

## Q&As ON ADMINISTRATION / INSOLVENCY - FOOTBALL LEAGUE (EFL)

*Answers in red were provided by the EFL following contact by LOFT:*

What is the current points deduction for entering administration – is it 12?

Yes, that is correct

We gather a club entering administration has to pay creditors 35p in the £ within a three year period or face a further deduction of 15 points the following season. Is that correct?

Clubs are required to pay Football Creditors in full. Other creditors must be paid 25p in the pound on exit or 35p in pound over a 3 year period.

Presumably re the above, creditors would include investments / loans from the previous owner or do these not apply?

The minimum dividend relates to unsecured creditors only. Agreement would have to be reached with secured creditors.

If a club is unable to pay its creditors the threshold of 35p, but can meet a much lower figure then what happens regarding any points deduction?

It is applied at a time determined by the EFL Board but ordinarily at the commencement of the following season.

Would a football league club entering administration, then liquidation be given any assistance by the league to re-join the FL pyramid at non-league level or would it simply be incumbent on a new phoenix club to prepare registration papers etc to join a new league much lower down?

At the point at which a club ceases to be a member of the EFL, we do not provide any ongoing assistance.

Is an owner compelled to sell the club during the administration procedure?

Administration is an independent regulated procedure which places control of the assets in the hands of the administrator.

During administration, are we right in thinking that the PFA would cover players wages for a certain period of time, and are we also right in thinking that the monies provided are non-interest bearing loans made to the club, and if so, approximately what timescale does this money have to be paid back in?

No, this is not a guarantee and the terms on which they might do so will depend on the circumstances.

What are the principal guarantees required from a club in administration to the Football League in order for its membership of the League to continue?

Each administration is different and the EFL Board will determine its position based on the circumstances at the time.

## Q&As ON ADMINISTRATION / INSOLVENCY - FOOTBALL ASSOCIATION

*Answers in red were provided by the FA following contact by LOFT:*

Is it correct that if a club such as Leyton Orient were to fall into liquidation and that the supporters' trust attempted to re-form a phoenix type club, then the application to rejoin the non-League pyramid from steps 1-7 is made direct to the Football Association and that the deadline for applications such as this are the 31st December for the following season?

Such matters are addressed within the Regulations for the Operation of the National League System a copy of which can be found under the Regulations Tab at:

<http://www.thefa.com/football-rules-governance/lawsandrules/rules-of-the-association>

The issue is addressed at Regulation 6.3 (i) (page 177/178). An initial application would need to be made to The FA (Leagues Committee) by 1 March or within 21 days of the liquidation of the Former Club if later. A full application would be required by 31 March or within 21 days of the liquidation of the Former Club if later;

If a league club enters liquidation, is it a guideline of the Football Association that any re-formed phoenix club drops down three divisions but with no guarantees as to where they re-start within the non-league pyramid?

In these circumstances, the League in which a club is to be placed is at the absolute discretion of the Leagues Committee of The FA

If a league club were to be relegated to the Conference National from League Two but enters administration during the summer of that mid-season break, then do FL rules apply in terms of points deductions and financial payments or does that then come under the FA's / Football Conference umbrella and if so, what are the penalties in terms of points deductions and payments made to creditors?

Under both EFL Regulations (12.3) and National League Rules (14.A.2.3) should a club relegated from the EFL enter administration during the close season then the points deduction would be applied in the following season. The Club would start the season on minus 10 points. As a member of the National League then the club would be bound by its Rules. Rule 14 would apply.

<http://www.footballconference.co.uk/uploads/docs/Rules.pdf>

Is there a cut off date during the summer in which the above scenario applies ie does a FL club abide by the rules of the new division (in this case the Conference National) from the day after relegation happens or is there a cut off point whereby they effectively remain a FL club until such date the division is formed for the following season?

Strictly a Club will remain a member of the EFL until the date of the AGM and become a member of the National League at its AGM. Typically the dates of the respective AGMs are early June. The practical reality is that the Rules of the National League would apply on relegation.

What assistance, if any, do the FA provide to an administrator overseeing the administration process of a FL club whilst

- a) They are inside the process
- b) Once out of the process and in liquidation

The role of The FA is to ensure that our Rules are followed and that the Rules of a league are respected. It is not our responsibility to provide assistance as such. We do assist an administrator in the application of football's rules if required. If a company that was a club is in liquidation then it is no longer a club as defined under either FA or league rules. The entitlement of being a club is lost on liquidation.

## GENERAL Q&A (PHOENIX CLUB SCENARIO)

*These Q&As were devised following communication with other trusts and trust-owned clubs – in particular Wrexham, Portsmouth & Wimbledon.*

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If the club has to reform as a phoenix club, who will own it?

It is anticipated that the supporters' trust would own 100% of the shares, meaning that every LOFT member would own an equal share in the club

How would the fans' trust set up the board and staffing?

This is all up for discussion but as it stands we would probably look at various possibilities of committee members acting as board members with co-opted external directors (which we currently have in place) acting very much like "school governors", overseeing the board and the football club's operations. A further idea to be discussed would be to break down the board into four areas which would be an operational board to run the club day to day, a fundraising committee, a community committee group and a membership committee group. We may also seek to appoint a football advisor to the board, however we are already lucky enough to have a co-opted external director in former O's player John Mackie. Until decisions are actually taken, it is hard to predict the exact route that the trust would take in setting up operationally, and we would of course want to hear the views of our members.

Could the trust not seek to find a new wealthier owner to underpin the club's costs and take us forward at perhaps a faster pace?

This obviously remains an option to be investigated at any point in time.

Realistically, what league would a reformed club enter at?

This decision sits with the National Game Board at the FA. Essentially the maximum drop a club should face is three leagues (eg if we went into liquidation whilst a League Two club, you might expect us to be entered back in as Ryman League Premier Division Club) however this is a guideline not a hard and fast rule.

Many factors are taken into account by the National Game Board such as average crowd size, ground criteria, safety, other facilities and technical issues.

What deadlines do we have to meet if reforming to re-enter the FA pyramid at the earliest opportunity?

The deadline date for applications to rejoin the FA pyramid is December 31<sup>st</sup> to play in the season that follows immediately afterwards (eg an application before December 31<sup>st</sup>, 2017, would be for entry into a league for the 2018/2019 season)

Where would we play?

The aim would always be to play at Brisbane Road, but nothing is guaranteed as the site is third-party owned and the rental for a non-league club with lower revenues could be crippling. It is our intention to start looking at other sites, but it goes without saying that we would do all we can to stay at Brisbane Road

What if we cannot afford the rent on Brisbane Road and we have to move elsewhere? Could we not purchase Brisbane Road?

The ground is currently going through an asset transfer process from Matchroom Sports Limited to Matchroom Pension Fund. The price is approximately £6m and we did hold initial discussions with previous chairman Barry Hearn regarding the purchase of Brisbane Road. We are confident that the transfer of the asset to the pension fund holds no serious problems for us at the moment. Seeking to purchase the ground would be something we continually monitor and there is nothing to stop us putting an offer together. We would seek to have the Asset of Community Value (ACV) status put back on the ground once the transfer is complete, however the council has recently indicated to us that ACV status would in fact remain; regardless, we would ensure ACV status remains on Brisbane Road which helps safeguard our future there slightly more.

Would we require lots of volunteers to get the project off the ground and keep it going?

It goes without saying that yes, a project such as a reformed club will take a lot of man hours put in voluntarily. The more volunteers a project such as this have, then the more money that is saved can then be invested in the future of the club. Our aim would be (with hopefully a decent sized average home attendance) to retain one or two professional staff, but this would almost certainly need to be supplemented with willing volunteers, particularly on matchdays to help cut costs

Are there any other fan owned clubs?

In Germany, every club in the Bundesliga has to have a minimum 51% of the club owned by the fans and yet they turn over massive revenues and attendances week in, week out. In the UK there are several clubs owned by their own trusts including Portsmouth, Exeter City and AFC Wimbledon, as well as clubs which have reformed such as Chester, Wrexham and Darlington

Do you really think that fans could run a football club from an administrative / strategic sense?

Essentially yes. Within every club, there will be a wealth of business experience more than capable of devising, implementing and actioning sensible strategic planning from things like marketing to budgeting. The LOFT committee alone has experience in various areas such as finance, journalism, governance and football itself. In addition to this, we have started building a directory of contacts of both businesses and individuals that could assist

Where is the money going to come from? We are, after all, a loss making business.

At FL level, yes we are a loss making business, but with wages costs being completely slashed, this will help make massive savings. Our initial financial figures show a profit in years 1,2 and 3. This is not a guarantee, as none of us can effectively predict things such as average home gates. We would rely on significant donations from individuals and businesses (minimum £87k in year one), but we believe this figure is achievable, perhaps even exceeded.

So that means we would always have to remain at non-league level to trade?

If we were lucky enough to achieve promotion back towards the Football League, costs obviously rise, but so do revenues. This is something that would need to be assessed on a year by year basis as any business would, however a good example is AFC Wimbledon who are still fan owned and have achieved promotion back to the third tier.

How would you build a team from scratch?

The very real answer is we don't know. We have identified that we would need to speak with individuals within the game that we feel would complement the newly formed club's situation and budget constraints. The one factor that might go in our favour is if say the club went into liquidation in the mid season summer break, we would have six months to put our application into the FA regarding re-joining the pyramid, but probably 6-9 months to sound out managers, coaches, staffing and the like.

Is 2200 an achievable average attendance, especially considering we may have to drop several divisions?

This is very hard to predict and has been done using the only information we have in terms of season ticket holders, average home gates and the situation other clubs faced in the same position such as AFC Wimbledon.

It is our considered opinion the attendance could drop as low as 1,000 or be as high as 3,000 on average. Further work will be undertaken on this as we move forward.

Isn't this a pipe dream, all about fans picking the team?

Certainly not. This is a viable plan B to help rectify a worst case scenario with the club falling into liquidation and for it to be reformed so that there is simply a Leyton Orient to support. In the event of any phoenix club being reformed, we would not seek to be involved in any way, shape or form in the day-to-day football operation. It would be new club board's task to manage the day-to-day off the field activities, to enhance its reputation mainly locally, but nationally also and to fulfill its obligations and aims on behalf of the people who own the club – the supporters.

What would happen to the Leyton Orient Trust and SCORE Centre?

The Leyton Orient Trust (LOT) is a separate charity with their own operations in place, however we would seek to work with them at all levels as the work of both organisations would benefit the other, LOT being a major stakeholder in the activities of the club and vice versa.