

PL/EON



25 July 2017

**STRICTLY PRIVATE AND CONFIDENTIAL**

The Board of Directors  
The Scottish Football Association  
Hampden Park  
Glasgow  
G42 9DE

*BY EMAIL AND POST*

Dear Stewart

**Recent findings in respect of the Big Tax Case and the LNS Commission (each as hereinafter defined)**

I am writing regarding the following events, and should be grateful if you would place this before your board for discussion;

- 1 the recent decision by the Supreme Court in the matter of RFC 2012 Plc (in liquidation) (formerly The Rangers Football Club Plc) (Appellant) v Advocate General for Scotland (Respondent) (Scotland) [2017] UKSC 45 (on appeal from [2015] CSIH 77) published on 5 July 2017 (the "**Big Tax Case**");
- 2 the decisions of the commission appointed by Resolution of the Board of Directors of The Scottish Premier League Limited in relation to RFC 2012 Plc (now in liquidation) ("**Oldco**") and Rangers Football Club dated 1 August 2012 (the "**LNS Commission**");
- 3 the decision of the High Court in the case of HMA v Craig Whyte (the "**Craig Whyte Trial**") and the information disclosed during such trial; and
- 4 the recent statement from The Scottish Football Association (the "**SFA**") in response to the decision in the Big Tax Case dated 5 July 2017 (the "**SFA Statement**").

Following the conclusion of the Big Tax Case, where the Supreme Court reached a final decision in respect of the use of certain employee benefit trust arrangements ("**EBTs**") by Oldco during the period from 2001 to 2009, you are of course aware that the Supreme Court reached a verdict that the use of EBTs by Oldco was unlawful and accordingly the EBT arrangements should have been taxed as income with PAYE and NIC payable on the payments made.

Celtic considers that the information that has now come to light from the above noted proceedings raises very important issues for Scottish football fans and the future of the game in Scotland. I was therefore surprised to note the SFA Statement suggesting that the SFA does not intend to take any further action in respect of these issues.

Page 2

25 July 2017

The Board of Directors  
The Scottish Football Association

The events that led to the liquidation of Oldco and the ensuing events have festered for over six years, creating distrust and a disconnect between supporters, clubs and governing bodies. Our concern is that this will continue until there is an independent judicial review, the purpose of which would be to provide a transparent explanation of the events that were the subject of the Big Tax Case, the LNS Commission and the Craig Whyte Trial together with the processes followed by the governing bodies.

We believe that Scottish football needs closure on these issues and the governing bodies and clubs need to work together to restore trust in the game in Scotland as well as re-establishing faith in the governance of Scottish football. This will require transparency, accountability and leadership from the SFA and will only be achieved by an independent review of the relevant events.

We consider that the SFA should take this opportunity to work alongside the SPFL to ensure that the scope of any independent review has the support and input from both governing bodies within Scottish football. This will allow lessons to be learned and recommendations made to ensure effective governance moving forward so that such events cannot happen again.

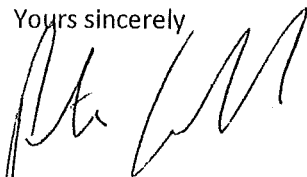
Given the various ongoing legal processes, including the Craig Whyte Trial and the Big Tax Case, it has not been possible for such a review to be undertaken, but now that these processes are at an end, and given the information now in the public domain, Celtic considers that the timing is now right for such a review to be convened.

The focus of the Scottish FA Statement is the possibility of disciplinary charges. In our view, this risks missing the point. What is needed is a wider review. Disciplinary charges may follow, but that should not be the focus of the review. It may be the case that disciplinary charges cannot be progressed, but then football supporters are going to want to know why they cannot be progressed.

We consider that the SFA should enter into a period of consultation with the SPFL, clubs and other stakeholders to establish the scope of the independent review.

I look forward to receiving your response to the issues raised by this letter.

Yours sincerely



**Peter Lawwell**  
Chief Executive



Strictly Private & Confidential

Peter Lawwell  
Chief Executive  
Celtic PLC  
Celtic Park  
Glasgow  
G40 3RE

18 August 2017

Dear Peter

### **Recent findings in respect of the big tax case and LNS Commission**

Many thanks for your letter of 25<sup>th</sup> July 2017. Your letter was placed before the Scottish FA Board and this reply sets out the Board's views.

The UK Supreme Court judgment on the use of Employee Benefit Trusts by Rangers FC and its implications for Scottish football were discussed at length by the Scottish FA Board at its meeting on Thursday, 10 August 2017.

The Board considered the subject of a potential further independent review, as requested in your letter. The Board was also cognisant of the SPFL statement of late July 2017 and interviews given by the then SPFL Chair. After a full debate, the Board concluded that an Independent Commission, whatever its terms of reference and whoever conducts it, is unlikely to enable Scottish football to obtain any more satisfactory closure on the events of the last few years than currently exists. The reasons for the Board's conclusion are developed later in this letter.

Turning to the specific areas highlighted by you, the Board's position is as follows:

#### **1. Big Tax Case**

Following the Inner House of the Court of Session decision which has subsequently been endorsed by the Supreme Court, the Board of the Scottish FA sought Senior Counsel's opinion. It was recognised that a robust and independent consideration of all implications of the judgment was required. You were, of course, a Board member at the time and so you were involved in the early stages of that process.

The Board received a full written opinion from Senior Counsel earlier this year and well before the date of the Supreme Court's judgement. That written opinion was amplified when the QC attended a full meeting of the Board to discuss his conclusions. Senior Counsel then addressed certain points which arose at that consultation in a Supplementary Opinion.



**INVESTORS  
IN PEOPLE** | Silver



Senior Counsel was, in particular, asked to anticipate whether a determination in favour of HMRC, as has been announced, could imply that there had been a breach of the Scottish FA's Disciplinary Rules by Oldco *as they applied at the time of the EBT payments*.

Senior Counsel expressed the clear opinion that there was a very limited chance of the Scottish FA succeeding in relation to any complaint regarding this matter and that, even if successful, any sanctions available to a Judicial Panel would be very limited in their scope.

In particular, Senior Counsel identified two major areas of concern where there was in his opinion a substantial risk of failure. The first was a potential prescription argument. The other centred around the ability of the Scottish FA to apply any new proceedings now regarding the disrepute rule as it existed in the Scottish FA Articles at the time the potential breaches occurred.

Senior Counsel was also of the view that there were some other areas of risk, for example, the Scottish FA being unaware of the nature and context of the professional advice upon which Oldco had purported to act. Although he was of the view that none of these other areas individually posed a significant risk, they did collectively add to the risk profile.

## **2. LNS Commission**

The failure of Oldco to disclose the side letters issued to certain players as part of the EBT scheme was dealt with under the jurisdiction of the then Scottish Premier League. As you will recall, Oldco were found to have breached the relevant rules and a substantial fine was imposed which was eventually settled by Newco after its appeal against the sanction was determined by the Scottish FA.

Lord Nimmo Smith found that Oldco had not achieved a sporting advantage by utilising the EBT Scheme. The report of evidence given by Sir David Murray at the Craig Whyte trial appears to contradict that finding and it might be appropriate for the SPFL to contact Lord Nimmo Smith to ascertain if he considers this development undermines his findings in any way. That is, of course, a matter for the SPFL.

It should also be noted that the Scottish FA separately commissioned Lord Nimmo Smith to consider aspects of the failure of Oldco shortly after its administration. The consequential disciplinary proceedings resulted in the imposition of the transfer embargo on Newco; the exclusion of Mr Whyte from participation in the game in Scotland; and the imposition of significant fines on Oldco and Mr Whyte.

## **3. The Craig Whyte Trial: "the Wee Tax Case"**

The Scottish FA has also noted media reports concerning the testimony in Court of two former directors of Rangers FC regarding "overdue payables" to HMRC (known as the "Wee Tax Case") and relating to a Discounted Option Scheme. The alleged statements, if true, might have implications in the context of the UEFA Licence granted to Oldco in April 2011 and in respect of the UEFA Club Licensing and Financial Fair Play Regulations. On the face of it there seem to be contradictions between those statements and written representations made by Oldco at the time of the licence application and during the monitoring period. As part of the licence application Oldco represented to the Scottish FA that there was an ongoing dispute with HMRC regarding "the Wee Tax Case" but the reports of the evidence in the Craig Whyte trial suggests that Oldco knew by early 2011 that they had no defence to HMRC's claim.

In this regard, I can confirm that the impact of this potential new evidence was considered by Senior Counsel and, based on his opinion, the matter has now been referred to our Compliance Officer for further investigation. For clarity, the QC who provided this opinion is not the QC who opined on the Big Tax Case. It would be inappropriate to make any further comment about any potential disciplinary proceedings as this case must not be prejudged.

#### 4. Scottish FA statement

Upon considering the action taken in the past six years by all football bodies, and mindful of the ongoing nature of Item 3, the Board of the Scottish FA agreed at its meeting on 10<sup>th</sup> August 2017 that a further independent review will serve no meaningful purpose and, indeed, could negatively impact upon the ongoing investigations regarding Item 3.

Furthermore, having explored the potential scope of any additional independent review in some detail, the Board was struck by the conflicting messages in the SPFL's call for 'football bodies' to convene such a review. I can confirm that we have just this morning received a letter on this matter from the SPFL, more than three weeks after its media briefing. The letter does not provide any greater clarity on the matter and a full response will be provided to the SPFL in due course. It follows on too from Neil Doncaster's private briefing of the Celtic Supporters Association.

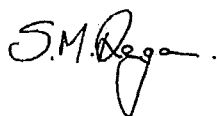
In any event, the Scottish FA Board considers that all the salient issues have been addressed. Where potentially significant new information has emerged, it is open to us to re-examine relevant determinations. That is what the Scottish FA is doing in relation to the matter identified at Item 3. It is for the SPFL to consider its determinations in the light of the comments attributed to Sir David Murray.

The Board agrees that the events of the last 6 years have led to a lack of trust among many of the stakeholders in the game in Scotland. These events have led directly to many amendments to the Scottish FA Articles and the Judicial Panel Protocol over recent years to address the key learnings. This includes an enhanced role for the Board in our governance structure; stronger powers for the PGB and the NPGB; strengthened processes in relation to insolvency and change of control; bolstering the duty of good faith; more clarity about what information is to be lodged with us in the context of player's contracts; a clearer separation of powers between the executive and judicial activities of the Scottish FA; and a more specific and detailed tariff of potential sanctions.

The Board noted your request for transparency, accountability and leadership and, in this regard, seeks your permission to publish your letter and our response to it to ensure that all those with an interest in the game in Scotland are fully apprised of the background to and the reasons for the Scottish FA's position.

I look forward to hearing from you.

Yours sincerely,



S. M. Regan  
Chief Executive  
for and on behalf of the Scottish Football Association

21 August 2017



**STRICTLY PRIVATE AND CONFIDENTIAL**

The Board of Directors  
The Scottish Football Association  
Hampden Park  
GLASGOW  
G42 9DE

Dear Stewart

**Recent findings in respect of the Big Tax Case and the LNS Commission**

Thank you for your letter of 18 August.

Whilst I note that there is an ongoing process in relation to "the Wee Tax Case", I am disappointed to note the position of the Scottish FA board in relation to our request for a review and, indeed, the request by the SPFL, on behalf of the 42 professional clubs in Scotland, for a review.

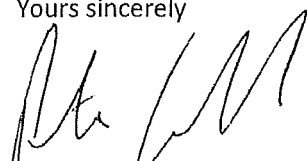
I appreciate that the issue is complex, but for the reasons set out in my letter of 25 July, the board of Celtic consider that a wide review of the circumstances has the best chance of achieving the closure that all appear to agree is required. Given the developments of the last few years and the information that is now in the public domain, when compared to what was available at the time that the football authorities last considered these matters, I do not consider that Scottish football, including supporters, will accept a position where that information is not reviewed by those responsible for governance in Scottish football.

In your letter you refer to advice from Senior Counsel that "there was a very limited chance of the Scottish FA succeeding in relation to any complaint regarding this matter and that, even if successful, any sanctions available to a Judicial Panel would be very limited in their scope". As I said in my last letter, Celtic considers that this misses the point. The fact that disciplinary sanctions may not be secured is, in our view, not a reason for Scottish football to ignore the opportunity to review and possibly learn lessons from the events in question.

For that reason, Celtic respectfully requests that the Scottish FA reconsider our request to enter into a period of consultation with the SPFL, clubs and other stakeholders to establish the scope of an independent review.

In principle I am content that my letter of 25 July, your letter of 18 August and this letter be published. I should be grateful for your proposals as to how that is to be achieved so that we can agree timing and process in that regard.

Yours sincerely



**Peter Lawwell**  
Chief Executive



Our ref: SMR/SB

Mr P Lawwell  
Chief Executive  
Celtic FC  
Celtic Park  
Glasgow G40 3RE

4<sup>th</sup> September, 2017

Dear Peter

Thank you for your letter dated 21 August 2017.

I note that the Board of Celtic FC considers that a wide review of the circumstances relating to the "Big Tax Case" and the "LNS Commission" might help everyone gain closure on the matter.

The reality is that the final decision in the "Big Tax Case" signalled closure for many involved in the game. It is hard to believe that a "wide review", no matter how well-intentioned and how wide-ranging, could ever bring closure in the minds of every Scottish football fan and every stakeholder.

This is not a matter we have taken lightly and having discussed the matter again with the Scottish FA Board, we are content with the decision previously notified to you in our last letter.

However, as previously advised, the Compliance Officer is currently dealing with a referral following reports of evidence given in Court in the "Craig Whyte Case". This relates to the specific issue of whether Rangers FC knowingly misled the Scottish FA in 2011 when the club were awarded a UEFA licence. As you know we have exchanged correspondence on this matter for a number of years and reached a point where Celtic, UEFA and the Scottish FA were satisfied given the information we had at the time. Clearly, in light of new information, the matter will now be explored further.

The football authorities in Scotland, led by the Scottish FA, have taken a number of learnings out of the experiences we have been through during the past few years and Celtic FC, through their involvement in FRAG and the rules revision process, have contributed to a number of improvements made to our articles, rules and guidelines.

Yours sincerely,



Stewart M Regan  
Chief Executive



The Scottish Football Association Limited, Hampden Park, Glasgow, G42 9AY

tel: +44 (0) 141 616 6000 | fax: +44 (0) 141 616 6001 | e-mail: [info@scottishfa.co.uk](mailto:info@scottishfa.co.uk) | visit: [scottishfa.co.uk](http://scottishfa.co.uk)

Patron: Her Majesty The Queen | Company limited by guarantee. Registered in Scotland No. 5453. VAT Reg No. 435118470

7 September 2017



**STRICTLY PRIVATE AND CONFIDENTIAL**

The Board of Directors  
The Scottish Football Association  
Hampden Park  
GLASGOW  
G42 9DE

Dear Stewart

**Recent findings in respect of the Big Tax Case and the LNS Commission**

Thank you for your letter of 4 September. We appreciate the time that the Scottish FA Board have taken to consider this matter, but remain disappointed that the Scottish FA Board is not prepared to commission an independent review, particularly since this request has also been made by the Board of the SPFL on behalf of all 42 professional clubs in Scotland.

It seems that the Club's reference to "closure" may have been misunderstood. Clearly, a review would not "help everyone gain closure on the matter" or "bring closure in the minds of every Scottish football fan and every stakeholder". To suggest these are the criteria on which your decision should be based is clearly to set a false barrier. The purpose of any review is not to satisfy everyone but to establish facts and learn lessons. These have been our own objectives at every stage and it is surely significant that they are now shared by the entire body of Scotland's professional clubs.

The board of Celtic considers that a wide-ranging review offers the best prospect for drawing a line under this entire affair, allowing Scottish football to look to the future while learning from the past. As you acknowledge in your letter of 18 August, there is a lack of trust among many of the stakeholders in Scottish football and this will only be exacerbated by the Scottish FA's decision not to accede to the request for such a review. This will inevitably be interpreted as a failure in transparency, accountability and leadership, which will be damaging not only to the Scottish FA but also to the game in Scotland.

Within the context of Scottish football, these have been monumental events and the reluctance to consider them as a whole, on the basis of all available information, in order to clarify the narrative and learn lessons for the future is both surprising and disturbing.

I am aware that the rules of the Scottish FA and the SPFL have developed over the years since 2011 though I am not sure of the extent to which other stakeholders are aware of these changes or the purpose behind them. Now that the various legal processes are complete, and given the information that has emerged, a key objective of an independent review would be to reflect on the changes that have been made in order to consider whether further changes are necessary. That process in itself would demonstrate transparency and improve the understanding of stakeholders in this important area.

Cont'd/



7 September 2017

**STRICTLY PRIVATE AND CONFIDENTIAL**

The Board of Directors  
The Scottish Football Association

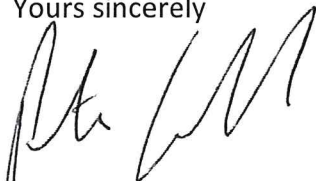
As we agree, far more information is available to the Scottish football authorities now than at the time these matters were last considered. I find it difficult to understand why a governing body would ignore that information rather than be anxious to consider it. Just as the Scottish FA is reviewing matters relating to the licensing decision in 2011 in the light of new information, so it would logically follow that a parallel review of the other new information now available should also be undertaken.

On the matter of the licensing decision in 2011, it is not accurate to describe Celtic as having been "satisfied" at any stage. Like everyone else, we were in a position of responding on the basis of information available to us. In correspondence, Celtic raised continuing concerns, as did a number of Celtic shareholders. The fact that the Scottish FA is now reviewing this issue on the basis of new information is only proper. What we find incomprehensible is why you refuse to apply the same principle to all the other new information which has emerged within the same period.

In summary, the board of Celtic remains strongly of the view that a wide-ranging independent review is the best option for Scottish football and will continue this discussion with the SPFL.

In the meantime, I agree to our correspondence being published as you suggested in your letter of 18 August and I should be grateful for your suggestions as to how best to do so.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Lawwell', written in a cursive style.

**Peter Lawwell**  
**Chief Executive**