

IN THE MATTER OF A REGULATORY COMMISSION

BETWEEN

THE FOOTBALL ASSOCIATION

AND

WIGAN ATHLETIC FC

WRITTEN REASONS OF THE REGULATORY COMMISSION

Regulatory Commission: Sally Davenport (Chair) – Independent Legal Panel Member

Francis Benali – Independent Football Panel Member

Dennis Strudwick – Independent Football Panel Member

Secretary: Michael O'Connor – Judicial Services Assistant Manager

Date: 11 March 2024

Venue: Held remotely via Microsoft Teams

Introduction

1. These are the written reasons of the Regulatory Commission that considered the charge against Wigan Athletic FC (“Wigan”).
2. By letter dated 1 March 2024, The Football Association (“The FA”) charged Wigan with misconduct amounting to a breach of FA rule E20.1 (“the Charge”). The

Charge arose out of a League One match against Bolton Wanderers FC (“Bolton”) that was played on 27 February 2024 (“the Match”).

3. The FA designated the case as a Non-Standard Case due to previous proven breaches of FA Rule E20.
4. The FA informed Wigan that pursuant to Regulation 13 of the Disciplinary Regulations 2023/24, the case was being consolidated with charges against Bolton and that they would be determined together at a joint hearing. In the event, the Commission was not required to deal with the charges against Bolton.

Relevant Rule

5. FA Rule E20 states:

“Each Affiliated Association, Competition and Club shall be responsible for ensuring that its Directors, players, officials, employees, servants and representatives, attending any Match do not:

E20.1 behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative”.

The Charge

6. The FA charged Wigan with a breach of FA Rule E20.1, on the ground that following completion of the Match it failed to ensure that its players did not behave in a manner which was improper and/or provocative (“the Incident”).
7. With the Charge letter, The FA sent Wigan the following evidence:
 - Report from the referee, John Busby (“the Referee”).
 - Report from the referee observer, Philip Crossley (“the Observer”).
 - Video clip of the Incident.

Wigan's Response

8. On 6 March 2024, Wigan submitted a Disciplinary Proceedings Reply Form. It admitted the charge against it. It did not request a personal hearing.
9. Wigan also submitted the following:
 - A letter dated 6 March 2024 from Sarah Guilfoyle, Head of Football Administration at Wigan (“SG”).
 - A letter dated 6 March 2024 from the Wigan Manager, Shaun Maloney (“SM”).
 - Wide-angle video footage of the Incident.

The Hearing

10. In advance of the hearing, the Commission read the documents referred to in paragraphs 7 and 9 above and viewed the video footage provided by The FA and Wigan.
11. Given that the Club accepted the Charge and did not request a personal hearing, the Commission treated the Charge as proven and reviewed the evidence and submissions purely in order to determine sanction, as set out below.
12. The following paragraphs summarise the evidence and written submissions considered by the Commission. They do not purport to cover all the points made. However, the absence of a point or submission in these reasons should not imply that the Commission did not take that point or submission into account when determining the sanction.

The Evidence

13. In his report, the Referee states as follows:

“After the final whistle, on the field of the play. There was a mass confrontation between players & staff of both clubs. This occurred near the penalty area at the opposite end of the field of play (in front of away fans behind the goal on the left as you leave the tunnel) to which we as match officials were originally located when

the whistle was blown. Once we assisted with defusing the situation, there were no on-field sanctions issued in relation to the situation. We did not witness the root cause of the mass confrontation.”

14. For his part, the Observer states as follows in his report:

“Several minutes post the final whistle my attention was drawn to an ugly melee/mass confrontation between multiple players and staff from both clubs. The Refereeing team were situated somewhere close to the near apex of the penalty area to the right of the field of play. On a diagonal close to the opposite apex of the other penalty area I noted one BWFC player and maybe two W AFC players begin to exchange words and push and shove one another. The vicinity of this incident was in front of the packed away support behind the goal and the home support along the adjacent stand. As a result this enticed players and staff to run and join the players who had initially initiated the incident. A lot of pushing, shoving and barging took place, however, from my vantage point I did not detect any clear sign of violent conduct or anything of a sinister nature, that’s not to say it didn’t happen. The match officials ran upfield towards the incident and broke into three separate areas to view the incident in more detail. Order was finally restored after several minutes with players and staff from both clubs having parted. The match officials did not take any disciplinary sanctions and during the post match debrief both the Referee and I agreed that the incident would be subject of an extra ordinary match report, hence submission of this report.”

15. The Commission carefully considered the letters from Wigan and the video footage. It took account of Wigan’s description of the confrontation, in particular as set out under the headings “Provocation” and “Physical Confrontation” in SG’s letter. It accepted that the confrontation had been triggered by the actions of the Bolton number 9, but noted that two Wigan players engaged with him, leading to multiple players on both sides becoming involved. It noted the Observer’s reference to “*an ugly melee/mass confrontation*”, with “*pushing, shoving and barging*”. It noted the Observer’s comment that it took several minutes to restore order, while also taking account of the fact that he said that he did not detect any clear sign of violent conduct or anything of a sinister nature.

Wigan’s submissions

16. As the breach of Rule E20.1 was admitted by Wigan, the Commission considered the comments and submissions made by it as part of its decision on sanction.

17. In her letter dated 6 March 2024, as well as commenting on provocation and physical confrontation, SG also referred in mitigation to media comments from the Bolton manager, to the fact that the Wigan players were celebrating in front of their own fans, and to the fact that the Match was a local derby, with heightened tension. She stressed the power imbalance between the Wigan number 17 (young and inexperienced) and the Bolton manager. She highlighted the behaviour of the Wigan captain and vice-captain, who she said were attempting to disperse the confrontation and remove players and staff. She invited the Commission to take the standard penalty as its starting point and to take account of the mitigating factors that she had mentioned, while conceding that Wigan's previous record would be an aggravating factor.

18. In his letter of 6 March 2024, SM accepted that mass confrontations are not acceptable under any circumstances and did not comment further on the Incident. He said that he and his staff were working hard to eradicate such incidents in the future and that they *"do not reflect the ethos of the Club, our style of play or the standards that I set for my players"*.

Sanction

19. Before the Commission deliberated on the appropriate sanction, it was advised of Wigan's previous proven breaches of Rule E20 in the past five years:

- 6 February 2023 against Blackburn Rovers FC (when playing in the Championship) – fine of £5,000
- 3 October 2023 against Burton Albion FC – fine of £6,000
- 7 October 2023 against Stevenage FC – fine of £8,000
- 16 December 2023 against Port Vale FC – fine of £6,500

20. The Commission accepted that the Incident had been started by a Bolton player and that the Bolton manager had approached a Wigan player, leading to further confrontation. It felt that Bolton was therefore marginally more to blame for what happened. Nonetheless, several Wigan players were active participants in the confrontation, albeit that others may have been trying to act as peacemakers. While the Commission did not consider this to be a particularly serious incident and

accepted that there was no evidence of violent conduct, the number of people involved and the duration of the confrontation meant that it would have found the charge proven had it not been admitted.

21. The Commission noted the amount of the previous fines. It reminded itself that the Standard Penalty 1 at this level of the game would be £2,500, that Standard Penalty 2 (for a charge not admitted but subsequently found proven) would be £3,750 and that it was free to impose whatever sanction it deemed fit, given that this was not a standard case. It rejected the suggestion that it should take the Standard Penalty as its starting point. It was prepared to give limited credit for the admission of the Charge but was very concerned that this was the fourth proven E20 charge already this season. Despite SM's comments, it took the view that Wigan did not appear to have learned from past mistakes. Having carefully considered all the points referred to above, the Commission unanimously agreed that Wigan should be fined the sum of £9,000.

22. The decision of this Commission may be appealed in accordance with the applicable Regulations.

Sally Davenport
Francis Benali
Dennis Strudwick
19 March 2024