

THE FA

-v-

READING FC

DECISION AND REASONS

Regulatory Commission constitution.

Abdul S. Iqbal KC (Chair – Independent Legal Panel Member)

Ken Brown (Independent Football Panel Member)

Matt Wild (Independent Football Panel Member)

Michael O'Connor (Secretary)

Date of hearing : 13th August 2024

1. This document sets out the written reasons for the decision in this independent Regulatory Commission (“the Commission”).
2. This document does not set out the entirety of the evidence considered by the Commission. It sets out the relevant evidence on the central relevant issues as considered by the Commission and assessed by the Commission in reaching findings of fact.
3. The Commission met by Microsoft Teams meeting on 13th August 2024 to consider the issues the case raises.
4. The Commission appointed to determine the charge has the requisite experience in

crowd management matters and previous crowd management disciplinary hearings.

(1) The charge.

5. By charge letter dated 17th April 2024¹ The Football Association (“The FA”) alleged that Reading FC (“RFC”) during the EFL League One match against Port Vale FC (“PVFC”) on 13th January 2024 (“the match”) failed to ensure spectators and/or supporters (and anyone purporting to be its supporters or followers) conducted themselves in an orderly fashion whilst attending the match.

6. Accordingly, The FA charged RFC with :

- i. Failing on 13th January 2024 to ensure that spectators and/or 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 rules E21.1 and E21.3 of the Rules of the Football Association.

7. RFC admitted the charge in correspondence dated 16th May 2024 and requested a paper hearing².

(2) The facts.

8. The relevant facts³ as to these charges are :

- i. On 13th January 2024 RFC hosted Port Vale FC in the EFL League One (“the match”). In the 16th minute of the match, there was a mass pitch invasion by RFC supporters;
- ii. This related to a planned protest in relation to RFC’s ownership. Following consultation with EFL representatives and representatives of Professional Game Match Officials Limited (“PGMOL”), the match referee abandoned the match;
- iii. On the day prior to the match, the match referee became aware from social media of the possibility of a formal protest at the match by RFC supporters. Accordingly, upon arrival at the ground, the match referee met with RFC’s Club Secretary and Safety

¹ Pages 4 to 5 of the case bundle.

² Pages 512 to 522 of the case bundle.

³ This summary is extracted from the various factual witness statements and written submissions within the case bundle.

Officer whereupon it was determined that a protest was highly likely;

- iv. The match referee informed relevant personnel that it was highly likely that tennis balls would be thrown on to the field of play and likely that supporters would enter the field of play in protest at some point during the game.
9. The match referee, Ross Joyce, states in written evidence⁴ that:

“In or around the sixteenth minute, we had a mass pitch invasion by supporters of Reading FC, with me quickly signalling the players to leave the field of play and return to their respective dressing rooms. Reading FC stewards formed a ring of stewards around the tunnel, and I ensured that all players and personnel were safely back inside. Several tennis balls were then thrown towards the door to the tunnel by supporters, with players and staff having to dodge them.

As I was ensuring that all players and club officials were inside the line of stewards, I observed a developing situation in that John Schofield, Assistant Manager of Port Vale, was still on the field of play and the other side of the line of stewards. A match ball was kicked by a supporter and it hit John on the back (I am not sure if this was deliberate or not). At this point, I observed a Reading FC supporter approach John and appeared to make physical contact with him. At this point, John reacted angrily, I believe this is due to the ball hitting him and this confrontation, which was understandable.

Sensing that this situation was escalating and some other supporters becoming drawn in, I instantly moved back out onto the field of play, the other side of the line of stewards and grabbed John and steered him to the other side of the line of stewards and back into the safety of the dressing room to quickly prevent this situation escalating further. I checked that John was ok, he was a little angry and visibly upset but reported no significant issues.

.....

At this point, I spoke to both Ruben Sellers and Andy Crosby and advised them that I would now be liaising with the EFL and updated them on the process that I would be following, as well as liaising with Sue Hewett and David Parker. I asked how long they would require for a warm-up if the game was stopped for a significant period and it was agreed that fifteen minutes was needed.

By this time, we had a significant number of Reading FC supporters on the field of play,

⁴ Pages 9 to 12 of the case bundle.

estimated to be over 1,000 with flares being used and several banners displayed. Stewards did well to ensure the technical area was sterile. I spoke with David Parker once again, and we agreed that several public announcements would be made, as well as social media posts, asking supporters to leave the field of play. This had very little impact and after around ten minutes I decided it was time to telephone Mike Jones.

Following a telephone call with Mike Jones, who then invited in Bob Eastwood, Head of Security and Safety at the EFL, we decided to continue with further announcements and engagement with some of the key supporters at one of the fans groups, however, this was also having little impact. It was clear that the supporters were wanting the game abandoned.

Further announcements were made asking the supporters to leave the field of play, advising them of the serious consequences the club could face. A number of supporters then appeared to leave the field of play, however, a large number, estimated to be around 200 -300 remained.

I spoke further with Ruben Sellers and Any Crosby, who at this point were becoming visibly frustrated with the situation, and I advised them that the EFL & PGMOL were holding a meeting as we spoke and reassured them that as soon as I had any further information, they would be the first to know. I assigned an Assistant Referee from my team to each club to ensure they had a direct point of contact and to manage the frustrations whilst we agreed on the next steps.

Following further calls with executives of the EFL (it was now approaching fifty minutes since the game was suspended), we decided to go with one last public announcement in that should the remaining supporters not leave the field of play, the game was at serious risk of being abandoned.

This final address had some impact, as further supporters appeared to be leaving the field of play, however, having personally went back outside pitch side and observed, a significant number were still on the field of play and were not moving until the game was abandoned.

Following this, I returned to the conference call and following deliberations, it was decided that the fixture should now be formally abandoned at 16:15. This decision was fully supported by all on the call, as well as all match officials, David Parker, Sue Hewett and Kevin Johnson, PGMOL Match Observer.

.....

In closing, Sue Hewett and David Parker deserve a special mention for their proactiveness and support throughout a really challenging afternoon. Also, Ruben Sellers and Andy Crosby whose conduct and cooperation was first class and very much appreciated.”

10. In addition to the above written evidence, the Commission viewed eight pieces of video or audio footage of the pitch incursion itself.

11. The video footage depicts a mass pitch incursion that was preceded by tennis balls being thrown onto the pitch. The pitch incursion involved hundreds of RFC supporters encroaching on to the pitch past stewarding staff who were located at the edge of the pitch. There appeared to be little resistance to the supporters entering the field of play.

12. Some supporters had flares that were activated such that blue and white smoke is seen to be produced by those flares. Various derogatory behaviour was directed towards presumably RFC club officials or owners by many encroaching spectators.

13. The spectators appeared to generally not be aggressive or to be threatening violence towards any others.

14. There is no evidence that RFC supporters acted aggressively towards PVFC supporters.

15. No attempts are made by safety or security staff to escort or otherwise remove the encroaching spectators from the pitch for a very substantial period of time approaching an hour.

(3) The sanction framework.

16. FA Rule E21 provides as follows⁵:

“Supporter behaviour

E21 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,

⁵ FA Handbook 2023 – 24, page 146.

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.

E21.6 For the avoidance of doubt Rule E21 shall apply to the conduct of both a Club's home and/or away supporters.

17. RFC has admitted a breach of FA rule E21.3 by failing to ensure that its supporters acted in an orderly fashion whilst attending the match and failing to ensure that they 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

18. FA rule E21.5⁶ provides a "*due diligence*" defence in appropriate circumstances. The burden of establishing the defence upon the balance of probability rests with the charged club.

⁶ Page 146 of the FA Handbook 2022/23.

19. RFC has not raised the “*due diligence*” defence pursuant to FA Rule E21.5.

20. However, factors relevant to due diligence are relevant to determining sanction because they are relevant to the mitigation available to a charged participant.

(4) The submissions on sanction.

21. The Commission read and considered all of the following written documents when considering the appropriate sanction in this case.

22. The contents of each of those documents and appendices are not repeated in this document save for where reference is necessary to explain whether a submission or factor was regarded as relevant or irrelevant to sanction.

(i) The FA.

23. The Commission read and considered:

- i. Copy of Charge Letter - Reading FC and accompanying documentation [pages 4 to 510 of the case bundle];
- ii. The FA Submissions (17 July 2024) [pages 533 to 541 of the case bundle];
- iii. *The FA -v- Birmingham City FC* (12th August 2019) (“*Decision and Written Reasons*” dated 16th September 2019) [pages 542 to 609 of the case bundle];
- iv. *The FA -v- Leeds United FC* (11th October 2023) [pages 610 to 634 of the case bundle];
- v. *The FA -v- Reading FC* (5th August 2015) [pages 635 to 664 of the case bundle].

24. In brief summary, the submissions made by The FA in relation to this incident and its case are⁷ :

- i. The FA rely upon a report prepared for The FA by Anthony Conniford (Safety and Security Advisor for The FA)⁸;
- ii. Anthony Conniford reviewed all of the available material and addressed a number of

⁷ Pages 533 to 541 of the case bundle.

⁸ Pages 497 to 509 of the case bundle.

pertinent points relevant to due diligence and indeed to sanction:

(a) *What failings, if any, can be identified in respect of the Club's planning and preparation ahead of the fixture?*

- The "*Match Specific Risk Assessment*" does include an assessment of the risk for pitch incursion however given the known risks associated with this match and those emerging ahead of it, a stand-alone dynamic risk assessment would have been expected;
- The risk ratings shown (on the assessment) are wrong and whilst described as an "*administrative error*" the same "error" is repeated further on in the assessment in the section solely dedicated to pitch incursion;
- The "*Event Log Risk Assessment Port Vale*" does not reflect the concerns associated with this match. Again, the risk grading has not been reviewed as it is again referred to as "*low*", along with other comments that contradict the "*Match Specific Risk Assessment*";
- The reference to "*Wigan*" within this assessment suggests the document was not fully reviewed ahead of the match;
- It is unclear if the "*Pitch Incursion Plans*" are generic or match specific given the detail they contain. They are not dated and not personalised by the author. Given the potential risk on this occasion, a match specific pitch incursion plan with positioning of individual stewards would have been expected giving clear indication of roles and responsibilities;
- The photograph taken of stewards surrounding the technical area and tunnel supplied by RFC has no accompanying information to detail when this photograph was taken and what briefings, if any, were given during the training. No details of specific pitch incursion training has been included by RFC;
- Briefing documents submitted by RFC provide no information of how they were delivered, by whom, where or when. They are on plain sheets that provide no date or author details;
- The briefing documents provided by RFC are below the standard to be expected. Nor do they appear to have been fully reviewed prior to the event. It is of course possible that fuller verbal briefings took place however no evidence of that has been supplied by RFC;

- The detailed briefing note prepared for the match referee by the Safety Officer does provide more detail specific to this match however it also mentions inexplicably that “*The plan will be shared with Portsmouth representatives pre match prior to kick off.*” Circumstances of the delivery of the plan are again not known.

(b) What measures or steps the Club ought to have taken in its pre-match preparation.

- Whilst stewarding numbers were above those advised in the “*Green Guide*”⁹, it is clear that their number was not sufficient to deal with an incident of this nature and an increase should have been considered and discussed with senior management and partner agencies. The additional 10 stewards employed would not have provided a significant deterrent to offenders;
- It is clear from comments made by the RFC Safety Officer in his email to the police the night before the event and in comments attributed to him in the “*SAG minutes*” that he did not feel confident he could stop an incursion even if he had substantial resources;
- The lack of recorded meetings with the police pre-match (one email) and the reluctance to deploy officers that were already at the stadium is confusing. Indeed, other than the “*SAG minutes*” there is no rationale provided for any decisions made on the day and no records of conversations being made. Detailed minutes of meetings should have been taken for audit purposes;
- Any meetings regarding the deployment of police officers under an “*SPS agreement*” should have been subject to minuted record and decisions made recorded however it is clear from reading the “*SAG minutes*” that there may be some ongoing issues surrounding the deployment of officers at the stadium.

(c) What failings, if any, can be identified in respect of the Club’s actions during the fixture.

- A more robust approach to stop or proactively dissuade supporters from entering the field of play would have been expected however given the numbers involved the stewards’ actions are understandable;

⁹ The Guide to Safety at Sports Grounds published by the Sports Grounds Safety Authority.

- There are no apparent positive actions seen in the footage by stadium staff to attempt to remove the supporters from the pitch by sweeping them back towards the stands;
- A visible police presence prior to the incident could have acted as a deterrent to the actions of the supporters;

(d) What measures or steps the Club ought to have taken during the fixture.

- There are no other measures or steps aside from those highlighted above;
- It is clear that this planned pitch incursion was designed to be a 'peaceful protest' with the sole intention of getting the match abandoned and with no other motive. It was largely peaceful however as can be seen in the footage the disgruntlement of other supporters with the actions of the demonstrators could have seen the atmosphere deteriorate into disorder.

(e) What failings, if any, can be identified in respect of Club's response following the fixture.

- No failings in the club response following this fixture have been identified.

(f) What measures or steps the Club ought to have taken following the fixture.

- From the evidence produced the club has taken appropriate and proportionate measures and steps following the fixture;
- The "SAG meeting minutes" indicate extensive discussion about post-match investigations and show good co-operation between the club and the authorities to move forward with a coordinated plan to deal with any offences or offenders identified.

(g) Whether or not the Club exercised all due diligence in respect of the behaviour of their spectators and/or supporters during the fixture.

- Extensive pre-match messaging was circulated prior to the match via the club website and social media platforms;

- Tannoy messages were relayed to supporters throughout the event;
 - There were visual displays on stadium signage and the electronic scoreboard during the event;
- iii. The Commission is invited to consider the judgments in *The FA -v- Birmingham City FC*, *The FA -v- Leeds United FC*, and *The FA -v- Reading FC* (cited above) to be of relevance in assessing culpability, harm and thereby sanction;
- iv. The Commission is invited to adopt the approach taken in *The FA v Birmingham City* by considering:
- (i) the seriousness of the breach;
 - (ii) the Club's culpability;
 - (iii) the level of harm caused; and
 - (iv) any mitigation available.
- v. In relation to seriousness of the breach, The FA acknowledges that significant efforts were made by RFC in relation to a challenging set of circumstances;
- vi. The Commission is invited to apply the sliding scale set out in *The FA v Reading FC* when considering culpability:
1. the most serious [for example a deliberate decision not to provide the necessary resources for financial reasons];
 2. a reckless disregard in respect of the Club's duties;
 3. gross negligence;
 4. negligence simpliciter;
 5. a situation where a club has marginally failed to avail itself of the 'due diligence' defence set out in Rule E21
- vii. In relation to harm, It is submitted that the harm caused in this case was significant. Supporters entering the field of play in such numbers clearly represents a significant safety risk. The resultant abandonment of the match is also a serious matter;

- viii. RFC have already been subject to disciplinary proceedings under EFL Regulations 2023/24 and sanctioned in relation to a breach of FA Regulation 32.2 (“*Any Club failing to fulfil its fixture obligations in respect of any match under the jurisdiction of The League on the appointed date or dates*”);
- ix. Despite the inherently serious nature of the incident, fortunately on this occasion the pitch invasion was largely peaceful, save for an incident where a ball was kicked by a supporter and struck the Port Vale FC Assistant Manager. Certain supporters were also in possession of flares.
- x. The volatility of a situation of this nature means there was inevitably the potential for escalation. Fortunately, the incident involving the Port Vale FC Assistant Manager appears to have been the only actual incident that went beyond the supporters’ occupation of the field of play;
- xi. In terms of mitigation, It is noteworthy that in spite of the breach, both the Match Referee and Mr Conniford offer praise to RFC and/or RFC personnel;
- xii. The appropriate sanction in this case is a financial penalty commensurate with RFC’s position in the football pyramid;
- xiii. It is a matter for the Commission as to whether the significant efforts made by RFC, the steps taken to address the issue at the time (and subsequently), in conjunction with RFC’s circumstances and sanctions imposed already by the EFL, represent clear and compelling reasons to suspend the sanction imposed. Clearly the sanction requires to have a deterrent effect.

(ii) RFC.

25. The Commission read and considered:
- i. Reading FC Letter dated 8 February 2024 with associated material [pages 15 to 26 of the case bundle – associated material at pages 27 to 495 of the case bundle];
 - ii. Reply Letter - Reading FC (16 May 2024) [pages 512 to 523 of the case bundle];
 - iii. Letter to The FA on Supplementary Observation - Reading FC (1 March 2024) [pages 524 to 526 of the case bundle]
 - iv. Reading FC Letter CXXXX (Stadium Ban) [pages 527 to 528 of the case bundle]

- v. Reading FC Letter TXXXXXX (Mother) [pages 529 to 531 of the case bundle]
 - vi. Reading FC Email (18 July 2024)) [pages 666 to 668 of the case bundle]
26. In brief summary, the ultimate submissions made by RFC in relation to this incident and its case are¹⁰ :
- i. RFC considers there are arguments it could raise to support a credible defence to the charge under Rule E21.5 including that it cannot be deemed to have control over all spectators in the stadium, and that it exercised due diligence in respect of its preparation and planning for the match;
 - ii. RFC does however acknowledge that there are certain areas which could be improved going forward and ultimately the events in question were unacceptable and it therefore admits the charge on this basis;
 - iii. As demonstrated by the extensive planning and preparation undertaken by RFC for the match, RFC reasonably believed that it had sufficient measures in place to deal with a pitch invasion, including having a sufficient number of stewards in place and a sufficient number of police on duty inside the Stadium;
 - iv. Several preparatory measures were put in place by RFC before the match, including RFC's engagement with the EFL prior to the match;
 - v. RFC engaged in extensive planning both internally and externally with Thames Valley Police ("TVP"), with whom it has an excellent relationship, prior to the match and on the day of the match, and at no point did TVP have any concerns about RFC's planning and preparations for the match or deem them insufficient in any way;
 - vi. At no point during the incident when RFC's supporters entered the pitch did TVP consider intervening as the Incident was a peaceful protest without any violence or disorder;
 - vii. Further, all of the Match Officials and players from both RFC and PVFC were safely escorted off the pitch by RFC stewards when the Incident occurred. RFC therefore considers it did everything reasonably possible in the circumstances;
 - viii. RFC has no control over what actions or decisions are taken by TVP officers when they are on duty at any match. Therefore any criticism which Mr. Conniford has regarding

¹⁰ See letter from James Cameron, RFC FC Club Secretary, dated 15th February 2023 at page 6 of the case bundle.

TVP should not be attributed to RFC which is in no position to give orders to experienced police officers;

- ix. RFC complied in full with the requirements of its '*Stadium Safety Certificate*' and RFC's preparations for the match complied with the '*Guide to Safety at Sports Grounds*' (the "*Green Guide*") with regards its steward allocation for the match;
- x. Whilst RFC acknowledges that there were some typographical errors in the pre-match documents prepared for the match which incorrectly referred to different clubs and not PVFC, this does not mean that these documents were not prepared specifically for the match. Rather than "starting from scratch" to prepare a new document, RFC's safety and security personnel tasked with compiling these documents may have used old templates to prepare the specific documents required for the PVFC match;
- xi. RFC strongly defends its approach to stewarding arrangements for the match, its preparation in respect of its pitch incursion plan and briefings given to stewards and to the Match Referee prior to the match;
- xii. RFC notes Mr. Conniford's criticism of RFC's stewarding arrangements and pre-match planning including that "*The additional 10 stewards employed would not have provided a significant deterrent to offenders*". This criticism of RFC is unfair as RFC's observations demonstrate RFC clearly considered engaging extra stewarding support and did so to the extent which RFC could afford to do so. Therefore, it is clear that Mr. Conniford has not considered the resources available to RFC as an EFL League One club;
- xiii. RFC emphasises that it made considerable efforts to brief the Match Referee prior to the match;
- xiv. RFC maintains its position that the Incident was a peaceful protest against RFC's owner, Mr. Yongge, which has been an ongoing issue for RFC to deal with for a considerable period of time;
- xv. The very small number of individuals who used flares on the pitch were all teenagers and not adults. RFC confirms that the 5 teenagers in question have now all been identified following close cooperation between RFC and TVP. RFC have since issued a stadium ban to each of these youths pending the outcome of TVP's investigation and CPS' decision whether to charge these youths;
- xvi. RFC has made considerable efforts to engage with its supporters this season to

discourage inappropriate behaviour at the stadium and regrets the incident occurred which was borne out of the supporters' frustration with RFC's owner, Mr. Yongge;

- xvii. RFC has admitted the charge at the outset and expressed its regret and disappointment that the pitch invasion occurred. RFC is also content for the charge to be dealt with by way of a paper hearing in order for the matter to be concluded as quickly and efficiently as possible. RFC submits it should be given credit for this approach and early admission;
- xviii. RFC requests the Regulatory Commission to take into account that it has no relevant breach of FA Rule E21 within the last 5 years;
- xix. RFC requests the Commission to take into account that it has already been sanctioned by the EFL regarding the incident and breach of EFL Regulation 32. In summary, the EFL determined that:
 - (i) a suspended 3-point deduction be imposed on the Club as a result of the incident (i.e. due to RFC's failure to fulfil a fixture under the EFL's Rules) to be activated in the event that any fixture of RFC under the auspices of the EFL during either the remainder of the 2023/24 season or in the 2024/25 season is abandoned;
 - (ii) RFC was required to pay compensation to PVFC for expenses incurred in relation to the Match;and
 - (iii) RFC was required to pay the EFL's costs to ratify the decision.
- xx. The facts of this case are plainly that the incident occurred because of the significant unrest and disquiet amongst its supporters towards RFC's current owner, Mr Yongge and the dire financial situation which RFC finds itself in.
- xxi. This is not a case where RFC failed to prepare for the match or showed blatant disregard for its obligations under FA Rule E21. On the contrary, RFC undertook extensive planning and preparation for the match in line with what would normally be expected of an EFL League One club, and its safety and security team implemented extensive measures prior to and during the match as part of its due diligence exercise;
- xxii. Ultimately, any sanction must be proportionate, which, in this case RFC submits should be a warning given that:

- (i) the extensive and detailed planning and preparation undertaken by RFC prior to the match;
 - (ii) the mitigating factors set out herein in this response to the charge; and
 - (iii) in light of the fact that the EFL has already sanctioned RFC in respect of the incident.
- xxiii. In the event that the Commission disagrees and seeks to impose a financial penalty such financial penalty should be at the low end of the scale due to the fact that the incident was a peaceful protest, and all players and Match officials were kept safe at all times;
- xxiv. In this regard the Commission is referred to Regulations 42 and 43¹¹ of The FA's Disciplinary Regulations which provide the ability to impose a suspended penalty for a specified period of time where there is a "*clear and compelling reason(s) for suspending that penalty*";
- xxv. In addition to the extensive mitigation available to RFC, it is submitted that RFC's precarious financial situation constitutes a clear and compelling reason to suspend any financial penalty imposed in this case and should therefore be taken into account as part of any assessment as to the most appropriate sanction in this case;
- xxvi. Therefore, taking into account the mitigating factors set out herein and RFC's financial situation, the Commission is respectfully requested to exercise its discretion to issue a warning in this matter or if the Commission believes that a financial sanction is merited then it should be proportionate and reasonable in the circumstances and suspended as permitted under The FA Disciplinary Regulations.

(5) The Commission's factual findings and legal conclusions as to sanction.

26. This pitch incursion involved many disgruntled RFC supporters. It was a mass pitch incursion.

27. Therefore, sanctioning principles applicable to mass pitch incursions have relevance (with appropriate adjustments for the nature of the pitch incursion) to assessment of both harm and culpability in this case.

¹¹ It is assumed that this should be reference to Regulations 43 and 44.

28. On 25th July 2022 a statement issued jointly by The FA, Premier League, the EFL and Football Supporters Association stated (amongst other things) :

“The FA, Premier League and EFL are together introducing new measures and stronger sanctions across the game to tackle the increased anti-social and criminal behaviours recently seen within football grounds and underline the importance of a safe matchday environment.

The new set of actions, which will be implemented across all English football leagues from the start of Season 2022/23 and backed by the Football Supporters’ Association, will target activity such as entering the pitch without permission, carrying or using smoke bombs or pyrotechnics and throwing objects - as well as drug use and discriminatory behaviour.

These acts are dangerous, illegal and have severe consequences. They have no place in football, or anywhere.

From the start of Season 2022/23, all identified offenders will be reported by clubs to the police and prosecution could result in a permanent criminal record, which may affect their employment and education, and could result in a prison sentence. The FA will also be enforcing a tougher charging and sanctioning policy for clubs, which will reinforce these measures.

[...]

Our strong and collective approach reflects how seriously we all view this issue and the severity of the risks. Nobody should be intimidated or assaulted in their workplace. The pitch must remain safe for players, managers and match officials, just as the stands should be for supporters.”

29. The above statement correctly and expressly notes that it is a criminal offence for a spectator to enter the playing area at any match¹². The *risk* of rapid escalation of a situation involving a mass pitch incursion is obvious with risk of violence even if mercifully that did not occur in this case.

30. Previous decisions of Regulatory Commissions have considered the appropriate approach to considering sanction in cases of pitch incursions by spectators. The Commission has considered, for example, the decisions in :

- i. *The FA -v- Birmingham City FC* (12th August 2019) (“*Decision and Written Reasons*” dated 16th September 2019) [pages 542 to 609 of the case bundle];
- ii. *The FA -v- Bristol Rovers FC* (“*Written Reasons*” dated 28th July 2022).

¹² Section 4, Football (Offences) Act 1991.

iii. *The FA -v- Leeds United FC* (11th October 2023) [pages 610 to 634 of the case bundle];

iv. *The FA -v- Reading FC* (5th August 2015) [pages 635 to 664 of the case bundle].

31. The Commission agrees that in assessing the principles of culpability and harm, the correct approach when considering the appropriate sanction should be reference to the following factors:

i. The seriousness of the breach committed by the club;

ii. The culpability of the club;

iii. The harm caused by the incident;

iv. The mitigation available to the club.

32. The Commission adopts and applies this approach to this case. It also has regard to Regulation 41 ("*Penalties and Orders*") of the Disciplinary Regulations¹³ relating to the powers of the Commission to impose penalties on the club.

33. Where it is necessary for the Commission to come to any conclusion(s) as to the relevant facts, the burden of proof is borne by The FA to prove the fact(s) upon the balance of probability.

34. The test to be applied is that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not.

(i) The seriousness of the breach committed by the club.

35. The first assessment is the gravity of RFC's breach of the FA Rules as opposed to the outcome (a potential assault of a player or match official or wider disorder) that is the consequence of that breach.

36. The Commission noted that in respect of this match against PVFC in particular and the security risks attached to it there was supportive documentation for the Commission that showed a commitment on the part of RFC to seek to comply with the obligations placed upon

¹³ FA Handbook 2023/24, pages 173 to 174.

RFC in relation to crowd control.

37. However, RFC has admitted the misconduct and thereby RFC concedes that its pre-match preparation (in particular) did not afford RFC the “*due diligence*” defence pursuant to FA Rule E21.5.

38. The criticisms of that pre-match preparation noted by Mr Conniford in his report summarised above are in general terms accepted by the Commission.

39. Although RFC provided a considerable volume of material for The FA to consider in relation to pre-match planning, Mr Conniford has criticised various aspects of documents generated in relation to the match. The Commission concludes that the errors on those documents illustrates a lack of attention to detail that is worrying.

40. The duty placed upon RFC pursuant to FA rule E21 is non-delegable. The club has a responsibility to ensure that proper planning and risk assessments were in place to minimise the risk of such a pitch incursion.

41. The scenario that developed with a pitch incursion with inadequate stewarding response is reflective of a poor approach to planning. The fact that RFC accept that they were aware of the real possibility (indeed likelihood) of such a mass pitch incursion at the match at least a day before the match only emphasises the inadequate provision by RFC in this regard.

42. Mr Conniford is critical of various aspects of pre-match planning including that pre-match risk assessments were inadequate, the documented records of pre-match planning are inadequate, that provision and deployment of safety or security personnel at the match was inadequate, and that this combination of factors led inevitably to an inability to prevent or properly control the mass pitch incursion.

43. The Commission is surprised that with prior notice to RFC that tennis balls would be used as a precursor and trigger for the mass pitch incursion, that more was not done to search supporters entering the stadium to ensure that tennis balls were confiscated thereby reducing or eliminating the ability of supporters to signal the start of and/or to trigger the mass pitch incursion.

44. Mercifully, players and match officials were generally protected during the pitch incursion albeit that John Schofield, Assistant Manager of Port Vale, was struck by a football kicked by a spectator who had encroached onto the pitch.

45. The protest was generally peaceful albeit some young supporters had possession of

flares with the inevitable risks associated with such items.

46. The risks of mass disorder associated with mass pitch incursions are plain and obvious. Accordingly, any mass pitch incursion is very likely to be considered a serious breach of FA Rule E21.

47. Considering the matters we have referred to, the Commission categorises the seriousness of RFC's breach of FA Rule E21.3 as at a relatively high level.

(ii) The culpability of the club.

48. As the Regulatory Commission recognised in *The FA -v- Birmingham City* (cited above), there is a scale of culpability for breaching Rule E21.3 in respect of a pitch incursion :

- i. the most serious (for example a deliberate decision not to provide the necessary resources for financial reasons) ;
- ii. a reckless disregard in respect of the club's duties ;
- iii. gross negligence ;
- iv. negligence ;
- v. a situation where a club has marginally failed to avail itself of the "due diligence" defence set out in Rule E21.5.

49. The Commission adopts that approach in assessing the culpability of RFC for this breach of FA rule E21.3.

50. The Commission does not conclude that RFC did not provide necessary resources to minimise the risk of a pitch incursion due to financial reasons.

51. The list of stewarding staff supplied to the Commission supports the proposition that RFC applied financial resources to stewarding and security staff for this match. It is how those resources were deployed in all of the circumstances known to RFC prior to the match that is a central issue in this case.

52. Nor does the Commission conclude that RFC showed a reckless disregard in respect of its duties pursuant to FA Rule E21.3.

53. The club had in place certain procedures in relation to safety and security staff at the

match. However, the Commission has concluded there were substantial deficiencies in planning generally for this match and the obvious risks associated with crowd control in circumstances where RFC were plainly aware prior to the match of the risk of such a mass pitch incursion.

54. The Commission does not conclude that RFC was grossly negligent in its pre-match preparation.

55. RFC plainly genuinely set out to seek to comply with its due diligence obligations in respect of crowd control. However, it failed to achieve that level of compliance with its obligations.

56. The Commission notes that RFC became aware at relatively short notice (probably a day or so) of the intention of RFC supporters to carry out such a pitch incursion and RFC did a considerable amount of work in a relatively short space of time including briefing match officials and liaising with appropriate agencies in an attempt to reduce or eliminate the risk of such a mass pitch incursion.

57. Having considered all of the above matters, the Commission concludes that the culpability of RFC properly falls somewhere between the fourth category ("*negligence*") and category 5 ("*a situation where a club has marginally failed to avail itself of the "due diligence" defence set out in Rule E21.5*").

58. Nonetheless, the lack of a thorough tailored risk assessment and provision of an adequate action plan to deal with a pitch incursion of this type led to no adequate reaction at all to the pitch incursion by RFC security or safety staff.

59. Therefore the culpability of RFC is at a relatively low level but not at the lowest level of categorisation.

(iii) The harm caused by the incident.

60. As stated by the Regulatory Commission in *FA -v- Birmingham City* (cited above), "*harm*" encompasses the immediate adverse consequences of an incident and has a wider meaning for these purposes.

61. The wider meaning of harm would include for example :

- i. The creation of a dangerous or hostile situation, even if that situation did not in fact escalate ;

- ii. The creation of a risk of “*copycat incidents*” ;
- iii. The creation of any longer term consequences, such as the elevation of tensions at future matches between rival supporters ;
- iv. Any wider damage to the reputation of football.

62. In the circumstances of this pitch incursion, it is noted by the Commission that it involved many spectators intent on disrupting the match and having the match abandoned. They were successful in achieving both aims.

63. There were many supporters involved in the pitch incursion. They were on the pitch for a long time. Some young spectators possessed flares. The PVFC Assistant Manager was struck by a football kicked by a spectator who had encroached onto the pitch. The match had to be abandoned. All of these facts reflect increased harm generally.

64. The fact that mercifully there was little or no aggression or threats of direct violence and no evidence of aggression to opposing fans are lack of aggravating features rather than mitigation.

65. The fact that RFC stewarding staff appear to have removed match officials and players from the pitch relatively swiftly and the fact they had prepared for such an eventuality is to a degree a mitigating factor.

66. In these circumstances, the harm caused by the pitch incursion was very significant because it created a potentially dangerous and hostile situation with a risk of assault, a risk of future tension particularly between some supporters of these two clubs, and damaged the reputation of football generally.

67. Although mercifully no wider disorder actually occurred, nonetheless the wider harm caused by the mass pitch incursion was very significant.

(iv) The mitigation available to the club.

68. The Commission concludes that the following mitigation is available to RFC:

- i. RFC has no relevant misconduct E21 record within the requisite 5 year period;
- ii. RFC co-operated with the disciplinary investigation by The FA and responded promptly by admitting the misconduct;

- iii. RFC responded appropriately post-match by banning some offending spectators from the club pending the outcome of further police enquiries and reacted well after the incident. RFC has proactively engaged with the authorities to try and avoid a recurrence of the situation that occurred;
- iv. RFC has apologised for the pitch incursion to all parties concerned;
- v. RFC has already been sanctioned by The EFL in relation to these same events as they breach relevant EFL regulations.

(6) Sanction.

(i) A fine.

69. This was a mass pitch incursion of which RFC had prior notice and thereby had an expectation that it would occur.

70. The mass pitch incursion was a damaging incident for all the reasons already identified.

71. The Commission unanimously concludes that a financial penalty is warranted and appropriate for the admitted misconduct.

72. The Commission notes the various aggravating and mitigating factors set out above.

73. For the reasons set out above, there were substantial deficiencies as to pre-match planning by RFC. Those deficiencies were illustrated by, and the cause of or a contributory factor in relation to the lack of any or any proper response at the match itself to the pitch incursion.

74. The Commission was satisfied that diligent and responsible pre-match planning would have properly and reliably identified specific risk factors relating to this match.

75. The identification of those risk factors would have much reduced the risk of incidents such as those that ultimately occurred.

76. Proper pre-match planning may have avoided the mass pitch incursion or allowed RFC safety and security staff to have dealt with the situation in a far more effective way once it arose.

77. The damage to the reputation of football by such misconduct is obvious.

78. Such circumstances and deficiencies needed to be reflected in the assessed culpability

of RFC.

79. However, each case will turn on its own facts.

80. Some cases will be so serious that a Commission will need to seriously consider whether it is necessary and proportionate to order the closure of a ground permanently or for a stated period or the playing of a match or matches without spectators being present, and/or at a specific ground pursuant to Regulations 41.4 and 41.5.

81. Such issues were considered by the Commission but regarded as disproportionate in the circumstances of this case as matters stand. Such sanction may become proportionate and necessary for repeat offenders in relation to breaches of FA Rule E21.3.

82. The Commission noted this was an EFL League One match.

83. The Commission noted the submission that RFC have financial difficulties and that RFC have in recent times been the subject of separate sanction by The EFL in relation to its dire financial circumstances.

84. Balancing all of the aggravating and mitigating factors, the Commission concluded that (before adjustment for aggravating and mitigating factors) had RFC contested the misconduct, the appropriate financial sanction would be £15,000 (*"the starting point"*).

85. There is substantial mitigation available to RFC including the fact that its culpability is at a relatively low level. Adjustment of the starting point downwards is therefore appropriate. After a contested hearing, the Commission concludes that the appropriate sanction would be a £10,000 fine.

86. However, RFC promptly accepted the misconduct. It is noteworthy that co-operation with the FA investigation is already reflected to a degree by the Commission in adopting the £10,000 sanction as commensurate with the misconduct after a contested hearing.

87. In these circumstances, the Commission concludes it is nonetheless appropriate and proportionate to reduce the financial sanction to £7,500 to reflect the early acceptance of the misconduct by RFC.

88. The Commission considered whether any part of the financial sanction should be suspended.

89. Regulation 44 of the FA disciplinary regulations¹⁴ provides (our emphasis):
- “44. 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; if so**
 - i. Set out what the clear and compelling reason(s) are; and**
 - ii. Decide the period of the suspension, or event, until which the penalty will be suspended; and
 - iii. Upon what other terms or conditions, if any, the penalty will be suspended.”
90. Having considered the Regulations, the Commission concludes there are clear and compelling reason for suspending part of the financial penalty:
- i. The dire financial situation faced by RFC currently in respect of which RFC has already faced EFL sanction;
 - ii. The good co-operation by RFC with The FA investigation and the disciplinary proceedings;
 - iii. The good post-incident reaction by RFC to these events.
91. Accordingly, RFC:
- i. Shall be fined £7,500;
 - ii. £3,750 of the total fine of £7,500 is payable immediately;
 - iii. £3,750 of the total fine of £7,500 is suspended;
 - iv. In the event that RFC is found to be in further breach of FA rule E21 for any incident(s) on or before the end of all competitive matches in the EFL 2024/25 season RFC will pay the suspended fine of £3,750 immediately (in addition to any separate penalty imposed for any such further breach).

¹⁴ Page 177 of the FA Handbook 2023 / 24 under “A – General Provisions – Section One: All Panels”.

92. RFC is formally warned as to future conduct.
93. The above sanctions are formally imposed.
94. There is the right to appeal these decisions in accordance with FA Regulations.

ABDUL S. IQBAL KC

KEN BROWN

MATT WILD

13th August 2024