

PROTOCOL**Introduction**

If an “Insolvency Event” applies to a Club, the Club will be subject to the relevant regulations and a points deduction will be made under the Regulations. Those involved with the Club may wish the Club to continue in its position in the league. The RFU will only agree to this if a number of conditions set by the RFU are satisfied. If those involved with the club fails to satisfy those conditions then the Club will cease to exist and any phoenix club will start at such League level as the RFU shall decide.

Continuing to Play

The RFU may allow a Club to which an “Insolvency Event” has occurred to continue to fulfil its league fixtures on such conditions as the RFU may specify. The RFU may also permit a new entity to fulfil the insolvent Club’s league fixtures pending a decision by the RFU as to whether the league position of the insolvent Club can be transferred to that new entity. That licence may be withdrawn by the RFU at any time.

The RFU’s Four Primary Considerations

The four primary considerations for the RFU if the Club wishes to transfer its membership to a new entity are:

- Will the new club be able to play at its current ground next season and beyond?
- Does the new club have sufficient financial backing to operate in its relevant league for the following season and beyond?
- Will all the outstanding rugby creditors of the insolvent Club be paid?
- Are any new ownership arrangements for the new club suitable and will the new owners satisfy the fit and proper person test?

Information Required in Relation to the Existing Club

The RFU will require information about the existing Club before any decision can be made as to whether the RFU will agree to the league position being transferred to a new legal entity. The evidence required in relation to the existing Club must be provided within seven days of the date those involved with the Club make it known to the RFU that they wish a new entity to take over the Club and its existing league position. Any evidence or details required must be full and accurate and the RFU may require further information or evidence as a result of what is supplied. If so, that new information or evidence must be supplied within the time frame required by the RFU.

Examples of the type of information and evidence required are set out below. The list is not exhaustive and the RFU reserves the right to require such other evidence as it deems necessary.

Ownership of the Existing Club

1. Evidence of the ownership structure of the existing Club.
2. The provision of a copy of the existing Club's constitution.

Ownership of the Ground

3. Evidence as to how the ground is held and what rights the existing Club has to play at the ground.
4. The provision of an up to date Land Registry search to see what charges there are over any of the Club's property or assets.
5. Copies of the documents of title relating to the ground for the RFU to see if there are any relevant restrictive covenants.

Financial State of Existing Club

6. The provision of a full and accurate list of all the creditors of the existing Club.
7. Full details of any proceedings against the existing Club either current or anticipated (eg application to wind up the club).
8. Evidence of all assets owned by the Club.
9. The provision of an up to date valuation for the Club and its assets.
10. The provision of copies of the accounts for the existing Club for the previous three years.
11. The RFU may conduct a Dun and Bradstreet Search on the existing Club and its principal shareholder(s).

Any Consents Required?

12. The full and accurate details of any consents that are needed from anyone (eg debenture holders, creditors, local authority etc) to the transfer of the existing Club to a new entity.

Information Required in Relation to the New Club

The RFU will also need a variety of information and evidence in relation to any new club to be formed. The evidence required in relation to the new club must be provided within 21 days of the date those involved with the club make it known to the RFU that they wish a new entity to take over the club and its existing league position. Any evidence of details required must be full and accurate and the RFU may require further information or evidence as a result of what is supplied. If so, that new information or evidence must be supplied within the time frame required by the RFU.

Examples of the information and evidence that may be required are set out below. The list is not exhaustive and the RFU reserves the right to require such other evidence as it deems necessary.

Financial

13. Ascertain how the new club will be financed going forwards. Will it be raising capital or rely on trading to create its working capital?
14. A proper business plan must be provided to the RFU for the RFU's approval covering the next three years.
15. The RFU will need to be satisfied that the new club has sufficient working capital and banking facilities to be able to operate effectively in the relevant league.

Ownership of the Club

16. The ownership of the new club must be satisfactory, comply with RFU Regulation 3.4 and be approved by the RFU.

Membership Requirements for the RFU

17. The new club will need to provide evidence that it can comply with the relevant provisions of RFU Regulation 3.4.
18. The RFU will need to be satisfied about the new club's management and board structure and whether the directors satisfy any fit and proper person test.

Consents

19. The new club will need to obtain the consent of the relevant Constituent Body to new arrangements plus that of any debenture holders etc.

The Ground

20. The new club will need to provide evidence satisfactory to the RFU that it will be entitled to use the ground for a minimum of three years and enter into any lease or licence required by the RFU to ensure this.

Rugby Creditors

21. The new club must pay all the rugby creditors as determined by the RFU within 28 days of being granted a licence to play in one of the RFU's leagues. Examples of "rugby creditors" are set out in the schedule to this protocol.
22. The new club must provide the level of bond required by the RFU to guarantee its obligations to the RFU. This bond must be deposited in cash with the RFU and the RFU will hold it for a period of three years from the start of the following season. The RFU is entitled to use the bond to fulfil any obligations of the existing club or the new club as set out in the agreement to be entered into with the RFU and to meet any liabilities that the RFU reasonably believes should be paid in order to help safeguard the future existence for the club. The bond will be the greater of 10% of the annual turnover of the old club as set out in their latest annual accounts or 10% of the average projected annual turnover for the new club as set out for its first two years of trading in its business plan.

23. In addition, the RFU may decide that personal guarantees are required from any owner or owners or third parties to ensure that obligations are complied with.

Agreement

24. The RFU will require the new club to enter into an agreement (in a format required by the RFU) with the RFU setting out the existing club's and the new club's agreement to the various conditions to be met. That agreement must be entered into before the new entity can become a member of the RFU. Examples of conditions that may be imposed are set out below.

(a) The Ground

Any necessary lease or licence arrangements required to satisfy the RFU that the new club has the right to use the ground will need to be entered into.

(b) Financial

Agreement to supply management accounts (including cash flow forecasts and other relevant management information) on a quarterly basis.

(c) Rugby Creditors

Evidence of payment of the rugby creditors.

(d) Membership of the RFU, any League Organising Committee and the Constituent Body

The new club must agree to become a member of the RFU and to abide by the rules and regulations of the RFU and the World Rugby and, in the case of a club proposing to take the place of a Premiership Club, become a member of Premier Rugby Limited.

The new club must agree to become a member of any relevant League Organising Committee and the relevant Constituent Body.

The existing Club must agree to resign its membership of the RFU, the relevant League Organising Committee and the relevant Constituent Body and (in the case of a Premiership Club) to transfer any share to the new club.

SCHEDULE

Rugby Creditors

The following are examples of rugby creditors:

1. Wages, redundancy payments and expenses for players, ex-players and any awards by industrial tribunals.
2. Payments owed to the RFU and any RFU subsidiary or associated undertaking or to any Constituent Body.
3. Payments owed in respect of referees.
4. Payments owed in respect of coaches.
5. Payments owed in respect of medics, physiotherapists, strength and conditioners.
6. Payments owed to other rugby clubs or rugby bodies in England or elsewhere.