

**IN THE MATTER OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION**

**The FA
V
Blackburn Rovers Football Club**

**DECISION AND WRITTEN REASONS
OF THE INDEPENDENT REGULATORY COMMISSION**

Regulatory Commission	Dominic Adamson KC (Chairperson) Alison Royston Peter Fletcher
Secretary to the Commission	
Date	30 August 2024
Hearing Type	Paper Hearing

Introduction

1. On 14 June 2024 Blackburn Rovers Football Club (the Club) was charged with misconduct for breaches of FA Rule E21.1 and E21.2 in respect of an English Football League Championship match against Ipswich Town FC on 29 March 2024.
2. The particulars of the charge were as follows:

“It is alleged that Blackburn Rovers 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, threatening or provocative contrary to E21.1; and*
 - *throw missiles or other potentially harmful or dangerous objects at or on the pitch contrary to E21.2*

3. On 24 June 2024 the Club admitted the charge. It elected a paper hearing.
4. We have been supplied with a pdf bundle of documents comprising 189 pages. We have considered it in full. We do not reference every document in these written reasons. The fact that these written reasons do not refer to a specific document or issue raised in the bundle should not be taken as an indication that the Commission has not considered it. We have also been provided video footage which we have reviewed.

The Rules

5. FA Rule E21 states:-

'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:

E21.1 use words or otherwise behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative;

E21.2 throw missiles or other potentially harmful or dangerous objects at or on to the pitch;

E21.3 encroach on to the pitch or commit any form of pitch incursion;

E21.4 conduct themselves in a manner prohibited by paragraph 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.

E21.5 it shall be a defence to a Charge in relation to Rules E21.1 to E21.3 (only) if a Club can show that all events, incidents or occurrences complained of were the result of circumstances over which it had no control, or for reasons of crowd safety, and that its responsible officers or agents had used all due diligence to ensure that its said responsibility was discharged. However, when considering whether this defence is made out a Regulatory Commission will have regard to all relevant factors including:

- The extent to which the Club has discharged its duty;*
- The severity of the issues involved;*
- The extent to which similar issues have occurred previously in which case whether the Club took sufficient action in preventing further such incidences.*

....

6. Thus, pursuant to E21.5 the due diligence defence is available to a club where its supporters behave in a manner which contravenes E21.(1)-(2). The Club did not seek to avail itself of this defence.

The Facts

7. In the FA's Submissions on Sanction it summarises the key facts as follows-

5. *On 29 March 2024, Blackburn Rovers FC hosted Ipswich Town FC in the EFL Championship. The relevant incident occurred in or around the 73rd minute of the fixture and was captured in its entirety on the footage served. The ball had left the field of play for a Blackburn Rovers FC throw in. The Match Referee, Stuart Atwell ("SA"), was speaking with an ITFC player whilst the Assistant Referee, Paul Hodkinson ("PH") was positioning himself in anticipation of the throw in.*
6. *A supporter walked from the gangway in the Riverside Stand and across the walkway to the advertising hoardings surrounding the pitch area. The supporter appeared to be walking towards PH. PH reported that the individual used foul and abusive language towards him, including multiple swear words and referred to the match officials as cheats. The individual can be seen on the footage gesticulating and pointing towards PH in an aggressive and confrontational manner from a few meters away.*
7. *As PH moved down the touchline away from the supporter, the supporter followed PH, remaining behind the advertising hoarding and continued to shout and gesticulate towards PH. The supporter then picked up a bottle from the hoarding and threw it towards PH into the field of play. The bottle was $\frac{3}{4}$ full with the lid on and narrowly missed hitting PH. At this stage SA became aware of the confrontation by the supporter and delayed the restart.*
8. *SA approached the touchline and PH reported the incident to him. Initially there was a single steward immediately within the vicinity who would likely have witnessed the incident. Upon the bottle being thrown and SA approaching the touchline, at least 3 stewards approached the area. SA and PH identified the individual involved and reported the incident to the stewards present. However, the individual was allowed to leave the area and appeared to return to the stands without challenge.*

The Evidence

8. We have been provided with a copy of the Extraordinary Incident Report Form which was completed by Stuart Attwell, the Match Official, on 30 March 2024¹. It states:-

*“In or around the 73rd minute, a supporter situated in the Riverside stand left his seat and entered the concourse at the front of the stand. The match was stopped at this point. **He approached Assistant Referee Paul Hodkinson, using a significant amount of insulting and abusive language.** Mr Hodkinson moved away in an attempt to diffuse the situation. **The supporter followed him, before picking up a plastic drinks bottle from the advertising hoarding and throwing it at Mr Hodkinson** (sic). **The bottle did not make contact.** It was partially full, and the lid was attached. The latter part of the incident appeared to be witnessed by club safety stewards situated at the end of the Riverside stand, and they moved in at this point. **I spoke to the stewards, confirmed what had happened, identified the individual who had thrown the bottle, and indicated his location, which was nearby.** The match restarted after a small delay. Following the match, **I spoke with the club safety representative to confirm my intention to report the incident. He advised that no action had been taken, as it had not been possible to identify the offender.**” [Emphasis added]*

9. The FA wrote to the Club on 3 April 2024 requesting all available footage. The Club responded on 8 April 2024. In their response, the following account was provided by the Club’s Stadium Safety Officer (the SSO) :-

*“The incident in or around the 73rd minute was relayed to me by the 4th official Keith Stroud who pointed across the pitch towards the Riverside and told me that a spectator had left his seat and approached the assistant referee, Paul Hodkinson, on that side of the pitch directing foul and abusive remarks towards him, prior to returning to his seat. At this time the offender was described as wearing a green and white cap. **I immediately went to the telephone located in the room ion (sic) the tunnel by the TV Interview Room and rang the control room** speaking to my deputy Dave Beresford. **Dave instructed the CCTV operators to direct the cameras towards the area indicated by Keith Stroud in which the offender was sitting in order to try and identify him using the information/description given.** **The CCTV operators were unable to locate any male wearing a green and white cap so I spoke again***

¹ P.17 of the Bundle

to Keith Stroud to try and see if there was any further details of clothing that would assist the CCTV operators in trying to locate him. He was unable to give me any further information other than to point again to the area of the Riverside Stand and tell me the offender was sitting next to the second set of steps (from the Blackburn End Stand) about the third row up. The structure of the Riverside Stand with its solid (sic) perimeter wall does make it very difficult to count the actual number of steps as the lowest ones cannot be seen from ground level. Based on this lack of further definite information and the number of males sitting next to the steps it could potentially have resulted in serious repercussions had the wrong person been removed from the stand. **It was apparent that the offender had removed and concealed his cap having realised that the referee and his assistant were discussing him and that the cap was an obvious source of identification.**

When I spoke to the match officials after the game I was somewhat embarrassed by being told that the referee had actually spoken to a steward and pointed out the offender to him but the steward had taken no action. I expressed my acute disappointment about this lack of positive action and apologised on behalf of the Club for this dereliction of duty. I immediately commenced enquiries with the stand supervisors in an attempt to identify the individual steward concerned. At this time I have been unable to identify the steward but will further my enquiries at our forthcoming games. If a positive identification is made then appropriate disciplinary action will be brought to bear.

With regard to the second report relating to a bottle being thrown on to the pitch from the Riverside Stand neither myself nor the control staff were unaware of this having happened due to our attention being wholly committed in trying to make a positive identification of the offender from the first incident.

Details of both incidents will be included in the briefings for our next match and the lack of positive action highlighted. We will continue to remind all staff of the level of vigilance required in observing the spectators in an effort to prevent a repetition of such unacceptable behaviour.”

[Emphasis added]

10. We think that there may be an error in the penultimate paragraph quoted above. We think the SSO meant to say that he and the control staff were unaware of the report of a bottle being thrown as opposed to them being not unaware.
11. The Assistant Referee Mr Paul Hodkinson was asked to review the footage and he subsequently gave the following account by e-mail on 29 April 2024:-

“Using the tactical camera footage of the game an individual approached from the stands at 62.48 and started to direct foul and abusive language containing multiple swears and calling us (match officials) cheats as well as hand gestures. At this point there were no other people in proximity to him. I saw this individual due to the stoppage in play and my body position facing back up the field. I apologise I can't recall exact words now as this was over a month ago.

At 63.08 the same individual threw a bottle which was approximately ¾ full with the top still attached on to the field of play in my direction passing close to my right shoulder. I saw this action out of the corner of my left eye. Using the footage this action and bottle can clearly be seen. I alerted Stuart (match referee) of this immediately who came across before pointing out the individual in question who had committed the act to the stewards clearly identifying the hat he was wearing.

The stewards can be seen in close proximity to the individual when Stuart came across (63.46) before allowing him to return to his seat.”

12. We have reviewed video footage of the match. It is consistent with the account provided by Mr Hodkinson.

Matchday Planning

13. We have been provided with one Club document relating to its match day planning, namely the Matchday Briefing Sheet (MBS). With respect to pitch incursions and security of match officials it stated as follows:-

“In the event of any pitch incursion involving one or two spectators the stretcher bearers should immediately enter the field of play and shepherd those involved to the side of the pitch where they must be detained by other stewards. Where practicable incident team members may also assist by entering the field of play to detain those involved.

During the pre-match briefing the officials are advised that should they feel threatened in any way they should either make their way back to the tunnel area or nearest corner where they can be given protection by stewards.

In the event of mass pitch incursions, if not part of the pre-planned operation, then priority should be given to getting the players and officials to the safety of the tunnel and the protection of that area, as directed by the Safety Officer, prior to clearing the pitch.”

[Emphasis added]

14. The protocol was not enacted.

15. The MBS provides details of ‘*additional deployments*’. It indicates that 80 personnel from ‘*Prestige Security*’ were available of whom 56 were to be deployed ‘*as required*’. In our view this is vague.

16. The FA submit at paragraph 13 of their written submissions that a Club of such standing would be expected to have greater safety material, beyond a matchday steward’s briefing sheet. They would be expected to undertake extensive planning to ensure the safety of all those attending fixtures at Ewood Park. The FA submitted “*As yet, this has not been evidenced and failure to do so suggests that the Club do not possess such material or undertake the relevant assessments, tending to a profoundly serious breach of E21.*”

17. We note we have not seen any evidence of the following:-

- a. A match specific risk assessment.
- b. A steward plan setting out where stewards should have been positioned and/or the rationale for that deployment. We note that at the time when the supporter approached the hoardings there appears to have been one steward in front of the Riverside Stand between the halfway line and the corner flag.
- c. A sanctions policy relating to how the club details such incidents and evidence of how that is drawn to the attention of supporters (save for an extract from the Terms & Conditions of Ticket Sales).
- d. Evidence of any pre-match operational / security meetings (either documented or made reference to).
- e. A post-match report in relation to the incident.
- f. Evidence that the Club had (adequately) reviewed any CCTV footage after the game.
- g. Evidence that the Club requested information from fans through social media about the incident.
- h. Evidence that the Club issued a condemnation of the incident through its various media outlet channels.

18. The Club has had ample opportunity to produce further material if it existed. It has not produced any further material.

Analysis

19. Having reviewed the footage and having considered the factual accounts we are satisfied that the evidence clearly substantiates the FA’s factual case as set out in paragraph 7 above.

20. We note in particular the following matters which we find as facts:-

- a. The supporter involved in the incident walked onto the wide concourse between the pitch and the stand towards the Assistant Referee.
- b. We accept that he was shouting foul and abusive language. He can be seen gesticulating towards the Assistant Referee.
- c. There was a steward on the hoardings who did not intervene at all. As far as we can see he did nothing at all.
- d. The supporter continued to follow the Assistant Referee down the touchline (albeit he always remained on the concourse). He picked up a bottle and threw it in the direction of the Assistant Referee. In our view it was a matter of luck rather than judgment that the bottle missed the Assistant Referee.
- e. The footage shows 6 individuals at the corner of the ground (3 in orange high visibility jackets and 3 in yellow high visibility jackets).
- f. After the bottle was thrown a match steward in yellow located in the corner of the ground moved towards the incident and the Assistant Referee.
- g. The supporter initially started to walk away.
- h. The Assistant Referee reported the incident to the Match Referee who then moved towards the side of the pitch.
- i. There were now two stewards in attendance (one in yellow and another in orange). The supporter then started to walk back towards them.
- j. The Match Official and the Assistant Referee conversed with the stewards. The supporter was in close proximity. We are satisfied that he was identified as the perpetrator by the Assistant Referee.
- k. Both Match Officials moved away. A third Steward was by now in attendance.
- l. One of the stewards clearly engaged in a conversation with the supporter before he was led away by another supporter.
- m. The stewards allowed the supporter to walk away without identifying him.

21. When the SSO became aware of an incident he explained that he had to make his way to a room in the tunnel in order to contact the Control Room by telephone. We are surprised that the SSO did not have a radio or other means of contacting the Control Room instantly.

22. In our view, against this factual background it is clear that the Club contravened rule E21.1 and/or E21.2. Accordingly, the Club has correctly admitted the charge. Based on what we have seen and read, the Club was correct not to seek to mount a due diligence defence.

The Club's Submissions

23. In its written submissions the Club² accepted the charge and apologised for the incident. It quoted the SSO's account³. On that basis it asserted:-

“Blackburn would also highlight, as per the excerpt of observations given previously by the Club Stadium Safety Officer, that the matter was taken seriously when highlighted, and it was just slight miscommunication that led to the individual not being apprehended at the time. By no way in excusing the actions of the individual and delayed reaction(s) from the stewards on the day, it is felt important to highlight that said individual did not incur onto the pitch, which is a consideration as part of any sanctioning for breaches of this regulation.”

24. The SSO was quoted as follows:-

“I think part of the problem is that Keith Stroud, the 4th [official], kept referring to the offender having gone up the second stairwell on the Riverside from the when I think, if I recall correctly, he went up the third one. It is possible that Keith was not seeing the end stairwell against the wall as being the first which led to the confusion. I tried repeatedly to get further clarification from him but obviously his concentration was what happening on the pitch afterwards.”

25. We do not accept that the failure to apprehend the individual was attributable to a slight miscommunication as claimed by the SSO. The failure to apprehend the spectator was attributable to the wholly unsatisfactory response of the stewards when the incident was reported (see paragraph 17 above). There was ample time to intervene and to ensure that the identity of the supporter was established. The response of the Club stewards was almost non-existent. The supporter was allowed to walk away unchallenged.

26. We are also concerned about the adequacy of the Club's investigation into this incident. In the Club's initial response the SSO stated that it had not been possible to identify the steward to whom the match officials identified the supporter. Given the footage available, in our view, it ought to have been very straightforward to establish which stewards were involved. We observe that there were three at the scene and one of them engaged with the supporter directly. We are surprised that the identity of the stewards was not established. No update has been provided. Therefore, on the basis of the evidence before us, we have concluded that the Club's post-incident inquiries were not thorough.

² P.26

³ See paragraph 9 above.

27. The Club asserts that '*lessons have been learnt*' and '*those were implemented from the next fixture*'. Beyond assertions that the incident would be raised in briefings and the need for vigilance we have seen no concrete evidence of what the Club did to prevent recurrence.

28. Therefore, and sadly, we do not accept that this incident has been '*taken seriously*'. On the contrary, on the basis of the material before us the Club's response to this incident has been limited and superficial.

The FA Submissions on Sanction

29. The FA have helpfully set out their position on sanction in a detailed written document⁴.

30. The FA submit that they would expect to see more extensive planning to ensure the safety of those attending the fixture. We agree. The FA in its submission effectively invited the Club to provide further evidence of its planning. Nothing has materialised.

31. The FA submit that there was no action to apprehend or remove the individual. Again, we agree. As noted by the FA "*The lack of intervention allowed the individual to abuse and insult PH for 13 seconds before then throwing a bottle at him from a short distance. At no stage did any steward attempt to intervene or prevent this conduct and the individual remained able to move freely along the advertising hoarding.*" In our view it was a lamentable response by the stewards.

32. We accept that some efforts were made to identify the perpetrator on the CCTV. We take the view that the SSO was right to be embarrassed about the fact that the identity of the supporter had been pointed out to the stewards by the Assistant Referee and yet he was not identified.

33. The FA invited the Regulatory Commission to adopt the approach taken in *The FA v Birmingham City* (16 September 2019) and *The FA v Bristol Rovers* (27 July 2022) in considering the following factors to determine the appropriate sanction:

- a. The seriousness of the breach
- b. The Club's culpability
- c. The level of harm caused, and

⁴ P.42

d. The mitigation available to the Club.

34. We agree that is the correct approach.

Seriousness

35. The FA submit this was a serious breach. We agree.

36. Although that only one supporter was involved, the nature of his behaviour was aggressive and abusive and culminated in him throwing a bottle at the Assistant Referee. It was appalling behaviour which took place over a significant period of time during which the conduct was unchecked. He was then allowed to walk away.

37. The FA argue, correctly in our view, that there was an obvious lack of stewards in that section of the stadium. We have concluded that the one that was there did nothing. More effective deployment in our view would have deterred such behaviour. The response of the stewards who did ultimately engage was ineffective which raises serious questions about their training and/or competence and/or understanding as to what they ought to have done.

Culpability

38. The FA submit that this case falls towards the medium point of the “*sliding scale of culpability*” identified in *Bristol Rovers* (either gross negligence or negligence simpliciter).

39. The FA observe that they have received no evidence as to the Club’s designation of overall risk, identification of specific risks, mitigation of risks, and engagement with Lancashire Police. They observe that they would have expected a specific protocol for responding to supporter misconduct. None of this material has been produced. They assert that it can only be concluded that such material was not produced for this fixture. In all the circumstances they suggest this is a gross failing.

40. In our view the Club fell well short of the standard to be required. Any attempt to advance a due diligence defence would have been doomed to fail. We agree that the Club has – on the evidence before us – shown disregard for its responsibilities both on the night of the incident and subsequently.

41. Overall we accept that the Club’s failings are correctly characterised as gross negligence.

Harm

42. The FA submit the incident caused significant harm. Although there was no actual harm, that was a matter of good fortune. The absence of actual harm is only one consideration. As the FA observe, such behaviour, if left unchecked, could embolden others or give rise to copycat incidents. It is damaging to the reputation of football for spectators to hurl abuse and indeed objects at a match official. We agree with the FA's submission. In our view this incident caused significant harm.

Mitigation

43. The FA assert that there is little mitigation available to the Club.

44. We accept that the club has admitted the breach. We are also informed that the Club has no history of breaches of E21 for this season and the past 5 seasons.

45. Notwithstanding the above, we consider the response to the incident was hopelessly inadequate. There are three elements to this:-

- a. As to the events on the evening, we consider that the immediate response to the spectator was almost non-existent.
- b. Thereafter, the investigation into the incident was – on the material before us – inadequate.
- c. Finally, we have seen no concrete evidence which demonstrates to our satisfaction that the Club has taken remedial steps to avoid recurrence.

46. Accordingly, we find that there is only modest mitigation available to the Club on the facts of this case.

Sanction

47. Having regard to the factors set out above, we concluded that the appropriate fine in this case was one of £40,000.

48. As noted, we consider that there is limited mitigation. We take account of the Club's admission of the charge and its good record. We reduce that fine to £35,000.

49. The Club is warned as to its future conduct.

50. Finally, although we are not obliged to impose an Action Plan for a case of this sort (it is not an aggravated breach case), we consider that the Club should be required to publicise the outcome of these proceedings on its website and its social media

and in its Matchday Programme. The publication should include information about the nature of the charge and the outcome and the financial sanction imposed. The purpose of this is to ensure that fans are made aware of the consequences of their behaviour. This should be done before its next home game following the publication of these Reasons.

51. Finally, we do not consider that there is any clear or compelling reason why any of the fine should be suspended.

52. There is a right of appeal from this decision as provided for by the Disciplinary Regulations.

Dominic Adamson KC

Alison Royston

Peter Fletcher

3 September 2024