

# **The Football Association v James Harris**

## **Reasons for Decision (Bury Charges)**

1. These are the reasons for the decision of this Regulatory Commission<sup>1</sup> on charges brought by The Football Association (“the FA”) against Mr James Harris (“the Player”) for breaches of FA Rule E8(a) in connection with a Football League 2 Match *Accrington Stanley FC v Bury FC* played on 3 May 2008 (“the Match”).<sup>2</sup> We are unanimous on all matters.
2. The Regulatory Commission held a preliminary hearing and gave various directions on 19 June 2009 and the final hearing was on Monday 20 July 2009. Mr Dario Giovannelli appeared for the FA on both occasions. On the Disciplinary Proceedings Reply Form (A) returned by the Player to the FA, signed by him and dated 7 May 2009, the Player indicated that he denied the charges but did not request an opportunity to attend a Regulatory Commission to make a personal plea; and that he understood that the charges would be dealt with on the content of the documents served upon him and documentation he supplied to the FA within 14 days of the charge letter. However, he also indicated that he wished to be represented and asked that his representative be allowed to attend. He nominated George Davies Solicitors LLP as his representatives. They did appear for him on 19 June 2009, when directions were issued including the fixing of a hearing of these charges (and other separate charges against the Player designated “the Chester Charges”) for 20 July 2009<sup>3</sup>. However, neither the Player nor his representative appeared on 20 July 2009. No oral evidence being given on these charges, the Regulatory Commission has accordingly decided the matter on the documentary material.

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<sup>1</sup> Nicholas Stewart QC (Chairman), Mr Barry Bright, Mr Roy Carter and Mr Paul Elliott

<sup>2</sup> Reasons given under regulation 9 of the *Regulations for Football Association Disciplinary Action*: The FA Handbook Season 2008-2009, pages 298-307

<sup>3</sup> Directions of Regulatory Commission, Friday 19 June 2009

3. The charges are contained in a letter from the FA to the Player dated 6 April 2009 (“the Charge Letter”). The FA alleged in the Charge Letter that, being a player then registered with Accrington Stanley FC, the Player had placed the following betting stakes on the Match: (i) on 2 May 2008, a stake of £1000 on Bury FC to win the Match, at Ladbrokes (Derby Lane, Liverpool); and/or (ii) on 2 May 2008, a further stake of £1000 on Bury FC to win the Match, in various betting shops in the Liverpool area.
4. The charges are that in placing those stakes the Player had bet on the result and/or progress of a match in which he was participating. That is alleged to have been in breach of FA Rule E8(a), which states: “A Participant shall not, either directly or indirectly, bet or instruct, permit or enable any person for the Participant’s benefit to bet, on the result, progress or conduct of a Match or Competition in which the Participant is participating or in which the Participant has any influence, either direct or indirect.”<sup>4</sup>
5. The Player admitted placing in person the bets as alleged in the Charge Letter. It should be noted that the bets were placed on Bury FC to beat the Players’ own club Accrington Stanley FC. He played in the Match, which Bury FC won 2-0.
6. Though admitting the placing of the bets, the Player denies the charges. Through his solicitors the Player sent a written submission on 5 June 2009 setting out his arguments in defence of the charges and also his points in mitigation in case his arguments in defence were rejected by the Regulatory Commission.
7. The Player’s principal point in defence was that those bets had been placed by him on behalf of or acting as agent for a friend of his Mr Carl Duffy. He says that he did not risk his own money and never had any personal benefit from the bet.
8. Even if that were true, it would not be a defence to the charges. Rule E8(a) is clear on this point. The Participant (in this case the Player) must not bet on the result of a match in which he is playing. The rule does not say that he can bet if he is betting for

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<sup>4</sup> FA Handbook Season 2008-2009, page 111. The rule was in force in exactly the same terms in May 2008.

someone else. There is no such exception. None is expressed in the rule and none should be implied. If it had been the other way round, i.e. someone else had bet for the Player's benefit, the Player would have been caught by the rule. That is an obviously reasonable element of the rule. It does not follow at all that a Participant escapes the rule if he is betting for someone else. He does not.

9. There is no other possible answer to the charges. The Player does contend that because the two bets were placed on the same match with the same bookmakers there has only been one breach of Rule E8(a). That is wrong. Two separate bets are two separate actions and there were two separate breaches of the rule, though when it comes to penalties there is no practical distinction between two identical bets of £1000 placed minutes apart (as these were) and one single bet of £2000.
10. Both charges are therefore proved.
11. Nevertheless, we do need to decide on the evidence whether we accept or reject the Player's claim that he placed both bets for Mr Carl Duffy, as if that were true it could make a difference to the penalty for breach of Rule E8(a).
12. We firmly reject that contention. Under the express terms of regulation 7.3 of the *Regulations for Football Association Disciplinary Action*<sup>5</sup> we are to decide such issues on balance of probability. On the evidence before us we regard the Player's contention as implausible and have no hesitation in finding that the bets were placed by the Player for his own benefit. The evidence does not show us how and from where the Player obtained the £2000 placed as stakes and we do not need to make a finding on that issue. He did undoubtedly have £2000 in his hands which he did stake on 2 May 2008. As we indicate below, we are also given no solid evidence of where Mr Duffy would have got that sum of money.
13. The Player was interviewed by Jennifer Fitzgerald on behalf of the FA on 29 October 2008. A transcript of that interview is in evidence before us. The story about placing the bet for Mr Duffy is touched on at pages 9-10 and then specifically discussed at

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<sup>5</sup> The FA Handbook Season 2008-2009 pages 298-305. Regulation 7 is at page 302.

pages 19-37. We also have a written statement of Mr Duffy signed and dated 27 May 2009. The Player and Mr Duffy give slightly inconsistent accounts of when and where they say the £2000 cash for these stakes was handed over by Mr Duffy to the Player but even leaving aside such inconsistencies we do not believe this story at all. The Player (and Mr Duffy) are asking us to accept that the practical difficulties for Mr Duffy in getting to a betting shop himself were so great that it was easier and better for him to go round to the Player's house (or on the Player's version, for the Player to go to Mr Duffy's house), give him £2000 in cash and ask him to place a bet in his own name against his own team in a match in which he was expecting to play. That is utterly unconvincing.

14. We also note that while there would be no compulsion on Mr Duffy to produce any of his bank statements, if he had withdrawn any significant cash from the bank towards the £2000 he could have helped his friend James Harris (for whom he expresses concern at paragraph 13 of his statement) by producing bank statements showing exactly that. We do see that in paragraph 10 of his statement Mr Duffy says that he withdrew some of the money from the bank but also used money he had been saving at home. He gives no estimates of how much from the bank and how much from cash at home. It is not Mr Duffy who is charged and defending himself here but we have to evaluate what he says in support of the Player. It appears to us improbable that Mr Duffy (who had a bank account) would have had anywhere near the whole £2000 in cash at home.
15. The whole account of the supposed Harris/Duffy arrangement has a false concocted ring about it and we do not believe it. On the evidence before us we are convinced it is false and that the story is now an attempt by the Player to avoid or mitigate the consequences of what he could see was bound to be treated as a serious offence.
16. We do not overlook the fact that it was apparently Mr Duffy who actually went to collect the winnings. That does not lead us to doubt our conclusion. We can accept that he and the Player are friends who have a shared interest in betting. We can also easily see how the Player might have felt more comfortable asking a friend to go and collect winnings of several thousand pounds from a Bury win against his own team, as by the time the Match was played there was a hot issue surrounding the betting.

According to the unchallenged transcript of an interview on 15 October 2008 by Jennifer Fitzgerald of the Accrington Stanley FC manager Mr John Coleman, he had taken all the players on to the pitch at about 1:30 pm before the Match and said if anyone had done anything untoward, or anyone had had a bet they shouldn't have done, they should tell him then, he wouldn't play them and they would sort it out after the game. Nobody came forward.

17. We do stress that even if the Player's story about betting for Carl Duffy had been true, this would still have been a serious offence. Rule E8(a) is clearly designed to instil and maintain public confidence in the integrity of football and the straightness of matches. Here, a player has played in a match when he had actually placed a bet in his own name on which thousands of pounds were riding on his own team's defeat. It is no reassurance to the footballing public if he claims (even truthfully) some private arrangement with a friend which is supposed to show that the bet was not the way it looked and he had not really bet for himself against his own team at all.
18. In any case, we have found that the bet was placed by the Player for his own benefit. The odds were 7-4 against, so he had £5500 riding on the defeat of his own team (his £2000 stakes plus £3500 potential winnings). Mr Coleman had given him and any other players in a similar position an honourable opportunity of pulling back from actually playing. Of course that would not necessarily have saved his skin as far as FA disciplinary charges were concerned but as it happened he did not take the opportunity.
19. There are serious concerns that the Match was fixed. We do not have to make a finding on that question and do not do so. The evidence before us has been properly directed to these charges against Mr Harris. The charges do not include any allegation that he was involved in match-fixing. But how can the fair-minded football fan have any solid confidence that a match is *not* fixed if there are players on the pitch who have thousands of pounds to gain if their own team loses? Or any confidence that any of the players in their team are playing their honest best to win the game?
20. We announced our decision that the charges had been proved on 20 July 2009. Mr Giovannelli was present for the FA but in the absence of the Player or his

representative we received no oral submissions in mitigation. We do nevertheless have the written submissions already mentioned.

21. It is submitted on behalf of the Player that there is “a complete lack of education in football regarding the rules relating to players”. That is expanded in the written submission. It is a hopeless submission in the circumstances of this case. A professional footballer does not need education regarding the rules to know that he must not bet against his own team in a match in which he is actually playing.
22. We do recognise that rule E8(a) itself is not easy reading and we have to be realistic in also recognising that the FA’s published *Guidance to Players in The Premier League, The Football League and The Football Conference (National Division) on Disciplinary Matters Season 2007/08* (issued July 2007) may not reliably find its way to every player and may well then not be read with any great care. But given our views expressed in the previous paragraph, that does not help this Player.
23. It is also claimed that the Player has complied in full with the FA’s investigation throughout this matter and provided full and frank answers to the Ms Fitzgerald in his interview. As we reject his story in relation to the involvement of Carl Duffy, he can expect no credit for frankness and cooperation and we give him none.
24. The Player seeks credit for having requesting the matter to proceed on the basis of written submissions in order to save the Regulatory Commission time and also to keep costs proportionate. We say bluntly that we have not been helped by the Player’s election to have the matter dealt with in that way. This is a serious case where oral evidence and appearance by the Player even without (but preferably with) a representative would have been proportionate and helpful. He was free to make the decision he did on how the matter should proceed but that does not mean we give him credit for making that choice. We do not.
25. No credit will be given for remorse. The Player has come up with a false story about the involvement of Mr Duffy and on what we see he has failed anyway to appreciate the seriousness even if that story had been true.

26. It is also said by the Player that he could not have influenced the result either directly or indirectly. First, we make the obvious and entirely serious observation that if he could have had no influence on the result then what was he doing on the pitch? Secondly, the point is not whether you can prove that as it turned out a particular player did or did not actually affect the outcome. It is that football matches must be free of all possible suspicion that every single player is not honestly and wholeheartedly doing his very best to help his team win, within the laws and spirit of the game.
27. The Player's written submission mention wider issues of concern about gambling in football. There clearly are reasons for concern in a number of areas but they have no material bearing on this Player's responsibility for his own actions in breach of the FA Rules.
28. The fact that Mr Harris bet on Bury to beat his own club Accrington Stanley FC to lose the Match and then played in the Match is seriously undermining of public confidence in the straightness of English professional football. Rule E8 is an important rule which is intended to sustain that public confidence and help allay just the concerns which have arisen about this Match.
29. The evidence before us, including reports from leading bookmakers, shows that there was highly suspicious betting activity in relation to this Match and gives cause for serious concern that the Match may have been fixed.
30. We stress than no one has been charged with any actions involving fixing of the Match and it is not part of the case against Mr Harris. We mention it here so that it can be seen that we have not ignored such a striking and serious concern relating to this Match but also to make it clear that we are punishing Mr Harris only for the offences of which he has been found guilty. There is no charge and no evidence that he was involved in any fixing of the Match. We also do not make any finding that the Match was fixed, as that is not an issue before us for determination. The concerns about this Match do nevertheless serve to illustrate the importance of rule E8.

31. For practical purposes of deciding the appropriate penalty, we treat the two bets of £1000 as a single bet of £2000, even though technically there were two separate breaches of FA Rule E8(a).
32. This is a very serious offence against FA Rules by Mr Harris. A fine would nowhere near mark the gravity of the offence. Mr Harris will be suspended from all footballing activity for 1 year, with immediate effect. He will also be fined £5000.
33. The penalties do not contain an express element of deterrence. We have not included any uplift for deterrence. The seriousness of the offence merits the penalties we have imposed. We trust the penalties will act as a deterrent without any need to add anything to them for that purpose.
34. We also order the Player to pay £2500 costs of this Regulatory Commission<sup>6</sup>.
35. Recognising that immediate payment of the fine and costs may well be difficult for Mr Harris, especially in the light of the 1 year suspension, we order that half of the fine and half of those costs must be paid by 31 October 2009 and the whole then outstanding balance by 31 January 2010.

Nicholas Stewart QC  
Chairman

23 July 2009

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<sup>6</sup> Under regulation 8.8(b) of the *Regulations for Football Association Disciplinary Action: The FA Handbook* Season 2008-2009, pages 298-307. Rule 8.8 (b) is at page 304.

