



# COVID-19: KEY CONSIDERATIONS AROUND THE RETURN OF FOOTBALL AND OTHER SPORTS IN ENGLAND

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## Introduction

All major organised sport in England has been suspended for a number of weeks as the country grapples with the public health crisis that is COVID-19. While there are still unanswered questions around how and when organised sport can recommence, there have been some signs in recent days that the UK government, sporting bodies and clubs are actively considering a possible resumption of sport. Balanced against the risks of resumption will no doubt be the benefits to the country of restarting some semblance of normal life, of which the sports industry is a major contributing factor.

Against this backdrop of what the media is dubbing 'Project Restart', we explore below some of the key legal, contractual, financial and operational considerations around a recommencement of sport in England, whenever that does happen. This briefing uses football and the Premier League as the basis to discuss these key issues, but a number of the considerations will be relevant for other sports in England too, as and when decisions are made to return to action.

## Concluding the 2019/2020 season

The Premier League has been holding regular, virtual meetings with its clubs since the crisis began, and there has been a clear message coming out of those meetings - first and foremost a prioritisation of the health and

wellbeing of the nation at this difficult time. Secondly, there has so far been a consensus to seek to complete the season when safe and appropriate to do so. It is unclear though just if and when that will be possible, and the delayed timing of any concluded season could have major contractual and financial repercussions (as we see below).

Given the continued uncertainty over how the response to the crisis will develop, it may transpire that it is impossible to complete the 2019/2020 season in full. Various means of dealing with a potential Premier League curtailment have been proposed, including:

- declaring the season null and void without a winner, relegation or promotion (as recently declared in the Dutch **Eredivisie**);
- finalising the standings as they are now (as proposed in the Belgian **Pro League**) or on a points per game or some other construct (simple or involving complex algorithms);
- if some but not all fixtures are possible, some adjustment to the format of remaining games or an adoption of play-offs to allow final definitive standings (as hinted at by the UEFA guidelines published on 23 April 2020); or
- more fundamental structural changes to the league (e.g. allowing promotion from the Championship this year but not having any relegation).

Various European leagues have been, and are, facing the same considerations and, as reflected above, are reaching different conclusions, indicating that there is no perfect solution. Under the Premier League Handbook, the default position is that the season should be fully completed to finalise standings. Any alternative solution would need a change to the rules (requiring a vote of at least 14 of the 20 Premier League clubs). There is also the question of interaction and consistency with the Championship (in which three clubs would normally expect to be promoted) and other English men's and women's football leagues.

For now the Premier League's stated aim remains to complete the season if and when it becomes safe and appropriate to do so, which of course has its own significant implications, as highlighted below.

## Public health considerations

The question of when it is actually safe and appropriate to resume sport is undoubtedly the most important one, and it will be driven by UK government measures and the prevalent public health considerations. When the UK government announced a further three weeks of lockdown on [16 April 2020](#), it also set out five tests it would apply in considering relaxation of the 'stay at home' measures.

These tests are also relevant in planning for when sport might return: in general terms, one would expect that the UK would need to see some continued downward movement in the number of fatalities and a manageably low virus reproduction rate (the so-called 'R rate'), alongside a reducing strain on the NHS and frontline staff.

There are specific questions for sport too. Can leagues and clubs host fixtures without a meaningful impact on the NHS or emergency staff availability? Would society react

favourably to the return of sport as entertainment, or would it raise eyebrows at a time when many other industries are at a standstill? And perhaps most importantly, there is the safety of players, staff and all other people that would be involved in or affected by training and matches: will suitable arrangements be in place to protect this, and will the availability of COVID-19 testing become widespread enough to allow regular testing without having an impact on the testing of key workers and others whose need is greater?

If these issues can be navigated, it looks highly likely that any matches would be played **behind closed doors** due to the expected continuation of social distancing measures (and indeed countries such as Germany have already announced that large public gatherings will be prohibited until late 2020).

The Premier League Handbook does not expressly prohibit closed doors games, so there is some operational flexibility within the rules here. The impact for clubs will primarily be a financial one though, especially for clubs outside of the Premier League without major broadcasting revenue and so who are more dependent on ticketing and other match-day income.

It has also been suggested across sports that fixtures could be limited to specified venues in the UK or perhaps even hosted overseas (though the travel and isolation implications would need to be carefully considered). To take the Premier League as an example, the rules state that home games should be played at the home club's stadium, so any derogation from this principle should require a rule change, and therefore the support of 14 of the 20 Premier League clubs.

## Broadcasting and sponsorship contracts

A fundamental consideration for leagues and clubs will be their lucrative contracts with TV and other broadcasters, through which Premier League clubs receive a significant proportion of their revenue. A driving motivation to get back onto the pitch will be for the Premier League and its clubs to avoid or at least minimise any rebates that might be owed to broadcasters if the season is not completed in a timely manner. Negotiation will be required with broadcasters, and this will partly be dictated by how much more play is possible this season, as well as whether there is any knock-on impact on next season.

Some clubs will also need to negotiate with their sponsors and commercial partners, particularly where a new sponsor or partner is coming in for next season with a likely contract start date of **1 July 2020**, but where the current season is extended past that date. Clubs will also be looking to reduce costs through their supply contracts such as catering, facilities management and security services by suspending or reducing the services under these arrangements.

## UEFA and European competitions

The views of UEFA, as the game's supranational regulator in Europe, will also be highly influential. On **23 April 2020**, UEFA released directional guidelines (the '**UEFA Guidelines**') to European leagues on the outcome of this season, in particular in the context of qualification for next year's Champions League and Europa League.

The UEFA Guidelines set out a clear preference that nations will complete their leagues in full. Failing that, UEFA says that it would be preferable for competitions to restart "*with a different format in a manner which would still facilitate clubs to qualify on sporting merit*", which raises the possibility of play-offs or other format adjustments. Lastly, and as a "fallback", domestic competitions can be prematurely terminated, but qualification spots for next year's European competitions would need to be based on sporting merit. UEFA goes on to say that premature termination might be legitimate if the measures taken by national governments mean that seasons cannot be completed in time or if there are specific economic or financial stability factors for curtailment. UEFA wants to hear from European leagues by **25 May 2020** on how they plan to proceed.

Of course, UEFA still has its own competitions to complete this season, and has marked out August to complete this year's Champions League and Europa League. There is therefore pressure at both ends for domestic leagues: to communicate a plan to UEFA in the coming weeks, but also to clear the schedules of their top teams in time for completion of this season's UEFA tournaments in August.

UEFA will also be keen to minimise the impact on next year's European competitions. This is not just a UEFA problem: organising bodies and federations across sports around the world will need to grapple with future scheduling problems, as illustrated by the challenges around rescheduling events such as the Tokyo Olympics and major tennis championships.

It will be interesting to see how other major European leagues such as **La Liga**, the **Bundesliga** and **Serie A** react in the coming weeks. Recent signs, particularly from Germany and Italy, suggest that some other major national leagues and clubs are actively considering potential training and matches in the not too distant future, although on the other hand the French government has declared

that [Ligue 1](#) and other French leagues will not return this season.

## Player contracts

Another contractual consideration for clubs is their player employment contracts. The Premier League player contract has an end date of 30 June, and some players are due to be out of contract on [30 June 2020](#) (whether coming to the end of a long-term contract or a loan period).

What happens if the season stretches past that date? FIFA, the game's global regulator, has suggested that contracts could be deemed extended to cover longer seasons if required, but unless the FA and Premier League implement something binding in England, clubs and players do face some uncertainty here and may require individual negotiations.

Aside from expiring contracts, there could also be permutations for players' salary and variable compensation, e.g. if basic salary steps up from one season (ending on 30 June) to the next (starting on 1 July), or bonuses are linked to number of appearances or season-ending events such as European qualification. If the season is curtailed in any way, this could impact whether certain bonuses are payable or not (depending on how they are drafted).

Player compensation, which accounts for a significant percentage of clubs' costs, has already been in the spotlight during the current crisis, with it being reported that even some of the biggest clubs have been seeking to discuss wage deferral or reductions with players and management, as well as instances of some clubs furloughing non-playing staff.

Of course, these points are in addition to the general considerations that all businesses will face with their staff around returning to work following a relaxation of lockdown measures. We have summarised these considerations in a separate briefing, available [here](#).

## Sporting integrity

Organising bodies and federations will want to ensure that the integrity of their competitions are preserved as and when matches recommence. Part of this goes to the public health considerations mentioned above - proper matches need squads that are fit and healthy (meaning not just free of the virus but also at the right level of match fitness).

There are also specific questions of sporting integrity. For example, it will be important for every game to be played competitively, even if for some clubs there is little or nothing to play for, or they may have one eye on next season. Of course, one would expect professional athletes and clubs to play with pride anyway, and the Premier League Handbook stipulates that clubs must play a "full strength" team in all fixtures.

That said, these are unprecedented times, and potential new factors such as a condensed fixture list, closed door games or a small gap before next season may place some stress on the position and certainly raise different considerations for individual clubs and players. Organising bodies and federations will want to keep the importance of sporting integrity in mind when it ultimately comes to devising solutions.

## Transfer window

With all the uncertainty over how and when this season will end, there is obviously a knock-on effect on the summer transfer window (which in England was scheduled for [10 June 2020 until 1 September 2020](#)).

FIFA has suggested that transfer windows can be moved to fit with amended season dates, though query when and how long that will be for, and how that operates, in a global market, if different countries and leagues having different season end dates: clarity will probably

only come once we know more about how the season will conclude.

Whatever the period of the transfer window, there is a sense that clubs throughout Europe and the rest of the world have been, and continue to be, financially impacted by COVID-19. This is likely to have a knock-on effect on transfer window activity, both in terms of the size of deals and also, possibly, the number of deals: we expect there to be fewer of the big money 'blockbuster' deals of recent windows. Struggling clubs may need to sell their best talent to stay afloat, and so there may be opportunities for others to buy players at a knockdown price. Good players whose contracts are expiring may also be hot property as free agents.

## Other sports

While the above focuses on football and the Premier League, other sports are dealing with similar public health, legal and operational challenges. To take a few examples:

**Rugby Union** - Premiership Rugby is also currently suspended and looking for ways to restart. As with football, there will be questions on how to resolve the season and issues around player contracts. International players such as Jonny May and Kyle Sinckler are due to transfer between clubs on 1 July 2020, though the current season may be ongoing then. Plus the timing of these transfers could have a consequential effect on the Premiership's salary cap calculations.

**Cricket** - Unlike football and rugby, the first-class cricket season had not started before lockdown commenced. The English Cricket Board ('ECB') and its counties still face major challenges though, particularly financially with the prospect of a reduced domestic and international schedule affecting broadcasting, as well as match-day, revenue. That too just as the inaugural, innovative new format, the *Hundred*, was about to start. The ECB is currently leading a cross-sport group

investigating restarting sport in a "bio-secure environment."

**One-off events** - The situation is slightly less complicated for one-off events such as the Grand National or the London Marathon (which was due to take place last Sunday). For such events, cancellation or rescheduling is a more straightforward decision, though they too will clearly feel financial impacts and may need to renegotiate contractual arrangements.

## Concluding thoughts

As plans for 'Project Restart' step up a gear, the UK government, sporting bodies, regulators and clubs have a lot to think about, and uncertainty remains over just how and when organised sport will return in England.

There are various legal, contractual, financial and operational factors at play but, more than anything else, it will start with the question of public health. It will be for the various stakeholders in the industry to find and agree a way forward, and to be prepared to be flexible as circumstances may change even after the current restrictions are relaxed.

If you would like further information about the impact of COVID-19 on your business, please speak to your usual Slaughter and May contact.



**Andrew Jolly**

T +44 (0)776 882 7376

E [andrew.jolly@slaughterandmay.com](mailto:andrew.jolly@slaughterandmay.com)



**Mark Zerdin**

T +44 (0)771 781 4211

E [mark.zerdin@slaughterandmay.com](mailto:mark.zerdin@slaughterandmay.com)



**Hemita Sumanasuriya**

T +44 (0)779 596 0426

E [hemita.sumanasuriya@slaughterandmay.com](mailto:hemita.sumanasuriya@slaughterandmay.com)