

Responses to Questions Asked In Advance Of The SGM

We have to enforce some strict rules for the next Special General Meeting (SGM) meeting due to its nature and the specific circumstances surrounding it.

As this is a Special General Meeting, **we are only able to discuss the specific questions raised**. The board have prepared written answers to those questions which are detailed below. The questions are in bold and italics. The first question was answered previously and we have repeated it here for completeness. The only matters which are available for discussion are any points of further clarification arising from the responses given. We are not permitted to introduce any other business as part of the SGM.

As there is currently a board election underway with voting in progress it is extremely important that the neither the SGM nor any comments made during discussion are used by candidates for the purposes of promoting their position. This is something we have been warned about by our external advisers.

As a result **we will not take questions from the floor but invite questions by email in advance** submitted to CBSSecretary@buryfc.co.uk. This will allow us to address only those questions which are admissible and decide who is best to respond.

We will provide a full set of minutes after the event which will be appended to the information contained below.

Tickets are free and available in advance for members only, so that we can assess likely numbers. When attending you will be asked for your membership number. If you are not a member your ticket may be cancelled or you may be refused entry. You will not be admitted without a ticket.

The SGM will start at 7.30pm on Tuesday 10th October 2023 at The Elizabethan Suite, Town Hall, Knowsley St, Bury BL9 0SW.

Tickets can be obtained by [clicking this link](#).

Rod Peters

Secretary to the Interim Board

**MINUTES OF SPECIAL GENERAL MEETING
FOOTBALL SUPPORTERS' SOCIETY OF BURY LIMITED
TUESDAY 10th OCTOBER 2023 - 7.30PM
AT THE ELIZABETHAN SUITE, TOWN HALL, BURY**

PRESENT: 56 ATTENDEES

PRESENTERS: ROD PETERS (RP), JOHN WOODHEAD (JW), MIKE GOODIER (MG), ALISTAIR ROWE (AR), MARTIN STEMBRIDGE (MS)

RP opened the meeting by welcoming everybody and read out apologies from David Triggs Karl Lee, Mike Howarth and Phil Young

RP explained the background to the meeting that Action for Bury FC, which consists of a group of members, set up an online petition asking for a Special General Meeting (SGM).

The petition asked several questions to be answered by the Interim Board (IB). Around 50% of those who signed the petition were members of the club, which represented, around about 8% of the total membership. The threshold to convene a special general meeting is 5% so the criteria had been met.

RP explained the request for the SGM was received on the 12th September (2023) and the CBS had 28 days from that date to hold the meeting. It was initially hoped to hold the meeting on the 5th of October (2023), which, would have then given a period of nearly two weeks before the actual vote closed.

RP then set out the rules for the meeting (referencing Rule 34 - the meeting was not to transact any business other than that set out in the requisition).

RP then stated that all questions asked by the petition had been responded to by the Interim Board to members (29th Sept 2023 and 7th October 2023)

RP then read out the IB response to the first question

Why have our football board taken it upon themselves to continue as a 100% fan owned club without member consultation? This is not what we as fans/members voted for.

I have previously given an update on where we are with the structure of the organization and relationship with benefactors, but with more questions and so much misinformation in circulation I have prepared this more detailed note which summarises how we have arrived at the current position.

As secretary of the Football Supporters' Society of Bury (FSSB) I have no vote, my role is to record discussions and decisions made and where appropriate share these with members. My role is primarily to protect the members' interests and if, as Secretary, I believe the society is not acting in the best interests of its members then I must remedy the situation.

As a result, these notes are intended to be a factual record of events, rather than a statement of opinion. External advice has been sought and received all the way through this process, and I will refer to this where relevant.

In summary:

- The current ownership structure was agreed by all seven of the board members present. There were no objections and one person was absent due to holiday.

- We have acted in accordance with the external advice we sought from both our lawyers and the FSA. The facts were supported by other impartial individuals involved in discussions, including the Investment Director at Greater Manchester Combined Authority.
- Opportunities to discuss or comment on our previous communications have been offered to the benefactors.
- There is no reason the structure cannot change once the promised funds are committed, it just needs member approval.
- The contents of this report have all been agreed as accurate by the board of FSSB.

There was very little difference in the information presented to members from the first amalgamation vote in October 2022, which did not pass, and the second vote in May 2023 which was approved. The formalities of the motions themselves were identical and all of the actions required from these motions are complete. Specifically, Bury FC Supporters' Society members (BFCSS) were asked to approve the amalgamation of the two societies. Shakers Community Society (SCS) members were asked to approve the amalgamation of the two societies, change the paying name to Bury Football Club, and move playing venue to Gigg Lane. The differences between the two votes simply reflect that SCS owned the football club, then playing as Bury AFC, which needed member approval to change playing name and home ground. BFCSS owned a controlling interest (in that they owned the majority of voting rights) in the company which owns stadium, called The Bury Football Club Company Limited. The other co-owner of The Bury Football Club Company Limited is Bury FC Benefactors Limited, which is the vehicle which holds the shares on behalf of the benefactors who invested in half of the cost of the acquisition of Gigg Lane, the other half funded by central government money in the form of the Community Ownership Fund, which falls under the remit of the Department for Levelling Up, Communities and Housing (DLUHC). In regard to the benefactors' contribution to acquire Gigg Lane they have no expectation or desire to earn a financial reward.

Two other key pieces of information were noted within the documentation issued to members prior to the vote, which are pertinent to the current situation.

One was that the organisation would be restructured so that the football club would fall under the ownership of The Bury Football Club Company Limited, which would give Bury FC Benefactors Limited an equal share in the football club, albeit without voting control.

The other was that a successful vote to amalgamate would result in additional capital committed to the project. This included £300k from the two societies, £450k from Bury Council, the remaining £300k from DLUHC and around £300k from Bury FC Benefactors Limited. There is some dispute as to the exact figure which should be used for the benefactor contribution but as no monies have been committed at all so far, I do not think this point is relevant at this point. DLUHC have confirmed that around £300k of the £1m agreed is still available to draw down from their fund. Prior to the second vote SCS board members wished to evidence to its members that this money was still available. It was evident from its own finances that the society could meet its obligations. Bury Council reconfirmed their own commitment, subject to the conditions previously outlined, and DLUHC confirmed the remaining funding was still available. Understandably, it was not possible to evidence the Bury FC Benefactors Limited money was available as it had not been committed and we were advised it would not be committed unless the second amalgamation vote was successful. This was not a surprise. No additional funding has been provided from Bury FC Benefactors Limited to The Bury Football Club Company Limited other than the initial funding required to purchase the stadium in early 2021. A request for letter of intent from benefactors was requested but not provided and it was accepted this would have no binding legal status. There was a desire from both sides to find a

solution to this, as SCS board was uncomfortable recommending the merger to members based this level of uncertainty. The Investment Director at Greater Manchester Combined Authorities, who had chair various meetings on the second amalgamation, was asked to discuss the availability of the benefactor funding with a director and representative of Bury FC Benefactors Limited, who confirmed that the funding was available and conditional only on the merger. This information was relayed to the SCS board to provide some additional comfort and evidence that information this had been provided to a third party, not just the SCS board. We received written confirmation from that Investment Director on 11th July 2023 that this conversation took place and I have copied the relevant statement below:

“At the working group meeting on 10th February, the minutes show that in order to move forwards towards a vote one of the points you (SCS) needed was confirmation that the £300k of funding from the Benefactors was still available. The minutes note that the £300k was subject to a positive outcome of the vote.”

“Further to this meeting I had a conversation with Matt Barker to understand the position with respect to the additional benefactor monies as given the status of the vote at that time, Matt had not wanted to revert to Benefactors and ask for a letter of commitment. In my conversation Matt was clear that whilst he did not feel it was the right time to go back and ask for a letter of commitment from the Benefactors, that he was comfortable that this funding was available subject to a positive vote outcome and that I could reiterate this message to you (SCS).

In addition, the Q&As, which were approved by that same director and representative of Bury FC Benefactors Limited, and issued to members of both societies ahead of the merger vote read:

“All of the previous funding is available again should a vote go through this time. This an instant £1.3m rising to an estimated £2.3m over time. This includes a further £300,000 from the existing benefactors. There has been no further capital invested or donated to the project since the first vote. There will be some confirmatory diligence undertaken to confirm all funds are in place as expected before the merger completes.”

It was understood, therefore, that the additional benefactor money was readily available, and subject to no conditions other than a positive amalgamation vote, given that it was to come from existing benefactors who had already committed funds. The exact source of the funds, whether it be new or existing benefactors is not material, other than by stating the money could come from existing benefactors it gave the SCS board far more confidence it would be made available.

Bury Council were also concerned to establish that this funding was available. The terms of their own funding which are detailed in their cabinet paper of 13th June 2022 states:

“The business plan includes a commitment of £1m from private benefactors of which £730k has been invested to date. The balance of £270k will be invested if the merger discussions are successful and will be used as match funding, alongside the Bury Council funding, to release the balancing £300k of grant from the Community Ownership Fund.”

The business plan originally submitted included additional funding from Bury FC Benefactor Limited.

We were advised that there were no available Bury FC Benefactor Limited funds after voting had closed. There was no immediate financial pressure caused by this situation, however once it became apparent that the money would not be committed a discussion amongst the FSSB board members

was held at a board meeting on firstly the 4th July 2023 and later on the 18th July 2023 about the next steps.

At the meeting on the 4th July 2023 the relevant minute confirms that:

'It was agreed by all that it would be wrong to transfer Bury Football Club (2019) Ltd to The Bury Football Club Company Ltd as the financial diligence has not been completed and Bury FC Benefactors Ltd have not provided an additional £300k into that company as set out in the original merger proposal.'

It was also agreed at the meeting on the 4th July 2023 that:

"advice from Anthony Collins Solicitors LLP would be sought (should these funds be made available in future) about whether a member vote would be required. Bury Football Club (2019) Ltd trading as Bury Football Club would remain a wholly owned subsidiary of the Football Supporters' Society of Bury'

A course of action was agreed at board meeting on the 18th July 2023 attended by seven of the eight board members. All seven voted in favour of this and the relevant minute is copied below.

*"MB has confirmed there is £240k outstanding from the Benefactors who want a meeting to discuss. We can arrange a meeting but even with this figure there seems to be a £60k downfall. Benefactors feel £760k has been paid in to date. JW said there was an understanding that there would be £1mil of funding from existing benefactors at the time of the vote amongst members. MB spoke to PY prior to vote results being announced to say that additional benefactor funding would not immediately be available. DT raised that current position of the benefactors suggest that they do not or are unwilling to immediately invest existing funds. MB has stated that the current position is 'uninvestible'. KL says we're currently in transition period. Deadline has been given until the end of the month for the benefactors to provide additional funds but keen that all avenues should still be explored with the benefactors to resolve the matter. PY agreed that the deadline was sensible and then we can draw a line under it and decide on a new way forward. PY happy to meet to discuss with benefactors as requested along with other Interim Board members. . Meeting to be facilitated in forthcoming weeks between Benefactors and IB members, Face to Face is going to be more difficult due to geographical and proximity issues involved of IB members and benefactors. KL suggested that a minute taker be present and a second set of eyes and ears. **ACTION: Meeting to be arranged between Benefactors and IB members to discuss this current impasse. Remote meeting would be most suitable."***

The legal opinion, obtained from a mutual law expert at the firm who had advised us throughout the amalgamation process confirmed this course of action. In particular, it re-iterated that in the absence of any binding legal agreement on the matter the society could not force benefactors individually or collectively to pay the outstanding amount, nor could they force transfer of the football club ownership. Given that this would effectively be transferring half of the ownership of the football club for no financial contribution it was clear this would not be in the interests of the society, which may wish to accept investment into the football club at a future date, subject to member vote.

We were advised to provide a deadline date of seven or fourteen days to Bury FC Benefactors Limited for the investment to allow another opportunity for investment and gave a deadline of 31st July. It was confirmed that the outstanding monies would not be paid, and the matter closed. We had also advised further investment could be made, along with changes to the ownership structure but this would be subject to another consultation and member vote, as the terms of the previous agreement had expired. Again, this was in accordance with the legal advice we received and also the advice received from the Football Supporters Association (FSA) who had been involved throughout.

It was expected that the benefactors would not agree with this, as they still believe the football club ownership should be transferred without any additional financial contribution from Bury FC Benefactors Limited. The dispute between board members of FSSB occurred when it was suggested that this situation be disclosed to members. The board was equally split on this issue and we did not have a majority vote to disclose the information to members. The statement which was eventually released and can be seen here, and is repeated below, had been passed to the board of Bury FC Benefactors Limited for comment on the 1st August 2023 and we had received no comment on it other than that it had been received and they were not in agreement with its release. By the 6th August 2023 we had still received no comment on it, and I, acting as Secretary, took advice from the FSA on my obligations as I felt it was something FSSB members should be informed of given we had been asked about funding by some members, questions had been raised about the football club ownership and it was pertinent to the amalgamation vote which was a hugely significant event for members of both societies. It was issued to members by email on the 7th August 2023 at 6.00pm and is reproduced below.

Update from The Secretary of the Football Supporters' Society of Bury

We have completed the amalgamation of the two societies, the name change to Bury Football Club and made Gigg Lane our home ground, which were the three items voted on by members in May.

We also advised as part of the pre-vote information pack that we would move the ownership of the football club, which is Bury Football Club (2019) Ltd trading as Bury Football Club, under the ownership of The Bury Football Club Company Limited, subject to further financial due diligence. We have been advised by Bury FC Benefactors Ltd that at this stage they will not be investing the further £300,000 they had committed to in the business plan presented to members. This does not place the stadium or club in any significant jeopardy as we are still able to access both central and local government funding in addition to holding our own cash reserves.

There is no obligation on Bury FC Benefactors Ltd to invest this money, and we will continue to work with them as normal. Equally there is no requirement for the Football Supporters' Society of Bury to make any changes to the ownership of the club, and so it will remain 100% owned by the Society, and separate from The Bury Football Club Company Limited, which the Society co-owns with Bury FC Benefactors Ltd. The Football Supporters' Society of Bury also owns the majority of voting rights in The Bury Football Club Company Limited, so should not be prejudiced in any way by keeping the organisational structure in its current format.

Should any party, including Bury FC Benefactors Ltd, wish to invest into either Bury Football Club (2019) Ltd or The Bury Football Club Company Limited at a future date they may do so by an approach to the board of the Football Supporters' Society of Bury, who can take this forward to member consultation and a member vote if they believe it is a credible offer in the best interests of the club and the society.

There are some significant legal and tax issues to consider as part of any transaction like this, in addition to the need for member approval, and so it is unlikely that any offer could be agreed and put forward for a vote quickly or without professional advice.

Rod Peters

Secretary to the Interim Board

A member called for a Point of Order. His submission was that every question raised should be put forward for discussion. He challenged the refusal to discuss the specific questions. RP responded to the Point of Order by explaining the matter would be addressed later in the meeting.

JW then read out the IB response to the second question.

Why have the benefactors gone completely silent? Do they still want to take over the 49% stake?

This is a question for the benefactors to answer, and they have made comment publicly on the matter.

Our understanding is that they wish us to transfer the ownership of the football club now. As outlined in our earlier comments, the society board took the view, with external advice, that this was not appropriate without the transfer of the outstanding monies due.

JW then read out the IB response to the third and fourth questions.

With the elections being delayed due to a data leak of personal member information, has the club started an internal investigation into this leak?

Are the club now looking into such a serious GDPR breach especially with the upcoming board elections?

We have investigated this issue.

Firstly, there was no leak of confidential information and no breach of GDPR. Under section 30 of the Co-operative and Community Benefit Societies Act 2014 (the Act), it is a requirement that a registered society must keep a register of members including the members name and postal address (s.30(2)(a)). Pursuant to section 103(1)(b) of the Act, any member of the society has the right to inspect the register kept in accordance with section 30. Names and addresses of members are not, therefore, confidential. Any member has access to this information.

We did attempt to discover who had posted the specific information about people who had multiple membership accounts linked to the same address but were unable to obtain this or evidence how it had been obtained.

Board members did also take some time to clean the database to the best of their ability. The vast majority of accounts removed were duplicates where the same person had a membership for both societies. Where multiple accounts were registered to the same address we sought additional evidence that these were valid, adult voting accounts. In a very small number of cases, we removed accounts where we could not obtain that evidence.

RP then read out the IB response to the fifth question.

Why are we still hearing reports of discontent between the 2 merged societies?

As the person who acts as secretary to the society I have found all board meetings to be well mannered and easy to manage. It is healthy to have differences of opinion and when I look back there have been relatively few of these. Debate, discussion and challenge is a health mechanism of

any board decision making process. A board election should have taken place far sooner than has happened, which is nobody's fault. It has left the Interim Board in a position where it is being faced with issues which it does not have sufficient time to resolve, but has undertaken some considerable work to leave the new board with the information and tools to make some key decisions on complex matters. It should also be noted that every member of the Interim Board, who represents both societies, are volunteers with jobs and families and they have all invested considerable time in this project. Every one of them has regularly attended meetings, either weekly or fortnightly. There has been no lack of effort or commitment.

There are entrenched attitudes amongst a small minority of supporters, but this is common to all football clubs. All clubs have factions, they are all plagued by anonymous social media accounts, and they are all subject to constant rumour and speculation. It is unrealistic and unreasonable to expect any board to eliminate this.

MG then read out the IB response to the sixth and final question.

Why are only a section of members receiving communication from the society? Some fans haven't heard anything since the vote.

We have been working through our email system to resolve any problems over the past month. The number of people experiencing problems is extremely small as a percentage of both the member database (well over 2000) and the total database (around 8000). We use Mailchimp, which is a very well-known system, for bulk emails. There is no single reason for the problems when they arise, the most common problems are that it is sent to junk or people have accidentally unsubscribed from emails. The voting emails come from a completely different system which is managed by Mi-Voice, so they have to resolve their own issues. In due course a new membership system will be built which can incorporate a 'member only' part of the website where all relevant information can be posted, rather than relying solely on email which will always be problematic.

Any problems can be resolved by emailing RP at CBSsecretary@buryfc.co.uk.

RP explained that the (IB) invited questions to be submitted (by email) in advance. The only matters which were available for discussion were any points of further clarification arising from the responses previously given. Given rule 34, time was spent determining which questions were admissible or inadmissible or somewhere in the middle.

RP went on to explain that prior to sharing with the IB, guidance had been sought from the FSA on the response to the points of further clarification. Written advice was received from the FSA a few hours prior to the SGM (17.08 hours).

RP then read out the email from the FSA which stated that all additional questions (beyond those submitted in the meeting requisition) should be acknowledged but not answered until the board has had a chance to meet and consider them fully. Any one Board member answering those questions without allowing the full consideration of the board could be accused of electioneering and falsely representing the views of the board.

RP concluded that the IB would answer the questions and endeavour to issue them to members before the voting closed for the election.

RP closed the meeting at 20.05.

Additional Questions

There were a number of additional questions which were discounted as they were either outside the remit of the SGM or considered to be in breach of the election policy. We have included those permitted below.

My understanding is that that the current interim board are in disagreement on the current ownership model and some want the benefactors on board as it stands.

Can the 7 board members in the room confirm they all agreed on the current ownership model?

The overwhelming majority of both societies voted in favour of the merger and business model set out by the benefactors, think it was over 94% from both societies. The interim board has made a decision between the 7 to go against what the majority of its members wanted, which included the benefactors being on board in the 51/49% regardless of when the further funds would be received. Why was this decision not put to its members to vote on? Surely this is too important for 7 people to decide without member consultation?? This decision drastically changed the landscape of the original merge vote.

We have provided the board minute which confirms what was agreed and who was in agreement with it. We have done all that was voted on. It is very clear from the vote information provided that there was a requirement to evidence all monies due had been committed before any additional changes were made.

Why has the club not investigated this leak more? If this was in a professional work place environment issue like this could lead to disciplinary action, especially if the info leaked was an attempt to sour the names of other election candidates, seems very lacks of the board to turn a blind

The review was an internal review, it would be completely inappropriate to put this in the public domain and would compromise any future internal reviews. We have already confirmed there was no 'data leak' and the information published was not confidential, but the society has a duty of confidentiality to all those people mentioned in or covered by the report.

I'm still receiving reports of members not receiving important emails/updates. More needs to be done to investigate this. Can you ensure this will be looked at so members can be treated equally?

Everyone who makes us aware of who is not receiving emails has and will be reviewed. There have been very few problems raised in total.

What was the pressing need to release this (statement of 7th August) in August, regarding the benefactors not putting more money in? Did the board believe this would affect their relationship with the benefactors?

Who wrote this statement and did all the interim board see it before it went, and agree to it going out?

It was written and issued by the secretary in response to questions raised by members. All board members had received it for comment in advance. It was not agreed by all board members that it should be issued. It is the Secretary's responsibility to intervene and issue information to members if

he believes this is in the best interests of the members to do so. External advice was taken on the matter before it was issued.

The secretary's statement of the 7th October.

a) It says that "the current ownership structure was agreed by all 7 of the board members present". Which structure is that referring to?

The club continuing to be wholly owned by The Football Supporters' Society of Bury.

b) It says that "there is no reason the structure cannot change once the promised funds are committed, it just needs member approval". Is this saying that even if the benefactors commit further funds, only another member vote can mean we revert to the 51/49 structure already voted for?

Yes, it will require members to vote on any new proposal

c) What report has been agreed by all the interim board? The statement itself?

The full statement issued.

d) It says that the benefactors have not given any money whatsoever since early 2021. Is this true?

We understand that no capital has been invested into the The Bury Football Club Company Limited by Bury FC Benefactors Ltd since the purchase of the stadium. We can correct that if it is incorrect.

h) Who advised who that there were no additional benefactor funds available after voting had closed?

Matt Barker

i) Did all 8 members of the interim board agree not to honour the terms of the amalgamation proposal by not transferring the 2019 company to the Bury FC company?

We have addressed this in previous answers.

j) What reason did Matt Barker give the interim board for describing the current position as "uninvestible"?

That's not for us to comment on. There have been no new investors since the stadium was purchased.

k) Did all 8 interim board members set the deadline of 31st July for the benefactors to provide additional funds?

It was the date suggested in the board meeting and all were aware of it as it was referenced a number of times.

l) This states this legal form "advised us throughout the amalgamation period". Is this referring to SCS only?

No, they provided generic advice on the options available to both societies.

n) Who decided that without this money, transferring the company over would not be in the interests of the society?

It was agreed in the board meetings referenced. Both the FSA and our lawyers confirmed this was a reasonable view to hold in the circumstances.

There was the opportunity to fund the additional £300k at a time when it would have guaranteed the transferred of the football club and this was not taken up.

p) As the interim board was undecided (4-4) as to whether there should be a statement on these matters (the one that went out on 7th August), what authority did the secretary have to effectively have a casting vote and release it anyway? Does this effectively mean that the secretary now has the 9th vote in event of deadlock?

It is not a ninth vote. It is the Secretary's responsibility to intervene and issue information to members if he believes this is in the best interests of the members to do so. This relates to the dissemination of information to the membership.