

**FOOTBALL ASSOCIATION REGULATORY COMMISSION**

**In the matter of proceedings brought pursuant to the Football Association  
Rules for the season 2014-2015**

THE FOOTBALL ASSOCIATION

-AND-

BLACKPOOL FOOTBALL CLUB

Commission:

David Casement QC (Chairman)

Barry Bright

Peter Fletcher

Hearing date: 7 July 2015

**WRITTEN REASONS OF THE REGULATORY COMMISSION**

**Introduction**

1. By charge letter dated 19 May 2015 The Football Association (“the FA”) charged Blackpool Football Club (“the Club”) with a breach of Rule E20 of the Football Association Rules 2014-15. The alleged breach arises out of the pitch incursion that occurred at Bloomfield Road on 2 May 2015 in the 48<sup>th</sup> minute of the match between the Club and Huddersfield Town FC and which led to the match being abandoned. The pitch incursion involved between 100 to 200 people taking part in a protest specifically directed at the Chairman of the Club, Karl Oyston.
2. The Club requested a personal hearing which took place at Wembley Stadium on 7 July 2015. Those in attendance, other than the Commission, were as follows:

Amina Graham, Counsel for the FA  
Richard Hebbard, Crowd Control Adviser for the FA

Mathew Bennett, Brabners, advocate for the Club  
Jennifer Norris,  
Karl Oyston, Chairman of the Club  
Anthony Pinder, Ground Safety Officer of the Club

3. Attached to the charge letter were a number of documents relied upon by the FA including the witness statement of Mr Hebbard. The Club filed a Defence on 9 June 2015 to which the FA replied in the form of a statement from Mr Hebbard on 29 June 2015. On 6 July 2015 the Club filed a Response.
4. At the hearing the Commission heard evidence from Richard Hebbard, a Crowd Control Advisor for the FA and Anthony Pinder, Ground Safety Officer for the Club.

### **The Charge Letter**

5. The charge letter alleged that the Club failed to ensure that no spectators or unauthorized persons were permitted to encroach onto the pitch whilst attending at the fixture, resulting in its abandonment.
6. By way of further particularisation of the charge and pre-empting in part any potential defence that might be raised by the Club the charge letter went on to assert:

“Without prejudice or limitation, in so far as the Club may call upon the defence set out in Rule E21, The Association will say that the Club failed to discharge its duty in respect of due diligence in that, having identified a risk of public incursion, the Club failed:

- a. to react to the heightened risk of incursion during the match;
- b. to put in place an appropriate strategy to prevent or at least deter an incursion;
- c. to ensure there were sufficient stewards/police available at pitch side to effectively prevent/deter an incursion;
- d. to consider or implement alternative means of pitch segregation;  
and
- e. to remove and/or eject those on the pitch thereby deterring others from entering.”

## **The Rules**

7. The relevant parts of the Rules are as follows:

### Rule E20:

Each affiliated Association, Competition and Club shall be responsible for ensuring:

(a) ...

(b) that no spectator or unauthorised persons are permitted to encroach onto the pitch area, save for reasons of crowd safety, or to throw missiles, bottles or other potentially harmful or dangerous objects at or on to the pitch.

### Rule E21:

Any Affiliated Association, Competition or Club which fails effectively to discharge its said responsibility in any respect whatsoever shall be guilty of Misconduct. It shall be a defence in respect of charges against a Club for Misconduct by spectators and all persons purporting to be spectators or followers of the Club, if it 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. (underlining added)

## Issues

8. It is accepted by the Club that there was a pitch incursion by spectators or persons purporting to be spectators and that such incursion led to the abandonment of the match. The issues that appear to arise in respect of the charge and the Rule E21 Defence are as follows:

(1) Whether the pitch incursion was entirely outwith the control of the Club and

(2) Whether the Club, including its officers and agents, have used all due diligence to ensure that

(a) there was no incursion of the pitch by spectators or persons purporting to be spectators;

(b) the numbers involved in the incursion were reduced to the lowest number possible;

(c) the duration of the incursion (and the interruption to the match) was kept to a minimum.

9. In particular as set out in the charge letter and the statement of Mr Heberd the following specific issues require to be addressed namely whether the Club failed:

- a. to react to the heightened risk of incursion during the match;
- b. to put in place an appropriate strategy to prevent or at least deter an incursion;

- c. to ensure there were sufficient stewards/police available at pitch side to effectively prevent/deter an incursion;
- d. to consider or implement alternative means of pitch segregation; and
- e. to remove and/or eject those on the pitch thereby deterring others from entering.

It is common ground between the FA and the Club that the Club carries the burden of proof in respect of the Defence at Rule 22. The standard of proof is the balance of probabilities. In short it is for the Club to prove 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 the Club's responsibility was discharged.

## **Evidence**

- 10. The evidence produced by the Club both in respect of the documents and also the oral testimony of Mr Pinder was less than satisfactory in a number of respects.
- 11. It is important that in advance of matches that there is a match-specific risk assessment undertaken to consider specific issues and contingency planning in addition to a general risk assessment guide for the season. The need for such a document was highlighted by Mr Hebbard at paragraphs 24 and 93 of his first statement but the Club has been unable to produce one. It is said by Mr Pinder that one was produced jointly with the police in a meeting that took place on 29 April 2015 but he was not given a copy. The reason is unclear. It is also said by Mr Pinder that he did not chase a copy of that document from the police in advance of the match but was unable to explain why he did not chase for it given its importance. Subsequent to the events that have happened and in preparing for these proceedings Mr Pinder has communicated with the police and asked for

details of “the Police match specific risk assessment for this match” as well as numerous other documents and information. It is notable that it is described in this email as the “Police match specific risk assessment.” The police responded by email on 30 May 2015 to say they were unable to provide the information “at this time.” They referred to the ongoing criminal investigation.

12. At the hearing Mr Pinder produced the briefing note which he used to brief the stand managers. That briefing note refers to intelligence which indicated the potentiality for fans to go onto the pitch during the match. It provided for the doubling of Search Stewards on home turnstiles 9-21 and then for the extra stewards to work on the South/West Stands. The South Stand is the Armfield South Stand from which the incursion was in fact launched.
13. The Commission saw evidence which referred to intelligence that there would be a pitch incursion:
  - (a) in the letter dated 5 May 2015 to the FA Mr Pinder stated that all the intelligence indicated that disgruntled Blackpool fans would stage some form of protest before, during and after the match, which potentially could include pitch incursions as a way of protesting against the Chairman of the Club. The letter also confirmed that prior to kick-off the Referee was informed of the potential forms of protest;
  - (b) in a letter from the Chief Executive of Huddersfield Town, Nigel Clibbens stated that on 29 April 2015 “we were made aware by our West Yorkshire Police Football Liaison Officer, that intelligence indicated plans for an unofficial fan protest and invasion onto the pitch on or around the 53<sup>rd</sup> minute (to coincide with the BFC 1953 FA Cup win). We briefed out players and manager to be prepared accordingly”;

(c) in an email from a Huddersfield fan, who attended the match with his young son, dated 5 May 2015 he set out the events leading up to and occurring during the pitch incursion. In particular he stated “We got talking to stewards who told us the pitch would be invaded on 48 mins etc etc which was the first we had heard of it.”

(d) during his oral testimony Mr Pinder said that there was intelligence that the pitch incursion would take place in the 53<sup>rd</sup> minute of the game. That information was not recorded in his letter referred to above or in his witness statement. He further informed the Commission that the intelligence was to the effect that there would be an attempt by fans to force their way from the outside through the main entrance and through the inside of the stadium through the tunnel so that both groups could meet in the middle and then seek to find the Chairman. It was on the basis of that information that the main entrance was reinforced with fencing and further stewards and police were placed in and in front of the tunnel.

14. In his evidence Mr Pinder informed the Commission as to the following:

(a) it is his policy not to use netting over the first three rows to prevent spectators from climbing over the seats because they may need to use that as a means of egress if there was a genuine evacuation. He accepted that was just his view and not based upon any professional standard, practice or advice he had received or encountered;

(b) he did not ask the police where was the main area of vulnerability in the ground in respect of a pitch incursion;

(c) he would have expected that stewards would have moved more quickly from blocks V, U and T to prevent the pitch incursion once it became apparent. Mr Pinder said it was a judgment call for the stand manager in that area to decide where to deploy stewards to but he

frankly admitted that when he asked the stand manager afterwards why deployment had been slow there was no satisfactory explanation;

(d) in viewing the video footage it was apparent that about 10 or so stewards were congregated to the left of the Armfield Stand. When asked what they were doing at the time whilst the pitch incursion was taking place Mr Pinder again frankly said he was unable to explain why they were standing there;

(e) it was the policy of the police not to use force to remove people when they were exercising the freedom of speech where there was no violence. For that reason the police decided not to try to arrest or remove spectators from the pitch but rather to let the protest take place and to use only persuasion as means to get them to leave the pitch;

(f) Lancashire Police had referred the incident to another police force to carry out a review of the event and the decisions made concerning it;

(g) Mr Pinder would be meeting with police in the near future to discuss new tactics for dealing with pitch incursions and other protests. When asked why such a discussion regarding other tactics had not taken place previously he was unable to provide any real explanation save that a pitch incursion on this scale had not been anticipated.

## **Findings**

15. There is no dispute but that, subject to the defence under Rule 21, the Club is guilty of a breach of Rule 20. The burden of proof is on the Club to establish its defence under Rule 21 on the balance of probabilities. We find that the evidence adduced on behalf of the Club falls well short of the requirement of using all due diligence required to make out the Rule 21 defence.



16. The Commission makes the following findings:

(a) there were serious inadequacies in the planning that led up to the match on 2 May 2015. There was strong intelligence available that there would be a pitch incursion and that it would be in the early part of the second half of the match. It was admitted by Mr Pinder that the threat of incursion was foreseeable from the Armfield Stand or the West Stand because that is where most of the Blackpool fans were. In those circumstances the pitch incursion was foreseen and the approximate location of the incursion was foreseeable:

- (i) there was inadequate consideration given to the use of netting to block off three rows from the front of the seating area in the Armfield and/or West Stand. In the event of an evacuation in the event of a fire the appropriate route to adopt for egress would have been via the aisles and not to climb over seating. In any event the ease with which netting could be removed in the event of an evacuation does not appear to have been considered. The inconvenience to those who might have to be moved in the event of netting being used does not in our judgment outweigh the benefits that are gained by doing so. Whilst we accept that it appears that the individuals involved in the incursion appeared to use the aisles to do so the stewards were dispersed along the entire length of the stand rather than being concentrated on the aisles. Mr Pinder was wrong to eliminate netting as a strategy to deal with pitch incursion when, as he accepted, it is commonly used at other grounds around the country;
- (ii) there was inadequate consideration given to the positioning of the stewards. In circumstances where there was solid intelligence that there was going to be a pitch incursion the

deployment and movement of stewards was going to be of critical importance. The Commission has seen no real evidence that deployment of stewards (other than to protect the tunnel) was given much consideration in the planning stage. The lack of consideration in this regard is evidenced by what did in fact happen. There was no deployment to provide a solid row of stewards in front of the Armfield Stand. On the contrary there was a congregation of approximately ten stewards a short distance away from the main point of incursion and serving no useful purpose that Mr Pinder could point to and which is inconsistent with any real planning regarding deployment. A further aspect of the evidence which showed lack of proper planning was the apparent slowness of stewards to deploy to the area of the incursion. Mr Pinder says he wishes they had moved quicker and he received no satisfactory explanation from the stand manager as to why it was not done quicker. All of this points to poor planning for what was a potentially major incident.

- (iii) there was no proper planning as to what would happen in the event that there was a pitch incursion and how to remove people from the pitch. The explanation given to the Commission was that this was a decision made by or agreed with the police. The primacy in respect of the decision-making rests with the Club prior to any transfer of primacy to the police, which did not happen in the present case: Guide to Safety at Sports Grounds (Green Guide) at 1.4. The transfer of primacy is addressed in the Safety Management Guide (Red Guide) at 4.6. An email dated 2 May 2015 from the Silver Commander Chief Inspector Newton, who did not attend the match, stated that it was correct that force was not used. However there is no evidence that any proper consideration was given at the planning stage regarding tactics that could be

used short of the use of force in the event of a pitch incursion in particular in respect of sweeping or the use of a cordon where a line of stewards are used to sweep those on the pitch in a particular direction namely to the stands and out of the ground. The Commission does not accept the vague explanation provided to it by the Club that there was some police policy based upon the Human Rights Act of allowing peaceful protest on the pitch rather than trying to remove those who were committing a criminal offence by their incursion onto the pitch. If there was such a major impediment to effective removal the Commission would have expected this to be documented and analysed with particularity given the significance of such a stance regarding matches. The Commission is concerned that the roles of the Club and the Police were not clearly understood and in particular the primary responsibility of the Club regarding safety.

- (iv) finally in respect of match planning the Commission regards it as unacceptable that a document which is as important as the match-specific risk assessment document (whether prepared jointly with the police or otherwise) was not in the possession of the Club prior to the match. The fact that the Club was not in possession of the document manifests a lack of care in preparation and planning for the match. Furthermore the absence of the document raises a serious question as to whether the Commission has been provided with the full facts as to the quality and extent of the planning that took place prior to the match.

(b) the actions in preventing the pitch incursion were inadequate:

- (i) no netting was put in place which would have assisted in enabling the stewards to concentrate on the aisles. The

Commission considers this should have been done and agrees with Mr Hebbard's opinion in that regard;

(ii) stewards were too slow to respond and were poorly deployed in any event so that within a short distance of the actual point where the incursion took place there were ten or so stewards congregated serving no useful function. The stand manager failed to give adequate and timely direction for the deployment of stewards. It is clear from his oral testimony that Mr Pinder was disappointed with the actions of a number of stewards and the stand manager.

(c) there was no adequate attempt made to bring the incursion to an end. By way of example there was no use of a cordon or a sweep. Whilst Mr Pinder says it would have done no good and may even have made the situation worse we accept the opinion of Mr Hebbard that by failing to implement this or any similar procedure to engage with the protesters it was not possible to see if they could be moved off the pitch. It appears that the Club was simply resigned to allowing the protest to take place on the pitch rather than try to remove those involved. We note that in the discussions that are due to take place with police Mr Pinder will be discussing the use of the cordon or sweep. It is unclear to the Commission why this technique and similar were not utilised or even considered at an earlier date.

17. At various points the Club submitted that any other steps that would have been taken were unlikely to have stopped a concerted effort by protestors to enter the pitch. Such an assertion as to lack of causality is self-serving and speculative. One does not know with certainty what the effect would have been had additional steps been taken. The Rule E21 Defence requires the use of all due diligence at the planning and execution stage. Unless after careful consideration it is properly concluded that certain

measures would definitely not prevent or deter any such pitch incursion the Club, in order to make good the Rule E21 Defence, must implement those measures with all due diligence.

18. Further it is clear from the wording of Rule E21 that in order to make out the Defence the Club through its officers and agents must use all due diligence to ensure no pitch incursion took place. In circumstances where Mr Pinder himself identifies shortcomings on the part of stewards and the stand manager it would not be possible for the Club to assert that all due diligence had been used. However in the judgment of the Commission the failings are not confined to execution but go back to the planning stage as well.

### **Conclusion**

19. In the judgment of the Commission the Club has failed to discharge its burden of proof in respect of the Defence at Rule E21. The Club is in breach of Rule E20. The Commission will move to consider sanction and invites the Club to address it by way of mitigation as to sanction indicating whether it wishes to do so in writing, or by way of a telephone hearing or in person. The Club shall inform the Commission of how it wishes to present its submissions on mitigation within 48 hours of receipt of the written reasons.

**DAVID CASEMENT QC**

**Signed on behalf of the Regulatory Commission**

**13 July 2015**