

IN THE MATTER OF THE FOOTBALL ASSOCIATION
REGULATORY COMMISSION

Case Ref CC/22/12120236387

THE FA

-v-

CARLISLE UNITED FC

DECISION AND REASONS

Warning to the reader of this document. This document contains reference to offensive and/or discriminatory language or behaviour.

Regulatory Commission constitution.

Abdul S. Iqbal KC (Chair – Independent Legal Panel Member)

Ken Brown (Independent Football Panel Member)

Matt Wild (Independent Football Panel Member)

Michael O'Connor (Secretary)

Date of hearing : 21/7/23

1. This document sets out the written reasons for the decision in this independent Regulatory Commission ("the Commission").
2. This document does not set out the entirety of the evidence considered by the Commission. It sets out the relevant evidence on the central relevant issues as considered by the Commission and assessed by the Commission in reaching findings of fact.

3. The Commission met by Microsoft Teams meeting on 21st July 2023 to consider the issues the case raises.
4. The Commission appointed to determine the charge has the requisite experience in crowd management matters and previous crowd management disciplinary hearings.

(1) The charge.

5. By charge letter dated 21st June 2023¹ The Football Association (“The FA”) alleged that Carlisle United FC (“Carlisle”) during the EFL League Two match against Bradford City FC (“Bradford”) on 26/12/22 (“the match”) failed to ensure spectators and/or supporters (and anyone purporting to be its supporters or followers) conducted themselves in an orderly fashion whilst attending the match.
6. Accordingly, The FA charged Carlisle with :
 - i. Failing on 26/12/22 to ensure that spectators and/or supporters (and anyone purporting to be its supporters or followers) conduct themselves in an orderly fashion whilst attending the match and do not use words or otherwise behave in a way which is improper, offensive, abusive, indecent, or insulting with either express or implied reference to race contrary to rule E21.1 of the Rules of the Football Association ;
 - ii. In addition, The FA alleged that the words and/or behaviour made reference to race contrary to FA rule E21.4.
7. Carlisle admitted the charge in correspondence dated 27/6/23 and requested a paper hearing².

(2) The facts.

8. The relevant facts³ as to these charges are :
 - i. Once in the first half and once in the second half of the match, a “*significant*” number of Carlisle fans chanted “*you’re just a town full of Pakis*” ;
 - ii. The first incident of such chanting occurred in the 10th minute of the match. Carlisle

¹ Page 1 of the case bundle.

² Page 13 of the case bundle.

³ This summary is extracted from the various factual witness statements within the case bundle.

asserts it involved a “*handful*”⁴ of Carlisle fans ;

- iii. The second incident of such chanting by Carlisle fans was just before half-time. Carlisle contends that it involved “*even less people*”⁵ ;
- iv. Neither the first or second incidents were reported to Carlisle security or other staff prior to the third incident of offensive chanting ;
- v. The number of Carlisle supporters involved in the first and second incidents was “significant”⁶ ;
- vi. The third incident of such chanting by Carlisle fans was the loudest and was detected and reported to Carlisle officials immediately ;
- vii. Investigations by Carlisle indicated the chanting was by Carlisle fans in the Warwick Road stand ;
- viii. CCTV could not identify the perpetrators involved in this chanting ;
- ix. The said chanting was clearly aimed at the visiting Bradford fans ;
- x. The chanting was reported by the Carlisle fan representative to the Carlisle Safety Officer and designated Football Police Officer who was present at the match ;
- xi. The Safety Officer deployed response stewards to the area of the offensive chanting along with covert police “spotters” with cameras ;
- xii. No further racist chanting was identified from this point onwards ;
- xiii. Neither the police nor other stewards saw the Carlisle fans who were chanting the racist comments ;
- xiv. The racist chants were not reported by the match officials or by any media (home or independent) ;
- xv. After the match, Carlisle had about “*half a dozen*” formal complaints from both Carlisle and Bradford fans about the “*highly offensive*” chanting by Carlisle fans. The complaints are generally consistent with three distinct periods of racist chanting by Carlisle fans.

⁴ Page 15 of the case bundle.

⁵ Page 15 of the case bundle.

⁶ Page 11 of the case bundle.

9. In addition to the above written evidence, the Commission viewed a 6 second piece of video footage with audio of the racist chanting by Carlisle supporters.

10. In that video footage, the offensive chanting appears to be audible and involve multiple spectators.

(3) The sanction framework.

11. Carlisle has admitted a breach of FA rule E21.4 by racist chanting of one or more of its supporters.

12. The “*due diligence*” defence within FA rule E21.5⁷ is not available to Carlisle because of the admitted breach of FA rule E21.4.

13. However, factors relevant to due diligence are relevant to determining sanction because they are relevant to the mitigation available to a charged participant.

(i) The FA “Policy and Guidance on the Regulation of Discriminatory Conduct by Spectators”.

(a) Relevant sanctioning factors.

14. Pursuant to The FA’s “*Policy and Guidance on the Regulation of Discriminatory Conduct by Spectators*”⁸ dated 6th August 2020 (the “*Policy and Guidance*”)⁹ under the heading “*Factors to be considered when determining sanction*” it is stated :

“A Regulatory Commission will have due regard to the circumstances and seriousness of the incident when determining the appropriate sanction (to include the level of any financial penalty that may be imposed). In so doing, the Regulatory Commission will consider a range of factors, to include the following:

1. The number of supporters involved;
2. The nature of the behaviour of those involved;

⁷ Page 146 of the FA Handbook 2022/23.

⁸ At the time of the publication of this guidance, such discriminatory breaches were regulated by FA Rule E20.1.

⁹ The Policy and Guidance document can be found here : <https://www.thefa.com/news/2020/aug/06/new-charging-policies-and-sanctioning-guidelines-for-discrimination-published-070720>

3. The duration of the incident(s);
4. Whether the Club (and/or its officers):
 - a. took all reasonable steps in its preparation and planning for the fixture in which the Relevant Breach occurred;
 - b. took all reasonable steps in dealing effectively with the incident, when it arose;
 - c. took all reasonable steps in identifying the supporter(s) involved;
 - d. took sufficient action against those supporters responsible where those individuals were identified;
5. Whether the Club cooperated in full with The FA;
6. The previous disciplinary record of the Club or its Participants in relation to Aggravated Breaches or Relevant Breaches;
7. In cases where an Action Plan has previously been imposed on a Club, whether the Club has complied in full with that Action Plan.“

(b) Action Plan.

15. The Policy and Guidance states in relation to a first offence as follows :

“Where a finding of a Relevant Breach is made against a Club, a Regulatory Commission shall impose on the Club an action plan in terms that it sees fit with the aim of precluding, a repeat of the conduct, which formed the basis of the relevant breach (“Action Plan”).

Such an Action Plan shall, as a minimum, set out :

- the operational advice and/or practical measures to be carried out by the Club;
- the period during which the Action Plan shall remain in force;
- the external support to the Club that may be required; and
- The process through which the Club’s compliance with the Action Plan shall be audited by The FA and the frequency, with which the audit shall take place.”

(c) Financial penalty.

16. The Policy and Guidance states in relation to a first offence as follows :

“A Regulatory Commission may also consider imposing a financial penalty in accordance with Table 1 below where it considers it appropriate, having regard to the particular circumstances of the case and the factors set out below,

A Regulatory Commission may order that part of any financial penalty imposed is suspended in accordance with paragraphs 42 and 43 of Part A to the Disciplinary Regulations.”

17. By Table 1, the applicable fine range for such a breach of FA rule E21.4 for a EFL League Two Club is £1,000 to £15,000.

(4) The submissions on sanction.

18. The Commission read and considered all of the following written documents when considering the appropriate sanction in this case.

19. The contents of each of those documents and appendices are not repeated in this document save for where reference is necessary to explain whether a submission or factor was regarded as relevant or irrelevant to sanction.

(i) The FA.

20. The FA did not make any written or oral submissions to the Commission.

(ii) Carlisle.

21. The Commission read and considered :

- i. Signed letter from Sarah McKnight (Carlisle FC Club Secretary) to Jack Gillett (FA On-Field Football Regulation officer) dated 16th January 2023¹⁰
- ii. Signed letter from Nigel Clibbens (Chief Executive, Carlisle FC) to Charlie Kendrick (FA Legal & Governance) dated 27th June 2023 with hyperlinked material.

¹⁰ Pages 8 to 10 of the case bundle.

(5) The Commission's factual findings and legal conclusions as to sanction.

22. Where it is necessary for the Commission to come to any conclusion(s) as to the relevant facts, the burden of proof is borne by The FA to prove the fact(s) upon the balance of probability.

23. The test to be applied is that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not.

24. Firstly, the Commission considered the relevant sanctioning factors within the Policy and Guidance.

1. The number of supporters involved.

25. The evidence suggests there were multiple Carlisle supporters involved in the racist chanting.

26. This conclusion is supported by the use of the word "significant" numbers in relation the first and second incidents and the video footage of the third incident seen by the Commission that depicts such chanting audible and emanating from multiple Carlisle supporters.

2. The nature of the behaviour of those involved.

27. The words used by the supporters referenced the city of Bradford and its population as "*Pakis*".

28. The use of this phrase is obviously and plainly discriminatory and highly insulting. It is highly offensive to those right-thinking people who heard it or came to know of its use in these circumstances.

3. The duration of the incident(s).

29. There were three incidents of racist chanting that started towards the start of the match and ended in the second half.

30. Accordingly, this was not an isolated single incident of such offensive behaviour by Carlisle supporters.

4a. Whether the Club (and/or its officers) took all reasonable steps in its preparation and planning for the fixture in which the relevant breach occurred.

31. The material set out in the letter from Nigel Clibbens on behalf of Carlisle shows that Carlisle had in place prior to this match appropriate codes of conduct in relation to equality, diversity and inclusivity that had been placed on the club's website and social media accounts.

32. The Commission accordingly concluded that some proactive steps had been taken by Carlisle generically in relation to issues of discriminatory conduct by its supporters.

33. However, in respect of this match against Bradford in particular and the security risks attached to it (in circumstances where Carlisle accept that this was one of their largest attendances for "over a decade"), there was a lack of supportive documentation for the Commission to properly evidence any or any proper due diligence carried out by Carlisle prior to this match :

- i. The Commission was not supplied with any briefing document in relation to stewards and security staffing at the match ;
- ii. The Commission was supplied no evidence of the quantity of stewarding and security staffing employed by Carlisle at this match. The attendance at the match was 8500. This attendance is high for Carlisle. It demanded that Carlisle employ more stewarding staff and they remain focussed on the "noisy" home section and the away support ;
- iii. The Commission was not supplied with any documentation as to a formal pre-match risk assessment in relation to discriminatory chanting by supporters ;
- iv. The Commission was not sent the Safety Officer's decision log or similar material that would allow the Commission to properly evaluate relevant factual issues and the decision making in relation to the information available to Carlisle safety and security staff at material times ;
- v. The Commission was not sent any evidence of a pre-match deployment plan and/or briefing for safety and security officials tailored to the circumstances of this match and specific risk factors ;
- vi. The Commission saw no evidence of any formal contingency plans (such as cascade briefing and the like) in the event of such discriminatory chanting at this match ;

- vii. The fact that there was not any evidence of a public announcement message is most probably a reflection of the lack of any or any proper contingency planning ;
- viii. There were CCTV facilities at the match that captured audio of some of the events that ultimately took place. However, those facilities were either unable to be deployed so as to detect the perpetrators of such chanting or were not properly deployed so to do.

4b. Whether the Club (and/or its officers) took all reasonable steps in dealing effectively with the incident, when it arose.

34. The Commission considered that Carlisle reacted relatively quickly once the misconduct of supporters was eventually brought to the attention of Carlisle officials.

35. However, it is surprising to the Commission that it was only the third incident of such racist chanting during the match that led to detection of such highly offensive behaviour by Carlisle supporters.

36. Once the offending behaviour had been brought to the attention of Carlisle officials, the Safety Officer deployed response stewards to the area identified along with covert police “spotters” with cameras.

37. It seems that such actions deterred the perpetrators from continuing with such offensive chanting.

38. There was no evidence before the Commission that a public announcement was made during the match once the racist chanting became known to Carlisle safety and security officials.

39. Such a public announcement could have reiterated the message that such behaviour was unacceptable, would not be tolerated, reminding supporters of the availability of a direct mobile phone number to identify those involved in the offending behaviour, and that those found to be engaged in such behaviour would be appropriately sanctioned by the club including by immediate ejection from the stadium.

40. Although Carlisle appear to have in place a mobile telephone number for supporters to report such offensive misconduct, there was no evidence before the Commission as to how the existence of such a facility was clearly and often made known to home and away supporters.

41. Any proper pre-match risk assessment would and should have identified specific risk

factors relating to this match against Bradford. Such an assessment would have identified a heightened risk of such racist chanting at this particular match and would have demanded extra measures at this match to guard against such an eventuality.

42. The Commission was satisfied that had such a facility been widely promoted to all attendees at every match, that reports of the first and second incidents would have been made to Carlisle Safety and security officials and that the later incidents could have been prevented.

43. Thereafter, Carlisle posted a social media message on 12th January 2023¹¹ condemning the racist abuse, reminding supporters of their responsibilities, and indicating that action would be taken against those found to have been involved in the racist chanting.

44. There was no evidence, however, before the Commission of what extra measures (if any) were put in place after this match by Carlisle to reduce the risk of a reoccurrence of such discriminatory chanting in future matches.

4c. Whether the Club (and/or its officers) took all reasonable steps in identifying the supporter(s) involved.

45. No Carlisle supporter has been identified as involved in the racist chanting.

46. It appears that CCTV footage has not proved able to identify any of the perpetrators and that no spectators present at the match have identified those involved.

47. The Commission was surprised and disappointed that there was no evidence of the use of focussed CCTV towards the area of the racist chanting as soon as possible once the racist chanting had been brought to the attention of Carlisle safety and security officials.

48. In these circumstances, the chances of identifying the perpetrators of the offensive chanting was much reduced and it was unsurprising that Carlisle had not been able to identify any of those involved in the offensive chanting.

4d. Whether the Club (and/or its officers) took sufficient action against those supporters responsible where those individuals were identified.

49. No action has been taken against any Carlisle supporter(s) because none of those involved have been identified by Carlisle.

¹¹ See pages 5 and 6 of the case bundle.

5. Whether the Club co-operated in full with The FA.

50. It was noted by the Commission that Carlisle had responded promptly to the charges and admitted the misconduct.

6. The previous disciplinary record of the Club or its participants in relation to aggravated breaches or relevant breaches.

51. Carlisle has no relevant misconduct record.

7. In cases where an Action Plan has previously been imposed on a Club, whether the Club has complied in full with that Action Plan.

52. Carlisle had no Action Plan previously imposed.

(6) Sanction.

(i) A fine.

53. The Commission unanimously concluded that a financial penalty was warranted and appropriate for the admitted misconduct.

54. The Commission noted the various aggravating and mitigating factors set out above.

55. The Commission noted that the misconduct of the Carlisle supporters was not limited to an isolated incident but involved three identifiable incidents of offensive and highly insulting racist chanting.

56. For the reasons set out above, there were substantial deficiencies as to pre-match planning by Carlisle.

57. The Commission was satisfied that diligent and responsible pre-match planning would have properly and reliably identified specific risk factors relating to this match.

58. The identification of those risk factors would have much reduced the risk of incidents such as those that ultimately occurred.

59. There were also, for the reasons set out above, significant defects in the approach adopted by Carlisle to the (third) incident that was brought to the attention of Carlisle security and safety staff.

60. Proper contingency planning would have very significantly increased the chances of

identifying at least some of those involved in this highly offensive chanting.

61. The damage to the reputation of football and issues of equality, diversity and inclusivity by such discriminatory misconduct is obvious. It is unsurprising that there were multiple complaints from supporters after the match to Carlisle.

62. The fact that no Carlisle supporter has been identified for this offensive behaviour is disappointing but reflective of a lack of any or any proper contingency planning.

63. Such circumstances and deficiencies needed to be reflected in the assessed culpability of Carlisle.

64. The Commission noted this was an EFL League Two match. The sanctioning guidelines¹² indicate a sanction range of £1,000 to £15,000.

65. Balancing all of the aggravating and mitigating factors, the Commission concluded that had Carlisle contested the misconduct, the appropriate financial sanction would be £10,000.

66. However, Carlisle had promptly accepted the misconduct. It is noteworthy that full co-operation with the FA investigation is already identified by (and reflected within) the Policy and Guidance document as mitigation.

67. In these circumstances, the Commission concluded it was nonetheless appropriate and proportionate to reduce the financial sanction to £7,500.

(ii) An Action Plan.

68. The Commission concluded unanimously that an action plan in accordance with Annex 1 to the Policy and Guidance was necessary in this case.

69. In order to reduce the risk of further such breaches of FA rule E21, there shall be an action plan in the case of Carlisle in the following terms :

“1. The Club shall:-

- Develop proactive supporter anti-discriminatory prevention, deterrent and detection initiatives for usage and communication ahead of both home and away fixtures, in addressing the potential for discriminatory or other inappropriate supporter behaviour.

¹² Table 1 in the Policy and Guidance document.

- Develop ongoing positive dialogue with 'Kick It Out', 'Her Game Too', local police force and other local/national organisations to further enhance their relationships by seeking advice and ratification of new and developing anti-discrimination policies and procedures.
- Develop additional supporter and steward educational programmes in conjunction with 'Kick It Out', 'Her Game Too' and other local/national organisations to include the issues associated with the potential inappropriate usage of words, chanting, gestures or conduct associated with ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability, including supporter education programmes especially in the raised awareness of acceptable fan behaviour.

2. The Club shall:-

- Develop an auditable, effective and continuous process, whereby pre match verbal and written communications are maintained with all clubs to which Carlisle United FC (CUFC) will be travelling for a League or Cup fixture. Such information should include previous intelligence associated with the behaviour of their travelling fans, current, expected or anticipated intelligence relating to the potential attendance and behaviour of their travelling fans, and any other useful information which may assist the host club in maintaining discipline and order amongst the crowd at the fixture.
- Develop the introduction of a Club 'Supporter Liaison Officer', whose role will be to attend all CUFC fixtures home and away fixtures to act as a high profile conduit between the Club and its supporters. This will help the proactive communication of the new policies contained within this action plan and also assist in the live monitoring of CUFC fan behaviour, combined with an early identification of any trends of risk or threat associated with CUFC fan behaviour.
- Liaise with the host club to communicate the composition of the travelling party including, players, backroom staff, directors and club guests in order to evaluate and risk assess any potential targets of discriminatory or abusive behaviour from the home supporters. Similarly, the same information associated with the host club, plus information on the composition of the match officials, should be obtained so that any appropriate risk can be assessed and acted upon prior to CUFC and its supporters arrival.
- Review ticket sales policies (including away tickets) and procure data as practicable to potentially support post-match investigations and sanctions.

3. The Club shall ensure that the following steps are taken:-

- The new Supporter Liaison Officer shall attend every CUFC away fixture to liaise throughout the fixture with the host club and its stewarding operation, provide close liaison and communication with the travelling CUFC travelling fans at the stadium (appropriately risk assessed), act as a communicational conduit between the host club and

the travelling CUFC fans, seek to formulate evidential reports concerning any poor behaviour associated with the travelling CUFC fans, and develop and collate appropriate intelligence on the travelling CUFC fan base.

4. The Club shall:-

- Continue their full liaison and auditable meetings with their local police football liaison department ahead of every away fixture, and the onward dissemination of any available intelligence to police resources where CUFC and its fans will be travelling.

5. The Club shall:-

- Endeavour to open frank and constructive communications with their CUFC fan groups, and in particular groups which have a tendency to only travel to away matches. Such communications should promote and increase intelligence, appropriate consultations and be a valuable conduit to provide educational exchange of information of the Club's expectant behaviour of their fans, especially when attending away fixtures.
- Develop additional fan communicational lines and resourced facilities within the Club to provide ideally 'live' or secondly 'post-match' reporting of concerning fan behavioural issues via telephone or anonymous text reporting systems. Such intelligence will help inform the Club's ongoing policies and processes in the prevention and detection of discriminatory or poor fan behaviour.

6. The Club shall:-

- Visit and liaise with other local Non-League / EFL clubs as practical in order to obtain best practice policies associated with the prevention and detection of discriminatory and inappropriate fan behaviour.
- Thereafter regularly review and develop their own policies for the prevention and detection of discriminatory and inappropriate behaviour in light of the policies and best practices of other clubs.

7. The Club shall:-

- Develop a Club Supporter Charter which shall include relevant and specific information on discriminatory or offensive chanting, words or behaviour, in an effort to educate supporters on what language and actions are acceptable/unacceptable at their own stadium or any other away stadium.

- Further develop this Club Supporter Charter, listing relevant match day offences and associated sanctions for both home and away fixtures, in particular relating to discriminatory and disorderly behaviour.
- Also create a Fan webpage on their Club website which will reference the revised Charter and any relevant match communications, likely to affect supporter behaviour as appropriate.

8. Upon publication of:-

a. The Regulatory Commission's Written Reasons

b. This Action Plan

the Club shall communicate via its Club website, via social media and in the match day programme for its next home match, an appropriate message and response to their supporters. Such message and response should explain:-

- the background to the Charge,
- the Club's condemnation of the reported discriminatory and disorderly behaviour which underpinned the Charge,
- the sanctions imposed on the Club by the Regulatory Commission,
- the associated initiatives the Club is to develop to make it more inclusive and more proactive in the prevention and detection of any potential discriminatory or disorderly behaviour going forward.

9. The Club shall:-

- Introduce an appropriate media campaign across its website and social media accounts emphasising the Club's policies and zero tolerance toward discriminatory and disorderly behaviour.

10. The Club shall :-

- use its CCTV system to collect evidence relating to poor fan behaviour and also provide some added protection to the stewards themselves during any interactions with supporters manifesting raised tensions or illegal behaviour.
- Ensure that such a CCTV system is complimented by trained and appropriately SIA licensed CCTV operators.

11. This action plan shall remain in place until the end of season 2023/2024.

12. The FA shall monitor the Club's compliance with this action plan by periodic checks as deemed appropriate, so as to ensure that the various constituents of the action plan have been initiated and are being complied with."

70. Carlisle United FC is formally warned as to future conduct.

71. The above sanctions are formally imposed.

72. There is the right to appeal these decisions in accordance with FA Regulations.

ABDUL S. IQBAL KC

KEN BROWN

MATT WILD

24th July 2023