

IN THE MATTER OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

MR. MARK BOWEN

WRITTEN REASONS AND DECISION OF THE INDEPENDENT
REGULATORY COMMISSION FOLLOWING THE HEARING ON 17 JULY

2024

1. These are the written reasons for a decision made by an Independent Regulatory Commission (“the Commission”) which sat via video conference on 17 July 2024.
2. The Commission members were Mr. Simon Parry, (Chairman, and Independent Legal Panel Member), Mr. Matt Williams (Independent Football Panel Member) and Mr. Brian Talbot (Independent Football Panel Member).
3. Mr. Marc Medas, Judicial Services Officer acted as Secretary to the Commission.
4. By letter dated 30 May 2024 the FA charged Mark Bowen (“MB”) with a breach of FA Rule E1(b), alleging that he placed 95 bets on football matches between 19 April 2022 and 14 January 2024. Each bet was alleged to be a separate breach of FA Rule E8.
5. The FA relied upon a witness statement from Mr. Tom Astley, Betting Integrity Investigator at The Football Association, dated 17 April 2024, together with 12 exhibited documents.
6. By written reply dated 14 June 2024 MB admitted the charge and requested a personal hearing at which to advance mitigation.
7. At the hearing before us, the FA were represented by Miss Rebecca Turner (FA Head of Regulatory Legal) and MB by Mr. Simon Pentol K.C. and Miss Karen Todner.

8. The following is a summary of the principal submissions provided to the Commission. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point or submission should not imply that the Commission did not take such point or submission into account when the members determined the matter. For the avoidance of doubt, the Commission carefully considered all the evidence and materials provided to it.

FA RULE 8

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

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

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

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

THE BETS

10. The 95 bets that are the subject of this charge were as follows:
- i. 7 bets placed on the result and/or progress and/or conduct and/or any other aspect of a football match or competition between 19 April 2022 and 28 May 2022 (Season 2021/22), whilst MB was a participant

at AFC Wimbledon and Reading FC. 2 of these bets were aggravated as they involved betting on a competition in which MB's club was participating.

- ii. 52 bets placed on the result and/or progress and/or conduct and/or any other aspect of a football match or competition between 15 August 2022 and 10 June 2023 (Season 2022/23), whilst MB was a participant at Reading FC. 9 of these bets were aggravated as they involved betting on a competition in which MB's club was participating.
- iii. 36 bets placed on the result and/or progress and/or conduct and/or any other aspect of a football match or competition between 19 August 2023 and 14 January 2024 (Season 2023/24), whilst MB was a participant at Reading FC. 2 of these bets were aggravated as they involved betting on a competition in which MB's club was participating.

THE FACTUAL BACKGROUND

11. A well-known betting company provided MB's betting activity to the FA, having identified him as having potentially breached the FA's betting rules. MB was a "monitored customer", for reasons that will become obvious. 94 of the 95 bets that are the subject of this charge were all retail bets placed in two of that company's outlets in Surrey. One bet was placed using a separate online betting account at another company. All of the bets were placed at a

time when MB was the Manager at AFC Wimbledon and latterly Head of Football Operations at Reading FC. The total amount staked in the 95 bets was £8,450.00. The returns on those bets were £7,939.02, resulting in a net loss of £510.98.

12. It is important to note that the aggravated betting concerned competitions in which MB's clubs were participating at that time. He did not bet on his own clubs.
13. The singularly most striking feature about the present case is that in December 2020 MB was sanctioned by a Regulatory Commission (the constitution of which included both the Chair and Mr Williams). In the previous case MB received a fine of £2,500 and an order for costs. The betting in the previous case involved 36 bets with only one aggravated bet, a total amount staked of £5,178.58 and a net loss of £2,723.31, and betting occurring over the course of two seasons. Therefore, we are dealing with an increased number of bets and amount staked, with an increased number of aggravated bets and betting over a slightly longer period than in the previous case.
14. An FA investigation commenced. During the course of that investigation included an interview with MB on 12 March 2024. In that interview MB was not altogether frank. He began by stating that he was not aware of having placed football bets before going on to reveal that he had a friend, who we shall refer to as N, for whom MB would place retail bets. He said, "*daresay there probably be one on football*". He denied that any bets were placed for

himself. He averred that he thought he had placed at most a dozen bets for N over about 6 months to a year. This is clear evidence, in our judgment, of minimisation. The Commission was well aware of MB's stance in his previous proceedings where, despite his admission of the charge, MB sought to put forward an entirely ridiculous factual scenario which in effect amounted to a denial of any wrongdoing. It would be easy to be sceptical about anything that MB asserted in relation to his betting activities. However, The FA were able to interview N on a voluntary basis on 8 April 2024. N had a long and distinguished career in law enforcement and, since retirement, was engaged in sensitive professional employment. Sadly, in the period between his interview and these proceedings N had died.

15. N's account in interview, in our view, shed much more light on the reality of what was going on. He accepted that he had asked MB to place football bets on his behalf. He confirmed that at no stage did MB refuse to do so, nor did he reveal to N that he was prohibited from so doing. N conformed that he gave instructions on which bets to place via message, rather than MB's version of being given betting slips completed by N.
16. In fact, as Mr Pentol referred to in his submissions, in interview MB did confirm that part of his thought process in placing the bets for N was "*it's not my bet*". That, in our judgment, is a highly significant factor in a case where a Participant has for a second time breached the betting rules. MB has made a wilful and conscious decision to place football bets for another, knowing that he was prohibited from so doing, and trying to rationalise or justify the

misconduct in his own mind.

17. The Commission had the benefit of considering a number of documents submitted on behalf of MB. They were Written Submissions from Mr Pentol KC dated 13 June 2024, a witness statement from MB dated 14 June 2024, a witness statement from Brian Carey (Director of Football Recruitment at Reading FC) dated 6 June 2024, a report from Sporting Chance dated 11 June 2024, a witness statement from Jennifer Lace (Head of Psychology & Mental Health, League Managers Association) dated 4 June 2024, and a witness statement from Eliska Novakova (Betting Shop Manager) dated 6 June 2024. We have read those documents with care. We take full account of the evidence before us of Mr Bowen's relationship with gambling. He has also suffered impactful personal issues in recent times, of which we need not go into further detail. Notwithstanding his failure to seek help after the first set of disciplinary proceedings he has engaged with Sporting Chance.

THE FA SUBMISSIONS ON SANCTION

18. Miss Turner provided the Commission with extremely helpful written submissions on sanction and went on to amplify those succinctly before us. She referred us to the Sanction Guidelines, to which we will return. She also invited us to consider the case of *The FA v Chris Maguire*¹. Miss Turner adopted a conspicuously fair approach to MB's case. Given the sad death of

¹ *FA v Chris Maguire*, Reg Comm, 5 June 2024.

N and the inability to test the evidence that he gave in interview, she confirmed that the Commission should proceed on the basis that MB was knowingly betting on football on behalf of N. We agree with that approach. Miss Turner confirmed that were this a case involving a first breach of the betting rules then the Commission would be faced with a situation where on the Sanction Guidelines the entry point sanction was a fine rather than a sporting sanction. However, the core of the submission is that we must have regard to MB's previous conduct, a specific factor referred to in the Guidelines, which she describes as a "*highly aggravating factor*". The presence of such a highly aggravating factor, she submits, nudges this case from the entry point of a fine into the next category within the Guidelines where the entry point is a sporting sanction of between 0-6 months. She reminds us that the purpose of sanction is not only to punish MB, but also to serve as a future deterrent to him and others. She concedes that any sporting sanction need not be a lengthy one and invited us to impose a sporting sanction to mark the seriousness of a second breach. She distils from the case of Maguire a principle that a sporting sanction is appropriate to mark a second breach of the rules. Finally, she reminds us that addiction is a common feature of betting cases but should not be seen as a "get out of jail" card but can serve as mitigation to reduce the appropriate sporting sanction or allow us to suspend it in part.

MB's SUBMISSIONS ON SANCTION

19. In addition to the original written submissions, Mr Pentol provided us with further written submissions in response to the FA's written submissions. Once again, we were greatly assisted by those submissions, which he eloquently and tenaciously amplified at the hearing before us. He notes the FA's position on MB's gambling and asks us to note that football bets are but a small part of his gambling problems. He echoed Miss Turner's invitation to sanction on the factual basis of placing the bets on behalf of N. Mr Pentol seeks to distinguish the case of Maguire for a number of reasons. Firstly, in that case Maguire's first breach had been sufficiently serious to warrant a suspension. Secondly, the betting in Maguire's original offending was over a period of six years. Thirdly, Maguire denied the offences in his FA interview. Finally, Maguire had not provided any evidence of suffering addiction as he asserted in his defence. He submits there is little similarity between MB's case and that of Maguire. At the heart of his submissions is the proposition that it would be disproportionate in MB's case to treat the previous infraction as sufficiently serious so as to nudge the case up into a sporting sanction category.

20. The Sanction Guidelines require a Regulatory Commission to consider the following factors:

Overall perception of impact of bet(s) on fixture/game integrity;

Player played or did not play;

Number of Bets;

Size of Bets;

Fact and circumstances surrounding pattern of betting;

Actual stake and amount possible to win;

Personal Circumstances;

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

Experience of the participant;

Assistance to the process and acceptance of the charge.

DECISION

21. It is not necessary in the context of the present case to rehearse the factors set out in the Sanction Guidelines in detail. It is common ground between the parties that there is nothing noteworthy in the present offending to elevate the seriousness of the offence by reference to those factors, save for our determination on the question of MB's previous conduct. It is common ground, also, that if this were a first offence the Guidelines militate towards a financial penalty, this being a Column Two case.
22. We have regard to the decision in Maguire. We remind ourselves, as the parties accept, that there is no strict doctrine of precedent in Regulatory Commission proceedings. On one hand consistency is important, but equally the Guidelines themselves remind us of our discretion to impose such sanctions as are appropriate having regard to the particular facts and circumstances of a case. It is important to recognise that, especially in betting cases, no two cases are the same. Previous Regulatory Commission decisions are helpful but not determinative of how we should approach this case.
23. We agree with the distinctions that Mr Pentol draws to our attention in Maguire. However, notwithstanding those distinctions, we are in no doubt that the decision in Maguire contains a clear approach for Regulatory Commissions faced with those who repeatedly breach the betting rules. A second or subsequent offence is to be treated as a serious breach. Those betting rules exist to protect the integrity, and the public's perception of

integrity within the game. Any right-thinking member of the public with an interest in football would conclude that a Commission had taken leave of its senses were we not to impose some form of sporting sanction for a second breach of the rules.

24. In our further consideration of Maguire, we note that MB is in a very different position to that of Maguire. MB has played at the highest levels and held positions of responsibility within the game for many years and continues to do so. That experience and knowledge of the rules, together with having appeared before us in 2020, should have been ringing in his ears when he decided, as we find, to quite deliberately set out to place bets for his friend N. Furthermore, MB's offending in this second breach is more serious than his previous case. On that occasion we treated the case as a Column One case with the aggravating factor of the single Column Two bet. This time the betting activity falls well into Column Two before any consideration of the previous misconduct.
25. The Sanction Guidelines are clear in their approach to previous betting misconduct. Such misconduct, as the Guideline sets out in terms, is a "*highly aggravating factor*". The Commission is unanimous in its view that the previous breach, coupled with then facts of the present breaches, is sufficiently serious to elevate the offending into the next bracket within the Guidelines.
26. Taking account of the mitigation helpfully set out in the documents before us and MB's acceptance of the Charge, the Commission considers that a sporting sanction of 12 weeks from all football, and football-related activity

is both a proportionate punishment for MB's re-offending, and to act as a deterrent to him and others who might be tempted to breach the betting rules for a second time. We also consider, bearing in mind his net weekly income from football as declared to us, that a fine of £7,000 is proportionate punishment. There will also be an order for costs.

27. The Commission, having regard to Regulation 43 and 44 of the FA Disciplinary Regulations, has the power to suspend all or part of the foregoing suspension, if we are satisfied that there is some clear and compelling reason so to do. In our judgment, notwithstanding the view we take on the seriousness of a second breach, we do consider that there is a sufficiently clear and compelling reason to suspend part of the 12-week suspension. We do not consider that it would be appropriate to suspend it in full as there must be a significant element of punishment in our sanction of MB. We are satisfied on the evidence before us that MB does have a disorder in relation to gambling and one that he now seeks to address with professional help. That can be, as Miss Turner very fairly and compassionately noted, a sufficiently clear and compelling reason, and in the circumstances of this case we so conclude. It is a matter of real regret that only now is MB belatedly seeking that help, despite it being signposted to him in 2020. That perhaps, though, is one of the characteristics of addiction. In our judgment the operational period of the suspension must be of sufficient length to mark both the seriousness of a second breach and standing as a significant test to MB's expressed resolve not to commit any

further breaches in the future.

SANCTION

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

- (i) Mark Bowen shall be suspended for a period of twelve (12) weeks from football and all football activity, the effect of such suspension being that four (4) weeks of the suspension shall be served immediately whilst the remaining eight (8) weeks are suspended until the conclusion of the 2025-26 season;
- (ii) Mark Bowen shall be fined the sum of £7,000; and
- (iii) Mark Bowen shall pay the costs of the hearing in the sum of £900.

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

Mr. Simon Parry (Chairman)

Mr. Matt Williams

Mr. Brian Talbot

29 July 2024