

IN THE MATTER OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

MR. MARK BOWEN

WRITTEN REASONS AND DECISION OF THE INDEPENDENT REGULATORY
COMMISSION FOLLOWING THE HEARING ON 21st DECEMBER 2020

1. These are the written reasons for a decision made by an Independent Regulatory Commission (“the Commission”) which sat via video conference on 21st December 2020.
2. The Commission members were Mr. Simon Parry, (Chairman, and Independent Legal Panel Member), Mr. Matt Williams (Independent Football Panel Member) and Mr. Tony Agana (Independent Football Panel Member).
3. Mr. Michael O’Connor of the FA Judicial Services Department acted as Secretary to the Commission.
4. By letter dated 6th October 2020 the FA charged Mark Bowen (“MB”) with a breach of FA Rule E1(b), alleging that he placed 36 bets on football matches between 2nd May 2016 and 15th February 2017. Each bet was alleged to be a separate breach of FA Rule E8.
5. The FA relied upon a comprehensive witness statement from Mr. Tom Astley, Integrity and Intelligence Analyst at The Football Association, dated 1st September 2020, together with 21 exhibited documents.
6. By written reply dated 15th October 2020 MB admitted the charge and requested a personal hearing at which to advance mitigation.
7. At the hearing before us, the FA were represented by Mr. Sam Shurey (Regulatory Advocate) and MB by Mr. Paul Gilroy Q.C.
8. The following is a summary of the principal submissions provided to the Commission. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point or submission should not imply that the Commission did not take such point or submission into account when the members determined the matter. For the avoidance of doubt, the Commission carefully

considered all the evidence and materials provided to it.

FA RULE 8

9. FA Rule E8)1)(a) provides that:

“A Participant shall not bet, either directly or indirectly, or instruct, permit, cause or enable any person to bet on -

(i) the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or

(ii) any other matter concerning or related to football anywhere in the world, including, for example and without limitation, the transfer of players, employment of managers, team selection or disciplinary matters.”

THE BETS

10. The 36 bets that are the subject of this charge were as follows:

- i. 32 bets placed on the result and/or progress and/or conduct and/or any other aspect of a football match or competition between 2nd May 2016 and 9th July 2016 (Season 2015/16), whilst MB was a participant at Stoke City FC.
- ii. 1 bet placed on the result and/or progress and/or conduct and/or any other aspect of a football match or competition in which his club and/or he was participating between 2nd May 2016 and 9th July 2016 (Season 2015/16), whilst MB was a participant at Stoke City FC.
- iii. 3 bets placed on the result and/or progress and/or conduct and/or any other aspect of a football match or competition between 11th October 2016 and 15th February 2017 (Season 2016/17), whilst MB was a participant at Stoke City FC.

THE FACTUAL BACKGROUND

11. In April 2020 a well-known betting company provided MB's betting activity to the FA, having identified him as having potentially breached the FA's betting rules. The 36 bets that are the subject of this charge all occurred on that one betting account. All of the bets were placed at a time when MB was the Assistant Manager at Stoke City FC. The total amount staked in the 36 bets was £5,178.58. The returns on those bets were £2,455.27, resulting in a net loss of £2,723.31.
12. It is important to note that none of the betting concerned MB betting on his own club. However, there was one single £20 bet placed on a Premier League fixture between Chelsea FC v Tottenham Hotspur FC. That, of course, is a competition in which Stoke City FC was participating at that time.
13. An FA investigation commenced, and it is correct to say that it took some time to complete before the charge was raised in October 2020. That investigation included an interview with MB on 19th May 2020. In that interview it must be noted that MB denied any wrongdoing whatsoever. He maintained in that interview that his son had placed the bets using MB's account, and indeed his son provided a witness statement to the same effect. Further analysis by the FA into MB's son's own betting account together with the additional computer data pertaining to the use of MB's account started to cast doubt on MB's assertions. A second interview took place with MB on 6th July 2020. Once more, MB continued to deny any wrongdoing. In this interview he asserted that his wife had also placed bets on behalf of her son but using MB's betting account. That prompted further detailed investigations.
14. Given MB's admission of the charge, it is not necessary for us to elaborate in detail the flaws in MB's denials throughout the course of the investigation. Some were highlighted to us by Mr. Shurey on behalf of the FA in his submissions. We wholeheartedly agree with Mr. Shurey's submission that the case against MB was

overwhelming. MB has admitted the charge and such admission enables us to find that MB did place the 36 bets in question. It follows that we reject entirely MB's assertions that the betting was undertaken by his son and his wife. However, MB continues, through his Counsel, to maintain his denials of any wrongdoing notwithstanding his plea of guilty. That, as we will return to, is a highly significant factor in our determination of the appropriate level of sanction.

THE FA SUBMISSIONS ON SANCTION

15. Mr. Shurey invited us to impose a proportionate financial penalty to mark the seriousness of the betting offences. He referred us to the FA Sanction Guidelines for Betting Cases and submits that this is a Column Two offence by virtue of the single bet placed on the Premier League fixture, a competition in which MB's club were involved. Column Two suggests the imposition of a fine but that a sporting sanction is not appropriate where the Participant has no connection with the Club bet on. Accordingly, we do not impose a sporting sanction in MB's case. Mr. Shurey went on to distinguish the present case from two previous Regulatory Commission decisions relied upon by Mr. Gilroy, to which we will return below. Mr. Shurey reminded us that there is no strict rule of precedent in Regulatory Commission decisions and the Commission enjoys a discretion in the sanction to be imposed.
16. The Sanction Guidelines require a Regulatory Commission to consider the following factors:
 - Overall perception of impact of bet(s) on fixture/game integrity;*
 - Player played or did not play;*
 - Number of Bets;*
 - Size of Bets;*
 - Fact and circumstances surrounding pattern of betting;*

Actual stake and amount possible to win;

Personal Circumstances;

Previous record – (any previous breach of betting Rules will be considered as a highly aggravating factor);

Experience of the participant;

Assistance to the process and acceptance of the charge.

17. Mr. Shurey submitted that there are aggravating features from the guidelines in this case. Firstly, he pointed to MB's denials throughout which led to a detailed and necessary investigation and submitted that this should attract only limited credit for co-operation with the investigation. Secondly, he highlighted MB's experience in the professional game and consequent awareness of the betting rules. Thirdly, he submitted that the size of the bets was not small, with bet number 23 being a £500 stake.

MB's SUBMISSIONS ON SANCTION

18. In addition to his oral submissions, we were assisted by helpful written submissions from Mr. Gilroy, together with the Regulatory Commission decisions in *FA v Paul Scholes (14th June 2019)* and *FA v Paul Terry (17th November 2020)*. He submitted that the FA had pitched its case over-the-top. He revised his original written submission of imposing a warning or, at worst, a fine not exceeding £2,000 to a fine not exceeding £1,000 in the light of the decision in *Terry*.
19. Mr. Gilroy emphasised MB's unblemished record of 38 years within both the domestic and international game. He submitted that it was an incredible submission that MB should only receive limited credit for his co-operation as, had MB not volunteered the evidence that he did, then the FA would not have had a case against him. He submitted that MB had provided maximum co-operation, provided statements from his son and

wife, and answered all questions that he was asked by the FA, all at a time when he had lost his job at Reading FC. He submitted that it would be wrong to sanction this case as a Column Two case simply on the basis of one, solitary bet where MB had no connection to the fixture in question. Mr Gilroy went on to highlight that MB had used no special knowledge, his betting had had no effect on the outcome of games, that the scale of the betting was low in comparison to other cases. He reminded us that 31 of the 36 bets were in connection with the Euro 2016 competition and World Cup qualifiers.

20. Mr. Gilroy urged us to have regard to the importance of consistency in Regulatory Commission decisions and sought to distinguish MB's case from those referred to above. He pointed out that *Scholes* was a far more serious case due to his connection with the clubs/individuals involved and the total of 140 bets (£26,159 staked) were placed over a 3 year 8 month period. That case was dealt with by way of a fine of £8,000 and a warning. He submitted that *Terry* was also more serious on its facts as that case concerned 209 bets, £63,800 was staked and was a case where the average bet was in excess of £300. That case was dealt with by way of a £1,000 fine.
21. Finally, Mr. Gilroy pointed to the delays in the investigation, in particular, a delay of some 11 weeks between a letter sent on MB's behalf by the League Managers Association inviting the FA to conclude their investigation by way of charge or otherwise, and the date of charge. He invited us to consider that the offending in this case was now nearly four years old. He submitted that MB regrets finding himself in the position that he does and urged us not to punish him for his continued denials of any wrongdoing.

DECISION

22. The Commission considered with care the factors set out in the Sanction Guidelines and, whilst Mr. Gilroy's submission on consistency is important, the Guidelines themselves remind us of our discretion to impose such sanctions as are appropriate having regard to the particular facts and circumstances of a case. It is important to recognise that, especially in betting cases, no two cases are the same. Previous Regulatory Commission decisions are helpful but not determinative of how we should approach this case. We agree that the case of *Scholes* was a far more serious case than MB's and our sanction will be substantially lower than £8,000.
23. In our approach to the Guidelines the Commission is of the view that the one, single bet that tips this case into Column Two is best dealt with as an aggravating feature (and a serious one, at that) of the remaining 35 bets, all of which would ordinarily be sanctioned within Column One of the Guidelines. Column One suggests a warning or a fine. We take the view that this is a case that is towards the top of Column One cases. In considering the factors in the Guidelines, we take into account in MB's favour the following:
- i. The overall perception of the impact of his bets on the integrity of the fixtures/game is low;
 - ii. He had no involvement in any of the fixtures themselves;
 - iii. The number of bets was low;
 - iv. The size of the bets was relatively low;
 - v. There was no particular pattern of betting to cause concern;
 - vi. The amounts staked were relatively low;
 - vii. There was nothing in his personal circumstances at the time of the offending that aggravates his position, nor anything that our attention was drawn to that

mitigates his position;

viii. MB does have an unblemished previous record, and we give significant weight to that.

24. In further mitigation, we agree with Mr Gilroy that we are now punishing conduct that occurred some years ago.

25. The Commission is unanimous in its view that there is no mitigation available under the heading of delay. Betting investigations are, in our judgment, time-consuming and detailed investigations, and we do not see anything in the conduct of this investigation that merits criticism. We do not consider the 11 week delay, referred to at paragraph 21 above, as excessive and we accept the FA's explanation that it was a reasonable period to review the case, to prepare the case for charge, and to prepare the lengthy and detailed statement and exhibits from Mr Astley for service.

26. In considering aggravating factors, the Commission has already commented on our approach to the Column Two bet as an aggravating feature. We also consider that MB's experience at the highest levels of the professional game and for the length of time that he has been so involved is an aggravating feature. That is one of the features that we do consider distinguishes MB's case as being more serious than that of *Terry*.

27. Finally, we come to the question of assistance to the process and acceptance of the charge. The FA submitted that MB should receive limited credit for co-operation whilst Mr. Gilroy submitted that he can rely on the first half of this factor as set out in the Guideline. We are firmly of the view that we can only give very limited credit for any co-operation from MB. Whilst it is right to say that he was co-operative, the reality is (bearing in mind his subsequent admission of the charge) that MB was weaving a factual web of details and assertions that we find to be wholly false. It was those false assertions, repeated by family members, that caused the lengthy and detailed investigation. Even now, both in written and oral submissions on MB's behalf, MB

continues to deny wrongdoing. He may well regret the position he finds himself in, but he has shown no remorse for that which he has admitted and continues to maintain his denials. That does him no credit whatsoever. We do not punish him additionally for those continued denials, but the result is that we can only give him the most modest level of credit for his plea, acceptance of the charge and co-operation. Further, this is another feature which, in our judgment, makes MB's case more serious than that of *Terry*.

28. Therefore, considering all of the evidence and balancing those aggravating and mitigating factors outlined above, the Commission unanimously concluded that a proportionate punishment for this breach is a fine of £2,500.

SANCTION

29. For the reasons outlined above the Commission imposed the following sanction: -

- (i) Mark Bowen shall be fined the sum of £2,500 and
- (ii) make a contribution to the costs of the hearing in the sum of £750.

30. The decision is subject to any appeal as provided by the Regulations.

Mr. Simon Parry (Chairman)

Mr. Matt Williams

Mr. Tony Agana

21st December 2020