

IN THE MATTER OF A REGULATORY COMMISSION

BETWEEN

THE FOOTBALL ASSOCIATION

AND

EVERTON FC

AND

CRYSTAL PALACE FC

WRITTEN REASONS OF THE REGULATORY COMMISSION

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

Brian Talbot – Independent Football Panel Member

Paul Raven – Independent Football Panel Member

Secretary: Michael O'Connor – Lead Judicial Services Officer

Date: 7 November 2022

Venue: Held remotely via Microsoft Teams

Introduction

1. These are the written reasons of the Regulatory Commission that considered the charges against Crystal Palace FC (“Crystal Palace”).

2. By letters dated 26 October 2022, The Football Association (“The FA”) charged both Everton FC (“Everton”) and Crystal Palace with misconduct amounting to a breach of FA rule E20.1 (“the Charges”). The Charges arose out of a Premier League match between the two clubs (“the Clubs”) that was played on 22 October 2022 (“the Match”).
3. It was alleged that in or around the 68th minute of the Match, the Clubs failed to ensure that their players conducted themselves in an orderly fashion.
4. The FA informed the Clubs that the two cases were being consolidated pursuant to Regulation 13 of the Disciplinary Regulations 2022/23 and that they would be determined together at a joint hearing.
5. The FA designated the case against Everton as a Standard Case. Everton was offered, and accepted, Standard Penalty 1. The Commission was not therefore required to consider the charge against Everton.
6. The FA designated the case against Crystal Palace as a Non-Standard Case due to a proven breach of FA Rule E20.1 in the preceding 12 months (in a match against Aston Villa FC on 27 November 2021).

Relevant Rule

7. FA Rule E20 states:

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

E20.1 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”.

The Evidence

8. The FA sent Crystal Palace the following evidence with the charge letter:
9. Report of the referee, Simon Hooper, dated 22 October 2022.
10. Video footage.
11. In his report the referee stated as follows:
 12. *“In the 68th minute of the game after an incident whereby I awarded a FK to Everton a mass melee occurred involving most players on the FOP.”*

Crystal Palace’s Response

13. On 1 November 2022, Crystal Palace submitted a Disciplinary Proceedings Reply Form. It denied the charge against it but indicated that it did not request a personal hearing.
14. Crystal Palace also submitted a letter from its General Counsel, David Nichol (“DN”).

The Hearing

15. In advance of the hearing the Commission read the documents referred to in paragraphs 8 and 11 above and viewed the video footage provided by The FA (two clips showing the incident).
16. 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 sanctions.

17. The Commission noted that the video footage showed a challenge by Wilfred Zaha (“WZ”) of Crystal Palace on Anthony Gordon (“AG”) of Everton which left AG on the ground.
18. In his letter DN submitted that Everton’s players reacted in a “*very confrontational and aggressive manner*” towards WZ after the challenge on AG and that several Everton players “*squared up*” to him aggressively. He further submitted that Everton players also behaved in a confrontational manner towards other Crystal Palace players, saying that the fault lay squarely with the Everton players and that the Crystal Palace players were simply seeking to diffuse the situation and shield WZ.
19. DN also referred to the definition of a mass confrontation in The FA’s “Essential Information for Clubs – 2022/23” booklet, submitting that the requirement that two or more players from a team must be involved in a confrontation with opposing players had not been satisfied in this case.
20. The Commission reviewed the video footage, looking at the number of players involved, the duration of the incident and the level of aggression displayed. It carefully considered the submissions from DN but did not agree with his interpretation of the incident. It noted that following the challenge from WZ, several Everton players did initially approach him, and that that led to several Crystal Palace players also rapidly becoming involved. However, it did not accept that the Crystal Palace players were simply trying to protect WZ and act as peacemakers. The Commission observed that WZ himself behaved quite properly after the tackle, speaking to the referee calmly and refraining from getting involved in any confrontations; indeed the Commission noted that at times he was standing alone while multiple players from both teams continued to confront one another in several separate incidents. In particular, the Commission noted confrontational behaviour from the Crystal Palace nos. 14 and 22. It could not

therefore accept the suggestion that Crystal Palace played no active part in the confrontation. It concluded that while the confrontation was initially sparked by the reaction of the Everton players to the challenge on their player, the Crystal Palace players quickly became involved and thereafter both teams played an equal part in it.

21. For the reasons set out above, the Commission decided that the charge against Crystal Palace was proven.

Sanction

22. The Commission noted that Crystal Palace had one proven breach of Rule E20 in the past five years, in the match against Aston Villa FC on 27 November 2021, and that it had received a fine of £45,000 on that occasion (“the Previous Sanction”).

23. Before deciding on the level of sanction, the Commission considered the submissions from DN. DN sought to distinguish the Previous Sanction from this case on the basis that the charge related to surrounding the referee rather than a mass confrontation. Accordingly he submitted that The FA should have designated this a Standard Case because it did not arise from a similar situation or set of facts. He further submitted that the sanction should be commensurate with Standard Penalty 1 in any event because this was not a confrontation characterised by violent conduct or aggressive behaviour.

24. As far as the Previous Sanction was concerned, the Commission noted that Rule E20 encompasses a wide range of conduct by participants that would amount to a failure to conduct themselves in an orderly fashion and that the Rule does not make specific reference to either mass confrontation or the surrounding of a referee. It noted that Regulation 8 of the Disciplinary Regulations states that The FA may in its absolute discretion designate a case as a Standard Case and that Regulation 9 provides that it cannot do so where “*the Participant Charged has been issued a Charge for a similar matter, as determined by The Association,*

which took place in the preceding 12 months, and that Charge was found proven”.

It found that The FA did not err in treating the previous proven E20.1 charge as a reason not to designate this as a Standard Case as both cases fell under the umbrella of E20.1 and that in any event The FA had an absolute discretion.

25. The Commission reminded itself that the Standard Penalty 1 at this level of the game would be £20,000 and that the Standard Penalty 2 (where a charge is denied but found proven at the hearing) would be £30,000. It noted that it was free to impose whatever sanction it deemed fit, given that this was not a Standard Case and that the Essential Information For Clubs 2022-23 booklet sets out guidelines for Non-Standard Cases involving mass confrontations. Those guidelines indicate that a Commission may impose sanctions as high as £250,000 on a Premier League club.

26. As Crystal Palace had denied the charge and it was subsequently found proven, the Commission considered that its starting point should be Standard Penalty 2, namely £30,000. It noted the level of fine imposed in the Previous Sanction and considered whether its sanction should be at a higher level than that, given that this was the second proven E20.1 charge within a year. However, the Commission took into account the fact that Crystal Palace only had one proven E20 charge in the past five years and that this was not a case at the serious end of the spectrum. Having carefully considered all of the points referred to above, the Commission agreed that Crystal Palace should be fined £40,000.

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

Sally Davenport

Brian Talbot

Paul Raven

9 November 2022