

# RFU REGULATIONS

## RFU REGULATION 3 – MEMBERSHIP OF RFU (APPENDIX 1)

### Guidance

#### 1. Introduction and Overall Objective of the RFU

The issue of a club moving its “home” ground will often be complex and controversial. Whichever decision the RFU makes will mean that certain stakeholders are likely to be disappointed. The RFU must balance the needs and legitimate expectations of the club with those of other stakeholders, and must have regard to all the relevant circumstances. The RFU may consider (but need not) inviting representations from stakeholders and stakeholder groups. If it does so, or even if it considers unprompted representations, the RFU should consider all the issues at hand and not just the views of the majority. It may well be that the views of the majority are outweighed by other factors. It may be that there are stringent requirements around confidentiality and timing which are fundamental to any proposed deal. Accordingly, the RFU should not be obliged to open any consultation or contact other stakeholders (including the PGB) where this may impact upon the success of any deal, and indeed it may be that the Board chooses to delegate to a small group to make the decision as to whether or not to give consent.

The aim of the RFU is to exercise its judgment so as best to promote the overall interests of the game of rugby football in England. In this regard, it is a fundamental principle of the RFU league competition that there exists a pyramid structure based on promotion and relegation and (subject to certain caveats) on sporting merit. In its role as national governing body, the RFU must strive to ensure that these principles are upheld and not circumvented by clubs looking to create a de facto franchise system where promotion is not achieved on merit but can be purchased by owners of a club in effect purchasing a league position and moving a club. It may, of course, be that these interests are best served by a club moving to a new location. This may expand the reach of the game, bring new fans to the game, or reinvigorate a club in difficulty.

The RFU may also consider, in giving consent, whether to impose conditions on its approval. The RFU will only impose conditions that are proportionate to the legitimate objectives sought to be achieved.

#### 2. The Reasons and Evidence Provided by the Club:

##### 2.1 Financial viability of the club

The RFU should have regard to the consequences for the club if consent is, and is not, given. In particular, the RFU should consider whether the club is a financially viable enterprise, and the likelihood of the club failing to survive if the proposed ground move is not approved. The interests of supporters and stakeholders may be better served by a club which plays in a different location than by no club existing at all. This should not mean, however, that financial viability necessarily overrides all other criteria, and it may be that, having regard to all the circumstances, the risk of insolvency of the club in the absence of approval should be one which the club has to bear.

It is generally accepted that a club that owns all or a substantial part of its own home ground is more likely to be self-sufficient and financially stable. The RFU should have regard to whether the club currently owns the ground on which it plays its home fixtures, and whether it would own the new ground, and to the impact that these considerations will have upon the finances of the club.

## 2.2 The Club's officials, players and supporters and others having an interest in its activities

Most clubs are likely to have a link with the community in which their home ground is situated. This link will include with supporters but may also include other stakeholders. While there is no specific distance which, all other things being equal, would tip the balance against approving a move to a new home ground, there may be factors to which RFU should have regard. First, it may have regard to any alternative grounds (and their characteristics) closer to the club's existing home ground than the proposed new ground, and whether moving to one of those alternative grounds would be possible and viable for the club. Secondly, the RFU may consider how the proposed move may impact on that club's links to its existing supporters and local community. It may be that if there is a negative effect, it be mitigated through conditions imposed upon the club in order to maintain those links. As set out in paragraph 2.1, however, it may be that the supporters are best served by the club continuing to exist in a different location than not existing at all, or existing in an unsustainable or uncertain way.

## 2.3 Identity of the club

Some clubs will have longer-standing links with the community in which they play and train than others. These links may come from the club's name and that name's association with a locality, but they may also come from the club's history and traditions, or its work in the community. Accordingly, the RFU should have regard to how the club can maintain its identity and traditions. Conditions on any approval may be useful, for example, continuation of the club's name, nickname, logo and colours, or continuation of specific means of contact with existing supporters.

## **3. Affected Stakeholders**

### 3.1 Any Club with a Stadium (whether registered in the case of Clubs at Levels 1 to 4 inclusive, or unregistered at levels below 1 – 4) in the surrounding area of the proposed location

The RFU should consider the effects that the proposed move will have on existing stakeholders. Many stakeholders may be affected, including existing clubs, whether professional, semi-professional or amateur. The RFU may also have regard to the impact upon the academies and training requirements of clubs in the immediate vicinity.

Not all impacts upon and changes to existing stakeholders are detrimental to the RFU's overall objective. The aim of the RFU is not simply to protect or entrench existing stakeholders against competition, in particular from new or more attractive means, methods or practices.

### 3.2 The locality into which the applicant Club proposes to move

There is likely to be an effect on rugby-playing schools of colleges, or other stakeholders within the locality to which the club intends to move. While there may

be some perceived negative impact, the RFU should also have regard to any positive impact. It may be that having a club at Level One to Four playing its home fixtures locally could serve to grow interest in rugby in that locality, giving a new supported base and energising the grass roots game. It may be that conditions on any approval could be useful, such as a commitment to a community scheme.

#### **4. Rugby Football generally and the Objects of the RFU**

One of the most important objects of the RFU is to grow through the RFU's values and performance. Other objects relate to the development of the game. As set out above, the pyramid structure of rugby within England is both well established and a central objective of the RFU. Accordingly, the ability of the RFU to grant consent under this Regulation should not be used actively to promote a 'franchise' system (as referred to above). The RFU should have regard to the possible detrimental impact upon the growth of the game should a club be removed from its established area. The RFU should have regard, however, to the possibility that the proposed move may overall have benefits for the game. Factors to consider may include a new supporter base or links with a new community.

#### **5. Other RFU Requirements**

The RFU should have regard to any other obligations placed on the club by the RFU or other rugby bodies. By way of example, the Minimum Standards Criteria may require the club to leave its home ground. Accordingly, the RFU should consider how these requirements overlap.

Further, this Regulation is not intended to displace the Minimum Standards Criteria, which shall continue to apply. It is also not intended to apply where a club wishes to play a match at another venue on a one-off basis (such as a cup match being played at a larger or smaller venue as appropriate); any other regulations or protocols applying to that move shall continue to apply.

#### **6. General Principles**

Each case will turn on its own facts. It may be that a move to a new home ground five minutes' walk from the existing home ground will not require such a detailed balancing exercise compared to a move to a different geographical location, say, 50-100 miles away. The considerations listed in the RFU regulations and in this guidance document are not exhaustive, and some may not be relevant. The RFU must consider all the circumstances of the matter and exercise its judgment in light of all those factors.