

IN THE MATTER OF A REGULATORY COMMISSION OF THE FOOTBALL ASSOCIATION

THURSDAY 22 JUNE 2023

BETWEEN:

THE FOOTBALL ASSOCIATION

And

BLACKPOOL F.C.

WRITTEN REASONS

Background

1. These are the written reasons for the decisions made by a Regulatory Commission which sat on Thursday 22 June 2023 to determine the Charge referred to below for a breach of FA Regulation E21, which Charge had been admitted thereby restricting the Commission's deliberations to those of considering the appropriate sanction.
2. By a Charge Letter ("**the Charge**") dated 20 April 2023, Blackpool F.C. ("**Blackpool**") were charged with a breach of Rule E21.4 in respect of matters arising during a match between Blackpool and Wigan Athletic F.C. on 15 April 2023 ("**the Match**"). The Charge is as follows:

"You are hereby charged with misconduct for a breach of Rule E21.4 in respect of the Match.

It is alleged that Blackpool FC failed to ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers) conduct themselves in an orderly fashion whilst attending the Match and do not use words or otherwise behave in a way which is improper, offensive, abusive, indecent or insulting with either express or implied reference to religion.”

3. The evidence relied upon by The FA in support of the Charge comprised:
 - (a) A report by of the Match Official Mr T Bramall dated 16 April 2023;
 - (b) A letter from Blackpool received on 19 April 2023; and
 - (c) Video clips.

4. The essence of the Charge is that:
 - (a) In the 8th minute of the game James McClean of Wigan Athletic F.C, when preparing to take a corner, informed the Assistant Referee and subsequently the Referee that an individual had called him ‘a dirty Irish fenian bastard’. The individual said to be responsible was identified by the player as having grey hair, wearing glasses and holding a flag, which appears to have been a Northern Irish flag.

 - (b) Whilst the referee was dealing with the matter by reporting it to Blackpool’s tunnel steward and subsequent to that a large section of the crowd then began a prolonged chant of ‘Fuck the Pope and the IRA’ (“**the Chant**”).

5. Blackpool were required to reply to the Charge by 6pm on 28 April 2023. In fact they did so by providing a Reply Form dated 5 May 2023 (this date being explained below) which admitted the Charge. The Reply also asked for the matter to be dealt with at a paper hearing and for the correspondence attached to the Reply to be placed before the Regulatory Commission. That correspondence comprised a very detailed letter dated 5 May 2023 from the Club Secretary at Blackpool, Mr Nick Horne (“**the Letter of Mitigation**”). A number of exhibits were appended to the letter.

6. The Letter of Mitigation refers to email correspondence with The FA on 25 April 2023 granting an extension of time to file the Reply. We have not seen that correspondence but have proceeded by taking the fact of correspondence at face value, given the lack of any contra-indication from The FA.

7. The Regulatory Commission meet via a Teams call on the morning of Thursday 22 June 2023. The Commission comprised Mr Christopher Stoner KC (Chair), Ms Alison Royston and Mr Peter Fletcher. Mr Michael O'Connor of FA Judicial Services acted as secretary to the Commission, and we record our thanks to him.
8. Prior to the Commission having meet, all the members of the Commission had carefully read all the papers in the bundle which were fully discussed during the course of the hearing of the matter. All members of the Commission had also viewed the video clips forming part of the documentation supporting The FA's charges.
9. Section C of the Bundle included "*The FA's Policy and Guidance on the Regulation of Discriminatory Conduct (FA Rule 20.1)*". Whilst this Guidance has not been updated to provide for changes, in particular to the Regulation numbers, the Commission was satisfied the Guidance was to be applied. It had been advanced, as we understood the bundle, by The FA for that purpose and even notwithstanding it not being up to date there was no reason whatsoever in the Commission's view not to apply it.

The Regulation

10. Regulation E21 provides, as relevant:

"A Club must ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers) conduct themselves in an orderly fashion whilst attending any Match and do not:

E.21.1. use words or otherwise behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative;

...

E21.4. conduct themselves in a manner prohibited by E21.1 in circumstances where that conduct is discriminatory in that it includes a reference, whether express or implied, to one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability."

11. As reflected in the admission of the Charge (which the Commission notes, to Blackpool's credit, was a prompt admission), the Commission was wholly satisfied that the individual comments reported by Mr McClean and the Chant breached the terms of Regulation E21.4, such that the Charge was rightly admitted by Blackpool. Whilst the Commission was able to hear the Chant for itself on the video clips, it has proceeded for the purpose of sanction, in view of the admission of the Charge, on the basis that Blackpool accept that the individual discriminatory comments were also aimed at Mr McClean.

12. The Match Referee's report identifies:

"In the 8th minute of the game, when #11 James McClean (Wigan Athletic) went over to take a corner kick in front of the home team supporters, he informed my Assistant Referee, Steve Meredith, that discriminatory language had been allegedly been shouted at him from an individual in the crowd. I stopped the corner from [being] taken and asked Mr McClean to come away from the corner and tell me what had happened. He told me that he had been called 'a dirty Irish fenian bastard' and identified the individual at the time to have grey hair, wearing glasses and the only one in the corner to be holding a flag. I immediately then went and informed the tunnel steward alongside fourth official Sam Allison of what had allegedly been said and who the identified individual was and asked if they could increase the number of stewards in that area. After causing a delay to the game, play restarted with the taking of the corner. At 11:38, my fourth official was informed by the tunnel steward via the safety officer that they had eyes on the fan in the stand."

13. The Match Referee's report also detailed how he called Mr McClean and the Wigan Athletic F.C. Head Coach, Shaun Maloney, to his room after the game to give a statement of the incident (namely the individual who shouted discriminatory abuse at Mr McClean), which they did, as well as detailing how the Blackpool Safety Officer, and the Club Secretary, Mr Horne, also came to the official's changing room to update the Match Referee on what had happened. They informed the Match Referee the individual responsible had been identified but could not be located, because they suspected he had changed his attire. The report concludes with the Match Official recording he was told:

"They informed us that they will be looking into this further in the week to try and identify the individual in question and support the matter in anyway possible."

14. The Match Referee's report does not refer to or deal with the Chant. However, that is readily evident to the Commission from the video clips and was referred to in Blackpool's letter reporting the incident which is undated, but which we are informed was received by The FA on 19 April 2023. The Chant is prolonged, being clearly audible for over 30 seconds in totality over two spells in a period of just over a minute, with a lull between when it was not possible to be clear whether the Chant continued for not.

Mitigation and Discussion

15. Mitigation was advanced by Blackpool to the Commission via the Letter of Mitigation. We considered the letter and the exhibits appended to it very carefully and discussed their contents at length. Simply because a point is not specifically mentioned in these written reasons does not mean that the point was not considered. The Commission considered all points and evidence raised and these Written Reasons are necessarily a summary of what was discussed.

16. The first point made in the Letter of Mitigation, before turning to mitigation itself, under the heading 'Response to the Charge' is to acknowledge the Charge. The Commission notes that the Charge was admitted by Blackpool which is to the Club's credit. The Commission also notes that it is said:

"The Club wishes to place on record at the outset that it abhors all forms of offensive and discriminatory chanting by any of its supporters and condemns the actions of any supporters who engaged in such behaviour during the Match.

The Club sincerely regrets that the incident occurred and wishes to apologise to The FA, WAFC and especially to Mr McClean..."

17. The first section of mitigation is under the sub-heading "*The Club's preparation for the Match.*" This states that the Match was categorised as a 'Low Risk' fixture "*as there is no history of previous issues arising at matches between the Club and WAFC*".

18. The Commission was very surprised at this statement, which appears defensive. This surprise arises in the context of the initial letter reporting the incident to The FA, received on 19 April 2023, commencing with the statement "*The fixture for Blackpool FC v Wigan Athletic on 15th April was categorised by Lancashire Constabulary as a*

medium risk fixture.” Reasons were given for this which included, as one point of 5 identified, “*Previous anti-social behaviour and public order incidents between the two clubs.*”

19. We were also referred, in the same section of Blackpool’s mitigation letter, to the ‘Steward’s Briefing’ which identifies:

(a) In the section identified as ‘key points’ that the match was a relegation battle as both clubs fight to stay in the Championship; and

(b) In the section identified as ‘intel’, it was said: “*Known previous disorder between the supporters. Local rivalry with previous sporadic.*”

20. Unfortunately, the statement made in the Letter of Mitigation appears at odds with other pre-Charge documents. Given there is no ready explanation for this, but noting it might have been a simple error, it did however cause the Commission to view the statements made in the Letter of Mitigation with some caution, requiring close examination and corroboration from the other documentation. On the point in issue, we preferred the statement that the Match was, as stated in the initial reporting letter, one which was classified as ‘Medium Risk’.

21. The Steward’s briefing document referred to identified, in a section ‘*Foul and Abusive language*’, the following direction: “*Report to match control, we will monitor on CCTV.*” We were told that this would have been covered in more detail in the verbal briefing given by the Ground Safety Team prior to the Match. However, we have no statement in relation to this matter and nor do we have any indication of what further detail may have been provided.

22. As a Commission we were surprised that the possibility of discriminatory abuse directed at Mr McClean was not at least raised as a possibility in any pre-Match briefing or discussion, let alone any comment on how it would be dealt with. As a matter of course, when preparing for the visit of a club, we would expect any hosting club to consider who the opponent is to be and what particular factors and issues may arise. As referred to below, it seems to the Commission that the manner in which the Chant was sung by so many supporters, so quickly, suggests that it was not a chant which was unknown to the supporters.

23. It also falls to be noted, as we turn to the next section of mitigation, namely "*Actions taken by the Club on the day of the Match*" that if the any steward reported anything to match control, we have not been provided with any evidence of that and nor have we been provided with any evidence from the CCTV or any explanation of how that was monitored. In making this comment, we note again that the Match Referee's report informs us that "*At 11:38 my fourth official was informed by the tunnel steward via the safety officer that they had eyes on the fan in the stand.*" This is puzzling and at odds with the other evidence we have been provided.

24. Blackpool were keen to impress upon us the following extracts from the Ground Safety Manager in considering the reaction during the Match (especially the last paragraph of the extract):

"At 15:09, we became aware of an ongoing incident in the North East corner of the ground. From the control room it was apparent Wigan Athletic's number 11, James McClean, was delaying taking a corner and requested to speak with the referee.

The referee reported to the Fourth Official and BFC's designated tunnel steward that a "derogatory comment has been made to James McClean and that there was a person with a "Northern Ireland Flag wearing sunglasses".

At this point whilst the referee was speaking with the tunnel steward a section of BFC supporters in the same North East area began to chant "Fuck the Pope and the IRA".

Upon receiving this information and the hearing the mass chanting, senior stewards were deployed to the North Stand to attempt to diffuse the situation. It was communicated to the officials, via the tunnel steward, that I would be more than happy to speak with Mr McClean and themselves at half time to ascertain what exactly had happened so myself and the Bronze Commander could begin investigating. I was advised this would not be necessary."

25. The Commission notes, from the Match Referee's report referred to earlier, that he had requested that extra stewards be sent to the area. In such circumstances and having regard to events overall the Commission would have been very surprised if such a step had not been taken. However, the Commission accepts that to Blackpool's credit more stewards were deployed to the relevant area.

26. What the stewards actually did when they arrived we do not know, as we have not been told. It is suggested they “... *tried to get the relevant supporters to stop the offensive chanting directed at Mr McClean*” although how they did this, we do not know. We have been given no information of any supporters who were identified as being involved in the Chant and we have no way of knowing if the Stewards even arrived at the relevant part of the stadium whilst the Chant was ongoing.
27. It is fair to say, however, that there is no suggestion of the Chant having been repeated after the events described above.
28. In respect of the individual who aimed discriminatory comments at Mr McClean, inferentially it would appear likely he would have been near to the front of the crowd, as he was clearly heard by the player. We note that in the relevant corner of the ground, there was no crowd in the stand behind the touchline, the crowd instead being in the stand behind the goal line. Notwithstanding this, no steward appears to have identified the individual concerned.
29. In contrast, however, we have been told, that several stewards did report that Mr McClean raised his shorts to show a tattoo on his leg, which were also told is a tattoo saying ‘*Free Derry*’ as well as making comments to the crowd. In mitigation Blackpool state “*Whilst the Club does not in any way wish to excuse its supporters’ behaviour towards Mr McClean and condemns the chanting which was directed at him, it contends that Mr McClean’s behaviour antagonised the Club’s supporters who were increasingly frustrated with the stoppage of play whilst Mr McClean waited to take the corner ...*”
30. We think the first part of this statement is the more important. Any actions on the part of Mr McClean do not, in our view, provide any meaningful excuse for the behaviour of the supporters or Blackpool’s failure to ensure its supporters conducted themselves appropriately. We note that at least one supporter had come prepared with a Northern Ireland flag, which seems to have disappeared as soon as the incident was over and we have no evidence to suggest that Mr McClean instigated the incident (although we do not think that it is being suggested that he did). Furthermore, we very much doubt that all the supporters who joined in the Chant saw any reference to a tattoo, or, if they did, that they understood it.

31. We have been provided with evidence of how the Ground Safety Officer offered to speak to Mr McClean at half time. However, the Commission does not really understand how this is considered to be a constructive and pro-active step: the player had already identified the individual responsible to the Match Referee and he had passed on the information to the tunnel steward. To seek to speak with a player at the half time break of a game (a relegation battle) in which he is involved, when he has already passed on the key information, seemed to the Commission to be meaningless.
32. In terms of expected pro-activity the Commission are extremely surprised that there was no announcement over the public address system to identify that discriminatory languages and chanting are wholly unacceptable together with a clear statement as to the consequences for any supporter identified as engaging in any discriminatory language or chanting. The Commission considers this a serious failing on the part of Blackpool.
33. The Commission also notes that it has no evidence from Blackpool as to how the CCTV was used during the Match. The Commission is left confused as to how, as detailed by the Match Referee, the Fourth Official was informed that Blackpool had “*eyes on the fan in the stand*” and yet it is clear from the overall evidence that he was not apprehended and it is also clear from the preponderance of evidence that he was not identified. This suggests, to the Commission, that there was no clarity in approach during the Match.
34. Accordingly, whilst there are points of mitigation arising during the Match, notably the deployment of stewards to the relevant area and the fact the Chant did not recur and there is no suggestion of any further abuse directed at Mr McClean, the Commission felt there was little proactivity evidenced, in particular by reference to evidence of how the CCTV was used and the very surprising omission of any public address announcement.
35. Turning to events after the game, which are described under the sub-heading “*Action taken by the Club since the Match*” this starts with the statement: “*The Club was also proactive in dealing with the Incident after the Match ...*”.
36. Immediately the Commission notes there was no statement issued by Blackpool condemning the Chant or the discriminatory abuse directed at Mr McClean. Whilst it is acknowledged by the Commission that Blackpool did issue a statement after it was charged, in which it rightly and properly condemned any discriminatory language,

particularly in relation to religion or race, the Commission considers it a startling omission not to have issued a condemnatory statement on the evening of the Match or the day after. Even if the Club did not wish to comment on the abuse received from one individual toward Mr McClean, given that may still have been subject to investigation, omitting to condemn the Chant is notable.

37. It is emphasised in the Letter of Mitigation that Blackpool self-reported what had happened, in the letter received by The FA on 19 April 2023. The Commission acknowledges this and the fact Blackpool clearly deserve credit for taking that step and also for not simply taking the step but in doing so by providing a detailed account to The FA right from the outset.
38. The Commission also note it is said that although a thorough review of the CCTV has been undertaken in order to try and identify the culprit who Mr McClean had identified as using discriminatory language toward him, that had not been possible. The Commission note this with some surprise, given modern CCTV and ticketing arrangements, although we have no evidence of how the CCTV was reviewed. We also, as previously identified, note this position is in stark contrast to what the fourth official was told during the Match, only minutes after the incident.
39. The Commission is also surprised that there has been no attempt to identify any sections of the crowd where a large number of individuals were involved in the Chant, such that those in that area might be contacted and reminded of their obligations generally, including pursuant to the Ground Regulations, a copy of which we have been provided with and which clearly state:

“Racial, homophobic or discriminatory abuse, chanting or harassment is strictly forbidden and will result in arrest and/or ejection from the Ground. The Club may impose a ban for one or more Matches.”

The Commission also notes the similar statement which appears in Blackpool’s standard terms and conditions for its season ticket holders and that in the event of a breach the ticket may be withdrawn or cancelled.

40. On the point arising about bans we were also shown a copy of the ‘Club Ban Policy’. Whilst *“Hate crime and discrimination - (including online)”* is a level 2 breach we note that:

“Any level Two breaches that do not involve the Police or result in a Football Banning Order being issued, the club reserves the right to impose a Club ban (depending on the circumstances of each incident).”

This, in the Commission’s view, is inadequate. We urge Blackpool to reconsider this and make it clear that in matters of discrimination and the like any supporter in breach of the Ground Regulations can expect a much more severe sanction. This, we believe, would be at one with Blackpool’s abhorrence of all forms of offensive and discriminatory chanting as highlighted at the beginning of the Letter of Mitigation.

41. Returning to the Letter of Mitigation, the final point made in respect of ‘action taken by the club since the Match’ is to record that the Club, has had several meetings and telephone calls with the Dedicated Football Officer at the Lancashire Police, although we note that the police do not consider that a crime has been committed.

42. In summary, in respect of matters since the Match, the Commission notes the points raised, including the self-reporting for which Blackpool deserve credit. However, aside from this there is little evidence of proactivity in the view of the Commission and the lack of a condemnatory statement in the immediate aftermath of the Match was, in the Commission’s view, a serious omission.

43. By the Letter of Mitigation, Blackpool also informed the Commission of various meetings and initiatives under the sub-heading of ‘engagement with supporters’. The engagement identified is clearly a positive, but in the context of the Charge the Commission saw no specific evidence of identification of the unacceptability of discriminatory or abusive comments, language and/or chanting and the consequences for supporters if they engaged in such activity.

44. The Commission, however, welcomes the statement:

“In light of the Incident, the Club intends to carry out an extensive programme of ‘fan engagement’ during the summer ahead of next season when supporters are likely to be less emotive when there are no weekly fixtures. As part of this initiative, the Club is planning to deliver some sessions to inform and educate supporters about the consequences of inappropriate behaviour at Club matches for all concerned, including in particular on players of rival clubs such as in this case. The Club would also like to use this initiative to talk to supporters about the Incident and the chant in question that

was directed at Mr McClean. The Club believes that there is a significant lack of awareness and understanding of Mr McClean's background and the true meaning of the words used towards Mr McClean and how offensive this type of language is for Mr McClean, his family and other Irish people."

No doubt the planning for the initiative is now complete and the engagement has already commenced.

45. We were also informed, in mitigation, in the section on 'Club Statements' that "... *the Club has issued a number of posts on social media this season urging its supporters to behave in an appropriate manner at Club matches. Some examples of these social media posts are set out at appendix 3. It is clear from the above and the other statements and social media posts issued by the Club in recent months that the Club is actively trying to address the issue of discriminatory behaviour at its matches and amongst its supporters.*"

46. Regrettably, of the social media posts provided only one appears to relate to the 2022/23 season and that is a social media post relating to the use of pyrotechnics.

47. We do acknowledge, however, that there are club statements relating to fan behaviour, which are to be applauded. In particular we note the "Report it" app, which we understand would have been in use at the Match and we also note that this was expressly referred to by the Club when it issued its statement after the Charge was issued. However, we have no information on how many, if any, reports were made during the Match in relation to the matters relevant to the Charge and, if so, how they were dealt with.

48. The Commission also acknowledge Blackpool's 'Customer Charter', the contents of which, in the context of anti-discrimination, are to be applauded. How and to what extent this document is disseminated to supporters, however (aside from being referred to on the Club's website) is not clear to the Commission.

49. Furthermore, the Commission acknowledge Blackpool's Discriminatory Abuse Action Plan (dated April 2023), which is to the Club's very real credit. We acknowledge that this is currently in a draft format, but its finalisation and implementation will, we are sure, together with the Action Plan we have imposed (as referred to below) greatly

assist Blackpool in proactively seeking to prevent further incidents of discriminatory abuse, comments or chanting.

50. We have also noted the work the Club has undertaken with the EFL, which also stands to its credit, since self-reporting the events at the Match to the EFL. Unfortunately, in our electronic bundles we have not been able to see the detail of what Blackpool told the EFL (as the boxes in which the text is included cannot be opened by us), but we have worked on the basis it was as fulsome as the self-reporting to The FA, which we have already referred to.

51. The Commission also acknowledge the reference in the Letter of Mitigation to Blackpool's Community Trust Work. In terms of mitigation the Commission further acknowledge the statements of the Club's co-operation with The FA over the Charge, its early admission and its good disciplinary record. All these points are noted, and the Commission accepts that Blackpool deserves credit for them.

52. We have also carefully considered that section of the letter of mitigation under the sub-heading of "*Supporters – limited extent of Club's control.*" In this section Blackpool said to us:

"As demonstrated above, the Club made it very clear to supporters in advance of the Match and at the Stadium that certain behaviour such as discriminatory chanting is not tolerated by the Club. Nevertheless, some individuals showed blatant disregard for the Club's warnings/instructions and intentionally proceeded to behave in an offensive manner towards Mr McClean when they should have known how to conduct themselves appropriately at the Stadium by virtue of a range of sources, including the Club's Ticket Terms and Conditions and Ground Regulations governing entry into the Stadium which expressly prohibit discriminatory chanting.

We would submit that for the reasons set out herein, not only did the Club take proactive steps before the Incident to attempt to discourage the type of behaviour shown, it sent stewards to deal with the Incident shortly after it occurred and it has done all it reasonably can since the Incident to try and ensure it does not occur again in the future. As evidenced, we are looking to engage with all stakeholders and the EFL to implement steps that can be put in place in the future."

53. For the reasons identified in these Written Reasons, the Commission does not agree that Blackpool were proactive to try and discourage the type of behaviour which marred the Match. Plainly perfection is not expected, but neither is blaming the supporters. Rather it is for any Club to take all steps it reasonably can *and* to evidence that to any Commission considering those steps.

54. In the present instance, the Commission considers:

- (1) The pre-match planning was, in the Commission's view poor (on the evidence available to it). The Commission is of the view that the possibility of discriminatory behaviour ought at least to have been identified: the Commission notes that the Chant, for example, was one engaged in within seconds by a large number of fans: they seemed to have awareness in a way Blackpool did not. At least one fan also attended with a Northern Irish flag.
- (2) There is a lack of evidence of real engagement with fans and dissemination of information to the fans as to what is unacceptable behaviour, whether through the use of stadium signs, social media, website statements, public announcements or at all.
- (3) In the present instance there is an inexplicable conflict between the evidence presented in the Letter of Mitigation and in the supporting documentation as to the status of the match and the likelihood of trouble – a conflict which gave the Commission no comfort when presented with a lack of evidence on matters highlighted in these written reasons;
- (4) During the game it is accepted that stewards were sent to the relevant part of the ground. However, this had been requested by the Match Referee in any event. Thereafter there is a complete lack of evidence as to what steps were taken, if any, including a complete lack of any evidence from the stewards, save for it being reported that they had commented that Mr McClean had antagonised the Blackpool fans. There is also the anomaly over what the fourth official was told and the evidence presented to us as to seeking out the individual fan who directed discriminatory abuse at Mr McClean;
- (5) The lack of any announcement over the public address system during the game was, in the Commission's view, a serious omission;

- (6) There is very little evidence of any proactivity after the game and the failure to issue a condemnatory statement immediately after the game was a further serious omission in the Commission's view;
- (7) Furthermore, despite the good work shown with fan engagement, nothing has been presented to this Commission showing previous specific fan engagement relating to the issues underlying the Charge – namely discriminatory abuse and chanting.

Sanction

55. Having regard to the Guidance and the factors to be determined when considering sanction, the Commission considered:

- (1) Whilst the catalyst may have been an individual supporter making discriminatory comments to Mr McClean, ultimately the number of supporters involved was significant;
- (2) The nature of the behaviour of those involved led to a prolonged use of a discriminatory Chant;
- (3) The duration of the incident was clearly audible for over 30 seconds in a period of just over 1 minute with a lull between 2 periods in which it is not possible to clearly hear whether the Chant continued or not;
- (4) The steps taken by Blackpool are set out in detail in these Written Reasons, with the principal shortcomings, in the view of the Commission, being those identified in paragraph 54 above;
- (5) There was no relevant previous disciplinary matter to be taken into account;
- (6) No previous Action Plan had been imposed on Blackpool.

56. We were urged by Blackpool to have regard to the case of *The Football Association v Barnsley FC* (12 February 2020). We have carefully considered that case, which is not binding upon us. We do not consider it is of any particular assistance when considering the sanction: each case depends upon its own facts. It is the facts as we have set them out and Blackpool's mitigation as we have considered it that are important. As the Commission has identified in these Written Reasons there are serious failings on Blackpool's part.

57. Rather, the Commission considers it appropriate not only to consider the facts as it has set them out and the mitigation as we have considered it, but to apply these matters having regard to the Guidance.
58. In light of the all the foregoing and after its detailed consideration of Blackpool's Letter of Mitigation and accompanying exhibits the Commission is clear that an action plan should be imposed on Blackpool and, in addition, a financial sanction.
59. The action plan we consider is appropriate is appended to these Written Reasons. As the hearing has proceeded as a paper hearing and, as such, we have not heard submissions on the action plan, we will permit Blackpool and The FA a period of 14 days from receipt of these Written Reasons in which they can apply to vary the terms of the action plan if either consider it appropriate to do so. This permission extends to points in the action plan alone, not the underlying rationale for the imposition of the action plan.
60. The action plan should be considered and implemented as soon as possible and will remain in place for the entirety of the forthcoming 2023/2024 season.
61. The Commission considered whether the Action Plan was a sufficient sanction on the facts of this particular case. We concluded that it was not and that a financial penalty should be imposed as well, particularly because of the matters identified in paragraph 54: there was lack of evidence of proactivity in the Commission's view and some serious failings on Blackpool's part in the context of a discriminatory Chant and individual discriminatory comments all of which were of a serious nature.
62. Looking at the Guidance the fine range for a Championship club (as Blackpool were at the time) is between £5,000 and £75,000. We considered the events underlying the Charge in all the circumstances mentioned in these Written Reasons to be easily in the mid-range. Accordingly, we impose a financial sanction, in addition to the Action Plan, in the sum of £35,000.
63. This would unquestionably have been higher (toward the top end of the mid-range, which we considered to be between £30,000 and £50,000) had it not been for the points of mitigation identified in these written reasons that are accepted (which we considered in the context of whether to impose an Action Plan and also as to whether

to impose a fine and, having done so, at what level), such as (without limitation) the co-operation with The FA, the admission of the Charge, the self-reporting of the issues arising at the Match, the engagement with the EFL, the proposed Discriminatory Abuse Action plan and Blackpool's good disciplinary record.

64. We did consider whether any part of the financial sanction should be suspended. We reminded ourselves of the terms of Regulation 44 which provides:

“When considering imposing a suspended penalty, a Regulatory Commission must:

(a) Determine the appropriate penalty for the breach, irrespective of any consideration of it being suspended; and

(b) Consider whether there is a clear and compelling reason(s) for suspending that penalty ...”

65. Having considered it we could see no clear and compelling reason for suspending the financial penalty (or indeed the Action Plan) and, accordingly, we do not do so.

Order

66. We impose the Action Plan annexed to these Written Reasons, subject to the permission referred to in paragraph 59 to Blackpool and The FA to apply to us within 14 days of receipt of these Written Reasons to vary their terms if they consider it appropriate to do so.

67. The Action Plan will take immediate effect and will remain in place for the entirety of the 2023/2024 season.

68. Blackpool are warned as to their future conduct.

69. We also order Blackpool to pay a fine in the sum of £35,000.

70. Having regard to the matter as a whole and, in particular Blackpool's conduct in response to the Charge, we make no order as to the costs of the Regulatory Commission.

71. This decision, which is the unanimous decision of the Regulatory Commission, is subject to the relevant Appeal Regulations.

Christopher Stoner KC (Chair)

Alison Royston

Peter Fletcher

... June 2023

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Signed by the Chair on behalf of the Regulatory Commission