



GAME OF OUR LIVES

TO BE DISTRIBUTED BY COUNCIL MEMBERS TO YOUR RELEVANT CLUBS

Title	Date
PAYMENT OF PLAYERS IMPLEMENTATION PROPOSALS	28th November 2017

Purpose of paper

The purpose of this paper is to provide clubs with an update on the implementation proposals for the Payment of Players project. Club CB members are requested to review the content of this paper and provide feedback to Dave Stubbley and Alys Lewis whose details are below. Alternatively, please provide your feedback via your Council Member representative.

Deadline for feedback

8th January 2018

Feedback and Questions

Please provide all feedback and direct any questions to:

Dave Stubbley at DaveStubbley@rfu.com and/or

Alys Lewis at AlysLewis@rfu.com

Alternatively, please provide your feedback to your Council Member representative who will pass it on accordingly.

Principles agreed by Council to date

In April 2017, the RFU Council approved certain recommendations on payment of players, including agreement of the payment thresholds, the timescales for when the changes will come into effect and the specific range of RFU funding that will be lost. More specifically, the RFU Council agreed the following principles:

- Guidance amounts to be set for maximum payments at Levels 3, 4 and 5 with payments at Level 6 and below at zero (with the exception of one player coach) to come into effect in season 2019-20.
- Clubs will be free to exceed the maximum payments at Levels 3 to 5 and to still pay players at Level 6 and below however in doing so will render themselves ineligible for RFU funding support.
- Clubs will be required to submit an accurate completed annual declaration stating whether they make payments to players and if so to what extent.

- The financial thresholds have been defined for gross payments to male players in the RFU Leagues at Level 3 and below in respect of playing rugby. The financial thresholds will be as follows:
 - Men's Level 3 - £275,000 to include the payment of player coaches save that only £12,500 of the costs of each of the first and second player coaches will be excluded in calculating whether or not the threshold has been exceeded.
 - Men's Level 4 - £157,500 to include the payment of player coaches save that only £10,000 of the costs of each of the first and second player coaches will be excluded in calculating whether or not the threshold has been exceeded.
 - Men's Level 5 - £65,000 to include the payment of player coaches save that only £7,500 of the costs of each of the first and second player coaches will be excluded in calculating whether or not the threshold has been exceeded.
 - In respect of Men's Level 6 and below: Clubs at these levels will be permitted to engage one paid player coach only up to a maximum of £10,000 and no more than 50% of which shall be in respect of his/her playing duties.

- Council agreed that the following loss of RFU funding support if Level 3-5 clubs exceed the threshold or Level 6 and below clubs pay players:
 - Travel funding and Long Distance Allowances for league and cup matches.
 - Supplemental Ticket Fund.
 - Rugby Football Foundation (RFF) and RFU Interest Free Loans and Grants.
 - Green Deal Interest Free Loans RFF
 - Rugby Football Union Grants
 - Subsidised Match Officials' costs at Levels 3 and 4.
 - Under the AGP programme
 - Clubs will be ineligible for consideration for Rugby Share
 - Clubs will be deprioritised for consideration for Rugby Turf subject to AGP steering group ratification
 - Clubs that have already been allocated an AGP through the programme will be required to pay commercial rates for any hours above the 12 hours specified in the AGP lease
 - Any other RFU cash grants or such other loans/grants as decided by the RFU (including those associated with sponsor programmes – e.g. NatWest RugbyForce).
 - Constituent Body PFR funding used for individual grants to clubs.

PAYMENT OF PLAYERS IMPLEMENTATION PROPOSALS

1. Background

- 1.1 In the April 2017 Council meeting, Council agreed to implement a number of key principles in relation to the payment of players (outlined above).
- 1.2 The purpose of this paper is to obtain your views on the detail of **how** these principles will be implemented.
- 1.3 A reminder of the proposed project timeline is as follows:

January 2018	Regulations to be approved by Governance
February 2018	Regulations to be approved by Council
March/April 2018	Testing of GMS capability via test cases GMS capability reviewed and adapted if needed
May 2018	Communication to clubs informing them that they can voluntarily complete the declaration and can upload until end of September 2018. To be made clear that no sanction for not completing declaration in 2017-18 season.
July/August 2018	Communication to the game of launch of mandatory declaration and regulations in effect in 2018-19 season which will impact funding eligibility in 2019-20 season.
January 2019	Communication to the game of submission of mandatory declarations from 1 st March until 30 June 2019.
1 st March 2019 until 30 June 2019	Window in which mandatory declarations are to be completed.

2. Content Of Declaration

- 2.1 It is proposed **ALL** clubs with a men's team playing in the RFU Leagues at Level 3 and below are required by the regulations to complete and submit a signed declaration each year in order to be eligible for certain sources of RFU funding.
- 2.2 It is proposed that the submission of the declaration will be mandatory at the end of the 2018-19 season (deadline 30 June 2019) and the impact on any funding will take effect in the 2019-20 season. In addition, clubs will be asked to complete and submit a declaration on a voluntary basis in the 2017-18 season to assist with the transition and identify teething problems.
- 2.3 The proposed declaration and the key areas of information that will be required can be found at **Appendix 1**
- 2.4 Guidance notes will be provided to accompany the declaration, which will include table of thresholds, definition of material benefit, examples of what constitutes material benefit and signposting to other supporting materials.

3. Completion And Submission Of Declaration

The proposed solution for completion and submission of the declaration is via GMS by extending the existing Questionnaire and Attachment functionality within GMS so that a Payment of Players Survey will be allocated to each Club on an annual basis and completed on-line.

4. Proposed regulations in outline

- 4.1 The key implementation mechanism for the proposals will be the regulations and we propose to do this by amending and including additional provisions in RFU Regulation 7 'Players, Approaches, Contracts, Payments and Player Movement'.
- 4.2 It is proposed that RFU Regulation 7 be amended to reflect the following principles:
- a) 'Payment of players' means the payment of a 'Material Benefit' to any individual in respect of playing the game. The definition of 'Material Benefit' is therefore central to the 'payment' of players. The proposal is for the rugby definition of 'Material Benefit' to be redrafted to align (as far as possible) with the HMRC definition and HMRC's treatment of material benefits to ensure better compliance across both systems. A proposed draft definition of Material Benefit is set out at **Appendix 2**.
 - b) Please note that clubs who are CASCs or charities will have additional considerations and requirements stemming from CASC and charity legislation.
 - c) The agreed payment thresholds will be included in RFU Regulation 7 and it will be made clear that payment over and above those thresholds or non-completion of a declaration or submission of an accurate declaration will result in loss of and ineligibility for RFU funding for the entirety of the next season.

For example,

- i. If a club declares that it has paid players over the threshold in season 1, they will not be eligible for funding in season 2 even if they decide to stop paying above the threshold in season 2. They will be eligible for funding again in season 3 if it continues to pay below the threshold in season 2.
 - ii. If a club accurately declares that it has not paid players over the threshold in season 1, and then starts paying over threshold in season 2, they will still be eligible for funding in season 2 but not in season 3 if it continues to pay over the threshold in season 2.
- d) In respect of club(s) relegated from Level 2 to Level 3, Level 3 to Level 4, Level 4 to Level 5 and Level 5 to Level 6, the club will need to bring its payments within the threshold of its new level by the end of its first season at that new level, otherwise it will lose its entitlement to funding support for the subsequent season.
 - e) All clubs at Level 3 and below playing in the male RFU Leagues will be required to submit an annual declaration via GMS every year from 1 March and by no later than 30 June in respect of payments paid or payable between 1 June of the previous year and 31 May of the current season.
 - f) There will be a new definition to define 'RFU Funding' which will mirror the RFU funding which Council agreed would be impacted.
 - g) Submission of declarations will be via GMS.
 - h) The current regulations for clubs to provide financial statements every year will remain.
 - i) The RFU will have the power to request that a club, players and/or associated third party (e.g. agent, affiliate, sponsor etc) supply such relevant documents and information as may be required including a copy of the Employer Annual Return submission to HMRC.

- j) The RFU will have the power to investigate and make enquiries of a club, player and/or associated third party and carry out spot checks and auditing upon reasonable notice at clubs' premises.
 - k) We would incorporate a retention of records regulation into the regulations to ensure all relevant documents are retained by the club for a certain period.
 - l) We propose to include a power for the RFU to claw back funding if a club is found to have breached the regulations (i.e. by providing an inaccurate declaration) and failure to pay back any misappropriated entitlements would constitute a regulatory breach as well as a breach of the funding terms and conditions.
 - m) This would be in addition to a power for the RFU to withhold any future funding that may already be due or payable at some point in the future.
 - n) Breach of the regulations, persistent breaches, failure to cooperate or providing false or inaccurate information would be considered as a breach of regulations and dealt with pursuant to Regulation 19.
 - o) A whistleblowing provision would be included to encourage individuals to share information relevant to any actual or potential non-compliance by making the assurance that the identity of the whistleblower will not be disclosed.
- 4.3 The regulations will be supported by FAQs and examples of what does and does not constitute a Material Benefit. These ancillary documents are being worked up and will be presented to Council in February 2018 alongside the regulations.

APPENDIX 1
CLUB DECLARATION FOR PLAYER PAYMENTS

RFU STATEMENT ON PAYMENT OF PLAYERS:

“The RFU has determined that payments for playing Rugby in the Community Game are having a detrimental effect on the ethos of the game and the development of some clubs. Consequently it believes that clubs should be encouraged to limit payments at levels 3-5 with those clubs at Level 6 and below discouraged in making any payments. It has agreed to introduce measures for those clubs who choose to pay more than the guideline amounts and who choose to pay anything at Level 6 and below”

- Pursuant to RFU Regulation 7 all clubs playing in the male RFU League structure at Level 3 and below are required to complete and submit this annual declaration by no later than 30 June 2019 in respect of material benefits paid or payable between 1 June 2018 and 31 May 2019 in relation to playing the game.
- Please submit the completed declaration to upload onto GMS during the submission window which opens on 1 March 2019 and closes on 30 June 2019 (inclusive).
- The declaration must be signed by four key club officers.

Club Name	
Name of any affiliated entities associated with the Club (i.e. subsidiaries, trading companies etc)	
Level of Club	
Legal status of Club (i.e. Company limited by shares, by guarantee, Cooperative and Community Benefit Society Charitable Incorporated Organisation (CIO))	
CASC or Charity	
Main contact person	
Primary contact number	
FOR DETAILED GUIDANCE ON COMPLETING THIS SECTION, PLEASE SEE [INCLUDE LINK]	
The signatories to this declaration are asked to confirm the following:	
(a) <u>Do any players (including EAPs) or player coaches of the Club receive any Material Benefits for playing rugby for the Club in the RFU Leagues, whether directly or via a third party?</u>	
i) Yes/No [insert tick box]	
ii) If Yes, paid by whom?(i.e. club, affiliate, sponsor): [insert payer(s)]	
iii) If yes, please indicate TOTAL value of material benefit paid and payable between 1 June 2018 and 31 May 2019 (including all PAYE, NIC and P11D benefits to HMRC): [insert figure]	
(b) <u>Are any players engaged in another non-playing capacity by the Club or third party associated with the Club in return for any Material Benefit?</u>	

- i) Yes/No [insert tick box]
- ii) If Yes, paid by whom?(i.e. club, affiliate, sponsor): [insert payer(s)]
- iii) If Yes, insert the name of each individual:

(c) We understand that any direct or indirect payments to players that total an amount in excess of the maximum guidelines set out in RFU Regulation [x] will render our Club ineligible for certain RFU and RFF funding and entitlements set out in RFU Regulation [x].

(d) We confirm that any payments made to players and player coaches, directly or indirectly, in any form, are compliant with RFU Regulations and English Law requirements (including existing HMRC regulations, National Minimum Wage legislation and National Living Wage legislation) and that all relevant PAYE, NI and P11D payments have been made to HMRC as applicable.

(e) We comply in full with RFU Regulations and to provide upon the request of the RFU or our local Constituent Body:

- i) Such accounting and financial information and documents as requested, including a copy of the printout of the Club's Government Gateway account showing current tax liabilities and copy of Employer Annual Return submission to HMRC;
- ii) Access to a RFU representative (or appointed agent) to conduct an audit and spot checks upon reasonable notice.

THIS DECLARATION MUST BE SIGNED BY ALL INDIVIDUALS REFERENCED BELOW. BY SIGNING THIS DELARATION, YOU HEREBY CONFIRM THAT, TO THE BEST OF THEIR KNOWLEDGE:

- (A) THE INFORMATION AND STATEMENTS SET OUT HEREIN ARE TRUE AND ACCURATE;**
- (B) FULL AND PROPER ENQUIRIES HAVE BEEN MADE IN RELATION TO THE CONTACT OF THE DECLARATION; AND**
- (C) THE CONTENT AND SUBMISSIONS MADE WITHIN THIS DECLARATION HAVE BEEN APPROVED AND MINUTED AT A FORMAL CLUB MEETING.**

ANY FALSE OR MISLEADING DECLARATION MAY CONSTITUTE A BREACH OF RFU REGULATION AND BE SUBJECT TO DISCIPLINARY ACTION IN ACCORDANCE WITH RFU REGULATION 19.

CHAIRMAN (OR EQUIVALENT) Name: Signature: Date:	SECRETARY (OR EQUIVALENT) Name: Signature: Date:
TREASURER (OR EQUIVALENT) Name: Signature: Date:	OTHER KEY CLUB OFFICER Name: Signature: Date:

APPENDIX 2

PROPOSED NEW DEFINITION OF MATERIAL BENEFIT

7.3 *Material Benefit*

7.3.1 *Material Benefit means money, consideration, gifts or any other benefits whatsoever contracted, promised or given to a person or any other individual, body corporate, partnership (or any other entity or body whether incorporated or not) at his/her direction in respect of such person's participation in the Game, but shall not include bona fide reimbursement of expenses for expenses, incurred wholly, exclusively and necessarily in the performance of their duties or for reasonable out of pocket expenses incurred for travel, accommodation, subsistence or other expenses incurred solely and directly in the relation to participation in the game as an amateur. The types of expenses that fall outside the definition of Material Benefit are more particularly set out in Regulation 7.3.2 below.*

7.3.2 *The following expenses only will fall outside the definition of Material Benefit:*

- (a) *the provision of sporting facilities and reasonable provision and maintenance of club-owned sports equipment, personal protective equipment and club branded training and playing apparel;*
- (b) *the provision of suitably qualified coaches and the provision for reimbursement of the costs of coaching courses for those that coach at the club;*
- (c) *the provision of insurance cover and medical treatment related to injuries suffered whilst playing or training for the club and/or whilst undertaking club duties;*
- (d) *the reimbursement of necessary and reasonable out of pocket travel and/or subsistence expenses incurred by players, match officials, coaches, first aiders, club officials and accompanying individuals travelling to away matches and/or to locations other than the home club for the performance of club duties;*
- (e) *In respect of individuals who are amateur by virtue of being unpaid and non-salaried, the reimbursement of necessary and reasonable out of pocket travel expenses incurred by players, match officials, coaches, first aiders, club officials and accompanying individuals travelling to home matches, training and/or to the home club for the performance of club duties;*

Note:

If a player/player coach/other club individual is paid any travel expenses to the home club for any purpose in addition to a Material Benefit (such as a salary, match fee, pay-to-play fee etc), such payment of travel expenses will:

- *be classified as a Material Benefit;*
 - *will contribute towards the threshold set out in Regulation X; and*
 - *will give rise to a taxable benefit and subject to income tax legislation.*
- (f) *reasonable provision of post-match and post-training refreshments for players and match officials; and*
 - (g) *The sale or supply of food or drink as a social benefit which arises incidentally from the sporting purposes of the club.*

7.3.3 *Any club exceeding the limits set above and/or providing any other benefit not set out above will be deemed to be paying material benefit and therefore subject to World Rugby Regulation 4.5.*

For the purposes of the above,

- *'Subsistence expenses' means food, drink and temporary overnight accommodation and further clarification can be found in the accompanying guidance document*
- *'Accompanying individuals' means someone who accompanies a person who has a disability for the purposes of the Equality Act 2010 and is a player or match official*
- *'Reasonable out of pocket travel expenses' means mileage allowance based on the HMRC rates in force from time to time, and subject to prior agreement by the club treasurer, second class rail travel, internal UK economy flights and communal vehicle hire if considered the most economical mode of transport. Further clarification can be found in the accompanying guidance document.*