

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

**The FA
V
Port Vale Football Club**

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

Regulatory Commission	Dominic Adamson KC (Chairperson) Phil Rainford Matt Wild
Secretary to the Commission	Michael O'Connor
Date	10 May 2024
Hearing Type	Paper Hearing

Introduction

1. On 14th February 2024, Port Vale FC (“the club”) was charged with misconduct for a breach of FA Rule E21 on the following terms: -

“You are hereby charged with misconduct for a breach of FA Rule E21 in respect of the Match. It is alleged that Port Vale 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 behave in a way which is improper, threatening or provocative; and/or encroach on to the pitch or commit any form of pitch incursion, contrary to FA Rules E21.1 and E21.3.”

2. On 22nd February 2024, the club admitted the Charge and requested that the matter be dealt with at a paper hearing. The Regulatory Commission deliberated at a hearing on 10 May 2024.

3. We have been provided with a 232-page bundle of documents. We have considered it with care and in full. If we do not mention a document specifically that does not indicate that it has not been considered.

The Regulation

4. 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.

...

E.21.3. encroach onto the pitch or commit any form of pitch incursion”

The Incident

5. On 27th January 2024, the club hosted Portsmouth FC in the EFL League One.
6. The FA prepared a note to assist the Regulatory Commission in determining the appropriate sanction. It summarised the incident as follows:-

“As the match approached the 90th minute, one of the club’s supporter/spectators exited the stand on to the field of play and ran across the breadth of the field of play in an attempt to reach the match referee. The referee was warned by his assistant over their communication devices whereupon he saw the supporter/spectator approach and was able to take evasive action. Technical area staff were required to intervene to stop this supporter/spectator from reaching the referee.”

7. We have also been provided with reports from the Referee and the Assistant Referee. We note the following:-
 - a. The referee stated, *“In the 89:40 minute of the game, whilst a substitution is occurring, I am informed by AR2 Hughes to ‘look behind me’. As I look, I see a fan running at full speed at me who is about 15 yards away from where I am stood. I immediately run to move away from him, he follows me, before I seek safety in the technical area of Portsmouth. The individual is stopped by members of both technical areas before he is taken away.”*

- b. The assistant referee stated “...I witnessed a fan enter the field of play from where the PV fans was located. The fan was running towards the referee. I immediately notified the team that a supporter had entered the pitch. It seemed like no one had heard me and I started to shout 'Craig turn round' as I could see that the supporter was running with purpose towards the referee. The referee did turn round and he was chased towards the technical area by the supporter. The supporter was detained by security staff and play resumed with the throw. During the time that the supporter entered the field of play, there was no attempt by security to detain or deviate his movement. The supporter ran from one side to the other and there seemed to be no reaction from security staff on the other side to try and stop his movements.”

8. We have also been provided with footage of the incident.

The Club's Response

9. In an e-mail dated 1 February 2024 the Club provided a written response to an invitation by the FA to provide written observations about the incident.

10. The e-mail set out numerous points including but not limited to:

- a. It was contended that the fixture had been planned and prepared thoroughly alongside Staffordshire Police using intelligence assessments shared by the police.
- b. It was explained that the club has internal weekly safety and security meetings attended by the senior club staff, the Director of Operations, the Safety Officer, Deputy Officer.
- c. The Safety Officer held internal formal planning meetings were held prior to the Portsmouth fixture and attended two police led meetings. It was pointed out that match day stewarding proposals were shared with the police.
- d. The Club explained that there was no specific intelligence prior to or during the fixture nor any precursor incidents that would have suggested that any individual or groups were seeking to enter the field of play. Nevertheless, the Safety Officer increased the response team numbers from the usual 7 to 12 for this fixture.
- e. The Club submitted that spontaneous pitch incursion is always a possibility and mitigation measures were in place including closure of pitch side gates, stewards positioned at gaps in perimeter fencing, a full complement of CCTV operators, response teams at each corner, two stewards to protect match officials and players and the tunnel area, signage in stands and additional response teams for this fixture.

f. The Club noted that CCTV operators were tasked with scanning the stands.

11. As to the incident itself the Club contended as follows:-

“In terms of reactive measures taken by our club once we became aware of the incident we can report as follows;

- *At 85 minutes with the game had been relatively uneventful with regard to incidents in the home stands, the Safety Officer called After Match Positions which saw a number of stadium resources exit the ground to support the safe egress of home and away supporters as usual.*
- *On the 88th minute a penalty was awarded to Portsmouth for a foul, following a heavy challenge on a Port Vale player that had frustrated the home crowd seconds earlier.*
- *Portsmouth scored the penalty and immediately we saw the usual move forward of supporters in celebration within the away stand.*
- *Response teams deployed in front of the stand and successfully prevented at least two Portsmouth supporters who showed clear intent to get onto the pitch from doing so.*
- *At the same time, home supporters within the Lorne Street Stand moved forward to vent their frustrations at the referee, assistant referee and fourth official who were on the nearest side of the pitch to the Lorne Street Stand. Response teams were deployed to ensure there were no pitch incursions from the Lorne Street Stand as a direct result of vocal hostility shown towards those officials and the Portsmouth dugout.*
- *Response teams were also deployed in front of the main home stand, Hamil Road where it was felt from previous experience any home pitch incursion would occur.*
- *We were around the 90th minute of the game and upon the scoring of the goal a large section of home supporters from the Railway Paddock Stand got out of their seats and headed towards Exit Gate E.*
- *All of the above took place within a 60-90 second period following the goal being scored.*

Play restarted and response teams remained in their positions in front of the Bycars, Lorne Street and Hamil Road stands as this was where the hostilities and celebrations were taking place. It can be seen from observed CCTV footage that the tunnel stewards were challenging behaviours of supporters in the Lorne Street stand that were directed towards the dug out and officials and for short periods had their backs to the pitch whilst doing so.

Within what seemed like only 60 seconds of the restart, with no notice or warning a single supporter who was moving towards Exit Gate E down the front of the Railway Paddock has turned and ran past the gate steward onto the pitch directly towards the referee. The Safety Officer and Control Room Team, on identifying the individual as being on the field of play put out communication to alert all stewards at the earliest opportunity.

As the individual entered the pitch two stewards at the dugouts had their back to the pitch and were dealing with a crowd issue directly behind the home dugout adjacent to where the assistant referee stood. Their concern at this time was his safety, and the safety of those within the dugout. The individual was on the pitch for a total of 12 seconds before he was detained by club staff and stewards. He was quickly removed from the playing area and taken through the tunnel where he was handed over to Staffordshire Police.

The response team that had left the ground when the Safety Officer called End of Match Positions was the team that would have been closest to the point that the individual entered the field of play from the Railway Paddock Stand. There have been no pitch incursions from this stand during this season or the previous season. At the point of the penalty being taken and scored this was the least vocal of all stands and had been the most benign stand throughout the whole fixture.

Immediately following the pitch incursion, the Safety Officer, seeing the risk of copycat incursions implemented the pitch incursion plan which saw all concourse and stand stewards deploy to the track side under the control of a pitch incursion manager (Deputy Safety Officer). This action deterred a clear number of home supporters particularly from the Hamil Road Stand from attempting to breach the perimeter, there were no further pitch incursions although the atmosphere remained exceptionally hostile.”

12. The club make the point that the response team which would have been closest to the point where the spectator entered the field of play had left the ground when then Safety Officer had called ‘End of Match Positions’.
13. The e-mail went on to explain that the individual who entered the pitch was taken into police custody and was due to appear before North Staffordshire Magistrates Court. The Safety Officer has served an indefinite period of club ban on the individual. It then provided details of action that it had taken and will take to prevent recurrence.
14. The Club also supplied various documents with the letter which included:-

- a. Matchday Inspection Club Report prepared by the Sports Ground Safety Authority. The summary of that report states concluded with the following statement “*Overall this was a challenging match with some complexity added by the management of the VIP security operation, but was well planned and managed by the safety team. However, consideration needs to be given to how to prevent standing on seats in future as this presents a serious safety concern.*” We note that it indicates that there were 231 stewards in relation to a match attended by 8067 fans (a ratio of 1 to 29).
- b. The Match Day Operations Risk Assessment. This had a specific section relating to ‘*Pitch Incursion*’. With respect to this document we note
 - It refers to a ‘*documented procedure*’ for handling pitch incursions. It is unclear that this documented procedure is. We do not believe we have been provided with a copy of it.
 - The risk of pitch incursion was identified as low.
 - There is a section in bold which indicated that no additional mitigation was to be put in place for this fixture.
 - There is a reference to a ‘*Pitch incursion plan in operation for Higher risk games. Stewards briefed on this.*’ It would appear that there was no such plan for this match because of the perceived risk level. Come what may, we have not seen a Pitch Incursion Plan. Nor have we seen a Stewards Briefing in relation to pitch incursion.
 - It stated that “*Any person making a pitch incursion will be handed to the police and a policy of prosecution should be adhered to in line with EFL guidelines as of July 2022.*”

Overall we found this document relevant to the issues we are considering but we were concerned about the apparent absence of a pitch incursion plan. Additionally, it contains repeated references to a ‘*stewarding plan*’. We were not provided with a copy of a Stewarding Plan.

- c. A Port Vale Club Safety Briefing. This touches upon pitch encroachments. It describes them as rare but provides no practical advice on what should be done.
- d. A Persistent Standing Management Plan. We do not consider that this is helpful in relation to the present matter.
- e. A Match Official’s Pre-Match Briefing. This stated that “*Stewards will enter the field of play and apprehend the offenders if there is a direct threat or risk to the players or match officials. All other occasions we will wait until the person has left the field; this will be under the direction of the Match Safety Officer. Any persons caught offending will be arrested and dealt with by the appropriate authorities.*” It is clear that this guidance briefing was not followed.

15. The club have supplied a witness statement prepared by Wayne Jones, dated 21 February 2024. Mr Jones is the Club Safety Officer. He is a former Chief Superintendent within the Staffordshire Police. He has vast experience of policing football matches. He was appointed as the Club Safety Officer in April 2023. He is part of the Club's management team and they have reviewed and improved safety provision since his appointment.
16. Mr Jones explains that he was involved in the preparation of the email dated 1 February 2024 which is referred to above. He endorses the content of the e-mail. In addition, in his witness statement Mr Jones has provided details of pitch incursions which have occurred during his tenure as the Club Safety Officer:-
- a. There have been 4 short-lived encroachments in 24 fixtures.
 - b. All incidents involved home supporters who have been detained and received club bans.
 - c. The only occasion when a supporter entered the field of play was during this the Portsmouth match.

In essence, Mr Jones attempts to impress upon us that the club takes pitch encroachments seriously, it has been successful in limiting the number of incidents and has dealt with those who have encroached firmly.

17. Mr Jones states that he has reflected at great length on how this incident occurred and what could have been done to prevent it (see p.124 of the bundle). Mr Jones does not identify any measure which could have prevented incursion. He states that the Club and the Safety Management team were '*completely deflated and still significantly disappointed by the fact that this individual made his way across the pitch before he could be intercepted*'.
18. Mr Jones does not address the fact that the Club has previously been sanctioned for a similar breach arising out of a pitch encroachment. He was not the Safety Officer at that time. Nevertheless, given that this statement was provided on behalf of the Club, in our view the Club could and should have addressed this issue in their materials.

Comment

19. We entirely accept the FA's summary of the facts (see paragraph 6 above).
20. We also accept the accounts provided by the Referee and the Assistant Referee (paragraph 7 above). In particular, we agree with the thrust of the observation made by the Assistant Referee that '*there was no attempt by security to detain or*

deviate his movement' and there seem to be *'no reaction from security staff'*. This was surprising in our view given that it was clear he was running towards the referee. It was in our view disappointing that it was left to technical area staff to intervene.

21. We have made certain observations about the documents submitted to us by the Club.

- a. We consider the risk assessment is generally reasonable albeit, as mentioned above, we were concerned about the absence of a Pitch Incursion Plan or a specific Briefing in relation to it. Additionally, we were not provided with a Stewarding Plan. We were left to wonder as to what such a plan or plans might have done to reduce the risk of pitch incursion.
- b. We considered the number of stewards deployed by the Club to be more than reasonable. We do not accept that this is a case about a lack of resource. Rather, it is about the wholly inadequate response to the incident.

22. Once the incursion occurred the response of the stewards was – in our view – non-existent. It is startling – in our view – that there was no attempt by any steward to intervene as the individual entered the field of play and then made a beeline for the referee. As will be observed below, we take this into account in our assessment of culpability.

Submissions on Sanction

23. In determining sanction we have been invited to by FA to adopt the approach taken in the case of FA v Birmingham City, endorsed in The FA v Leeds United FC, by considering the following:

- a. The seriousness of the breach.
- b. The club's culpability.
- c. The level of harm caused.
- d. Any mitigation available.

24. We agree that this is the appropriate approach.

25. We turn first to the seriousness of the breach. In our view this was a very serious breach. As the FA observe, the spectator was able to enter the field of play with apparent ease and made his way across the pitch without any reaction. The risk posed to the referee and participants was entirely unacceptable. We are not persuaded by the fact that the resources were called to their after-match positions substantially reduces the seriousness. The fact is that the response of the

stewards who were present was negligible. In our view, it should not have been necessary for the club staff in the technical area to respond to this incident.

26. As regards culpability, we note the reference to the decision in *The FA v Reading* and the sliding scale identified therein.

“The Appeal Board considered that a Club’s culpability for breaching Rule E20 in respect of a mass pitch incursion could range on a sliding scale from [1] the most serious [for example a deliberate decision not to provide the necessary resources for financial reasons], to [2] a reckless disregard in respect of the Club’s duties, to [3] gross negligence, to [4] negligence simpliciter, down to, finally [5] a situation where a club has marginally failed to avail itself of the ‘due diligence’ defence set out in Rule E21.”

27. The FA place the matter in category (3) – namely gross negligence. We do not think that it greatly assists us in determining whether this is gross negligence or simple negligence. We need to consider the nature of the breach. We do accept that the club has considered the risk in its risk assessment and has provided a sufficient number of stewards for the match. However, we are concerned by the absence of a pitch incursion plan and a stewarding plan. The briefing of the stewards was in our view wholly ineffective given what occurred. As we note above, the response to this incident was non-existent. We consider that there is significant culpability falling in the region of category 3 or 4 in the sliding scale.

28. As for harm, in our view there was significant harm. It is of course fortunate that no physical harm was caused. But that does not mean that there was no harm. This was a very bad incident in our view. Swift prevention helps to deter others. This was conspicuously absent. There is – rightly – a very strong emphasis on need to protect referees from all manner of abuse and physical threats. Incidents like this are damaging.

29. As for mitigation, we make the following observations:-

- a. The club has accepted the charge. We give them credit for that.
- b. We accept that the incident was spontaneous and we pay due regard to that. But the response to it was entirely inadequate. As a result we are not persuaded that this provides much mitigation.
- c. We have considered the statement of Mr Jones and we accept that the club has taken some steps to prevent recurrence.

30. There is a serious aggravating feature. We note that this is not the first time that the Club has faced a charge of this sort. The Club were also charged in July 2022 for an E20 breach relating to a pitch incursion. We note that the written reasons include the following observations:-
- a. There was no match specific pitch incursion plan.
 - b. The planning for the briefing and deployment of stewards was inadequate and was not fulfilled on the day.
31. There are common threads to the criticisms in that case and the present matter. A fine of £15,000 was imposed on that occasion. In our view, a second breach has to be approached as a matter of the utmost seriousness.
32. We have been provided with very little information about the club's finances. We have been told only that it has '*limited financial resources*'.
33. In our view, given the seriousness of the offence, the culpability, the harm caused, the mitigation and aggravating features, we have determined that the appropriate fine is one of £25,000.
34. The Club has suggested that the financial penalty should be determined but then enforced by requiring the Club to spend money on safety systems and processes. In our view this is an unattractive submission. It is tantamount to suggesting that the Club should be sanctioned by directing that it spends money on safety measures which – in reality – it is obliged to spend in any event. That is no sanction at all. We reject it without hesitation.
35. There is a right of appeal from this decision as provided for by the Disciplinary Regulations.

Dominic Adamson KC
Phil Rainford
Matt Wild
28 May 2024