

**FOOTBALL ASSOCIATION INDEPENDENT REGULATORY
COMMISSION COMPOSED OF:**

Chairperson: Andrew Mercer

Members: Alison Royston
Brian Talbot

**WRITTEN REASONS FOR THE DECISION MADE VIA VIDEO
CONFERENCE ON 20 JUNE 2023**

in the case of:

THE FA v MR. MITCH CLARK

regarding:

Rule E8 of the Rules of the Association (Betting)

A. FACTS OF THE CASE AND PROCEDURE FOLLOWED

1. The elements set out below are a summary of the main relevant facts, as established by the Regulatory Commission on the basis of the official reports, the written submissions, the oral testimonies and other evidence produced in the course of the proceedings.
2. Whilst the Regulatory Commission has considered all of the facts, allegations, legal arguments and evidence submitted in these proceedings, it refers in these written reasons only to the submissions and evidence it considers necessary to explain its reasoning.
3. On 9 May 2023, The FA opened disciplinary proceedings against Mr. Mitch Clark (the “**Defendant**”) for misconduct under Rule E1.2 of the Rules of the Association in respect of three hundred and twelve (312) bets placed on football matches between 8 February 2022 and 10 March 2023. The charge notice specified that The FA alleged that each bet constituted a separate breach of Rule E8 of the Rules of the Association (Betting).
4. The FA relied upon a comprehensive report from its Betting Integrity Investigator (the “**Investigator**”) dated 25 April 2023, with annexes (the “**Report**”).
5. The Report highlighted, *inter alia*, that the Defendant had placed three hundred and twelve (312) bets on football matches during the relevant period via four (4) betting accounts. Sixty-eight (68) of these bets were placed on football matches in competitions in which the Defendant’s club, Accrington Stanley FC, was participating during the relevant seasons. Three (3) of these bets had involved Accrington Stanley FC. One (1) of these bets was a bet against Accrington Stanley FC. All of the bets involving Accrington Stanley FC were accumulators (i.e., a bet that involves more than one selection). The Defendant had not been in the squad for the match in respect of which he had bet on Accrington Stanley FC to lose, due to suspension.
6. The Report further highlighted that the Defendant had placed bets worth a total of two thousand, two hundred and fifteen pounds and fifteen pence (£2,215.15) during the relevant period and made a net loss of one thousand six hundred and twenty-two pounds and thirty-eight pence (£1,622.38) from the bets.
7. Annexed to the Report was a transcript of an interview between the Investigator and the Defendant dated 11 April 2023. Also present was Mr. Simon Barker from the Professional Footballers Association (the “**PFA**”). In the interview, the Defendant admitted that he had made all of the bets. The Defendant also stated that he was aware of The FA’s betting rules. In addition, the Defendant explained that he had a history of gambling addiction (of which football betting was only a small part) and indicated that he considered the problem to be getting worse. The Defendant explained that he had only recently started betting on football, in the 2021/2022 season. He added that he was seeking help with his addiction with the assistance of the PFA.
8. On 16 May 2023, the Defendant provided his response to The FA’s charge notice (the “**Reply**”). Together with the Reply, the Defendant submitted a written statement and a written defence case and mitigation summary, each dated 16 May 2023. In the Reply, the Defendant admitted the charges that had been made against him.
9. The Defendant requested a personal hearing, which took place on 20 June 2023 via videoconference. Representatives from the PFA were present at the personal hearing, including Mr. Nick Cusack who represented the Defendant.
10. Prior to the personal hearing, the Defendant requested that a report from a psychotherapist, Mr. Rob Wotton, be included in the case file. The Regulatory Commission agreed to this

inclusion. The report, *inter alia*, states that the Defendant has accepted that he has a gambling addiction and provides some detail on the proposed treatment plan for the Defendant.

B. RELEVANT LAW

11. Rule E1 of the Rules of the Association reads as follows (emphasis added):

“E1 The Association may act against a Participant in respect of any Misconduct, which is defined as being a breach of the following:

...

E1.2 the Rules and regulations of The Association and in particular Rules E3 to E28 below;”

12. Rule E8.1 of the Rules of the Association reads as follows (emphasis added):

“E8.1 A Participant shall not bet, either directly or indirectly, or instruct, permit, cause or enable any person to bet on -

E8.1.1 the result, progress, conduct or any other aspect of, or occurrence in or in connection with, a football match or competition; or

E8.1.2 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.”

C. MERITS OF THE CASE

13. The Regulatory Commission carefully considered the content of the Report. It was noted that the investigation undertaken by the Investigator was comprehensive and detailed, drawing upon reports from betting companies and a lengthy interview with the Defendant.

14. The Defendant did not challenge the content of the Report and had in fact admitted to making all of the bets during the interview. In the Reply, the Defendant admitted all of the charges made against him.

15. In light of the foregoing, the Regulatory Commission unanimously concluded that the Defendant had placed the bets and, in doing so, had committed multiple breaches of Rule E8.1 of the Rules of the Association.

D. THE DETERMINATION OF THE APPROPRIATE SANCTION(S)

16. The Regulatory Commission referred to The FA’s sanctioning guidelines relating to offences under Rule E8.1 of the Rules of the Association.

17. It was noted that the guidelines indicate that where a bet is placed on a football match which does not involve a competition in which the relevant participant’s club is entered, the sanction shall be a warning/fine and that a match suspension shall not be imposed.

18. It was further noted that the guidelines indicate that where a bet is placed on a football match in a competition in which the relevant participant's club is entered, the sanction shall be a fine and that a match suspension shall not be imposed unless the participant has a connection with the club that he bet on.
19. The panel also observed that the guidelines indicate that where a bet is placed on a player's own team to win, the sanction shall be a fine and a suspension of between zero (0) to six (6) months, and where a bet is placed on a player's own team to lose, the sanction shall be a fine and a suspension of between six (6) months to life.
20. Finally, the Regulatory Commission noted that the guidelines indicate that any fine should, as a minimum, take account of any financial gain made from the relevant bets.
21. In light of the foregoing, the Regulatory Commission determined that a suspension would certainly be applicable in the present case because the Defendant had bet on matches involving his own club on three (3) occasions, with one (1) of those bets being a bet on his own team to lose and another one (1) being a bet on his own team to win.
22. Analysing the facts of the case, the panel was of course concerned that the Defendant had bet on his own team, Accrington Stanley FC, to lose. The Regulatory Commission was aware that the guidance provides for the imposition of a suspension of between six (6) months to life in such circumstances.
23. Notwithstanding the foregoing, the panel did not think that even a sanction at the lower end of this range would be an appropriate and proportionate penalty in the present case. In this regard, it was noted that: (i) of the three hundred and twelve (312) bets made by the Defendant, only one (1) of them was against the Defendant's own team; (ii) such bet was part of an accumulator bet; (iii) the amount bet was low; and (iv) the player did not play in the relevant match and there was no suggestion that the bet or the Defendant's conduct had any impact on the integrity of that game.
24. Overall, in the panel's opinion, there was no evidence of the Defendant showing a particular proclivity or consistent intent to target his team losing in his betting activity or any indication that he had sought to attempt to influence or bring about a negative result for his team.
25. Nonetheless, as well as the aforementioned bet against Accrington Stanley FC, two other bets had been made by the Defendant which involved his own team – one of which was on his own team to win.
26. It was also observed that there had been a large number of bets in total and this was an aggravating factor.
27. That said, in the Regulatory Commission's opinion, there were a number of significant mitigating factors in the present case. Notably, the panel observed that the Defendant had: (i) promptly admitted his misconduct and fully cooperated with the proceedings; (ii) given candid and complete answers during the interview process and at the hearing; (iii) exhibited genuine remorse in his oral testimony; (iv) apologised and accepted full responsibility for his actions; (v) provided a detailed and credible account of his gambling addiction, which was also supported by the report of Mr. Rob Wotton; and (vi) already taken steps to deal with his addiction and committed to taking further action through the 'Sporting Chance' programme.

28. The panel also considered that there was a low number of bets involving the Defendant's club overall and all such bets had been accumulators of a relatively low value (specifically, the total amount bet was eighteen pounds (£18), being a ten pound (£10) accumulator which included Accrington Stanley FC to lose against Charlton FC and a five pound (£5) accumulator which included a bet for both teams to score in the same match involving Charlton FC, and a three pound (£3) accumulator which included Accrington Stanley FC to beat Lincoln City FC). Indeed, all of the three hundred and twelve (312) bets involved relatively small stakes. Further, the Defendant had not enriched himself through his football betting.
29. In light of the foregoing, the Regulatory Commission considered that a suspension of three (3) months was an appropriate and proportionate sanction to impose on the Defendant.
30. Having determined the appropriate penalty for the breaches in the present case, the Regulatory Commission considered that there were clear and compelling reasons to suspend the imposition of the aforementioned sanction. The panel considered that the Defendant was facing a genuine and serious problem of addiction that was affecting both his football career and personal circumstances, but that football was providing him with something of a foundation upon which to rebuild his life. In the panel's opinion, taking that away from a relatively young man - who appeared to have the support of his family to make progress - was to be avoided. It was also recognised that the Defendant would undoubtedly face challenges in retaining/gaining employment in football if subject to a ban from football at this point in the football calendar. Again, the panel considered that there was a genuine chance for this relatively young man to learn to control his gambling addiction. He appeared to be doing everything right to tackle the issue and was involved in counselling, with good options for more treatment in the future. Putting him into a period of unemployability did not seem conducive to the aim of rehabilitation. It was felt that suspending the sporting sanction would not undermine the seriousness of the offence or the sanction but would instead allow the suspended sanction to act as a deterrent against future misconduct and a further incentive to the Defendant to address his issues.
31. For these reasons, the Regulatory Commission decided that the three (3) month suspension referred to in Paragraph 29 of these written reasons would be suspended for a period of two (2) years. Should the Defendant be found to have committed another violation of The FA's betting rules within the two (2) year period, the suspension would be revoked and the sanction applied. For the avoidance of doubt, this would be in addition to any sanction imposed for the new infringement.
32. Having regard to the guidance, the Regulatory Commission also decided to fine the Defendant the amount of six hundred pounds (£600). It was noted that the Defendant had not made any financial gain from the relevant bets. The panel considered that imposing a larger fine would be counterproductive in the present case. There was no award of costs made against the Defendant.

33. To conclude, the Regulatory Commission was of the opinion that the Defendant's behaviour reflected poorly on the game of football and was inconsistent with the core principle of integrity that underpins the game. The Regulatory Commission invited the Defendant to further educate himself on his responsibilities under Rule E8.1 of the Rules of the Association and underlined that it is imperative that he continues to seek help with his gambling addiction. The Regulatory Commission expressed its wish that the Defendant continue to avail himself of the valuable and positive help offered to him by the PFA and encouraged him to attend the 'Sporting Chance' residential clinic mentioned by Mr. Rob Wotton in his report at the earliest opportunity.

**ANDREW MERCER
ALISON ROYSTON
BRIAN TALBOT**

23 June 2023