

Review of the PTFC Trust “Proposal” document

Appraisal of the Elected Board of The Jags Foundation

Over the weekend, we read carefully [the PTFC Trust’s proposal](#) that it says was put to Three Black Cats (3BC). We also read [James Cairney’s interview with two trustees](#), Richard Beastall and Neil Drain, and [the Q&A update](#) provided by the Trust and Club Board.

Simply put, we think each leaves more questions than answers. Our analysis follows.

1. Fundamental values

There is really nothing of note to object to in the statement of values in the PTFC Trust proposal, other than to say it looks hastily drawn together.

The more important point is that the PTFC Trust, with both its previous trustees and its new trustees, hasn’t been living the values it now suggests are fundamental to its own organisation.

Values are about more than just buzzwords on a piece of paper: they’re about behaviour. You show. You don’t tell.

1.1 Consultative

The PTFC Trust says it will be “consultative”. It didn’t consult its own beneficiaries before changing the trust deed, replacing all its trustees, or negotiating a clandestine share transfer.

1.2 Visible

The PTFC Trust says it will be “visible”. It has just emerged from over two years of social media hibernation, and has carried out a negotiation behind the fans’ backs. They still won’t tell us who the “mutual acquaintances” (plural) were that brought them together or spell out their full involvement. These people should be known and accountable to the support and share proper responsibility for this, especially should it go wrong in the future.

1.3 Approachable

The PTFC Trust says it will be “approachable”. Yet it hasn’t made any effort at all to reach out to any of the grassroots Thistle organisations, including the

largest one (the Foundation). Indeed, its trustees scorned the suggestion that this would be a good starting point on engagement.

We reached out to the PTFC Trust twice to request documentation for hundreds of their beneficiaries, and did not receive the courtesy of a substantive response. This meant we had to resort to sending the trustees a letter from our lawyers, just to get some basic information aiding accountability into the public domain. **At the time of writing, that information still has not been provided.**

1.4 Attentive

The PTFC Trust says it will be “attentive”, and yet isn’t listening to the hundreds of Thistle fans who think its proposals are unacceptable. This isn’t just 20 people on social media. It’s a sizeable subsection of our engaged and interested fanbase.

1.5 Democratic

The PTFC Trust says it will be “democratic”. But it won’t hold any elections until it has the majority shareholding, the hand-picked trustees will effectively remain the majority until at least May 2024, and the full slate of trustees won’t have a democratic mandate until at least May 2025 under these proposals.

Why should we trust that these elections will even happen, given the repeated track record of the PTFC Trust changing its rules to circumvent the holding of democratic elections?

1.6 Accountable

The PTFC Trust says it will be “accountable”. But to whom? Reading this document suggests the only people they’ll be accountable to are the Club Board, rather than the beneficiaries or the fans more widely.

We still haven’t been given answers about whether, and to what extent, Club Directors were involved in sowing the seeds for the PTFC Trust proposal.

Saying that Club Directors didn’t have input into “the drafting of the wording” rather suggests they did have some influence over the structure and fundamentals of the proposals (indeed we now know the previous trustees expressed a “note of interest”).

This re-iterates why we need to see the PTFC Trust minutes from March 2022 onwards. What was discussed by the old trustees? When? With whom? And what was proposed by them?

1.7 Stability

The PTFC Trust says it will bring “stability”, but its secretive ventures have divided the support and created uncertainty about Thistle’s future.

1.8 Open Communication

The PTFC Trust says that it will value “open communication”. The same trustees told fans at a Q&A event not to post summaries of their discussions on social media.

1.9 Respectful

The PTFC Trust says it will be “respectful”. They have treated the wider Thistle support with nothing but contempt with their actions to date, through a lack of professionalism and competence. One of their “mutual acquaintances” goes around threatening supporters with legal action for faithfully recounting conversations with trustees. We don’t think that’s very “respectful”.

2. The Beneficiaries

The PTFC Trust still hasn’t given a clear commitment to the ability of non-season-ticket holders to participate as beneficiaries of the organisation. It is amateurish not to have this sorted out before the relaunch of their organisation.

It’s also a slap in the face for Nomads and those who cannot, for various life circumstances, justify a season ticket. This proposal treats them as an afterthought. Lots of Thistle fans support the Club financially in other ways, and yet it seems they are not important to the PTFC Trust.

It’s not clear, even if other fans are allowed to participate in some way, that they will enjoy the full rights of a beneficiary. Will they be able to stand for election as a trustee? How will the interests of non-season ticket holders be represented? The elected Jags Foundation Board includes among its number individuals who for various reasons don’t live in Scotland. That diversity is part of our strength.

This obsession with season ticket-holders, more fundamentally, shows that the PTFC Trust envisages a passive role for fans in the custodianship of their club. Right down to which fans get to be involved. That's not fan ownership.

3. The Trustees

We think Richard Beastall, one of the five new trustees, captured the problem with the PTFC Trust quite neatly when he said that they "are democratic" but "have kind of elected themselves". These trustees were self-selected and then hand-picked. That's the opposite of elected. They weren't voted for by, nor can they claim to speak for, anyone but themselves.

According to the PTFC Trust proposal, there will be no election of trustees until after the shares are transferred. As far as we can see, the existing beneficiaries of the Trust will get absolutely no say over whether this transfer goes ahead. This is unacceptable.

Worse still, the proposed structure for elections would leave the hand-picked co-opted trustees in the majority until at least May 2024. This organisation will take three years (until May 2025) minimum to become properly democratic. That's not good enough.

It is welcome, at least, that the new PTFC Trust will have provision for general meetings, where beneficiaries can (notionally) hold trustees to account. But the proposal document suggests an EGM would require *a majority of beneficiaries* to call it.

This threshold is drastically higher than that at any other fan-ownership vehicle of which we are aware, and one that seems unlikely ever to be met for an organisation with 1600, largely passive, beneficiaries.

4. Fan representation

We keep getting told different things about whether, and how much, representation the PTFC Trust, as a 74% shareholder, will get on the Club Board. First Alan Rough told us all they won't be on the Board. Then the PTFC Trust told us it didn't ask for board representation because the trustees have no experience and that it would be a conflict of interest. Then the Club told us board representation might be on the table. Then this (undated) proposal document showed us that the PTFC Trust actually did ask for one solitary board position, and presumably were denied it (hence they denied asking for it). And now we are told they might get a board rep after all!

Quite besides the fact that a single Club Board representative for a 74% shareholder would still be a risible arrangement, this sequence of events shows that the PTFC Trust is not living its values of open communication, accountability, transparency. These attempts to rewrite the story of the negotiations are frankly disrespectful towards the Thistle fans, and insult their intelligence.

The only thing we can take away from this is that the current PTFC Trust trustees seem not to know how fan owned football clubs are run.

4.1 Weakening the PTFC Trust's original purpose

The PTFC Trust, as originally constituted, was not a suitable fan ownership vehicle. This was widely acknowledged back in late 2019, and this is why the Working Group was set up in the first place.

But somehow this new proposal, and the new trustees who have signed-up to it, have contrived to make the position of PTFC Trust beneficiaries weaker. There are currently two fewer individuals on the Club Board who are under a legal obligation to act in the best interests of the beneficiaries of the PTFC Trust. It has given up the one thing the PTFC Trust might have had in its favour: voices (plural) in the Club boardroom.

5. The Memorandum of Understanding

The area of greatest concern for us, however, is the proposition that fundamental questions should be dealt with by a legally unenforceable memorandum of understanding.

We strongly suspect this approach will create day-to-day expectations of how the Trust should behave (e.g. the commitment "not to interfere" in the running of the Club) without providing proper and enforceable guarantees against major decisions being taken by the Club Board contrary to its wishes.

A memorandum, at best, provides unenforceable assurances between the original parties that sign-up to it. It is not a suitable format to govern the long term relationship between the Club and its ownership vehicle. Directors change. Trustees change. Enforceable rules are needed precisely because they provide the "stability" that 3BC and the PTFC Trust emphasise so strongly.

There are a wide range of things a Club Board can do without shareholders' consent unless you have a proper list of reserved matters: either in the Club's Articles, or in some other legally binding agreement.

5.1 The power to issue new share capital

The above is related to a particularly important point about the issuing of new share capital. Following a written resolution of 2015, the Club Board currently has the power, under section 550 of the Companies Act 2006, to issue new share capital unilaterally. There is no legal requirement to consult or seek the prior agreement of the existing shareholders.

When the Club Board says, in the Trust's Q&A responses, that Article 5 of the Articles of Association allows shareholders, via special resolution, to instruct the Club Board not to alter share capital, this is not, therefore, an adequate answer. There is no point trying to instruct the Club Board not to do something after it has already done it.

Moreover, a special resolution requires support from 75% of the voting share capital to be adopted. The PTFC Trust would have slightly less than 75% of the voting share capital if this transfer goes ahead. It would have to rely on other shareholders to pass such a resolution.

We think this oversight is symptomatic of the PTFC Trust's approach. They foresee a passive ownership arrangement, rather than an active one. Such an approach assumes there will always be goodwill on the part of the Club Directors in the future. Even if this assumption is well placed for the current Club Board, there can be no guarantees about the motives and behaviour of future custodians.

5.3 What the alternative could have been

TJF's proposed legally-binding Working Together Protocols would have prohibited changes to share capital without the express consent of the fan ownership vehicle. Such a veto is in place in countless other Club-Trust or shareholder agreements at fan-owned clubs.

Legally binding agreements provide clearly understood safeguards for all parties, and set clear expectations about their respective roles.

A memorandum of understanding is not sufficient for present purposes, and what has been set out for this one is, in any case, profoundly unbalanced. This approach is not in the best interests of the fans.

6. Financial oversight

The PTFC Trust has clearly failed to secure any sort of financial disclosure or due diligence exercise on the Club. The conclusions that they have reached about the financial strength of the Club are absolutely impossible to arrive at on the basis of a small company's audited accounts.

When the Club tells us that it "has no reliance on external funding from directors or third parties" this completely avoids the point. Three Black Cats is neither a director nor a third party! It is a shareholder. No one can determine what level of support 3BC has provided definitively without a financial disclosure exercise. If anything, other publicly available information suggests that additional support was given to the Club in recent financial years.

The PTFC Trust, which claims to have done diligence on publicly available materials, should not be taking these carefully worded claims at face value.

We know fans asked very basic questions about the Club's finances at the first Aitken Suite Q&A session, including about substantial itemised components of income in the last set of audited company accounts. If a proper review of the Club's finances had been done, those questions would have been easy for the trustees to answer. The trustees were unable to answer them.

One of the Trustees told James Cairney "ultimately, the beneficiaries will have no liabilities... the worst-case scenario is that the shares become devalued".

This is profoundly disingenuous. A devaluation of the Club's shares means a devaluing of the Club and its ability to compete with its rivals. It means that the "stability" the PTFC Trust professes to pursue isn't there. Such a scenario arises if there are cashflow problems, significant depreciation in assets, and/or a need has arisen for substantial borrowing.

That's why fan-ownership vehicles, or frankly any majority shareholder at pretty much any type of company, should take a proactive interest in overseeing and scrutinising the budgeting activity of the Board of Directors, instead of promising "not to interfere" with the company and how it is run.

7. Financial support

The proposal is profoundly confused as to the role of the fan ownership vehicle in fundraising. At every single other fan owned club, they lean-into the power of normal fans clubbing together, paying subs, leading fundraising, to supplement other sources of revenue at the Club.

The Trust's proposal wouldn't raise anything like the sort of sums we see at The Well Society or SMISA, or even The Jags Foundation, which has only been revenue raising since October last year. It is utterly bizarre that they should embrace a model of fan ownership which gives the fans no opportunity to strengthen the finances of their Club.

8. Accepted unsuitability of the PTFC Trust at the outset

The PTFC Trust already existed at the time that Colin Weir, through 3BC, purchased 55% of the shares in PTFC. It is notable that neither he nor his advisors specified that the PTFC Trust should or could, even with radical reformation, be a suitable vehicle for the majority shareholding. What was agreed at the time was that Thistle For Ever (led by, among others, the now Club Director John Penman) and the PTFC Trust would form a Working Group, to develop a new ownership vehicle from scratch, developed by and in consultation with the fans.

It was this prospectus, prepared by Thistle For Ever and proposing Colin Weir as a community investor, that persuaded David Beattie and other shareholders to sell the shares to 3BC. We also know, because the Club website repeatedly referred to it, that the model the fans were led to expect was one similar to those at other Clubs. Motherwell was repeatedly invoked.

Those proposals, in terms of both process and substance, are not aligned at all with what the PTFC Trust is now proposing to implement. We do not believe that Colin Weir's advisors were misleading TFE or the fans at the time, so what is the explanation for this change of approach?

What is now proposed, even with the overhaul of the PTFC Trust, is a highly unconventional ownership model. The trustees keep describing their approach as "innovative". This seems to us to be a tacit acceptance that their approach is not tried and tested, and is out of step with those that work at other clubs across the country.

We repeatedly asked for greater clarity from 3BC about what Colin Weir's intentions were, if indeed his preferred model of fan ownership was not in line with those at other Clubs, but were told that this was "legally privileged information". It has been verbally asserted to us that the trustees said they "knew what Colin Weir wanted". It is difficult to understand how that could have been the case if the process of selecting a preferred recipient was done on anything remotely approaching a level playing field.

9. Conclusion

At most football clubs, fan ownership means the fan vehicle controls the Club. Only at Partick Thistle could some people seriously try to argue that it means the Club gets to control which fans get involved and what say they will have.

This proposed ownership model is deeply flawed. It was prepared behind closed doors, without fan engagement, and is at variance from industry best practice. Far from providing predictability and clarity, this untested ownership approach risks making Thistle's long-term trajectory more uncertain. The governance model won't allow Thistle to "move on" but will be a subject of ongoing wrangling for years to come.

The PTFC Trust model isn't just broken at the outset. It's broken in ways that will make it harder to put it right further down the line. Even if, three years on from now, we have fully elected trustees committed to proper fan ownership, they will not have any real power to impose that on the Club Board.

This is a charter for stagnation at Firhill. Instead of wasting (at least) another three years on fixing this, wouldn't it make more sense to adapt an off-the-shelf model that's been shown to work at Motherwell, Hearts and St Mirren?

Most of the things the PTFC Trust envisages for the Club-Trust relationship are largely unrelated to its proposed status as a majority shareholder. There are supporters' associations up and down the country with *no shares* in their clubs at all. Yet many of them still have regular meetings with their club board and can raise concerns on behalf of fans.

Similarly, many fan-vehicles hold the *minority* of shares in their football clubs, but are consulted about key board appointments and other big decisions, and which have significant fan representation on their club board. If this is really the best that a 74% shareholder can hope for, this is a massive opportunity missed. We could have created a genuinely fan-centric decision-making structure at our Club. Instead we're being asked to settle for this?

We urge the PTFC Trust trustees to take a step back and look dispassionately at what they're potentially facilitating here. Is this really the height of your ambition for our football club? Do you really think this was what we were promised in October 2019?

If at all in doubt, ask your fellow fans. They know the answer.