

The Football Association's (and the Scottish Football Association's) changed view of financial difficulty

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Debtors' prisons

1869 – abolished under the Debtors Act

Football Association founded 1863

Scottish Football Association founded 1873

Fresh in the public's mind through the writing of Charles Dickens

Some terminology

‘Bankruptcy’ relates to individuals and partnerships

‘Insolvency’ relates to companies

‘Balance-sheet insolvency’ - Assets no longer exceed liabilities

‘Cash-flow insolvency’ – Debts can no longer be met when they become due

Insolvency

Liquidation – closure

Administration – rescue

Administrative Receivership

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Stakeholders

Individual club owners

Club as a company

Creditors:

Banks

Inland Revenue

Fans

Governing body

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Insolvency Act 1986

Governed issues relating to personal bankruptcy, Individual Voluntary Arrangements (IVAs), Company Voluntary Arrangements (CVAs) and all administrative orders relating to company insolvency

IVAs and IVAs

A negotiated settlement with creditors, that generally leaves the latter better off than under bankruptcy

Whole industry of specialist advisors has developed to assist

Insolvency Act 1986

Added the concept of 'wrongful trading' to that of 'fraudulent trading'

When the directors of a company have continued to trade a company past the point when they:

- "knew, or ought to have concluded that there was no reasonable prospect of avoiding insolvent liquidation"; and
- they did not take "every step with a view to minimising the potential loss to the company's creditors".

But it can only be established ***after*** insolvency has been established

Enterprise Act 2002 (2004)

Period of bankruptcy reduced from three years to twelve months

BUT harsher consequences if bankruptcy brought about through debtor's irresponsible or imprudent conduct

e.g. failure to produce or retain records; incurring debts as a result of gambling; incurring debts that have arisen as a result of precarious or risky conjecture.

In Scotland

A broadly similar development

Different terminology

Bankruptcy known as Sequestration

Seizure of salary and goods forcibly sold publicly ('poinding') until 2001

Is football a special case?

The insolvency process is driven by the creditors
Making a football club insolvent, certainly to the extent of liquidation, is hardly going to be popular, even if you are the Inland Revenue or a bank

Administration is therefore a happy compromise, with its notion of 'rescue'

It also avoids the issue of 'wrongful trading'!

Shifts over time

From individual to company

From personal bankruptcy to company insolvency

From liquidation to administration
(From 'closure' to 'rescue')

From shame to standard practice?

Is football different from other industries?

Early days

Clubs that were failing simply resigned from the League and wound themselves up

This was generally due to poor performance leading to impossibly low revenues

Clubs were also punished for breaching financial regulations – illegal payments for transfers; paying above the maximum wage etc.

Leeds City

Expelled from the League due to financial irregularities - 1919

BUT allowed to reappear next season as Leeds United

Manager Herbert Chapman managed to bounce back!

Accrington Stanley

1960 – persistent financial difficulties *and* poor performance on the pitch

1962 – owed c£4000 in unpaid transfer fees and c£4000 to the Inland Revenue

More creditors emerged, including unpaid National Insurance contributions

Resigned from the League, although none of the creditors were pressing

Liquidation in 1966

Third Lanark

Liquidated at a Board of Trade (BoT)
Enquiry in 1967

Allegations of corruption – Chairman trying
to sell the ground and profit personally?

Also an allegation that he was trying to force
the geographical move of the club

BoT Report damned the management of the
club

Gateshead

Just faded away!

Not re-elected to the League in 1960

By 1970 were down to the Wearside League

Financial difficulties; forced to leave their
ground

Disbanded in 1973

Bradford Park Avenue

Slow but steady decline

Not re-elected 1970

Had to sell their stadium in 1973

Went into liquidation the following year

Portsmouth

Following poor performance and relegation, were threatened with insolvency in 1976, owing £25,000

Saved by 'SOS Pompey', which raised money from fans

Charlton Athletic

Change of management and ownership

Problems with the Valley Stadium

Went into administration in 1984

Club (but not stadium) acquired by a
Supporters Trust

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Harlow Town

Spiral of poor performance and low revenues inhibiting development

Into administration in 1984

Ceased for 1992-93 season with a part-built new stadium

Found a new backer – stadium completed in 2006

Hastings United

Only formed in 1948

15 years of financial pressure culminated in
1985 of debts of £95,000

Directors agreed to surrender the lease on
their ground, and club was wound up

So far:

a trend of poor performance on the pitch leading to relegation and reduced revenues.

Costs not cut back

Stadium becomes an issue as the most valuable asset

Bad management, but relatively little wicked management!

Little input from the Associations; no punishment directly from them

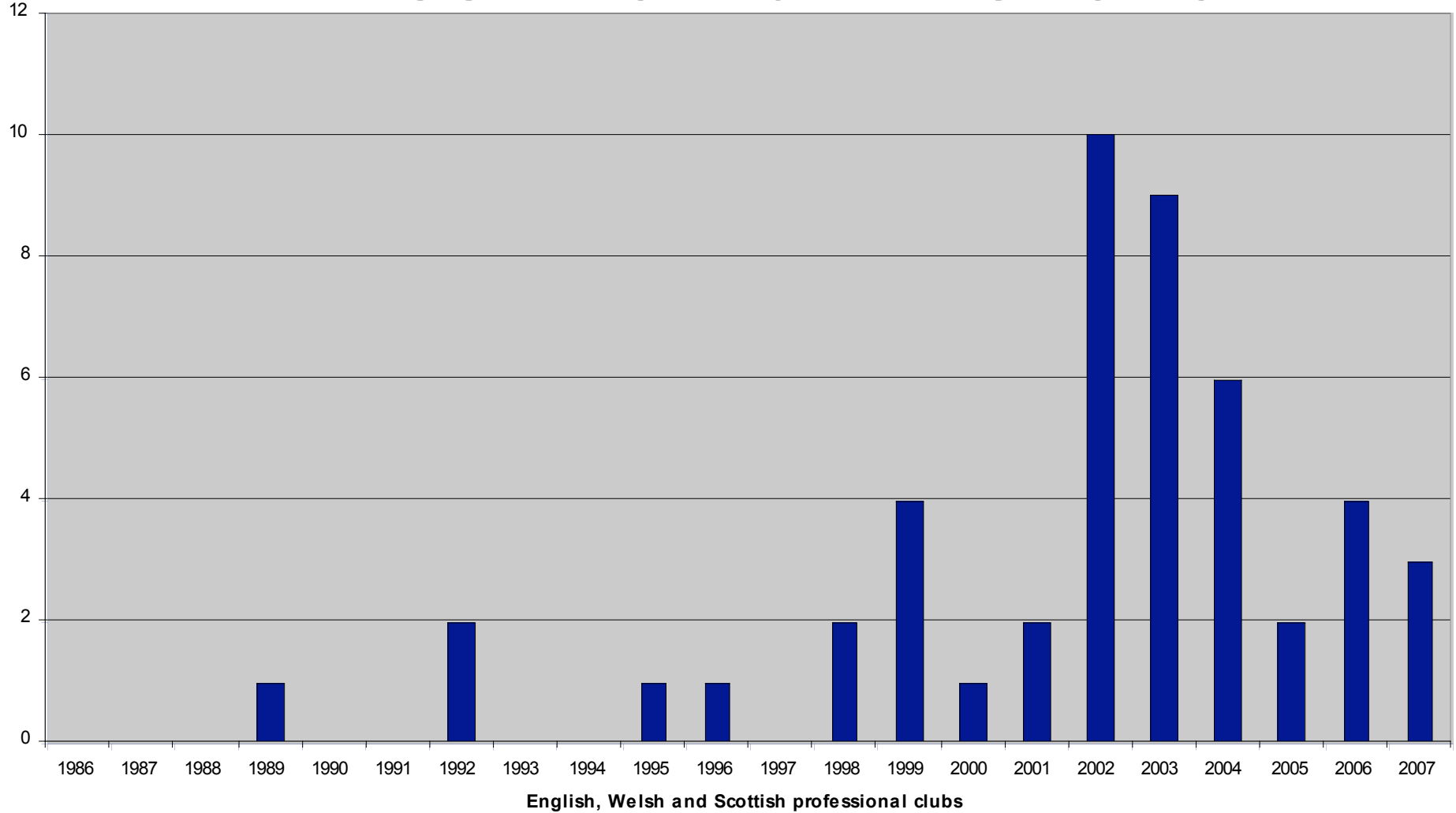
Post-1986 and the Insolvency Act

Aldershot (1992)	Halifax Town (2002)	Northwich Victoria (2004)
Barnsley (2002)	Hornchurch (2004)	Notts County (2002)
Barrow (1999)	Huddersfield Town (2003)	Oldham (2003)
Boston United (2007)	Ipswich Town (2003)	Oxford United (1999).
Bradford City (2002; 2004)	Lancaster City (2006)	Port Vale (2002)
Cambridge United (2005)	Leeds United (2007)	Portsmouth (1998)
Chester City (1998)	Leicester City (2002)	QPR (2001)
Chesterfield (2001)	Livingston (2004)	Rotherham (2006)
Crawley Town (1999; 2006)	Luton Town (2003)	Scarborough (2007)
Crystal Palace (1999)	Maidstone (1992)	Swansea (2003)
Darlington (2003)	Margate (2005)	Swindon Town (2000; 2002)
Dundee (2003)	Millwall (1996)	Telford United (2004)
Exeter City (2003)	Milton Keynes Dons (2003)	Wimbledon FC, (2002)
Farnborough Town (2006)	Motherwell (2002)	Wrexham (2004)
Gillingham (1995)	Newport County (1989)	York City (2002)

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Entries into Administration



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The surge in 2002?

Not legislation (1986 and 2004)

Not manipulating points deductions (FA 2004)

The collapse of ITV Digital (March 2002)?

Parachute payments introduced in England in 2003, boosted in 2007 by PL

BUT

What about all the 'near misses'?

How have they avoided administration?

e.g. Coventry faced debts of £60m

Legislation only raises 'fit and proper person' issues ***after*** going into administration

FA introduced the Fit and Proper Person Test (FPPT) in 2004

Fit and Proper Person Test

Key points:

- Anyone subject to a ban from a sports governing body relating to the administration of that sport
- Anyone with an unspent conviction relating to fraud or dishonesty
- Anyone that is disqualified from acting as a director of a UK registered company
- Anyone currently subject to a Bankruptcy Order
- Anyone who has been a director of a club that has been in administration twice during a five-year period, or a director of two different clubs that have each gone into administration in a five-year period.

In some respects, the only change from pre-1986 is the willingness of clubs to enter administration as a protection from creditors

This willingness of course prompted the introduction of points deductions as a deterrent

However, the ease of administration and the protection it gives has encouraged greater risks being taken, especially with the major asset of a club – its ground

Clearly the Taylor Report has an influence – a requirement for redevelopment and hence consideration of relocation

On the positive side, clubs do come out of administration and fight their way back
e.g. Charlton Athletic, QPR

Relatively few cease to exist, although they generally rise again in a different form

Conclusions

- A new ambivalence in the post-commercialised era
- A limited ability to adopt strategies that reflect the parallel changes in societal attitudes and insolvency legislation
- A worrying approach to the legally required notion of not trading while insolvent

- Emergence of the significant role of opportunity costs with respect to the use of stadia and the resultant tendency to consider property speculation as a more attractive strategy
- Emergence of owners and directors whose approach is truly post-commercialised and lacks a more traditional pro-club vision
- Emergence of a new breed of stakeholders, unparalleled in earlier phases – the football trusts

- The disappearance of any shame associated with insolvency and the protection that administration and CVAs now bring make for reduced risks in investing in football clubs, which may be feeding the purchase of clubs by non-UK nationals

Further research

A closer look at the cases since 2002 is needed, focussing on the specific circumstances

Working on this with Simon Horsman, Coventry University, and Jamie Magraw, former Director Finance at the FA

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