PARS UNITED

OWNERSHIP, GOVERNANCE AND MANAGEMENT

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INTRODUCTION

Two years ago, on 1 April 2013, the concept of Pars United ("PU") came into being, when a number of Pars supporters, including the Pars Supporters' Trust ("the PST"), committed funds in excess of £100,000 to allow Bryan Jackson and Bob Barclay ("BDO") to be appointed as administrators of Dunfermline Athletic Football Club Ltd ("DAFC", "the Club")), rather than as liquidators.

A lot has happened in that period. In particular, the transitional arrangements put in place for the ownership, governance and management of the various companies involved have evolved, or have been replaced, by the more permanent arrangements in force today.

Like all businesses, football clubs have a number of stakeholders. Unlike other businesses, however, virtually all of the stakeholders of a football club are interested, to a greater or lesser extent in how their club is structured, owned, governed and managed. This paper summarises how these operate within the PU entities.

April 2015

BACKGROUND

April 2013

PU was set up on 1 April 2013 by a group of Pars supporters and with the involvement of representatives of the PST, other supporters groups and the Centenary Club. The aims were simple: to save the Club from liquidation; and then work towards ensuring a long-term, sustainable future.

PU was, and continues to be, focused on bringing greater community ownership and fan governance and representation to the Club.

The first steps were to raise and contribute £100,000 to the working capital of the Club, thereby allowing BDO to take the appointment as administrators of the Club. Without that immediate injection of funds, BDO would almost certainly have been unable to accept the appointment. The Club would have been liquidated without completing Season 2012/13.

PU's original intention had been to raise sufficient equity capital to allow it to: acquire the 93.6% of DAFC that was held by BDO; make a contribution to the creditors' fund; meet the Club's "football debts"; and provide sufficient working capital to allow the Club to operate for the foreseeable future.

At the outset, there was no clear strategy for dealing with East End Park. It was simply hoped that PU would be able to reach some sort of affordable agreement with the owner or a lender. When the owner of the stadium (East End Park Ltd) went into administration on 28 May 2013, PU arranged an early meeting with KPMG, the administrators of that company, who said that they were looking to sell the stadium. Whilst the prospect of being able to reunite the Club and the stadium was exciting, PU was suddenly faced with having to raise considerably more money than had first been thought.

To make matters even more challenging, PU was then given ten days' notice of a deadline for submitting offers for both the Club and the stadium, with those offers having to be backed by proof of funding. A company, Pars United CIC ("PUCIC"), was formed to raise the funding for, and then make, the necessary offer to buy DAFC. A second company (Pars United (East End Park] Ltd ("PU(EEP)") was formed to raise the funding for, and then make, the necessary offer to buy East End Park. And a corporate structure (described on page 6 under "Corporate Structure") was put in place to bring everything under the PUCIC umbrella.

Through the magnificent efforts of the Pars supporters, PUCIC was able to table offers to both BDO and KPMG, although it was not the only party to do so.

July 2013

Despite the other offers, however, PUCIC was awarded preferred bidder status by both sets of administrators on 5 July 2013. BDO then convened a meeting of the creditors of DAFC at which they effectively tabled PUCIC's outline business plan as the means of concluding the Club's administration. The creditors approved the administrators' proposal on 30 July 2013 and PUCIC then set to work on finalising the detailed conditions of the agreements with the two sets of administrators and then instructing its solicitors to formalise the contracts.

The two contracts were interconditional, in that neither would complete without the other also being completed.

October 2013

After several weeks of negotiation, and a legal challenge in the Court of Session to a proposed course of action relating to DAFC's lease of Pitreavie by BDO, the contracts for the acquisitions of DAFC and East End Park went unconditional on 31 October 2013. The Club and the stadium were now owned by supporters and supporters' groups.

December 2013

On Friday, 13 December 2013, DAFC finally came out of administration.

CORPORATE STRUCTURE

Early in the process of putting together the bid for the DAFC shares held by BDO, a decision was taken not to "squeeze out" the existing minority shareholders, as that would have been counter to the objectives of creating a supporter-owned, transparent structure. So it was left that PUCIC would offer to acquire only the 93.6% of DAFC held by BDO.

A number of factors required that a slightly complex corporate structure be used to allow the joint objectives of acquiring the Club and the stadium to be achieved.

1. East End Park had to be purchased subject to the existing lease to DAFC, so that the transaction could be treated as the transfer of a business as a going concern, thereby avoiding the cash flow difficulties that would have arisen on having to pay VAT on the purchase price. It followed that DAFC could not be the purchaser as it could not be both landlord and tenant.

2. During the course of discussions with possible funders, it became clear that there were several who were happy to contribute funds to support the Club, even though they knew that there was no realistic prospect of there being any financial return on money subscribed. It was also clear, however, that there were others who might only subscribe where there was some asset backing to their investment. Equally, some in the former group were prepared to subscribe considerably larger sums if asset backing could be offered.

3. The administrators of East End Park Ltd, on behalf of Lloyds TSB, made it clear that they would very much prefer that the stadium was to be owned as part of a process of ensuring that DAFC was becoming a community asset. They required to be satisfied that the stadium was not simply being bought on the cheap by investors in a property play.

4. In order to align with the overriding strategy of bringing about a genuine community club, effective control of the stadium had to lie with PUCIC and/or DAFC, even though many of the economic benefits would flow to the group funding the acquisition of the stadium.

The structure adopted is shown in a diagram in the appendix on page 16. It has the following benefits:

1. It allowed investors access to an asset backed investment in PU(EEP).

2. It requires those investing in PU(EEP) to invest at least £1 in PUCIC for every £3 invested in PU(EEP).

3. It allowed the acquisition of East End Park to be effected without any charge to VAT.

4. It provides a modest return to the PU(EEP) investors, while leaving DAFC to pay an affordable rent.

5. It makes it practically impossible for PU(EEP) to make a profit out of a sale of the stadium without, first, looking after the interests of DAFC.

6. The composition of PU(EEP)'s board effectively gives PUCIC day-to-day control of PU(EEP)'s affairs.

7. The shareholding arrangement gives PUCIC the ability to block the passing of a PU(EEP) special resolution.

Although not shown on the structure diagram, Black & White (Dunfermline) Ltd ("B&W") was, at the time of PU's acquisition of DAFC, a 100% subsidiary of DAFC. Following PU's acquisition of DAFC, PU acquired B&W from DAFC.

B&W no longer trades, as the youth development activity formerly carried on by B&W has been taken over by the Fife Elite Football Academy ("FEFA"). DAFC now owns 45% of FEFA's issued share capital and is the largest shareholder.

OWNERSHIP

PUCIC

PUCIC has two classes of share in issue: A Shares; and B Shares. The A Shares are owned by the PST and the B Shares are owned by all shareholders other than the PST. No-one other than the PST can own an A Share and the PST cannot own a B Share. If ever the PST were to acquire a share from a B Shareholder, it would automatically be reclassified as an A Share and *vice versa*.

Both classes of share have identical rights, with the exception of the right to appoint a director (see "Governance" on page 10)

Currently, there are 228,085 A Shares and 576,750 B Shares in issue. The PST is the largest shareholder, owning 28.34% of the total issued share capital. The largest B Shareholder owns 6.46% of the total issued share capital.

DAFC

DAFC has only one class of shares in issue. PUCIC owns 93.6% of that issued share capital. The balance is held by approximately 200 shareholders who have acquired shares over the years. Many of those shareholders cannot now be contacted as the Club has not been kept informed of changes of address etc..

FEFA

DAFC owns a 45.45% shareholding in FEFA and is the largest of the four shareholders.

B&W

B&W is wholly owned by PUCIC.

PU(EEP)

This company has two classes of share in issue: A Shares; and B Shares. The A Shares are owned by PUCIC and were subscribed for a nominal sum. The B Shares are owned by a number of individuals who subscribed for their shares at the time of the acquisition of East End Park or who acquired their shares from existing B Shareholders.

All rights to dividends rest with the B Shares. There are a number of other significant differences between the rights of the two share classes. These are designed to bring about protections for PUCIC and DAFC and are described in the section headed "Governance" on pages 12 and 13.

GOVERNANCE

From the outset, PU's vision, aims and objectives included ensuring that DAFC was recognised throughout the football world as a sustainable and entertaining community-based football club which:

- Is widely owned by supporters
- Has fans' organisation representation on the board
- Is rooted in its communities, representing Dunfermline with pride
- Draws its support from a diverse range of fans
- Maintains good relationships with local businesses and suppliers
- Operates within clear and realistic budgets at all times
- Is transparent in all its activities, welcoming feedback from stakeholders.

In order to bring about proper and practical levels of supporter and community involvement, communication and transparency a number of wide-ranging governance measures were put in place to ensure involvement and accountability. The most important of these are described below.

PUCIC

PUCIC is the parent company of the group and it is the company in which supporters and supporters' groups have invested and it is the entity which controls DAFC. The key governance controls applying to the company are described below.

Corporate Status

It is constituted as a community interest company ("CIC"). CICs are subject to normal company law but must, in addition, be run as social enterprises for the good of the community and comply with the requirements of the Regulator of CICs, to whom it must report annually.

In order to be classed as a CIC, the company's Articles must contain an "asset lock", to prevent assets or the profits from the disposals of assets from being stripped out of the company. The Articles must also contain provisions which restrict the company's ability to pay remuneration to directors and dividends to shareholders. In PUCIC's case, the Articles provide that no directors' remuneration and no dividends will be paid.

Director Appointments

The long-term intention is that the board of PUCIC should be comprised of non-executive directors who act as a supervisory board, overseeing the roles and actions of the executive board of DAFC. That requires suitable candidates to come forward and stand for election.

As is described on page 8 the company has both A Shares and B Shares in issue. The only difference between the rights of the two classes relates to the right to appoint directors.

PUCIC can have up to six directors - up to two A Directors, up to two B Directors and up to two of C Directors.

The A Directors are appointed by the PST and it is for the PST to determine the process for identifying and selecting the individuals to be appointed.

The B Directors are appointed by the B Shareholders and a meeting of the B Shareholders requires to be convened to determine their appointments.

The C Directors are appointed by all shareholders together in general meeting.

The above arrangement is considered to be a practical means of balancing the respective rights of both classes of shareholders, so that both have representation, but an element of weighting is reflected in the voting for the C Directors.

Director Rotation

Of the six directors appointed at PUCIC's AGM in May 2014, one A Director, one B Director and one C Director must retire at the 2015 AGM. A retiring director can stand for re-election.

The other A, B and C Directors must each retire at the 2016 AGM, but can, again, stand for re-election.

Thereafter, every year one third of the board members are required to retire.

Annual and General Meetings

PUCIC must hold a general meeting within each accounting year and all shareholders are entitled to attend that meeting, to speak at that meeting and to vote.

Furthermore, the company's Articles provide that every member of the PST is entitled to attend and speak at that meeting. Only the Authorised Representative of the PST, however, can vote. To date, the PUCIC directors have extended the invitation to attend and speak at the AGM to all members of other supporters' organisations that are shareholders and to all shareholders in DAFC.

Share Transfers

As is commonplace with private companies, the directors of PUCIC have complete discretion on the question whether or not to register any proposed transfer of PUCIC shares.

DAFC

Given that PUCIC owns 93.6% of DAFC's share capital, it is obviously under the control of that company. Nevertheless, DAFC is, itself, subject to a number of governance provisions.

Corporate Status

As a company, DAFC is subject to the usual company laws, including obligations to file certain information at Companies House.

The existence of a number of minority shareholders accounting for 6.4% of the company's share capital means that the DAFC directors must be mindful of their interests.

Director Appointments

DAFC can have up to seven directors. Anyone who is to be a director must be accepted by the relevant football authorities to be a "fit and proper person".

As with any other company, directors are generally appointed and can be removed by shareholders. In practice, as PUCIC owns a controlling stake in DAFC, the questions of the appointment or removal of a director will be determined by the board of PUCIC. DAFC's Articles do provide, however, that at least one director must be someone appointed by the PST. It is for the PST to determine the process for identifying and selecting the individual to be appointed.

The intention is that all DAFC directors should act in an executive capacity. It follows that the directors should each be individuals with the relevant time and expertise required to make a proper contribution to the running and management of the Club.

Annual and General Meetings

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Share Transfers

As is commonplace with private companies, the directors of DAFC have complete discretion on the question whether or not to register any proposed transfer of DAFC shares.

Patrons' Council

The Patrons' Council meetings are designed to be a platform for regular dialogue between the Patrons (basically, the PUCIC B Shareholders) and the directors of

PUCIC and DAFC. The meetings are held quarterly and a meeting can be convened at any time, should an urgent matter arise.

The normal format is for the directors in attendance to update the Patrons on all important matters and then for there to be an open Q&A session on any topic of interest.

A member of the Patrons' group takes minutes which are then circulated amongst all Patrons.

Supporters' Council

Supporters' Council meetings, involving the directors of DAFC and open to all supporters, are held and organised along virtually identical lines to those of the Patrons' Council. The meetings are scheduled and organised by members of the Supporters' Council and not by the directors.

As with the Patrons' Council, the normal format is for the directors to update those attending on the various agenda items and then for there to be an open Q&A session.

PU(EEP)

As is described on page 4, the funding for the purchase of East End Park had to be put in place over a very short period and required Pars United to source more funds than had originally been envisaged. A number of individuals ("the Funders") stepped into the breech and provided the finance required. The Funders were prepared to see DAFC have all the protections that a football club might reasonably look for in relation to its stadium, in return for a modest return on their investment.

The Funders

It was considered important that no-one should be able to invest in PU(EEP) without also having invested in PUCIC. So, it was a requirement that, for every £3 subscribed to PU(EEP) at least £1 had to be subscribed to PUCIC.

Some of the Funders have indicated that they would prepare to sell down some of their PU(EEP) holding to new, additional investors and it is a requirement that for every £3 nominal share capital acquired a new investor must also subscribe £1 for new PUCIC shares.

Corporate Status

As a company, PU(EEP) is subject to the usual company laws, including obligations to file certain information at Companies House.

The company has two classes of share in issue: A Shares and B Shares. The A Shares are all held by PUCIC and were acquired for a nominal sum. The B Shares are all held by the Funders. The rights attached to the two share classes are, in

many respects, very different and those differences are described in the following paragraphs.

Voting

Notwithstanding the nominal sum paid for the A Shares, the A Shares, as a class, have the right to 25.1% of the voting power in the company. Thus, the A Shareholder (PUCIC) can block the passing of a Special Resolution of the company. A Special Resolution is required to make any amendment to the company's Articles.

Dividends

Only the B Shares have a right to a dividend and PU(EEP) will pay its annual rental profit out to B Shareholders by way of dividend.

Director Appointments

The company can have up to three directors, two of whom ("the A Directors") are appointed by PUCIC and one of whom ("the B Director") is appointed by the Funders. Thus, day-to-day control of PU(EEP) lies effectively with PUCIC.

Lease of East End Park

Very shortly after acquiring East End Park, PU(EEP) entered into a 30-year lease of the stadium to DAFC. The first year of the lease period was rent-free and the rent payable in years 2 to 5 will be at the rate of £40,000 p.a. After the end of year 5, and every five years thereafter, the rent will be increased by an amount equivalent to 3% compounded annually.

These terms give DAFC certainty as to the levels of rent payable for the remainder of the lease period. They also allow DAFC to comply with the football authorities' requirements regarding security of tenure of the home ground.

Disposal of East End Park

In the event of a disposal of East End Park (which is neither planned nor envisaged), the free proceeds of the disposal must first be applied by PU(EEP) in acquiring or building a new stadium to DAFC's reasonable requirements, in respect of which a new 30-year lease is to be entered into.

Any surplus remaining after that is to be shared equally by PUCIC and the Funders.

MANAGEMENT

In very many cases, the ownership of a company is separate from the management of the company. Directors are appointed, in a stewardship capacity, to take charge of the day to day running of the company and its business. They are accountable to the shareholders who, ultimately, have the power of hire and fire over any director. It is simply not practical for shareholders to become involved in every management decision.

As will have been seen from the section on "Governance", PUCIC, DAFC and PU(EEP) are no different (except that, in line with the PU ethos, the directors of PUCIC and DAFC are also accountable to supporters).

DAFC is, of course, the company which requires most time and attention by way of management.

With the very limited number of permanent staff available at the Club, it is important that the Directors should all act in an executive capacity and have the time and expertise available to allow the Club to function properly. The important roles played by volunteers must also be remembered. The contribution the volunteers have made has been, and will continue to be, invaluable.

MANAGEMENT FUNCTIONS

To make the running of the Club more organised, DAFC's business has been broken down into various strands and roles have been allocated, with at least two directors taking responsibility for each of the following areas of the business:

- Football matters
- Commercial
- Marketing/PR/Communications
- Stadium management
- Legal/Finance/Compliance
- Administration
- Budgets/Accounting/Banking
- Matchday hospitality & lounges
- Matchday volunteers
- Non-matchday events
- Non-matchday volunteers
- Fundraising
- Community

Of course, the directors do not, and could not, do everything that needs to be done in these areas. The staff at DAFC and the supporters who willingly

volunteer their services are crucial to the successful running of the Club and there is always room for more volunteers.
In addition to the internal functions, set out above, PUCIC and/or DAFC also liaise closely with:

- The Centenary Club Lifeline
- The 1885 Business Club
- The Pars Supporters Trust
- The Pars Foundation
- The Young Pars
- The Disability Access Group
- Supporters' groups (inc. DASC, Lizzie Pars, Kincardine and Lothian 68)
- FEFA
- The Dunfermline Athletic Heritage Trust

APPENDIX

Pars United Corporate Structure