

NON-PERSONAL HEARING

THE FOOTBALL ASSOCIATION

*and*

WEST BROMWICH ALBION FC

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THE DECISION AND REASONS  
OF THE FA REGULATORY COMMISSION

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## **Introduction**

1. On 05 December 2015, West Bromwich Albion FC (“West Brom”, the “Club”) played a Premier League home fixture against Tottenham Hotspur FC (“Tottenham”) with a kick-off time of 3.00pm (collectively, the “match”).
2. The appointed Match Referee was Mr Jonathan Moss.
3. Mr Moss reported that he was surrounded by players from both West Brom and Tottenham in the 84<sup>th</sup> minute of the match following a tackle by West Brom #14.

## **The Charge**

4. On 08 December 2015, The Football Association (“The FA”) charged West Brom with misconduct for a breach of FA Rule E20(a) by alleging that, in or around the 84<sup>th</sup> minute of the match, the Club failed to ensure that its players conducted themselves in an orderly fashion (the “Charge”).
5. FA Rule E20(a) (p.119 of The FA Handbook Season 2015-2016) states:

*“20 Each Affiliated Association, Competition and Club shall be responsible for ensuring:*

- (a) that its directors, players, officials, employees, servants, representatives, spectators, and all persons purporting to be its supporters or followers, conduct themselves in an orderly fashion and refrain from any one or combination of the following: improper, violent, threatening, abusive, indecent, insulting or provocative words or behaviour, (including, without limitation, where any such conduct, words or behaviour includes a reference, whether express or implied, to any one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability) whilst attending at or taking part in a Match in which it is involved, whether on its own ground or elsewhere; and ...”*

6. The FA designated West Brom's case as a Non Standard Case due to the Club having been charged with a similar breach of FA Rule E20(a) in the preceding 12 months, following a fixture against Aston Villa FC U18s on 11 April 2015.
7. Tottenham was similarly charged by The FA but that case was designated as a Standard Case as Tottenham had no similar rule breach in the preceding 12 month period. Tottenham admitted to their charge and accepted the standard punishment eligible in their case of £20,000.
8. The FA enclosed the following evidence that it intended to rely on:
  - 8.1. An Extraordinary Incident Report of the Match Referee, Mr Moss, dated 05 December 2015; and
  - 8.2. A video clip of the incident, accessible by following a link sent to the Club Secretary by Email.
9. The Club was required to reply to its Charge by 6:00pm on 11 December 2015.

### **The Reply**

10. On 11 December 2015, the Club responded by admitting to the Charge and requested the Charge to be dealt with at a Paper Hearing on the content of the documents served upon them and the submissions made by Mrs Vanessa Gomm, the Assistant Club Secretary, in response to the Charge (the "Reply").

### **The Regulatory Commission**

11. The following members were appointed to the Regulatory Commission by The FA (the "Commission", "We/us") to hear this case:

Mr Thura KT Win JP (Chairman);

Mr Gary Aplin; and

Mr Barry Owen.

Mr Paddy McCormack, The FA Judicial Services Manager, acted as Secretary to the Commission.

### **The Hearing & Evidence**

12. We convened at 3pm on 15 December 2015 by videoconference for this Non-Personal / Paper Hearing (the “Hearing”).
13. Prior to the Hearing, we had read the bundle of documents and watched the video clip submitted numerous times.
14. Mr Moss, the Match Referee, reported the following:

*“In 84<sup>th</sup> minute following a tackle by a WBA 14, Players from both sides surrounded me and protested the decision, whilst I dealt with the incident. Both teams had several players involved.”*

15. We saw from the video clip submitted that, a tackle was made by West Brom #14 on Tottenham #19, who went to the ground and stayed down; West Brom had the possession of the ball; the Referee indicated “an advantage” and allowed the play to continue. Within 3 to 4 seconds, the Referee stopped the play. That led to players from both Tottenham and West Brom surrounding the Referee and followed the Referee. They appeared to be questioning and protesting to the Referee. West Brom #14 was cautioned for, what appeared to be, the initial challenge on Tottenham #19. We did not see any aggravating features in both sets of players surrounding the Referee.
16. Mrs Gomm, Assistant Club Secretary, submitted on behalf of West Brom that:
  - 16.1. their previous similar E20(a) offence, which caused this Charge to be designated as a Non Standard Case by The FA, was for their U18s Team and no previous similar offence had been committed by the First Team or no player from previous U18s Team was playing in this match. The Club respectfully submitted that each matter should be looked at and treated separately, and the Standard fine should be available for this offence;
  - 16.2. if this was not accepted then we were asked to take into consideration that the Referee initially indicated “play on” after the tackle made by

their #14, which would suggest that there was no foul committed by their player;

- 16.3. however, a few seconds later the Referee blew the whistle and awarded Tottenham a free kick. This change of mind caused confusion amongst both sets of players who then approached the Referee to establish what decision he had actually made, and if and why he had subsequently changed his mind. This confusion did not in any way excuse what had happened and the Club accepts that its players (as well as players from Tottenham) did surround the Referee;
- 16.4. whilst the Club accepted that the players from both teams surrounded the Referee, no player from West Brom was booked for dissent. This would indicate that the approaches made to the Referee were not overly aggressive or abusive; and
- 16.5. to take into account of the Club's previous good disciplinary record and its First Team has not been charged with a similar offence in the last 5 years.

### **The Burden of Proof**

17. The applicable stand of proof required for these cases are the civil standard of the balance of probability.

### **Our Decision**

18. We noted that the Club had admitted to the Charge and submitted their considered mitigations.
19. We did not accept that the Club's previous E20(a) offence for their U18s Team should be treated separately and not count towards the Club's overall conduct. It is the responsibility of the clubs to ensure that all of their players, irrespective of which team within the club they may play for, conduct themselves in orderly fashion.

20. We accepted that there were no “pre-defined” characteristics and features that would make the offences at the high level of seriousness.
21. We also noted that The FA designated the Charge as Non Standard Cases due to the previous record of the Club only and not for any pre-defined aggravating factors.
22. We acknowledged that the Club’s explanations of the events were consistent with what we saw on the video clip.
23. However, we deem all breaches of FA Rule E20 to be serious matters and there should be no excuse for any player to behave in disorderly fashion.
24. We wish to remind all clubs that it is these key moments when things are not going in their favour that the clubs are required to ensure their players and participants conduct themselves in an orderly fashion. It is unlikely that there would be disorderly behaviour when things are going well and in their favour.
25. In assessing solely the incident before us, we assessed the level of seriousness and culpability to be towards the lower end within the category.

*Previous Disciplinary Records*

26. As the Club had accepted the Charge, we enquired about the Club’s previous relevant disciplinary record.
27. Mr McCormack informed us that the Club’s only previous FA Rule E20(a) offence was in April 2015 for their U18s Team when the Club was fined £1,000.
28. Mr McCormack advised us that the standard penalties in Sanction Guidelines for an offence under E20(a) charge committed by a Premier League club is £20,000 for an admitted first offence and £30,000 for a first offence which is denied but subsequently found proven by a Regulatory Commission. However, as we were dealing with a Non Standard Case, these standard penalties do not apply and the sanction is open to us to determine up to the maximum amount, which for a Premier League club is £250,000 with that maximum being doubled

for a repetition.

29. Based on our assessment of the nature, level of seriousness and culpability, we considered that, if the previous record of the Club was absent, the appropriate and proportionate entry point for the admitted offence would be a fine of £20,000.
30. We decided to increase the above starting point by £5,000 due to the Club's previous FA Rule E20(a) breach.

### **The Sanction**

31. After having admitted to the Charge for a breach of FA Rule E20(a), taking into consideration of this case being designated as a Non Standard Case, due to the previous relevant disciplinary record, the nature and seriousness of the offence and mitigation presented, we order that West Brom be:
- 31.1. warned as to their future conduct; and
- 31.2. fined the sum of £25,000 (twenty-five-thousand pounds).
32. We made no order for costs.
33. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

**Thura KT Win JP (Chairman)**

**Gary Aplin**

**Barry Owen**

16 December 2015