IN THE MATTER OF A REGULATORY COMMISSION

Sir Wyn Williams (Chair)
Mr Louis Weston
Mr Stuart Ripley

B E T W E E N:-

THE FOOTBALL ASSOCIATION

-and-

KIERAN TRIPPIER

DECISION

Introduction

1. We have been duly constituted as a Regulatory Commission to determine whether eight (8) charges of alleged misconduct brought by the Football Association ("the FA") against Mr Kieran Trippier ("KT") have been proved and, if so, what sanction or sanctions are appropriate in all the circumstances. We conducted a personal hearing on 14, 15 and 16 October 2020 (by remote means) at which we heard oral evidence and submissions as well as receiving substantial written material about whether the charges had been proved ("the liability hearing"). At the conclusion of that hearing we informed the parties that our decision in relation to each charge and our supporting reasons would be provided in writing and that in the event that any charge was found proved the appropriate sanction or sanctions would be determined following further representations.

2. On or about 6 November 2020 we provided a draft decision to the parties' legal representatives in which we indicated that charges 3, 4(a), 5 and 6 had been proved and that charges 1, 2, 4(b) and 7 had not. We provided detailed written reasons for those conclusions and we invited the parties to provide a list of proposed typographical corrections (with which invitation they complied). On 18 December 2020 we heard oral submissions (by remote means) upon

sanctions and very brief oral submissions in relation to costs ("the sanctions hearing"). In advance of that hearing the parties had filed and served written submissions and KT had filed a witness statement dated 4 December 2020. Following a period of deliberation following submissions on 18 December 2020 we announced that KT would be suspended from all football and football related activity for a total period of ten (10) weeks from 21 December 2020 and that he would be fined a total of £70,000. We informed the parties that we would provide written reasons for our decision on sanction and we would give our decision on costs in writing together with supporting reasons.

3. We have received a request from KT's solicitors that this decision should not identify a number of persons associated with the case but, rather, refer to them by a letter or by letters. Three of those persons are directly relevant to the charges brought by the FA against KT and are named in the charges which the FA formulated against him. The other persons are relevant to the factual context in which we had to determine whether the charges had been proved. The basis upon which this request is made is that none of the persons in question is subject to the FA's Rules and that in respect of some of the persons in question this decision records information about them which relates to their betting habits and which, therefore, they might reasonably expect will remain private. None of the persons, themselves, made representations to us although, presumably, they are aware of the stance being taken by KT's solicitors and agree with it.

4. The chair invited the FA to respond to this request. It did so by submitting that it had no view of its own and that provided our written reasons could be properly and sensibly understood we had a discretion as to whether or not to accede to the request.

5. We are prepared to accept that we have a discretion as to whether we refer to persons by name or by some other means when writing a decision of this kind. In the exercise of that discretion we would be prepared to identify by a capital letter all the persons referred to in the request made by KT's solicitors save for two persons. As will become apparent these two persons are inextricably linked to the charges we have found proved against KT. It does not seem to us that any good reason exists to justify anonymising them. They were both involved in betting on KT's transfer and it was their betting upon his transfer which rendered him liable to face misconduct charges and, ultimately, caused him to be the subject of findings of misconduct. It

does not seem to us that the possibility of adverse publicity is a sufficient reason for anonymising these persons. In our view just as KT must face the consequences of his misconduct so there is a public interest in deterring persons connected in some way to a player from seeking to take advantage of him by betting on the basis of information provided by the player.

6. In any event, the ultimate decision about what should or should not be made public is a matter for the FA. During the course of the liability hearing all persons to whom reference was made were named. By virtue of Regulations 14 to 19 of the FA Disciplinary Regulations the FA is the arbiter of what is to be published and what is not.

7. For the avoidance of any doubt we make it clear that this written decision records all our decisions and our reasons in support.

Liability

8. All the charges brought against KT allege that during the month of July 2019 he committed acts of misconduct by virtue of breaches of Rule E8(1) of the FA Rules. The charges were first formulated in a letter from the FA to KT dated 1 May 2020 *("the charge letter")*. This letter was accompanied by an *Initial Case Summary* dated 30 April 2020 which explained the basis of each charge. One of the charges (charge 4b) alleged a contravention of Rule E8(1)(a)(ii); the other seven charges alleged breaches of Rule E8(1)(b). The relevant parts of these Rules provide:-

> "*(1) (a) A Participant shall not bet, either directly or indirectly, or instruct, permit, cause or enable any person to bet on –*
>
> *(i) …*
>
> *(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.*
>
> *(b) where a Participant provides to any other person any information relating to football which the Participant has obtained by virtue of his or her position within the game and which is not publicly available at that time, the*

> *Participant shall be in breach of this rule where any of that information is used by that other person for, or in relation to, betting.*"

9. Rule E8(1)(c) affords a defence to a Participant who is charged with a breach of Rule E8(1)(b) *("the regulatory defence")*. It provides:-

> *"(c) it shall be a defence to a charge brought pursuant to sub-paragraph E8(1)(b) if a Participant can establish, on the balance of probability, that the Participant provided any such information in circumstances where he did not know, and could not reasonably have known, that the information provided would be used by the other person for or in relation to betting.*"

10. Each charge faced by KT is set out in full later in this decision. For the sake of brevity, in the remainder of this decision the phrase "*any information relating to football which the Participant has obtained by virtue of his or her position within the game and which is not publicly available at that time"* is referred to as "inside information".

11. At the liability hearing, the FA relied upon the evidence of Mr Thomas Astley. He had made three witness statements in advance of the hearing and produced a large number of documents as exhibits. At the material time Mr Astley was employed by the FA as an Integrity and Intelligence Analyst. He had no first-hand knowledge of the relevant events. His evidence related to the investigations which he carried out following a report to the FA by one or more bookmakers of suspicious betting activity prior to the date of KT's transfer on 17 July 2019 from Tottenham Hotspur FC ("Tottenham") to Atlético Madrid ("Atlético"). Perhaps most significantly, Mr Astley produced exhibit TA/19 which is described as a *Full chronology of all relevant conversations obtained from the forensic download of [KT's] mobile phone*. He also produced transcripts of two interviews with KT in which he had participated together with a colleague Mr Matthews and transcripts of interviews with Oliver Hawley ("OH") and J which Mr Matthews and he had also conducted. The interviews with KT took place prior to any decision to charge KT with misconduct. At the time the interviews took place KT was not obliged to participate. Just before the first interview began he permitted the FA to take possession of his mobile phone for the purpose of a forensic examination. TA/19 is the result of that examination.

12. KT gave evidence in his own defence. He also called two witnesses, Mr Matthew Brady ("MB") and B to give oral evidence. Witness statements on behalf of KT had been served in

advance of the hearing from Mr Gareth Southgate, Mr Harry Kane, Mr Sean Dyche, Mr Simon Barker and Mr Patrick Madden; the FA did not require those witnesses to attend the hearing to give oral evidence and their witness statements were adduced on behalf KT as unchallenged evidence.

13. We make it clear from the outset that in order to reach our conclusions upon each charge we have taken account of all the evidence which we have heard and read. That said, so as to prevent this part of our decision becoming too long and unduly burdensome, we refer, in the main, only to those parts of the evidence which inform our reasoning and decision on each charge.

14. Under the Disciplinary Rules which govern the Commission (A 9.4) we are entitled to draw an adverse inference or adverse inferences against a party, if we consider it appropriate, should that party fail to adduce evidence without good reason from a witness who would have been able to provide material evidence to us. In this case, the FA invite us to conclude that KT failed to adduce evidence from OH who was at all material times a close friend of KT and who was a potential witness who was able to provide material evidence. Further, the FA allege that KT failed to offer any credible explanation for that failure. Ms Gallafent QC, leading counsel for the FA, submits that we should conclude that these failures can be explained only by the conclusion that OH's evidence, if given before us, would have damaged the case made on behalf of KT.

15. OH's activities are central to charges 1 to 3, 5 and 6 and we shall deal with the inferences to be drawn, if any, from KT's failure to call him to give evidence when dealing with these charges.

16. During the course of her opening on behalf of the FA at the liability hearing, Ms Gallafent QC complained about the alleged inaccuracy of press reports which suggested that the timing of the hearing before us had prevented KT from being available for selection for the match between England and Denmark which took place during the evening of 14 October 2020. She suggested, by implication, if not expressly, that KT and/or persons acting on his behalf had provided the press with inaccurate information since the history surrounding the listing of the hearing demonstrated, unequivocally, that KT wished the hearing to commence on 14 October,

notwithstanding the impact this would have on his ability to participate in the England match. She invited us to record the relevant history relating to the listing of the hearing in our decision.

17. We do not see the need to provide the history of how the hearing came to be listed in any detail. It suffices that we record that KT agreed to the hearing being listed on 14 October 2020, notwithstanding that he then knew that this would or at least might impact upon his availability for selection for the England fixture. Subsequently, when the FA offered to agree an adjournment of the hearing so that KT might become available for England, he declined the offer.

18. We understand why KT wished to have the hearing dealt with expeditiously. We do not consider it appropriate to investigate whether or not KT provided information to the media which was inaccurate about the listing of the hearing not least because we simply do not have anything like all the evidence available to us which would allow us to reach a proper and safe conclusion. Equally, it should not be thought that either the FA or the Commission insisted upon a hearing date (against the wishes of KT) which prevented him being available for selection by England.

Undisputed Evidence

19. KT began his professional career at Manchester City FC. After spells on loan with Barnsley FC he joined Burnley FC on loan in July 2011 – a move which was made more permanent in January 2012 when he became contracted to that Club for a period of 3 years and 6 months. On June 2015 KT was transferred from Burnley to Tottenham. He enjoyed a successful spell at Tottenham until 17 July 2019 when he was transferred to Atlético. During his period at Tottenham, KT represented England with distinction on a number of occasions.

20. Despite the success which KT enjoyed at Tottenham the season 2018/19 was not straightforward. KT suffered injury problems and he began to realise that Tottenham might sell him at the end of the season. Accordingly, he began to turn his attention to a possible move. He became aware in April 2019 that the Italian Club, Napoli, might be interested in acquiring him but this potential move was not looked on favourably by his family and accordingly it was not an option which KT wished to pursue. Nonetheless, from time to time

during the period April to July KT there were reports in the press and in other forms of the media that KT might move to that Club.

21. As of April/May 2019 KT was represented by an agency known as the Stellar Group although the representation contract was due to expire on 15 May 2019. Within that agency KT was represented by Mr Greg Wadsworth with whom he had a long standing arrangement. In May 2019 Mr Wadsworth left the Stellar Group for a different agency (Pitch International Representation Limited) and KT decided to follow him since, as we have said, his contract with the Stellar Group was due to expire. Additionally, however, and at or about the same time as KT renewed his intermediary relationship with Mr Wadsworth via Pitch International Representation Limited, he entered into an intermediary agreement with Mr Mark Rankin of Base Soccer Agency. KT told us that he did so because he understood that Mr Rankin had close contacts with a number of big clubs in Europe and, by this time, he had come to think that Tottenham were unlikely to sell him to a Club in the Premier League so that his future lay abroad.

22. On 1 June 2019 Tottenham played Liverpool FC in the Champions League Final. Thereafter KT and his family took a short holiday in Mykonos before travelling to Ibiza to attend KT's brother's wedding. As from about that time, i.e. from mid-June onwards, KT was set upon securing a transfer from Tottenham to a prestigious club on the European mainland. The first contact between representatives of KT and Atlético took place on 12 June 2019 and from about the same time period representatives of Juventus had indicated that it might be interested in acquiring KT's services.

23. In his evidence before us KT made no secret of the fact that he discussed his footballing future from time to time with some of his friends. We use the word "discuss" in a broad sense to mean oral discussions either face or face or over the phone and by messaging over the internet or by text. The friends in question were OH, B, Dale Parry (DP) and Ryan McDonald (RM). KT, B, DP and RM were members of a WhatsApp chat group known as *Final*; those men, together with OH and Mr Wadsworth were also members of a chat group known as *Pint*. Those two chat groups were in being throughout the period relevant to this case. On 15 July KT formed a third chat group known as *Boys Promotions*. This group consisted of KT, B, OH and

RM. The men messaged each other quite frequently. Sometimes there was group chat and on other occasions there were messages between individuals.

24. We can mention one other person conveniently at this stage. MB is the founder and owner of an organisation known as *Limelight Access Lifestyle* which he described in his witness statement as being an exclusive and bespoke personal assistant service designed for people in the sports and entertainment industries. KT was a client of *Limelight* and he had known MB since 2015. The two men regarded themselves as friends. MB had a connection to Paradise Wildlife Park which, as its name suggests, houses wild animals and other attractions. MB was not involved with group chats with KT; however, from time to time the two men would message each other and they certainly did so during June and July 2019.

25. During June and early July KT understood that Juventus and Atlético might be interested in him. However, at that stage Juventus appeared to attach a higher priority to acquiring other players and Atlético were intent upon selling one of their star players in order to facilitate the financing of any transfer of players into the Club. Nonetheless and despite the obvious uncertainty which then existed, on 13 June OH placed two bets upon KT being transferred from Tottenham to Juventus. Each bet was for the sum of £10 at odds of 4/1. There is no suggestion that KT was aware that OH had placed this bet.

26. On 5 July 2019 (a Friday) there were WhatsApp messages between KT and OH in which KT told OH (i) that he was due to meet Mark Rankin and an associate from Base after training on 8 July and (ii) he was also due to meet the manager of Tottenham (Mauricio Pochettino) on that day to have a discussion with his manager about his future. In one of the messages within the exchange KT expressed the hope that he would "*get the move to Italy or Spain"*.

27. The meeting with Mr Pochettino did not happen on 8 July because the manager was not present at the training ground. Before training on 9 July there were message exchanges between KT and OH and in one of his messages OH asked KT whether "*those guys from Base"* had "*come up with much more yet*". He received no message in reply. Following training KT met with his manager and later the same day with the Club's chairman Daniel Levy. They made it clear that KT's future was not at Tottenham.

28. At 14.59 in the afternoon of 11 July OH placed a bet of £20 at odds of 6/1 on KT being transferred to Atlético. 41 seconds later OH sent a message to KT which read "*6/1 Athletico Madrid* 👀". In his evidence KT accepted the emoji "👀" was a shorthand meaning *"shifty eyes"* (although that is not how KT described the emoji in his witness statement). Just under 6 minutes later KT replied with an emoji showing 3 laughing faces (😂😂😂). He then sent 2 messages in quick succession which he subsequently deleted. At 15.13 OH placed 2 bets on KT being transferred to Atlético. The first bet was £42.15 at odds of 7/2; the second bet was £50 at odds of 7/2.

29. At 16.04 on 12 July, Mr Wadsworth messaged KT to say that Atlético Madrid had announced the transfer of Antoine Griezmann and *"hopefully that kick Athletico on!"* At 18.39 KT sent a message to OH consisting of the words *"It's happening"* followed by an emoji showing a large thumbs up (👍). About 45 minutes later OH messaged KT with the words *"Yeah mate?"* to which KT replied *"Yes mate"* followed by an emoji of a laughing face (😂). Shortly thereafter OH and J placed bets on KT being transferred to Atlético. OH placed one bet of £65 at odds of 7/2 and one bet of £40 at odds of 9/4. J placed 3 bets. Later that evening OH and KT exchanged messages about betting on a horse which was due to race at a meeting at Hamilton due to take place the following evening.

30. In the very early hours of 13 July OH placed another bet on KT moving to Atlético. This time the bet was £20 at odds of 6/4. At 7.34am KT sent a message to the WhatsApp chat group called *Pint* which resulted in a number of exchanged messages over the next couple of hours or so. During the course of the messaging and very shortly after OH had posted a message to the group, KT wrote *"Come Madrid with me to sign mate".* This message was sent at 9.10am. It was sent to the group but intended for OH. At 10.39 that morning. OH placed a bet of £20 on KT's transfer to Atlético at odds of 4/1.

31. At lunch time that same day KT received a message from the Atlético manager encouraging him to join Atlético. KT forwarded the message to Mr Wadsworth. Shortly thereafter Mr Wadsworth forwarded to KT contractual terms which Atlético were prepared to offer him in the event of his transfer to that Club.

32. At 15.10 KT sent a message to DP telling him that he was signing for Atlético *"on Monday"* which would have been 15 July. There followed an exchange of messages about that news. Later in the evening KT and OH exchanged a number of messages between 21.25 and 21.40. They read as follows:-

Sender	Receiver	Words Used
OH	KT	"*How's it going mate any developments today?*"
KT	OH	"*Yeah all good mate*"
KT	OH	"*It's all agreed just waiting for them to come to an agreement with the fee*"
KT	OH	"*Should be done tomorrow or defo Monday*"
OH	KT	"*That's class mate*"
OH	KT	"*Is Levy going to be hard work or not do you reckon?*"
KT	OH	"*They need to sell. So it should go through straight away*"
OH	KT	"*Hopefully mate be a great one this*"
OH	KT	"*At least this should get you out of going to China*"
KT	OH	"*Yeah be quality mate*"
KT	OH	"*More money what I'm on now*"
KT	OH	"*Yeah don't want to be going there*"
OH	KT	"*More money than on your now is class cos this is a real big pay day opportunity*"
OH	KT	"*And mate Spain is better to live in than Italy*"
KT	OH	"*Yeah be class mate*"

33. Two minutes after that exchange OH placed a bet of £22 on KT's transfer to Atlético at odds of 5/6. One minute later he placed an identical bet.

34. On Sunday 14 July KT messaged MB to tell him that he was thinking of taking his family to Paradise Wildlife Park. MB agreed to make the necessary arrangements. At the Park the two men spoke. KT also spoke to MB's mother. One thing is not in dispute; there was a discussion of sorts with both around KT moving to Madrid.

35. During the evening there was an exchange of messages between MB and KT. The first message was sent by MB at 20.57 and the sequence ended at 21.49 with a message from KT. The messages were as follows:-

Sender	Receiver	Words Used
MB	KT	"*Sorry I didn't see you before you left mate, was everything okay?*"
KT	MB	"*It's okay mate had to shoot off. Yeah everything was fine mate Jacob had a good day* 😀"
KT	MB	"*You have a nice day*?*"*
MB	KT	"*Yeah was nice mate, my brother loved it, let me know if I can do anything to help Tripps*"
KT	MB	"*Nice 1 mate*"
MB	KT	"*Shall I lump on you going there?* 😂*"*
KT	MB	"😂😂😂😂"
KT	MB	"*Can do mate*"
MB	KT	"*100% Tripps?*"
KT	MB	"*Yeah mate*"
MB	KT	"😬 "
KT	MB	"*Don't blame me if something goes wrong* 😂😂"
KT	MB	"*It shouldn't but just letting you no* 😂😂"
MB	KT	"*Of course not, don't be daft mate, I'm only messing* 🙏 [followed by an illegible emoji]"
KT	MB	"*Lump on if you want mate* 😂"
MB	KT	"*I'm nervous now* 😬"

KT	MB	"😂😂😂"

36. During 15 July formal negotiations began between Tottenham and Atlético over KT's transfer. Tottenham gave KT permission to travel to Madrid to have discussions with Atlético's representatives and to undergo a medical examination.

37. At 16.41 KT sent a racing tip to the WhatsApp group *Pint*. At 18.29 he formed the chat group *Boys Promotions*. Between 18.29 and 19.28 there were a number of messages sent between the members of that group. OH messaged that he was in Spain waiting for KT to arrive. Shortly thereafter, KT messaged that *"nearly done deal levy just wants £500k more"*. At 18.38 KT used *Pint* to message Mr Wadsworth *"Come on Greg the clock is ticking get this deal done"* to which Mr Wadsworth replied "*On it"* at 18.40.

38. More or less at the same time as Mr Wadsworth was sending his message, OH placed two bets on KT being transferred to Atlético. The first was a bet of £100 at 5/6; the second was a bet of £120 at 5/6. Approximately 20 minutes later he bet twice on KT's transfer to Atlético. The first bet was £8.75 at odds of 1/2; the second bet was £20 at odds of 1/2.

39. At 21.54 KT messaged *Boys Promotion* saying *"Done deal 👍😀"*...RM and OH replied. At 21.59 OH placed a bet of £300 on KT's transfer to Atlético at odds of 4/11. J bet £25 on the transfer at odds of 8/13.

40. Some minutes later KT received a message from MB in the following terms.

> "*Could only put a little bit on mate, they massively restricted the bet, keep me posted pal 🙏😀😀*"

KT's response was to say:- *"No worries mate".*

41. By early in the morning of 16 July negotiations between Tottenham and Atlético had concluded and a transfer fee had been agreed. At 8.44 KT messaged MB to tell him; he then messaged *Boys Promotions* indicating that the fee had been agreed at £25m. In the same series of messages KT indicated that he was *"flying out today and do my medical tomorrow"*. B and OH were recipients of these messages.

42. At 10.28 on 16 July B placed a bet on KT's transfer to Atlético in the sum of £80.34 at odds of 3/10. Later that day OH placed bets on the transfer of £20 and £300 at odds of 1/3 and 1/6 respectively. By the evening of that day, at the latest, the probability of the transfer was public knowledge and all formalities relating to the transfer were completed on 17 July. The transfer was officially confirmed by Atlético on its social media account at 5 pm that day.

43. As we have said OH did not give evidence before us. However, it was common ground that the evidence adduced before us demonstrated that he was a prolific gambler on sport. KT, himself, enjoyed betting on horses as did some of his friends to whom we have referred above.

Our approach to the accuracy and reliability of the witnesses

44. In judging the accuracy and reliability of the witnesses we took account of any significant inconsistencies between the witness's oral evidence and their witness statements, significant inconsistencies between their oral evidence and/or their witness statements on the one hand and the documentary evidence on the other, the answers given in cross-examination when such inconsistencies were highlighted and the inherent plausibility (or otherwise) of their answers to difficult questions. Traditionally the so called demeanour of a witness plays some part in the assessment of his accuracy and reliability. In a number of recent decisions at appellate level, the courts have tended to discourage fact finders from relying unduly upon demeanour as a guide to the accuracy and reliability of witnesses. Accordingly, and additionally given that the hearing was conducted by remote means, we have attached far less weight than might traditionally have been afforded to the demeanour of the witnesses and/or the general impression they created. We are satisfied that we should follow the guidance provided by the appellate courts as to the significance to be attached to the demeanour of a witness and we are conscious, too, that that we might jump to unjustified conclusions about accuracy and reliability in the absence of being "face to face" in the same room.

45. In assessing the evidence of KT himself we took into account the evidence he adduced to the effect that he has a very good disciplinary record and that he has no previous misconduct charges proved against him. We paid close attention to the written evidence provided by Mr Southgate, Mr Kane, Mr Dyche and Mr Barker and we paid particular attention to those parts of that evidence which attested to KT's good character and trustworthiness. In the light of that evidence we directed ourselves that KT's good character should be taken into account in his

favour when assessing the accuracy and reliability of his evidence and that his good character made it less likely that he had engaged in the misconduct alleged. We also noted and generally took account of the facts that KT cooperated with the FA investigation, at a time when he was not obliged to, and in particular allowed his phone to be examined and its contents downloaded. Further, we also took account of the fact that when interviewed by the FA he was not given any substantial or complete disclosure of material in the hands of the FA and so was providing his answers from memory and not from refreshed memory from any disclosure.

The Charges

46. We propose to deal with all the charges which relate to bets placed by OH first. We will then consider the charges which relate to bets which the FA argue were placed by MB and B.

Charge 1

It is alleged that on or before 11 July 2019, you provided Oliver Hawley information relating to football, namely information concerning a possible move by you from Tottenham Hotspur FC to Athlético Madrid, which you obtained by virtue of your position within the game and which was not publicly available at the time. That inside information was subsequently used (in part or in whole) by Oliver Hawley for, or in relation to, betting.

47. In the *Initial Case Summary* served with the charge letter, the FA explained that this charge arose out of the messages exchanged between OH and KT on 11 July 2019 as set out at paragraph 23 above. At paragraph 40 of the *Case Summary*, the FA wrote:

> "*It is the FA's case that, on balance of probabilities, KT provided OH with inside information as to his potential move to [Atlético] and, as a result, OH has placed those bets. Whilst the messages exchanged do not directly evidence the passing of such inside information, the circumstantial evidence is compelling when taking into account the manner in which KT discusses his move with OH on subsequent occasions, the inference which can be drawn from the deleted messages and OH's increased stakes on KT to move to [Atlético]*."

48. As this paragraph is written, the phrase "those bets" at the end of the first sentence must refer to the two bets which OH placed at 15.13. We do not understand the FA to assert that charge 1 encompasses the single bet which OH placed at 14.59 although we deal with that possibility for completeness.

49. It is common ground that it is for the FA to prove that KT provided OH with inside information concerning his possible move from Tottenham to Atlético which OH used for the purpose of betting. That must mean that the inside information must have been provided to OH before he placed the bets which are said to found the charge. On behalf of KT, it is submitted that the FA simply cannot prove that he provided such information to OH prior to OH placing any bet on 11 July. Ms Mulcahy QC submits that there is no evidence of any kind which relates to any period prior to 11 July which shows that KT imparted inside information to OH about a transfer to Atlético. No such evidence is contained within Exhibit TA/19, she submits, and there is no other source of relevant evidence. That is correct, so she submits, both in relation to the first bet placed on 11 July and in relation to the two bets placed subsequently. She submits that the two messages which KT deleted prior to OH placing two bets at 15.13 cannot provide the evidential foundation for the inference that KT must have provided inside information to OH.

50. In response, the FA attach a good deal of significance to the deleted messages. Ms Gallafent QC cross-examined KT at length about the content of the deleted messages and the circumstances in which they came to be deleted. She suggested in terms to him that the messages contained inside information and that he deleted the messages so as to cover up the fact that he had provided such information to OH. She submits that it is not plausible that KT cannot remember the content of the messages (which is what he said in his witness statement and under cross-examination before us) and she submits that such is the proximity in time between the sending of the messages and the two bets placed by OH at 15:13 that the only proper inference is that they contained information which was known to KT but which was not available to the public.

51. As we have said, in his witness statement (paragraph 44), KT said that he did not recall the content of the messages. However, he also said that "*they would not have been about [Atlético]*

because, as I explain above, nothing had happened with [Atlético] at that point". Essentially, throughout his cross-examination, KT maintained that stance.

52. We accept that nothing in the messages which KT sent either to OH or to his other friends prior to 11 July suggests that he had information available to him about a transfer to Atlético which was not publicly available. It is clear that KT had informed OH that he had engaged two agents who would work together to achieve a move to a club which would probably be outside the Premier League. On 5 July, he informed OH that "*hopefully*" he would get a move to Italy or Spain. To repeat, however, there is nothing in the messaging prior to 11 July which reveals that KT provided any kind of specific information to OH about a possible transfer to Atlético. In our view, that lends considerable support to KT's evidence that nothing had occurred prior to 12 July (the date of the transfer of Antoine Griezmann from Atlético to Barcelona) which made it likely that he would be transferred to Atlético.

53. Set against this background, we are not prepared to infer that the messages which KT deleted contained inside information about a transfer to Atlético.

54. We stress, however, that we have not relied either exclusively or even mainly on the absence of direct evidence demonstrating that KT provided OH with inside information prior to or on 11 July 2019. Rather, in arriving at this conclusion, we have taken account of a number of factors. At his first interview with the FA on 15 October 2019 KT insisted that nothing of any significance had occurred prior to 12 July which indicated that it was likely that he would be transferred to Atletico – his stance was that there simply was no inside information to impart on before or on 11 July. KT has consistently asserted that to be the case. Prior to the commencement of that interview, KT voluntarily agreed to submit his mobile phone for examination and handed it over there and then. Before he took that step (as is obvious from the KT's answers to some of the questions posed in the interview) he knew that the FA would discover that he had deleted messages shortly before OH placed 2 bets on KT's transfer. Further, during the course of these proceedings and for the purpose of obtaining evidence to be adduced in these proceedings, KT's solicitors engaged Mr Patrick Madden to examine KT's phone with a view to (i) recovering the content of the two deleted messages; and (ii) identifying the time at which the two messages were deleted. Mr Madden was unable to recover the content of the messages but there is no evidence that KT knew that this was the likely

eventuality when Mr Madden was first instructed and none of the answers provided by KT to Ms Gallafent QC under cross-examination suggested that he had the technical knowledge or expertise which would have enabled him to know that the messages were irrecoverable. As it happens, Mr Madden was able to offer the opinion that the messages had been deleted quite soon after they had been sent. There is no dispute about that aspect of his evidence. If those messages contained incriminating material and were deleted, why did KT not delete the message from OH which read "*6/1 Atlético Madrid* 👀"? There is no obvious answer which assists the FA to that rhetorical question posed by Ms Mulcahy QC.

55. It was also in the context of the deleted messages that Ms Gallafent QC invited us to draw an adverse inference against KT in respect of his failure to call OH as a witness on his behalf. There is no reason to suppose that OH did not receive and/or read the messages, submits Ms Gallafent QC, and accordingly he would have been able to give evidence about the contents of the two messages.

56. The difficulty with that line of argument is that the evidence given by KT under cross-examination established that he deleted the messages not just on his own phone, but on the phone of OH. We do not need to explain the technical basis as to how that came about. It suffices that we say that the deletion of a message, not just from the phone of the sender but also the receiver, is possible, provided the deletion takes place within about one hour of the sending of the message. All the evidence adduced in this case points to the fact that the two messages under scrutiny were deleted well within that time period. In those circumstances, it does not seem to us to be safe to infer that OH would have been able, necessarily, to provide accurate and reliable evidence about the contents of messages sent to him as long ago as 11 July 2019 but deleted within minutes, probably, of their receipt. Indeed, given the short time span between the sending and deletion of the messages we might be treading ground which is unsafe by inferring that that they were read. Accordingly, we decline to draw the inference that OH has been deliberately prevented from giving evidence so as to avoid his having to disclose to the Commission the content of those messages.

57. On the basis of the evidence placed before us, we are not prepared to find that the FA has proved, on balance of probability, that the deleted messages contained inside information and,

equally, we are not prepared to accept that the FA has proved that KT imparted inside information to OH prior to any of the three bets which he placed on 11 July.

58. In reaching this conclusion, too, we are also conscious of press reporting on 10 July which was to the effect that Atlético were "*stepping up their attempts to land Kieran Trippier*". On all the known evidence in this case it is unlikely that on 11 July or at any time before that date KT, himself, had any knowledge relating to a possible transfer to Atlético which was any more extensive than was being reported in the press. It follows, as it seems to us that any information which OH relied upon when placing bets on 11 July was as likely to have been publicly available as to have been provided to him by KT as inside information.

59. Before leaving this issue we should deal with two aspects of the case for the FA which has given us cause for thought. First, as is clear from paragraph 40 of the *Initial Case Summary*, the FA invite us to infer that inside information was provided to OH on or before 11 July because <u>without doubt</u> (our emphasis) such information was provided to him in the days that followed. That might be an appropriate inference to be drawn if it was established by reliable evidence that OH bet on sport only when provided with inside information. But, self-evidently, that is not the case. It is common ground that OH was a prolific gambler on sport and it beggars belief that his betting overall was dependent on inside information. Indeed, well before 11 July he bet upon KT being transferred to Juventus; there has never been any suggestion that this bet was placed following receipt of inside information from KT. We are not persuaded that it is proper to infer that inside information was provided to OH on or before 11 July because such information was provided to him thereafter. Finally, we should record that we have not lost sight of the line of cross-examination undertaken by Ms Gallafent QC so as to demonstrate that KT failed to encourage OH to participate in the FA investigation as he was requested to do in his second interview. That cross-examination showed that KT did not encourage OH (and other friends) to assist the FA with its investigation despite a request from the FA that he should do so. Additionally, the cross-examination revealed that a letter written on KT's behalf nonetheless suggested to the FA that KT was encouraging OH to help the FA (see the letter at page 261 of the Bundle). There can be no doubt that this line of cross-examination caused us concern about the reliability of KT's evidence before us. However, having weighed this concern in the balance we are not persuaded that the FA has proved that KT had provided

inside information to OH on or prior to 11 July to the requisite standard and it follows that an essential element of the charged has not been proved.

60. Accordingly, charge 1 is dismissed.

61. If, contrary to our view, the FA has proved that KT provided inside information to OH, can KT avail himself of the *regulatory defence*? KT must prove, on balance of probability, that he provided the inside information in circumstances where he did not know and could not reasonably have known that the information provided would be used by OH for, or in relation to, betting. We accept that on balance of probability KT did not know that OH would bet. We explain why at paragraphs 84 and 85 below. However, we are not persuaded that KT has proved, on balance of probability, that he provided information in circumstances where he could not reasonably have known that OH would bet.

62. In the scenario we are now considering we are proceeding on the basis that the inside information was provided to OH shortly after he had messaged KT "*6/1 Atletico Madrid 👀*". In our view, that message was the clearest indication to KT, put at its lowest, that OH was contemplating placing a bet on his transfer to Atlético; the message shows he had looked at the odds offered on that event occurring and was drawing attention to his knowledge of them. We find that KT probably knew that OH was a prolific gambler on a wide range of sports. After all, he was one of his closest and most trusted friends. It is very unlikely that KT was unaware of OH's gambling habits and we do not accept that part of KT's evidence which was to the effect that KT knew that OH bet on horses but not on sport in general. To the contrary, we think it probable that KT had quite extensive knowledge about OH's betting habits.

63. Further, we have reservations about whether we should accept at face value KT's evidence that he treated what OH had said about betting as *"banter"*. Ultimately, however, that is not crucial. What is crucial is that we are completely satisfied that objectively KT ought not to have assumed that it was banter. Rather, objectively, he should have appreciated that there was a real chance that OH would bet or, for that matter, already had bet on his transfer and, at the very least, he should have sent a message to OH informing him that betting on his transfer would make him liable for an infringement of the FA Rules (he having provided OH with inside information) and that OH should not bet on his transfer. The plain fact is that if we are

wrong in our assessment of the significance of the deleted messages and they did contain inside information, KT provided OH with that information in the two deleted messages minutes after being alerted to the possibility that OH might bet on the transfer. By providing inside information in that way it made it even more likely that OH would bet and, accordingly, KT cannot possibly discharge the burden of proving that he could not reasonably have known that KT would bet.

64. In reaching this conclusion we should not be taken as encouraging the view that just because a Participant has a close friend whom he knows is a regular gambler on sport he is without more to be saddled with a misconduct charge if he discusses aspects of his career with that friend providing inside information in the process and thereafter that friend uses the information for or in relation to betting. That is not this case. In our view KT was given clear notice by OH that he was likely to bet yet, nonetheless, provided inside information. KT cannot prove the *regulatory defence* in such circumstances.

Charge 2

It is alleged that on or before 12 July 2019, you provided to Oliver Hawley information relating to football, namely information concerning a possible move by you from Tottenham Hotspur FC to Atlético Madrid, which you obtained by virtue of your position within the game and which was not publicly available at that time. That inside information was subsequently used (in part or in whole) by Oliver Hawley for, or in relation to, betting.

65. It is clear both from the *Initial Case Summary* and the way in which the case was presented to us that the inside information allegedly provided by KT to OH were the words "*It's happening*" followed very shortly thereafter by the words *"Yes mate 😂"* in answer to a query by OH "*Yeah mate?"*. The FA suggest that this short message exchange indicated unequivocally to OH that KT's transfer to Atlético was going to happen and that this constituted inside information.

66. In his witness statement (paragraph 48), KT explained that he had no recollection of sending the two messages, but, in retrospect, he considered that he "*was just excited that, because the Griezmann deal had gone ahead [his] representatives could at least now start discussions*".

67. Under cross-examination, KT was pressed to agree that the words "*It's happening*" were a reference to his own transfer to Atlético. It was put to him that since the transfer of Antoine Griezmann to Barcelona had been made public before KT sent his message to OH, the terms of his message were consistent only with a reference to his own transfer, not least because he had used the present tense whereas if a reference to the transfer of Mr Griezmann was intended he would have said *"It's happened".*

68. There can be no doubt that in one part of this cross-examination, KT appeared to accept that the phrase "*It's happening*" was, indeed, a reference to his own transfer to Atlético – see transcript of the proceedings on 15 October 2020 at pages 34 and 35. Prior to that, however, and repeatedly, KT had maintained that the phrase "*It's happening*" meant no more than that the transfer of Antoine Griezmann had opened the way to the possibility of his own transfer to Atlético.

69. Save for the words "*It's happening*", and the confirmation *"Yes mate"* there is nothing in the evidence which suggests that as of the afternoon of 12 July 2019 KT had inside information about a possible transfer to Atlético which he shared with OH. By that afternoon it was common knowledge that Atlético might be interested in acquiring the services of KT, but there is no evidence, independent of KT's messages, which suggests, for example, that negotiations had begun between KT's representatives and representatives of the club or that anything else had occurred which had not been the subject of public speculation in the press. There is nothing in the messaging between Mr Wadsworth and KT during the afternoon of 12 July which suggests that Mr Wadsworth had taken any step, that afternoon, which had progressed the likelihood of KT's transfer to Atlético.

70. We understand, of course, that both OH and J placed bets on KT's transfer within a very short time of the exchange of messages set out at paragraph 29 above. No doubt, or perhaps, more accurately, it is more probable than not, there was a causal link between the messages and the bets but that, of itself, cannot be sufficient to lead to the conclusion that the words used by KT constituted inside information. Ultimately, in our view, whether KT provided inside information to OH is dependent upon whether the words he used in the messages signalled to OH something which was not then publicly known and we are not satisfied on balance that they did.

71. We appreciate that the FA suggest that OH could have provided evidence about his understanding of the words "*It's happening*" if called as a witness and that the failure to call him should lead us to conclude that the failure supports the interpretation which the FA seeks to place upon the words "*It's happening*". In our view, that is a step too far. We have a very wide discretion as to the inferences we should draw from a failure to call a witness. We do not think it appropriate to draw adverse inferences against KT in relation to the failure to call a witness to explain what may or may not have been meant by a phrase which is capable of some ambiguity.

72. We remind ourselves that the onus of proving that the phrase "*It's happening*" should bear the meaning contended for by the FA is squarely upon the FA and, in our view, it has failed to discharge the burden upon it. Accordingly, this charge is also dismissed.

73. Upon the assumption that the FA had been able to prove that KT provided inside information to OH which OH had used for betting, we would have concluded that KT had failed to prove that he could not reasonably have known in the circumstances prevailing that OH would use the information for, or in relation to, betting. Essentially, we would have reached that conclusion on the same basis that we would have rejected the *regulatory defence*, had it arisen, in respect of Charge 1. In summary, KT knew that OH had investigated the odds upon KT being transferred to Atlético and, as we have found, he knew that OH bet on all kinds of sporting events. We are satisfied that KT should have known that OH would bet on the strength of inside information. It follows that KT has failed to prove that, in all the circumstances, he could not reasonably have known that OH would bet on his transfer. For reasons which we explain in paragraphs 84 and 85 below we are prepared to accept that KT did not know that OH would bet on his transfer.

Charge 3

It is alleged that on or before 13 July 2019 you provided to Oliver Hawley information relating to football, namely information concerning a possible move by you from Tottenham Hotspur FC to Atlético Madrid, which you obtained by virtue of your position within the game and which was not publicly available at that time. That inside information was subsequently used (in part or in whole) by Oliver Hawley for, or in relation to, betting.

74. It is accepted on behalf of KT that this offence is proved unless KT can establish the *regulatory defence*. The message posted by KT on *Pint* at 9:10 on 13 July "*come Madrid with me to sign mate*" is accepted to be inside information and it is also accepted that OH used that information for, or in relation to, betting by placing a bet of £20 on KT's transfer to Atlético as he did at 10:39 that same day. Later that same day, KT and OH exchanged messages – see paragraph 32 above – and, again, KT provided inside information to OH during the course of that messaging. Almost immediately after those messages had been sent and received, OH placed two bets on KT's transfer to Atlético. It is accepted that in so doing he used inside information for betting.

75. We are satisfied that those factors which would have led us to reject the *regulatory defence* in respect of Charges 1 and 2 apply within equal force in respect of Charge 3. To repeat, KT knew that OH had investigated the odds available upon his transfer to Atlético on 11 July. He ought to have known that there was a clear prospect at that point that OH would bet on his transfer given that he also knew that OH had a propensity to bet on sports. As we have found, objectively, the assumption by KT that OH was engaging solely in banter was not justified. Given the nature of their communications KT should have warned OH against betting upon his transfer but, instead he said or did nothing to discourage OH from betting. From that time onwards, KT should have known that the more inside information he provided to OH the more likely it became that OH would bet on his transfer. It seems to us to be clear that by 13 July he ought to have known that OH would bet on his transfer to Atlético especially since the information then being provided to OH made it appear very likely that the transfer would take place. By this stage the odds obtainable on the transfer were very tight. In our view KT has failed to prove on balance of probability that in all the circumstances prevailing he could not reasonably have known that OH would bet upon his transfer. However, as with charges 1and 2 and for reasons explained at paragraph 84 and 85 below we do not consider that KT knew that that OH would bet on his transfer.

76. For the reasons given above this charge is proved.

Charge 5

It is alleged that on or before 15 July 2019, you provided to Oliver Hawley information relating to football, namely information concerning a possible move by you from

Tottenham Hotspur FC to Atlético Madrid, which you obtained by virtue of your position within the game and which was not publicly available at that time. That inside information was subsequently used (in part or in whole) by Oliver Hawley for, or in relation to, betting.

77. It is accepted that this charge is also proved unless KT can make good the *regulatory defence*. It is clear that KT provided inside information to the *Boys Promotion Group* which included OH – see the messages at paragraphs 37 and 39 above. OH placed a total of five bets in reliance upon the information with which he was provided that day – see paragraphs 38 and 39 above.

78. The *regulatory defence* to this charge fails on the same basis that it failed in respect of Charge 3 and would have failed in respect of Charges 1 and 2. Additionally, we should record that KT appeared to rely upon the fact that the inside information which he provided to OH on 15 July was disseminated amongst a group which he regarded as his trusted friends. It does not seem to us that this circumstance assists KT at all. Rather, in our view, it tends to demonstrate a lack of concern on his part about the possible ramifications of providing information about his transfer. But, in any event, the issue for us is whether KT has proved, on balance of probability, that he could not reasonably have known that OH would use the information provided for, or in relation to, betting. In truth, the issues arising in relation to whether KT can establish this defence are identical to those which arise in respect of Charges 1, 2 and 3, and with the added complication for KT that by 15 July he had provided more and more information to OH to the effect that it was more and more likely that the transfer to Atlético would take place. We discuss at paragraphs 84 and 85 below whether KT has proved that he did not know that OH would bet on his transfer.

79. This charge is proved on the basis that KT cannot prove on balance of probability that in all the circumstance prevailing on or before 15 July he could not reasonably have known that OH would bet on his transfer.

Charge 6

It is alleged that on or before 16 July 2019 you provided to Oliver Hawley information relating to football, namely information concerning a possible move by you from Tottenham Hotspur FC to Atlético Madrid, which you obtained by virtue of your

position in the game and which was not publicly available at that time. That inside information was subsequently used (in part or in whole) by Oliver Hawley for, or in relation to, betting.

80. This charge is also proved unless KT can establish the *regulatory defence*. Although KT, himself, tried to assert under cross-examination that the information which he provided about having a medical – as to which see paragraph 41 above – was not necessarily relevant for betting purposes, we have no doubt that the information constituted inside information and that OH used it when he bet, as he did on 16 July, on two occasions (placing a bet of £300 at odds of 1/6 on the second occasion).

81. All of the factors which led us to conclude that the *regulatory defence* could not succeed in respect of Charges 1, 2, 3 and 5 apply with equal force in respect of this charge. We are quite satisfied that KT cannot prove on balance of probability that in all the circumstances he could not reasonably have known that OH would bet. No useful purpose would be served by a repetition of the reasons for reaching that conclusion.

82. This charge is proved.

83. There remains one issue which we must address with care in respect of Charges 1, 2, 3, 5 and 6 (although in respect of charges 1 and 2 our conclusion upon it is academic). We have found that KT has failed to prove that in all the circumstances he could not reasonably have known that OH would place bets upon his transfer to Atlético. Has he also failed to prove that he did not know that OH would bet on his transfer?

84. We have scrutinised this issue with considerable care. KT adamantly and vehemently denied before us that he knew that OH would bet upon his transfer and, ultimately, our task is to assess whether, on balance of probability, KT was telling us the truth.

85. We have reached the conclusion that KT's evidence on this issue was probably true. We are prepared to accept that there never did come a time when KT had actual knowledge of OH's betting and, for the avoidance of any doubt, there was no point in time at which it would be proper to impute to KT knowledge of such betting (assuming that is permissible which we do not need to decide). In reaching that conclusion, we have given full weight to the evidence of

his good character and to the sheer improbability of his breaching the FA Rules flagrantly and repeatedly. We have given some weight to the fact that for professional players a move abroad is a substantial decision that effects friendships and family and justifies discussion with friends and family. Players are entitled to trust their friends and their family and in this case the relationship between KT and OH was of long duration and obviously close. That KT did discuss matters with OH relating to his transfer was a natural course of their friendship and does not show actual knowledge of betting and whilst KT's trust was misplaced and objectively wrong such that he could reasonably have known of OH's betting, we do not find that KT actually knew OH was betraying that trust. We have weighed in the scales as pointing away from our conclusion our finding on Charge 4(a) – as to which see below – and we have scrutinised closely the evidence given by KT about whether or not he sought to persuade OH, in particular, to cooperate with the FA's investigation when asked to do so which seemed to us to be an unsatisfactory part of his evidence. While there are reasons to be sceptical about parts of KT's evidence as we have indicated and will indicate in respect of charges 4(a) and 4 (b), on this central issue as to the state of his knowledge about whether he knew that OH would bet on his transfer we accept what he has always said.

Charges 4(a) and 4(b)

Charge 4(a)

It is alleged that on or before 14 July 2019, you provided to Matthew Brady information relating to football, namely information concerning a possible move by you from Tottenham Hotspur FC to Atlético Madrid, which you obtained by virtue of your position within the game and which was not publicly available at that time. That inside information was subsequently used (in part or in whole) by Matthew Brady for, or in relation to, betting.

Charge 4(b)

It is alleged that on 14 July 2019 you instructed and / or permitted and / or caused and / or enabled Matthew Brady to bet on a matter concerning or related to football, namely the possible transfer of you from Tottenham Hotspur FC to Atlético Madrid.

86. In the letter of 1 May 2020, these charges are expressed to be alternatives. At paragraph 14 of the *Initial Case Summary*, the FA maintains that Charge 4(b) is an alternative to Charge 4(a). That assertion is repeated at paragraph 54 of the *Initial Case Summary*.

87. During her closing submissions to us at the liability hearing, Ms Gallafent QC accepted that Charges 4(a) and (b) were intended as alternatives and that it was not open to us to find both charges proved. However, she submitted that we should consider Charge 4(b) first, since, in her view, that was the more serious of the two charges and, in consequence, it fell to be considered first.

88. There are two elements to Charge 4(b) which must be proved before misconduct is established. First, the FA must prove that MB bet upon KT's transfer from Tottenham to Atlético. Second, it must prove that KT instructed or permitted or caused or enabled MB so to act.

89. The FA relies upon the following in order to prove the two elements of the offence. KT and MB met at Paradise Wildlife Park during the course of the afternoon of Sunday, 14 July – so much is common ground. While they were together, suggest the FA, KT disclosed to MB that a transfer to Atlético was imminent. Later that day, the two men exchanged texts as set out at paragraph 35 above. The obvious and natural meaning of that exchange, argue the FA, is that MB asked KT whether he should bet heavily on KT's transfer to Atlético and, ultimately, KT replied "*Lump on if you want mate* 😂". The expression "*lump on*" is commonly understood to mean bet heavily. The next day, MB sent KT a text saying "*Could only put a little bit on mate, they massively restricted the bet, keep me posted pal* 👍😬😬". KT's reply was "*No worries mate*". When he gave evidence, MB did not deny that a bet had been placed upon KT's transfer to Atlético. He said, however, that it was not he who had placed the bet but a man called M. His evidence was that he played no part in M's decision to bet. When he messaged KT in the terms set out at paragraph 40 above MB was describing M's bet; he was not describing any activity in which he was personally involved.

90. In his witness statement, MB's account of the circumstances surrounding a bet being placed on KT's transfer is at paragraph 14. As in his oral evidence, he denied that he had placed a bet on KT's transfer to Atlético. His witness statement then continued:

> "*I cannot recall the precise timing of events as it was a long time ago but I recall that on that day I spoke to a close friend of mine and told him about Kieran's visit to Paradise Park… including that Kieran might be going to Atlético Madrid. Later that day, when I was speaking to one of our mutual friends, he said that my other friend had told him about Kieran and that he had put a bet on Kieran moving to Atlético Madrid, but only a small one as he could not put much on. I did not think there was any issue with this, as I had not bet myself and had not told anyone else to bet. As this had all been a bit of a joke, I sent the message to Kieran. ...* "

91. It is noteworthy that MB failed to name or otherwise identify either of the two men allegedly involved in the sequence of events leading to a bet upon KT's transfer. MB named M for the first time under cross-examination and the second man allegedly involved, R, was also named for the first time under cross-examination.

92. We are not prepared to accept MB's evidence that a bet was placed upon KT's transfer to Atlético but he played no part in the placing of that bet. The words used in the message sent on 15 July are precise and are much more consistent with MB having placed the bet himself or having asked a third person to place the bet on his behalf. The phrase "*massively restricted the bet*" demonstrates, in our view unequivocally, that MB was completely familiar with the details of what had occurred which in turn strongly suggests that he was a party to what had occurred.

93. Notwithstanding that there is no independent evidence to show when or by whom a bet was placed upon KT's transfer, we are satisfied, on balance of probability, that MB did, himself, bet upon the transfer or was party to the bet being placed. In our view the language used by MB in his messaging with KT (paragraphs 35 and 40 above) is much more consistent with him placing the bet himself or being party to the bet being placed. We do not understand Ms Mulcahy QC to argue that this element of the offence would not be made out if MB was a party to the bet being placed.

94. However, we have reached the conclusion that the FA cannot prove that KT instructed, permitted, caused or enabled MB to bet. In our view, each of those words must be given its natural and obvious meaning. The sequence of messages sent by KT set out at paragraph 31 above did not constitute an instruction to bet and, in truth, it would be straining the concepts of permitting, causing and enabling to conclude that those words were apposite to describe the messages which he sent. In our view, the word which most naturally and obviously describes

what KT was doing when sending those messages is "encouraging". As Ms Mulcahy QC put it, succinctly, if the FA wish to prohibit a participant from encouraging another to bet, it should use that word in the regulation rather than seek to argue that conduct or words which, in substance, amount to encouragement also constitute permitting, causing or enabling. These concepts should not be conflated submitted Ms Mulcahy QC and we agree.

95. We are not satisfied that KT instructed, permitted, caused or enabled MB to bet and, accordingly, Charge 4(b) is dismissed.

96. That means that we must consider Charge 4(a). We have no doubt that it is appropriate to infer that KT provided to MB inside information during the course of their meeting at Paradise Wildlife Park. KT admits that he told MB that he was hoping to move to Atlético in order to correct an impression which may have been formed during a conversation with MB's mother that his move was to Real Madrid. In our view, however, the proper inference to draw is that KT told MB much more definitively that he was to move to Atlético.

97. Even if that conclusion is not justified, however, it matters not since the messaging which occurred later that evening (paragraph 35 above) clearly contained inside information. The only sensible interpretation of KT's messages is that his transfer to Atlético was almost certainly going to take place and that it was safe to bet heavily upon it.

98. In reality it is not disputed that KT provided inside information to MB on 14 July. It is, of course, disputed that MB used that information for, or in relation to, betting. However, for the reasons which we have set out above at paragraphs 89 to 93 above we are satisfied that MB either placed a bet upon KT's transfer himself or was a party to the placing of such a bet and, accordingly, we are satisfied that he used the inside information imparted to him for, or in relation to, betting.

99. That leaves the *regulatory defence*. In respect of this charge, we are forced to conclude that KT has failed to prove that he did not know that MB would bet. The messages between the two men on 14 July very strongly suggest that MB would bet on the transfer and, further, that KT knew that he would. We simply do not accept that these messages would be read by KT as "*banter*". There is nothing about the words used by the men which is consistent with banter as that word is normally understood. The purpose of the messaging is quite clear. MB was

seeking reassurance that he should bet heavily on KT's transfer to Atlético; KT provided such reassurance. In those circumstances, it seems to us that we have no option but to conclude that KT knew that MB would bet upon the transfer and, accordingly, the *regulatory defence* must fail. Charge 4(a) is proved.

Charge 7

It is alleged that on or before 16 July 2019 you provided to B information relating to football, namely information concerning a possible move by you from Tottenham Hotspur FC to Atlético Madrid, which you obtained by virtue of your position within the game and which was not publicly available at that time. That inside information was subsequently used (in part or in whole) by B for, or in relation to, betting.

100. We can deal with this charge very quickly. It is accepted that KT provided inside information to the WhatsApp group *Boys Promotion* during the course of messages which he sent out on 15 July and in the morning of 16 July and that B was one of the recipients of that information. B accepts that he bet a modest amount "for fun" on KT's transfer while he was waiting for a meeting to start. The odds he secured were 3/10 and, sensibly, the only conclusion open to us is that B used inside information for the purpose of betting. The only issue which arises in respect of this charge is whether or not KT can establish the *regulatory defence*.

101. We say at once that we are satisfied that KT did not know that B would bet. There is nothing about the messaging between the two men which would have alerted KT to that possibility – unlike in the cases of OH and MB. We are satisfied that KT probably knew that B was accustomed to bet on sporting events. However, such knowledge, in itself, and without more, does not negate the *regulatory defence*, at least in the context of this charge. The plain fact is that there is no objective evidence which suggests KT should have known of the possibility that B would bet on his transfer. There is no objective evidence that KT should have known that such conduct was likely. In the cases of betting by OH and MB, KT was provided with clear indications by the men themselves that they would bet on his transfer if provided with inside information. B said nothing to alert KT that he would bet. He did nothing which should have alerted KT that he would bet. We are satisfied that the *regulatory defence* is made out in respect of Charge 7. KT did not know and could not reasonably have known in all the prevailing circumstances that B would bet on his transfer. This charge is dismissed.

Conclusion on Liability

102. We find Charges 3, 4(a), 5 and 6 proved. Charges 1, 2 4(b) and 7 are dismissed.

Sanctions

Betting Guidelines

103. In or about 2014 the FA formulated and then issued "Betting Sanction Guidelines" ("the guidelines"). For ease of reference they are attached to this decision as Appendix 1 and the pages are numbered 266 to 269 so as to coincide with the pagination of the Bundle which was provided to us for use at the hearings. So far as we are aware those parts of the guidelines which are relevant to this case (page 268) have not been revised since their issue in 2014.

104. As can be seen from page 268 the guidelines are laid out in tabular form and they are intended to apply to four different factual scenarios related to the provision of inside information and the use of that information for betting. The first scenario envisages the provision of inside information by a Participant to another in circumstances in which the Participant *"could not reasonably have known it was likely to be used for betting".* Such behaviour would not amount to a breach of Rule E8(1)(b) since the *regulatory defence* would be invoked successfully. Nonetheless the guidelines suggest that it would be open to a commission to warn the participant about his conduct. The second scenario envisages the provision of inside information by a Participant to another in circumstances in which the Participant *"should reasonably have known it was likely to be used for betting"*. The parties are agreed that charges 3, 5 and 6 fall within this scenario. The guidelines suggest the imposition of a fine and a period of suspension of up to 3 months in respect of such misconduct. The third scenario envisages the provision of inside information by a Participant to another in circumstances in which the Participant knows *"it is likely to be used for betting"*. Ms Mulcahy QC submits that charge 4(a) falls into this category. The guidelines suggest that this misconduct should attract a fine and a suspension in the range *"3 months-life".* The fourth and most serious scenario envisages *using or providing inside information for the purpose of betting"*. Ms Gallafent QC submits that charge 4(a) falls into this category. The Guidelines suggest that such misconduct should attract a fine and a suspension in the range *"6 months-life"*.

105. Immediately below the scenarios and the suggested sanctions there are a number of factors which are each highlighted by a bullet point. They are introduced with the following words *"Factors to be considered when determining appropriate sanction will include the following"*. Self-evidently these factors are not intended as an exhaustive list.

106. We should also draw attention to the column of the table which appears on its left hand side. It consists of three boxes. The first box is relevant to the imposition of a fine and contains the words *"Financial Entry Point – Any fine to include, as a minimum, any financial gain made from any bet(s)"*. The second box concerns suspension and contains the words *"Sport sanction range"* and the third box (which appears to be relevant to the factors to be taken into account when determining an appropriate sanction) contains the words *"Factors to be considered in relation to any increase/decrease from entry point"*.

107. Finally, in relation to the guidelines, page 268, itself, makes it clear that a regulatory commission is not bound to impose a sanction or sanctions which fall squarely within the guidelines. That is made clear from the words which appear immediately beneath the table. The guidelines are not *"intended to override the discretion of [a commission] to impose such sanctions as [it] consider[s] appropriate having regard to the particular facts and circumstances of the case."* However, in the interests of consistency, the FA anticipates that *"the guidelines will be applied unless the applicable case has some particular characteristic(s) which justifies a greater or lesser sanction outside the guidelines"*.

108. As we have mentioned, the parties agree that charges 3, 5 and 6 fall within the guidelines for scenario three i.e. *"providing inside information where Participant should reasonably have known it was likely to be used for betting"*. How should charge 4(a) be categorised?

109. In our view, KT did not, himself, use inside information for the purpose of betting. That has never been suggested. Further, it has never been suggested that KT and MB were each party to an agreement whereby KT would supply inside information to MB about his transfer so that MB could use that information for the purpose of betting.

110. More difficult to resolve is whether, on balance of probabilities, KT provided inside information to MB *"for the purpose of betting"*. There is no doubt that KT provided inside information to MB – see paragraphs 96 and 97 above. Shortly thereafter, in our view, MB

placed a bet on KT's transfer or was party to such a bet being placed – see paragraphs 89 to 93 and 98 above. Further, we are satisfied that KT is unable to prove, on the balance of probabilities, that he did not know at the time that he provided at least some of the inside information that MB would bet (or would be party to a bet) on his transfer –see paragraph 99 above. Quite the contrary, we have found that KT probably knew that MB would bet at the time he messaged him on 14 July 2019 – see the concluding sentence of paragraph 99.

111. If scenario three did not appear in the guidelines we would probably conclude that KT had provided inside information to MB "*for the purpose of betting".* However, the FA must have intended that there should be a clear distinction between a Participant who provides inside information to another person knowing that person is likely to use the information for betting and a Participant who provides inside information to another *"for the purpose of betting"*. In our view that distinction can only be maintained sensibly if the phrase "*for the purpose of betting"* is intended to apply to a Participant who knows in advance of providing the information that the person to whom he imparts the information will bet on the strength of it and that he, the Participant, intends that this should happen. In our view, given that scenario three appears in the guidelines, scenario four is best explained on the basis that it is reserved for a Participant who, in effect, agrees with another that a bet should be placed on his transfer in reliance upon inside information which he provides. If that is correct, we take the view that KT's conduct in providing MB with inside information falls more naturally into scenario three given the evidence available to us as to the circumstances surrounding charge 4(a). Accordingly, the guideline sporting sanction applicable in this case in respect of charge 4(a) is *"3 months – life"*.

112. Before leaving the guidelines, however, there are three other points to which we would like to draw attention.

113. As we have said, the table on page 268 sets out a number of factors which should be considered by a regulatory commission before it reaches its conclusion upon sanction(s). In the left hand column of the table, these factors are to be considered *"in relation to any increase/decrease from entry point"*. However, in that part of the table in which the factors are identified and set out they are preceded with the words *"Factors to be considered when determining appropriate sanction will include the following"*.

114. We feel constrained to say that this part of the guideline would benefit from greater clarity. In our view the guidelines as they relate to a sporting sanction or a fine do not provide for entry points as that phrase is normally understood in the regulatory context. The guidelines as they relate to the sanction of suspension indicate that a period of suspension should be imposed which falls within a range for particular scenarios as we have set out above. The specific factors mentioned in the table should be considered by a commission before determining the actual period of suspension which it considers to be appropriate. The guidelines offer virtually no assistance as to the level of fine which should be imposed in any given case. No range is suggested for the different scenarios. The only guidance provided is that a financial penalty as a minimum should be equal to any gain made from the betting in question.

The second aspect of the guidelines to which we draw attention is that they do not provide any specific guidance as to how a commission should approach misconduct consisting of the provision of inside information to a family member or friend about a potential transfer from one club to another which is then used by that family member or friend *"for, or in relation to, betting"*. The FA acknowledges that a player is and should be free to discuss a potential transfer with a family member or friend if he considers it to be appropriate. That being so, it is likely that inside information is often imparted by high profile players about potential transfers and it seems clear to us that there is a growing interest in betting upon such transfers. The first two factors mentioned in the table at page 268 appear to us to demonstrate that when the guidelines were first promulgated the emphasis was upon betting which related to the result of matches and whether the Participant was playing in the match in question. We are not surprised by this emphasis – quite the contrary. We do wonder, however, about the efficacy of guidelines in which there is no differentiation whatsoever between the subject matter of the betting activity and where the range of suggested suspensions for the more serious misconduct cases involving betting is extremely wide.

115. Finally, we draw attention to the fact that the 4 scenarios specified in the guidelines do not encapsulate all the possible circumstances in which a Participant may be subject to a finding that he has breached Rule E8. Most obviously, there is no explicit guideline in respect of the offence of instructing, permitting, causing or enabling any person to bet. Further the third and fourth scenarios contained within the guidelines at page 268 set out at paragraph 104 above do not sit entirely consistently with the offences created by Rule E8(1)(b) and the *regulatory defence* created by Rule E8(1)(c). The offences created by Rule 8(1)(b) are proved if the

Participant provides inside information to another who subsequently uses it *"for, or in relation to betting".* The offender may escape a finding of misconduct if he proves on balance of probability that *"he did not know, and could not reasonably have known, that the information provided would be used by the other person for or in relation to betting.*" The language used in scenarios three and four requires a commission to make findings which are not necessary in order for it to determine whether a charge contrary to Rule E8(1)(b) has been made out and/or whether the Participant has proved the *"regulatory defence"*.

Proportionality and Deterrence

116. On behalf of KT the submission is made that there exists an overarching principle to the effect that any sanction imposed by a regulatory commission must constitute a proportionate response to the misconduct in question. Ms Gallafent QC does not disagree. However, in the written submissions of the parties, there is, to a limited extent, a disagreement as to what the word *"proportionate"* means in the regulatory context. To be more precise, Ms Mulcahy QC and Ms Potts submit that a sanction would not be proportionate if it was made more severe than that which was commensurate with the culpability of the offender simply to deter others from committing like offences. Ms Gallafent QC and Ms Rooney argue that a sanction may be proportionate even if, in part, it is designed to deter others from offending and as a consequence is more severe than the sanction would be in the absence of a deterrent element.

117. This debate was considered, quite extensively, in the recent disciplinary proceedings involving *Daniel Sturridge* ("DS"). In our view, both the Regulatory Commission and the Appeal Board in those proceedings accepted that any sanction imposed must indeed be proportionate but also concluded that a proportionate sanction may have as part of its rationale a deterrent element provided that this element did not make the sanction in question out of all proportion to that which would otherwise have been imposed. In so concluding it followed and applied the decision of Richards J (as he then was) in *Bradley v Jockey Club 2004 EWHC 2164* – see, in particular, paragraph 109 of his judgment which is quoted in full in the decision in Mr. Sturridge's case. We repeat and adopt the view of the Appeal Board in DS that a sanction may be imposed which has the combined aims of punishing the offender, deterring him and others

from offending and protecting the integrity of the sport always provided that the sanction remains a proportionate response to the offending in question.

The relevance of the sanctions imposed in the case of DS

118. It is accepted on behalf of the FA that the misconduct proved against DS was more serious than the misconduct we have found proved against KT. The Regulatory Commission found that DS had instructed another to bet on his transfer on two separate occasions contrary to Rule E8(1)(a)(ii). On appeal by the FA, the Appeal Board found that two additional charges contrary to Rule E8(1)(b) had been proved. The Appeal Board allowed the FA's appeal against the sanctions originally imposed by the Regulatory Commission and suspended DS for a total period of 4 months and fined him £150,000.

119. It is common ground that we are not bound by previous decisions of appeal boards or regulatory commissions. However, Ms Gallafent QC accepts that consistency of approach in regulatory proceedings is important so that if an appeal board has articulated an approach to an issue of principle of general application, a regulatory commission or appeal board should be slow to depart from that approach. So, in this case, she invites us to adopt the same approach to the issue of proportionality and deterrence as was taken by the Appeal Board in DS. She submits, however, that this does not mean that the sanctions imposed in DS have any relevance to the sanctions which we should impose in this case. Her contention is that the appropriate sanction in any given case must depend upon the relevant factual matrix in which it is being imposed. Further, and in any event, Ms Gallafent QC characterises the sanctions imposed by the Appeal Board upon DS as "particularly lenient" and accordingly, she submits that this is additional reason why we should disregard them.

120. Ms Mulcahy QC submits that the desirable aim of achieving consistency as between different appeal boards/regulatory commissions is not confined to points of principle of general application. She argues that an important feature of guidelines is the promotion of consistency (the guidelines say as much) and, accordingly, it can also be appropriate to take account of previous decisions on sanctions which have features in common with subsequent cases. She submits that the sanctioning decision in DS is relevant to our decision in this case and she submits, too, that Ms Gallafent QC is wrong to characterise the sanctions imposed in DS as particularly lenient.

121. Having considered the rival arguments, we are satisfied that there will be instances in which previous decisions on sanctions will be of relevance to subsequent sanctioning decisions. When and in what circumstances that is so will be for the decision maker in the subsequent case to determine.

122. We have considered the decision in DS with care. We accept that the offending of DS was more serious than the misconduct proved against KT. In our view, the misconduct of DS was significantly worse than the misconduct of KT. We have also considered with care Ms Gallafent's submission that the sanctions imposed by the Appeal Board upon DS were particularly lenient. Perhaps not surprisingly, the chair does not agree. However, we should record, too, that the two other members of this Regulatory Commission consider that the sanctions imposed upon DS were not particularly lenient; rather, in their view, they were within a reasonable range of sanctions which were appropriate for the misconduct proved against DS. In our collective view, the sanctions imposed upon DS are a relevant consideration to be taken into account when fixing the sanctions in this case.

Aggravating and Mitigating features and the factors specified in the guidelines.

123. We are satisfied that there are no aggravating features in this case which should be taken into account in determining the appropriate sanctions. Neither in her written nor in her oral submissions did Ms Gallafent QC identify any such features.

124. Ms Mulcahy QC asked us to accept that there are a number of mitigating features in this case which are not really in dispute. First and foremost, she relied upon KT's previous disciplinary record and his general good character. We touched upon these matters in a different context at paragraph 45 above. The character evidence adduced on behalf of KT comes from an impeccable source and is impressive. For a player who has played most of his football in a role which is primarily defensive KT has an enviable disciplinary record. Second, KT's offending spanned no more than 4 days and it occurred at a time when he was experiencing a difficult time due to injuries and uncertainty about his future. Third, KT has shown genuine remorse

for his actions. KT sought to convince us that he was genuinely remorseful in the short address he made to us at the conclusion of the sanctions hearing. Fourth he has, no doubt, suffered worry and stress over a prolonged period while these proceedings have unfolded.

125. We accept that each of these features constitute proper mitigation in this case.

126. Ms Mulcahy QC also relied upon a number of other features which she submits constitute mitigating features but which the FA was disposed to doubt. We deal with each, shortly, in turn.

127. Ms Mulcahy QC argues that KT should be given credit for co-operating with the FA prior to charge; Ms Gallafent QC disputes this maintaining that KT had no real option but to co-operate to the extent that he did if he was to preserve a real prospect of returning to play his football in the Premier League in England after a stint in Spain. It is true that by the time that the FA had begun its investigation of KT he was beyond its jurisdiction following his transfer. Accordingly, his willingness to submit to the FA's jurisdiction and co-operate with its investigation was, in a sense, voluntary. It is also true, however, that had KT refused to co-operate in 2019, when approached by the FA, he would just have been postponing the "evil day" since, inevitably, in our view, an investigation would have begun the moment that KT resumed playing in England. However, we cannot help but think there was one aspect of KT's willingness to co-operate which does stand him in good stead and that is his willingness to hand over his mobile phone for forensic examination. The evidential basis of the case brought against KT is dependent to a significant degree upon that which was revealed by the forensic examination of the mobile phone. In our judgment KT's willingness to hand over the phone at the very early stages of the investigations does constitute a proper mitigating feature. Without the forensic evidence relating to the phone the case against KT on charge 4(a), in particular, would be non–existent.

128. We do not accept, as Ms Mulcahy QC suggests we should, that KT's offending can be viewed as *"one-off"*. 4 charges have been proved. It may be that it is appropriate to view charge 4(a) as being a *"one-off"* but we consider it more appropriate to characterise KT's misconduct as occurring over a limited time span.

129. In his witness statement of 4 December 2020 KT expressed the wish to become involved in a programme of educating his fellow professionals about the FA Betting Rules. Is that a mitigating feature? Ms Gallafent QC submits that it is not because it is no more than an expression of a wish or hope on the part of KT; there is no means available to us to ensure that the hope translates into reality. We accept that there is no means by which we can compel KT to engage in a programme of educating others about the Betting Rules and the dangers associated with infringing the Rules. However, we do accept that KT's apparent willingness to engage in educating his fellow professionals is a clear sign that he is genuinely remorseful. We express the hope that KT will undertake work to assist his fellow professionals to understand the betting rules notwithstanding that he cannot be compelled to do so.

130. In the course of considering the mitigating features advanced by Ms Mulcahy QC we have taken account of a number of the factors specified in the guidelines as being relevant to sanction. However, a number of the factors mentioned in the guidelines relate to the betting which took place. We must consider the number of bets, the size of the bets, the facts and circumstances surrounding the pattern of betting and the actual stakes and the amount which might be won.

131. We have no means of knowing the size of the bet placed by or on behalf of MB other than by reference to the message he sent to KT that *"could only put a little bit on mate"* – see paragraph 40 above. That said, MB's message is likely to be correct as by this time the odds on KT's transfer were very short for the simple reason that there was a general expectation by 14/15 July 2019 that KT's transfer was very likely to take place. The betting undertaken by OH as it relates to the charges found proved (3, 5 and 6) was comparatively modest in scale, there were a total of 11 bets, the total stakes did not amount to £1,000 and the winnings were no more than a small percentage overall of the bets placed given the prohibitive odds at which most of the bets were placed. In our view the nature and pattern of the betting undertaken by OH means that KT's offending in relation to charges 3, 5 and 6 was very much at the lower end of the scale in terms of KT's culpability. This is especially so given that we have adjudged that the *regulatory defence* to charges 3, 5 and 6 failed not because KT knew that OH was betting but rather because he should have known.

132. We are satisfied overall that the nature of KT's offending is such that he should be suspended from football and football related activity for a significant period of time and that he should also pay a substantial fine. The level of fine has been dictated by KT's net earnings, the seriousness of the offending and the fact that KT must serve a significant period of suspension. The two sanctions should be viewed in combination in order to judge whether they meet the justice of this case. In reaching our conclusion as to the length of the suspension and the amount of the fine we have taken account of the need to punish KT, to deter him from offending again, to deter others from similar offending and to protect the integrity of the sport. We have also taken account of the mitigating features and other factors considered above. Finally, we have taken account not just of the principles formulated in DS but also the sanctions imposed upon DS. We consider that the sanctions imposed upon KT sit reasonably with the sanctions imposed upon DS given the nature and extent of their offending. In our view, KT's offending was sufficiently serious as to make it unjust to suspend the operation of the sanctions imposed upon him either in whole or in part.

133. It will be apparent that the suspension of 10 weeks which we impose in respect of charge 4(a) is lower (by 2 weeks or thereabouts) than the lower end of the suggested suspension range in the guidelines. We consider a departure from the suggested range to be justified for two principal reasons which must be considered together. First, absent the sanctions imposed in DS and assuming that we were not able to find a particular characteristic which justified a departure from the guidelines (upon which we need not dwell) we would not have thought it right to impose a suspension of more than 3 months given all the circumstances surrounding this offending and the mitigating features to which we have referred. Second, once the sanctions imposed in DS are taken into account we are satisfied that a suspension which is less than 3 months by a modest amount is proportionate so as to preserve a reasonable degree of parity between KT and DS.

134. For completeness we add that we see no reason to impose other than concurrent periods of suspension in respect of charges 3, 5 and 6. In our view, an overall suspension of 10 weeks coupled with a substantial fine is, in combination, a proportionate response to KT'S offending. Accordingly, in respect of charge 4(a) KT is fined the sum £70,000 and he is suspended from all football and football related activity for a period of 10 weeks from 21 December 2020. In

respect of charges 3, 5 and 6 he is suspended from football and football related activity for concurrent periods of 4 weeks.

The costs of and associated with the Regulatory Commission.

135. Ms Mulcahy QC submits that these costs should be borne equally by the FA and KT. Ms Gallafent QC submits that they should be paid by KT.

136. We have no doubt that the costs of and associated with the Commission should be paid by KT. We do not regard the fact that we dismissed some of the charges brought against KT as a sufficient reason for splitting these costs equally between the FA and KT which can be the only basis upon which Ms Mulcahy QC founds her submission. We have considered whether we should direct that the costs should be split in some other proportion (less favourable to KT) but we have decided against that course. The plain fact is that the FA has proved 4 significant breaches of its Rules and we have decided to impose a lengthy suspension and a substantial fine upon KT by reason of those breaches. In our view, it is just and proportionate that he should pay the costs incurred as a consequence of convening a Regulatory Commission.

Wyn Williams
Louis Weston
Stuart Ripley

4 January 2021

Appendix 1

SANCTION GUIDELINES – BETTING CASES CHARGED UNDER FA RULE E8 (b)

	Bet placed on any aspect of any football match anywhere in the world, but not involving Participant's Club competitions.	**Bet placed on Participant's competition but not involving his Club (including spot bet).**	**Bet placed on own team to win.**	**Bet placed on own team to lose.**	**Bet placed on particular occurrence(s) not involving the player who bet (spot bet).**	**Bet placed on particular occurrence(s) involving the player who bet (spot bet).**
Financial Entry Point – Any fine to include, as a minimum, any financial gain made from the bet(s)	Warning / Fine	Fine	Fine	Fine	Fine	Fine
Sports sanction range	Suspension n/a	Suspension n/a where Participant has no connection with the Club bet on*	0-6 months to be determined by factors below	6 months - life to be determined by factors below	0 – 12 months	6 months - life
Factors to be considered in relation to any increase/decrease from entry point	Factors to be considered when determining appropriate sanctions will include the following: • 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.					

*A suspension equivalent to betting on own team may be appropriate where a Participant has recently been on loan at the Club bet on.

The guidelines are not intended to override the discretion of Regulatory Commissions to impose such sanctions as they consider appropriate having regard to the particular facts and circumstances of a case. However, in the interests of consistency it is anticipated that the guidelines will be applied unless the applicable case has some particular characteristic(s) which justifies a greater or lesser sanction outside the guidelines.

The assessment of the seriousness of the offence will need to take account of the factors set out above. A key aspect is whether the offence creates the perception that the result or any other element of the match may have been affected by the bet, for example because the Participant has bet against himself or his club or on the contrivance of a particular occurrence within the match. Such conduct will be a serious aggravating factor in all cases. A further serious aggravating factor will be where the Participant played or was involved in the match on which the bet was made.

Betting offences are separate and distinct from charges under FA Rule E5 which concerns match fixing. It should be noted that save in exceptional circumstances a Participant found to have engaged in fixing the outcome or conduct of a match would be subject to a lifetime ban from the game. Where it can be proved that a bet has actually affected a result or occurrence within the match then such conduct will be specifically charged rather than treating the incident as a betting offence.

SANCTION GUIDELINES – INSIDE INFORMATION CHARGED UNDER FA RULE E8 (d) OR (e)

	Providing inside information where Participant could not reasonably have known it was likely to be used for betting.	**Providing inside information where Participant should reasonably have known it was likely to be used for betting.**	**Providing inside information knowing it was likely to be used for betting.**	**Using or providing inside information for the purpose of betting.**
Financial Entry Point – Any fine to include, as a minimum, any financial gain made from any bet(s)	NFA / Warning	Fine	Fine	Fine
Sport sanction range	Suspension n/a	0 – 3 months	3 months - life	6 months - life
Factors to be considered in relation to any increase/decrease from entry point	Factors to be considered when determining appropriate sanction will include the following: • Overall perception of conduct on fixture/game integrity; • Player played or did not play in fixture(s) concerned; • 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.			

The guidelines are not intended to override the discretion of Regulatory Commissions to impose such sanctions as they consider appropriate having regard to the particular facts and circumstances of a case. However, in the interests of consistency it is anticipated that the guidelines will be applied unless the applicable case has some particular characteristic(s) which justifies a greater or lesser sanction outside the guidelines.

SANCTION GUIDELINES – FAILURE TO REPORT AN OFFENCE UNDER FA RULE E14

	Failure to Report an Offence Under E14 made to the Participant themselves.	**Failure to Report an Offence Under E14 made to a third party which a Participant becomes aware of.**
Financial Entry Point	Fine - to be not less than any financial benefit the Participant accrued in relation to the matter.	Fine - to be not less than any financial benefit the Participant accrued in relation to the matter.
Sports sanction range	[6 months - 5 years]	[0 months - 2 years]
Other sanction considerations	Consideration must be given as to whether a mandatory education order be made.	Consideration must be given as to whether a mandatory education order be made.
Factors to be considered in determining appropriate sanctions	Factors to be considered when determining appropriate sanctions will include, but not necessarily be limited to, the following: • The involvement of the Participant in any actual or potential corrupt activity relating to the offence; • The credibility of the approach made to the Participant; • Assessment of any threats made to personal safety of Participant or any other person should a report be made; • The Participant's personal circumstances; • Participants previous record – (any previous breach of reporting/betting/integrity Rules will be considered as a highly aggravating factor); • Age and/or experience of the Participant; • Assistance to the process and acceptance of the charge; • Overall impact on reputation and integrity of game.	Factors to be considered when determining appropriate sanctions will include, but not necessarily be limited to, the following: • The involvement of the Participant in any actual or potential corrupt activity relating to the offence; • The credibility of the approach made to the third party; • Assessment of any threats made to personal safety of Participant or any other person should a report be made; • The Participant's personal circumstances; • Participants previous record – (any previous breach of reporting/betting/integrity Rules will be considered as a highly aggravating factor); • Age and/or experience of the Participant; • Assistance to the process and acceptance of the charge; • Overall impact on reputation and integrity of game.