Fit and Proper Persons Test

4.13 The Premier League imposes conditions on who can become a Club director by way of what is popularly referred to as its "Fit and Proper Persons Test" [section 5 covers this topic in more detail].

⁵ The insolvency must have been caused by and resulted directly from circumstances, other than normal business risks, over which the Club could not reasonably be expected to have had control, and the Club's Officials must have used all due diligence to avoid the happening of that event.

Dual interests in clubs

4.14 Central to the integrity of competition is the principle that no director or major investor in one Club should be able to have any influence or control of another. We vigorously police our Clubs' independence from each other via the Premier League Rules.

5. The Application of a Fit and Proper Person Test

5.1 The first report of the All Party Parliamentary Football Group recommended⁶ that the Football Association introduce a "fit and proper person" test with respect to anyone who can become a director of a football club or who exercises any influence over the running of a football club. The FA have introduced this test for all clubs outside of the Premier League and Football League competitions. The Premier League and Football League have also done so.

5.2 The Premier League Rule is to be found at Rule D.2.⁷ Rule D.2 states:

"2. A person shall be disqualified from acting as a Director and no Club shall be permitted to have any Person acting as a Director of that Club if:

2.1 either directly or indirectly he is involved in or has any power to determine or influence the management or administration of another Club or Football League club; or

2.2 either directly or indirectly he holds or acquires any Significant Interest in a Club while he either directly or indirectly holds any interest in any class of Shares of another Club; or

2.3 he becomes prohibited by law from being a Director; or

2.4 he is convicted on indictment of an offence set out in the Appendix 12 Schedule of Offences or he is convicted of a like offence by a competent court having jurisdiction outside England and Wales; or

2.5 he makes an Individual Voluntary Arrangement or becomes the subject of an Interim Bankruptcy

⁶ At page 14 of the Report.

⁷ Page 41 of the 2007/2008 Handbook.

Restriction Order, a Bankruptcy Restriction Order or a Bankruptcy Order; or

2.6 *he is a Director of a Club which, while he has been a Director of it, has suffered 2 or more unconnected Events of Insolvency; or*

2.7 *he has been a Director of 2 or more Clubs or clubs each of which, while he has been a Director of them, has suffered an Event of Insolvency."*

5.3 One point to note about the provisions of D.2 is that they go beyond the circumstances in which company directors can be disqualified under the Company Director's Disqualification Act 1986. A director of a football club can, for example, be disqualified in circumstances where he is directly or indirectly involved in, or has any power to determine or influence, the management or administration of another Premier League or Football League Club. A director can also be disqualified for offences committed outside England and Wales.⁸ In addition, it covers a situation where a person has been a director of two or more clubs which have suffered an event of insolvency thus seeking to deal with directors who use events of insolvency as a means to escape the financial difficulties in which a club may find itself.

5.4 There is another important safeguard. This is that every director of every Club must complete a declaration no later than 14 days before the start of each season, reconfirming that they are in compliance. Equally, whenever a new director is appointed by a club or a club is promoted to the Premier League such declarations must be signed. Therefore, the duty to ensure compliance with the Rules is an ongoing one, rather than one that can be exercised on a one-off occasion by a court.

5.5 In these circumstances, the Premier League believes its "fit and proper test" is fit for purpose going, as it does, beyond what Parliament deems to be appropriate in the case of directors of companies incorporated under the Companies Acts.

6. Dispute resolution between clubs

⁸ The CDDA 1986 refers only to breaches of companies legislation, which it interprets as the Companies Acts and certain sections of the Insolvency Act (s.22(7) CDDA 1986). This indicates the limited territorial scope of the provision.

- 6.1 As professional football is a complicated industry subject to complicated rules, disputes frequently arise between the various Participants in the game. As such, professional football has developed a set of complex dispute resolution mechanisms to deal with the multi-faceted nature of the disputes that arise. However, taken as a whole, the dispute resolution mechanism forms a complete code by which all disputes are resolved within football, culminating in agreed systems of arbitration which are recognised by the courts.⁹
- 6.2 The Premier League is a competition which falls under FA Rules, so, in theory, the FA has overlapping jurisdiction with the Premier League to commence disciplinary proceedings relating to a breach of the rules or regulations of the Premier League. In practice this does not occur because, in general, The FA polices and sanctions breaches of FA Rules, while the Premier League polices and sanctions breaches of Premier League Rules.
- 6.3 Premier League Rules exist to regulate matters specific to Premier League Clubs (not covered by FA Rules) and include issues such as "tapping-up" and the prohibition on third party influence over clubs. Under Section R of Premier League Rules, the Premier League has power to enquire into an alleged breach of the Rules and subject any Club, Club official or player responsible for such breach to discipline. Under Rules such as these proceedings were commenced against Chelsea FC, Mr Cole and Mr Mourinho over the alleged tapping-up incident concerning Mr Cole.
- 6.4 What is common to both FA Rules and Premier League Rules is that once initial disciplinary proceedings have been taken, the respondent to such proceedings has a right of appeal. The appeal takes the form of a hearing de novo before an independent panel, chaired by a senior lawyer such as a retired judge or practising QC. The decision of the Appeal Boards, both of The FA and of the Premier League is regarded as being final, although the Rules of both The FA and the Premier League allow for a matter to be submitted to arbitration.
- 6.5 It is the common experience of both The FA and of the Premier League that where a matter is taken beyond an Appeal Board to Arbitration the purpose of

⁹ English courts recognise the arbitration mechanisms under the Arbitration Act 1996 and courts of territories outside of England and Wales under the New York Convention on the Recognition and Enforcement of Arbitral Awards (1958).

the Arbitration Panel's decision is not to decide whether the Appeal Board reached what the Arbitration Panel consider to be the correct decision (and to substitute its decision for that of the Appeal Board) in a particular case, but rather to decide whether the decision failed to take into account relevant issues, took into account irrelevant issues, or was in all of the circumstances so unreasonable that no reasonable tribunal could reach it.¹⁰

6.6 Premier League arbitration, therefore, fulfils the same function as the High Court might adopt in regulating inferior disciplinary tribunals, as established in *Bradley -v- the Jockey Club*¹¹. From FA or Premier League arbitration, a dissatisfied respondent may only apply to the High Court to seek to overturn the Arbitration Panel's decision in the limited circumstances set out in the Arbitration Act 1996. No respondent has successfully done so.¹²

6.7 As well as the existing domestic machinery for the resolution of disputes between clubs, machinery also exists at FIFA level for the resolution of those disputes between clubs which largely concern the status and transfer of players. Such machinery will typically be invoked where one party to the dispute is not an English club (where two English clubs are in dispute the domestic machinery would normally apply). Such disputes are submitted in the first instance to the FIFA Committee on the Status and Transfer of Players. Its decision is subject to an appeal by way of an arbitration before the Court of Arbitration for Sport in Lausanne¹³.

6.8 In summary, there is a comprehensive, fair and legally recognised system of dispute resolution within football, which ensures that all disputes resolved in football are dealt with by a fair and impartial panel and are subject to appeal and, if necessary, review. All disputes have the ability to be ultimately resolved by arbitration before eminent independent experts and lawyers, the provisions of which are recognised by the English Courts and the Courts of over 160 countries. Therefore, the Premier League is of the view that professional football has in place more than adequate dispute resolution

¹⁰ See *Sheffield United -v- the Premier League* in the so-called Tevez case where this approach was adopted. The decision of the Premier League Panel was held not to be Wednesbury unreasonable.

¹¹ [2005] EWCA Civ 1056

¹² See *Sheffield United -v- the Premier League*.

¹³ The Court of Arbitration in Lausanne is recognised both by the Swiss and American courts as an impartial arbitral tribunal for the purposes of the New York Convention on the Recognition and Enforcement of Arbitral Awards (1958) and hence its judgments are binding, recognised and enforceable in most jurisdictions around the world.

mechanisms to resolve satisfactorily any disputes that may arise between clubs within the professional game.

7. The ability of existing governance structures to regulate the increasing demands of the game

7.1 The existing governance structures of the Premier League, incorporating as they do extensive shareholder involvement in decision making, the ability to change regulations within a short period of time without undue formality and a manageable management structure are well placed to regulate the increasing demands of the game.

7.2 We referred above to the extensive shareholder involvement in decision making. What is equally true is that the Premier League has the ability to change its Rules within a very short timescale, in order to respond to rapidly changing circumstances. Provisions governing changes in the Rules of the Premier League are to be found in the Articles of Association of the Premier League. Any changes to the Rules require a majority of two thirds of members who are present and who vote (except where the Companies Act specifies that one particular resolution of the company requires a greater majority).

7.3 Therefore, the Premier League is not constrained by complicated machinery or the ability to change rules only once a year. All that is needed is the proper calling of a meeting and for the rule change to be passed by the requisite majority. This gives the Premier League a great deal of flexibility in responding to any rapid changes in the regulatory environment.

7.4 Two matters in particular illustrate this. The first is the way in which the Premier League has imposed a fit and proper person test on those seeking to acquire interests in clubs [see section 5 above]. The second are the steps that are currently being taken to regulate the ownership of third party interests in players [see paragraph 4.8].

8. The probity of decision making processes

8.1 The Premier League is aware of no lack of probity in its decision making processes, or in those of The FA or the Football League.

9. The ownership of English football clubs

- 9.1 It is important to place any discussion about the "foreign ownership" of English football clubs in the appropriate regulatory context. There is no prohibition on foreign ownership of English private or public companies under the Companies Act 2006. The Premier League and all of its shareholders are companies incorporated under the Companies Acts. Given that Parliament did not place any restrictions on foreign ownership within the 2006 Companies Act, we assume that this is also the Parliamentary Group's starting point.
- 9.2 The only context within which foreign takeovers of UK companies give rise to regulatory scrutiny is where there is suspicion that such a takeover may have anti-competitive effects. The only the way in which this would be possible within the context of the Premier League would be if it were possible for one company or owner to own or control more than one Premier League Club. However, Premier League Rules specifically prevent this. Premier League Rules U3 to U9 provide a complex code prohibiting dual ownership and indeed any form of influence by one Premier League Club over the policies or performances of another. What is more, this prohibition extends beyond the dual ownership of two Premier League Clubs and includes ownership of a Premier League Club and one in the Football League. Therefore, Premier League Rules expressly prevent any situation of dual ownership arising, which is the only circumstance in which a foreign takeover of a club could be excluded as a matter of public policy as being anti-competitive.
- 9.3 The Premier League would, of course, be happy to address any other issues the APFG wishes to discuss under this heading, within the framework provided by English company law and regulation.

10. Conclusion

- 10.1 This submission provides the Premier League response to the eight areas outlined by the APFG. As stated above, the Premier League stands ready to assist the Parliamentary Group further in its inquiry.

**The Premier League
30 May 2008**