

THE FOOTBALL ASSOCIATION

-v-

GILLINGHAM FC

DECISION AND REASONS

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

Constitution of the Regulatory Commission ('the Commission')

Colin McCaul KC (Chair – Independent Legal Panel Member)

Phil Rainford (Independent Football Panel Member)

Peter Fletcher (Independent Football Panel Member)

John Edmunds (Secretary)

INTRODUCTION

1. On 24 May 2023, Gillingham Football Club ('GFC') was charged with three breaches of the Football Association Rule E21.4. Those charges arose out of 3 separate EFL League Two fixtures, which spanned a period between 26 December 2022 and 25 February 2023. The first fixture was a home match against Colchester United FC ('Colchester') which took place on 26 December 2022, the second fixture was an away match against Sutton United FC ('Sutton') on 29 December 2022 and the third fixture was a home match against AFC

Wimbledon ('Wimbledon') on 25 February 2023. GFC admitted each of these charges and requested a Personal Hearing, which took place on 6 September 2023 by way of Microsoft Teams.

2. The Commission included two Panel Members with the requisite experience in crowd management matters and/or previous crowd management hearings
3. The Football Association ('FA') was represented at the Hearing by Ms Amina Graham, Head of Regulatory Legal at the FA.
4. The following persons from GFC attended the hearing:

Mr Brad Galinson (Chairman);

Mrs Shannon Hogan Galinson (Board of Directors);

Mr Paul Scally (former Chairman and Board of Directors);

Mr Gary Newman (Head of Safety, Security & Stadium Operations);

Mr Joe Comper (Director of Operations).

All of these persons addressed the Commission in the course of GFC's mitigation.

5. The bundle for the Hearing included referees' observational reports and the Committee was supplied with evidential videos of the abuse. The Committee read all of the documents within the Hearing bundle and viewed the videos. The bundle contained a document written by FA Regulatory Legal, which set out a written summary of the facts underlying the charges, GFC's Responses to the FA's Pre-Charge Requests, the FA's submissions as to the failings on the part of GFC and its observations as to the appropriate sanction. Given the comprehensiveness of that document, the Commission proceeded upon the basis that it would stand as the FA's Opening and that the Commission would proceed to hearing mitigation from GFC, giving Ms Graham the right to respond to that mitigation with GFC having the right thereafter to reply if it so chose.
6. In addition to producing a number of documents and a video released by the club, GFC submitted statements / letters from the following persons:

A letter from Mr and Mrs Galinson, dated 29 June 2023;

A letter from Mr Gary Newman, dated 29 June 2023;

A statement from Mr Jordan Hill, match day PA announcer at GFC, dated 1 September 2023;

A copy of an email from PC Geoff Greensmith, Kent Police, dated 30 August 2023;

A copy of an email from Mike Chenery, Safety Officer at Sutton United Football Club, to Mr

Gary Newman, dated 4 September 2023

7. In reaching its Decision, the Commission has taken into account all of the material produced by both parties, including the statements / letters earlier referred to, as well as the mitigation advanced on behalf of GFC and the submissions made by and on behalf of the FA. Throughout this Decision the Commission proposes to focus on those features that appear to it to be the most relevant to its task. The Commission would emphasise that merely because it does not refer to some specific matter that has been raised with it by or on behalf of GFC, does not mean that it has not considered that matter or that it is not considered relevant.

THE CHARGES.

8. The relevant sections of Rule E21 of the FA Rules provide:

E21 A Club must ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers) conduct themselves in an orderly fashion whilst attending any Match and do not:

E21.1 use words or otherwise behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative;

E21.4 conduct themselves in a manner prohibited by paragraph E21.1 in circumstances where that conduct is discriminatory in that it includes a reference, whether express or implied, to one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.

9. The behaviour at the Colchester match was with express reference to race whilst that at both the Sutton and Wimbledon matches was with express reference to gender.

THE FACTS

Charge 1 (The Colchester Match)

10. In the 16th minute of the match a Colchester player was subjected to racial abuse from GFC supporters in the Rainham End terrace. The player reported the incident to the referee, informing him that he had heard the chant, "You black bastard" twice from the area behind the

goal in which the GFC supporters were located. Footage from the incident recorded the following wording:

“Wog” (lone voice) (00:00:09 seconds)

“You black bastard” (lone voice) (00:00:10 seconds)

“You black bastard” (chant) (00:00:11 seconds)

“You fucking wog” (lone voice) (00:00:11 seconds)

“You black bastard” (chant) (00:00:12 – 14 seconds)

11. The Head Safety officer was informed of this incident, who relayed it to PC Greensmith, who held the role of Dedicated Football Officer and who was present in the Match Control Room with the Head Safety officer. As alluded to above, GFC filed a copy of an email from PC Greensmith in advance of the hearing and relied upon its contents. Within that email, PC Greensmith states that, upon being provided with this information, he immediately deployed on-duty Police officers to an area of the Rainham End terrace to observe the crowd, to seek to identify any offenders and to seek witnesses. PC Greensmith’s email goes on to detail another such incident in the match, which occurred in the 23rd minute when the same Colchester player scored a goal. He heard the comment, “You black shit”. According to PC Greensmith, this further incident was reported to the match referee and PC Greensmith spoke about it to the referee both at half time and at full time. It is right to say that there is no mention within the referee’s match report of this further incident. However, PC Greensmith submitted two Crime Reports, one in respect of each incident, and the Commission is left in no doubt that this further incident did occur.

Charge 2 (The Sutton match)

12. In the 24th minute of the match, whilst treating a Sutton player, the Sutton female physiotherapist heard the following chant from GFC supporters: ““Wank him off”. Video footage of the incident showed that the chant lasted some 14 seconds. She reported the incident to the Match Referee. Having first ensured that she was all right, the referee spoke to the Sutton Safety Officer, Mike Chenery, on the pitch side and requested a tannoy announcement be made condemning any further discriminatory language. This was done. At full time, the Referee had a meeting with the physiotherapist in the Match Officials’ dressing room, at which she reported an additional incident which had taken place in the first 5 minutes of the fixture, involving 3 or 4 of GFC’s spectators who had chanted, “Get your tits out for the lads”, as she walked along the touchline.

13. Mr Chenery advised the Match Officials that a spectator was identified and had been ejected from the stadium at half time in respect of one of these incidents. Mr Chenery's email to Mr Newman, confirmed that he had provided Mr Newman with the same information and that his stewards had handed the individual over to the Police. However, when seeking that individual's details from the Police in order to forward them to Mr Newman, Mr Chenery had been told that the Police had inexplicably not taken any such details.

Charge 3 (the Wimbledon match)

14. During the first half of the match, the Wimbledon female physiotherapist was subjected to the following chant from GFC supporters situated in the Rainham End terrace as she went onto the pitch to tend to an injured player: "*Get your tits out for the lads*". Video footage of the incident showed that the chant lasted for 14 seconds. The chant was not heard by the physiotherapist herself but was heard by the referee and by members of the Wimbledon staff situated within the technical area near the half way line.

MITIGATION ADVANCED ON BEHALF OF GFC

15. Mr Scally led the mitigation. He set out the demographic of the Club, explaining how the majority of the fanbase comes from the Medway towns.

16. Mr Scally said that the Club was appalled by the incidents the subject of the FA charges. He had purchased the Club in 1995 and between then and May 2023, the Club had never been charged with incidents of this kind.

17. But for limited disagreement as to the length of the chant that occurred during the Wimbledon match, the Club accepted the accuracy of the facts set out in relation to all of the incidents.

18. Addressing the numbers attending the matches, Mr Scally said that 5000 supporters attended the Colchester match, being 75% capacity, and that the number of supporters in the Rainham End terrace represented 45% of the entire stadium. The belief of the Club is that the persons participating in the chanting amounted to no more than 5 or 6. He contrasted such a situation with a mass chant from 200 or so supporters. As regards the away fixture at Sutton, total attendance at the stadium that day was 3,300, of which 774 were away (GFC) supporters. As for the Wimbledon home match, the stadium was filled to capacity with some 2,400 people in the Rainham End terrace. Again, Mr Scally expressed the Club's belief that the number of people who participated in the chanting that day amounted to 5 or 6 individuals.
19. In his letter, dated 29 June 2023, Mr Newman acknowledged that the three incidents were extremely serious in nature. He maintained that each incident involved individuals and not any group of GFC supporters. He stated that the events were immediately investigated, including interviews in and around the area and a detailed review of CCTV footage was undertaken with guidance sought from the Kent Police. However, in respect of the incidents the subject of the charges, no perpetrators had as yet been identified. Mr Newman maintained that the Club had in the past successfully used covert investigation, CCTV and eye-witness testimony to ban or arrest multiple patrons. During the 2022/23 season, 17 arrests and 19 ejections were issued. Mr Newman did not describe the type of anti-social behaviour that underlay these arrests and ejections but he cited as an example the case of two supporters having been arrested earlier in the year for using racist and homophobic language. The Club included within the documents that it submitted for the hearing a Kent Police Statement that was reproduced within its Club News website and that related to this incident, which occurred during a match against Exeter City on 23 August 2022. The statement ended with the Police encouraging anyone who hears or sees inappropriate behaviour at a sporting event to report it to a steward or police officer at the earliest opportunity.
20. Mr Newman nevertheless described the Club as providing a safe, family-based matchday experience. He referred to ample safety officers (later clarified as meaning safety stewards) being recruited and trained for every match and an example of what he referred to as a match-specific briefing document was adduced. He said that the Club is quick to respond when discriminatory behaviour is brought to its attention; PA announcements are made, covert staff are deployed to investigate within an indicated area, witnesses are questioned, and the Police are involved when necessary. Regular training seminars are held and a Martyn's Law seminar was held in May 2023 for the Club's stewards, local police and emergency service personnel. CCTV footage in all areas of the stadium are monitored real time and Mr Newman said that the Club was currently in the process of increasing coverage. The matchday programme always contains a page on racist or homophobic comments, posters are displayed around the ground and an anonymous report line via text messaging was set up in March 2023. A copy of

the poster advertising this report line was produced to the Commission. Social media is also utilised and the Club produced a copy of a Statement published on its website on 8 March 2023 in which it was said that it had been brought to the Club's attention that "at recent fixtures, there have been reported incidents of racist, sexist and homophobic comments which were referred to the Football Association and English Football League for further investigation." The statement went on to make it clear that the Club had a zero tolerance approach to such behaviour. The Club has produced, and the Commission had viewed, a Club video in which the new owners, club officers and club players address the seriousness of improper behaviour. Mr Comper informed the Commission that the video had received 187,000 views and 600 "likes".

21. In responding to questions from the Commission, Mr Newman said that a data sharing agreement had been made with the Police. He said that, as Safety Officer, he does brief the referee. Upon being asked how he was able to combine that role with continuing control room duties and also monitoring the CCTV, Mr Newman said that he has a Deputy Safety officer plus a second CCTV operator and hence that there is always someone who is able to fulfil each of those roles. He could not explain how none of his staff had heard the abuse that occurred during the 23rd minute of the Colchester game, as recorded by PC Greensmith. Mr Newman said that he had spoken to Mr Chenery (the Sutton Safety Officer) on the day after the Colchester game and hence in advance of the match against Sutton and told him that they had experienced unsavoury behaviour and that there was a new group of quite young youths. Given that the Colchester game took place on Boxing Day and the Sutton game was played on 29 December 2022, there was a shortage of staff available in the interim.
22. Mr Newman claimed that a specific message was relayed over the tannoy system following the first incident during the Colchester match. The PA announcer at GFC is Mr Jordan Hill. His statement of 1 September 2023 sought to address the question of announcements concerning anti-social behaviour. He recounted how he would read out a statement warning of any indecent, inappropriate and discriminatory behaviour before, during and after matches. The text of that announcement was included in the material supplied by the Club in its mitigation. Needless to say, given the way in which Mr Hill describes the announcements being made, the text is of a generic nature.
23. The letter from the new owners, Mr and Mrs Galinson, stresses how they take the charges extremely seriously and how they find the behaviours in question unacceptable. They outline the same preventative steps that were set out by Mr Newman and make it clear that they will not allow what they call a very slim minority to lower their standards of behaviour and alienate any of the Club's supporters.

24. The Club produced the minutes of what was described as an “FA Action Plan Meeting”, which was held on 5 June 2023. The purpose of the meeting was stated to be to review progress following the FA charges brought against the Club. The minutes set out 11 steps that were to be taken, which included the setting up of an Inclusion Advisory Group, putting over the messaging about anti-social behaviour to supporters, conveying and reinforcing the Club’s anti-discriminatory policies, promoting the dedicated phone-line for reporting incidents by text, enhancing EDI training, reviewing and enhancing all match day operational planning, establishing closer dialogue with Kick it Out, updating the Club’s Customer Charter to improve and extend the section on Crowd Protection as it relates to any anti-social behaviour, educating supporters on the aims of the Action Plan and demonstrating the gravity of the situation. The Minutes end with the date of the next meeting of the GFC Inclusion Advisory Group to be scheduled “September/October TBC”. In response to the Commission’s question as to when that date had been fixed for, it was said that no date has as yet been fixed. Mr Comper added that there had been a number of small undocumented meetings since 5 June 2023 and that an Equality, Diversity and Inclusivity committee had been set up under the chairmanship of the Club’s Welfare Officer.
25. Mr Scally summarised the Club’s submissions by saying that it was addressing the issue. He stressed again that the Club was dealing with a tough section of its fanbase. It needed to set up educational programmes that made clear what was right and what was wrong. He asserted that the small number of fans involved made it more difficult for CCTV to focus in upon them, although he went on to express the belief that it was probable that the Club could now identify the group fairly quickly. He took comfort from the fact that the Club was starting to receive emails from supporters who were not comfortable with this anti-social behaviour.
26. Mr Scally also sought to distinguish the facts of another football match unconnected with GFC, in which racist chants had been made leading to the club in question being charged by the FA. The FA had produced a transcript of the decision of the Commission in that case in support of its submission that the offences in the instant case should attract a heavy fine, as well as the imposition of an Action Plan. Mr Scally referred to the chanting in that case as having been of a disgusting nature and that it came from a significant number of supporters. He drew attention to the fact that there had been three separate incidents in the reported game.
27. In addressing the question of sanction, Mr Scally indicated that GFC would be amenable to being made subject to an Action Plan. However, as regards financial penalty, Mr Scally submitted that there should be none but that, if one was to be imposed, it should be at the low end of the scale.

THE FA'S SUBMISSIONS AND RESPONSE

28. On behalf of the FA, Ms Graham submitted that the events at the Colchester game did not constitute an isolated incident or a chant by a lone spectator. She extended that submission in her response, pointing out that the evidence adduced by GFC from PC Greensmith showed that there was a further incident during the Colchester game. Ms Graham observed that the perpetrators had not been identified despite the Club's assertion that it had deployed undercover stewards and supporters having been questioned. She referred to what Mr Scally had termed a wall of silence and argued that this demonstrated a culture amongst the supporters of not speaking up. She also commented on the absence of any documentation recording the steps that the Club had taken to identify the offenders. Ms Graham further noted the absence of any evidence that the Club had spoken to the Colchester player who had been the victim of the abuse, although it is right to say that Mr Scally insisted in the course of the hearing that a meeting had been held with that player.
29. Ms Graham was also critical of the lack of any specificity within the 14 January 2023 matchday programme about the incidents during the Colchester and Sutton matches. The programme in question contained no more than mention of there having been reported incidences of racist and sexist comments at recent fixtures.
30. As far as sanction is concerned, Ms Graham referred to the FA's "Sanction Guidelines for Discrimination by crowds". These provide in relation to a first offence that the Commission shall impose an Action Plan and may also consider the imposition of a financial penalty. GFC being an EFL League Two Club, the sanction guidelines suggest a fine for a first offence of between £1,000 and £15,000. The FA submitted that the Club's culpability is high, given the number of breaches. In responding to Mr Scally's submissions in which he sought to distinguish the reported case by saying that it involved 3 incidents during a match, Ms Graham pointed out that there were two incidents in the Colchester match and two incidents in the Sutton match, meaning that the total of incidents covered by the charges in this case are 5 in number. Acknowledging that the offences occurred on 3 separate days, the FA noted that the charges were all issued on the same day. As such, this is the first time that the Club stands to be sanctioned for any misconduct, it being common ground that the Club does not have a record of any previous such offences. On that basis, the FA submitted that, despite there being three separate offences, one sanction would be the appropriate manner of disposal so as to reflect the misconduct in its totality. In terms of the size of fine, the FA invited the Commission to take account of the number of offences, the serious nature of the offending, the repeated nature of the chanting, that there were identified victims in respect of all three offences, and the lack of any meaningful response by the Club especially given the fact that two months elapsed

between the first and third offences. Finally, the FA noted that the “FA Action Plan meeting” took place more than 5 months after the Colchester match and that it was only held because of the Club’s receipt of the FA charges two weeks earlier. As Ms Graham put it, the Club took too long to sit and there has been no proper follow-up after that meeting.

THE APPROACH TO SANCTION

31. The FA’s “*Policy and Guidance on the Regulation of Discriminatory Conduct by Spectators*”⁸ dated 6th August 2020 (the “*Policy and Guidance*”) sets out the factors to be included when determining sanction, namely:

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

THE COMMISSION’S CONSIDERATION

32. The Commission has considered the relevant sanctioning factors within the Policy and Guidance.

1. The number of supporters involved.

33. The Commission accepts that this was not a case involving a large section of supporters.

That said, the Commission entirely rejects any notion that the incidents involved a disjointed number of individuals. The Commission notes that, at the Wimbledon match, the sexist chanting from the Rainham End was heard by those in the technical area at the half-way line. The plain inference is that there must have been a not insignificant number of supporters chanting in order for the chant to have been heard over that distance.

2. The nature of the behaviour of those involved.

34. The racist abuse hurled and chanted during the Colchester match was vile. The sexist abuse levelled at the female physiotherapist during the Sutton match is as bad as the Commission has seen and the chanting that took place at that match was repeated during the Wimbledon match. Whilst the physiotherapist at the Wimbledon match was not aware of the chanting, the same cannot be said of the Colchester player and the Sutton physiotherapist. It is almost impossible to imagine the extreme hurt that must have been felt by each of those persons.

3. The duration of the incident(s).

35. The chants in the Sutton and Wimbledon games lasted for a period of up to 14 seconds. Such a period is by no means transitory.
36. In the Colchester game, there were two instances of chanting as well as two separate instances of racial abuse from an individual.

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.

37. In respect of the home matches against Colchester and Wimbledon, there was a very considerable lack of documentation evidencing the steps that the Club actually took, thereby preventing the Commission from assessing the extent to which any proper due diligence was carried out by Gillingham prior to the matches: -
- i. The Commission was not supplied with any match specific briefing documents in relation to the briefing of its stewards and security staffing at these matches.
 - ii. The Commission was supplied with no evidence as to the quantity of stewarding and security staffing employed by GFC at these matches. In addition, an associated steward deployment plan would have been useful to understand how the initial and subsequent post incident deployments were actioned.

iii. The Commission was not supplied with any documentation as to the formal pre-match specific risk assessments having been actioned for these home matches and in particular in relation to the risks associated with discriminatory chanting by supporters and how that would be addressed.

iv. The Commission was not sent the Safety Officer's Control room decision log or similar material that would allow the Commission to properly evaluate relevant factual issues and reactionary actions to the incidents as well as the decision making taken in relation to the information available to GFC safety and security staff at material times.

v. The Commission noted that it was not supplied with any Club CCTV footage to evidence and demonstrate the immediate and subsequent post incident operational investigations which took place in and around the Rainham End Terrace.

vi. The Commission saw no evidence of any formal contingency plans in relation to discriminatory behaviour in the event of such discriminatory chanting at these matches, and in particular their communication of such to stewards and security staff during the pre-match briefings.

vii. There was no evidence supplied in relation to any pre match social media posts relating to the club's advisory information to fans on discriminatory behaviour and requests for assistance from fans in reporting any such abhorrent and illegal behaviour during matches.

viii. The Commission saw no evidence relating to these Colchester and Wimbledon matches of a 'Special Police Services' agreement with the Kent police and in particular the deployments in place for this match. Any post-match debrief material involving the police would also have been useful in highlighting the role played by the police in addressing these discriminatory incidents.

ix. The Commission would have found it very useful to examine the official 'Post Match Report' for the Colchester and Wimbledon matches and any post-match Club debrief meeting minutes reflecting in particular on the discriminatory incidents and how they were addressed on the day with any associated actions emanating from the meetings.

x. In relation to the Sutton away fixture, there was no contemporaneous evidence to support any immediate pre match liaison or communications between the GFC and the Sutton Safety Officers highlighting the discriminatory incident at the Colchester fixture.

38. Moreover, the evidence that was put before the Commission showed an alarming lack of action taken once the problem had arisen at the Colchester game. The incidents at the Colchester match were serious and the Commission would have expected the Club to have reacted far more positively during the period before the Sutton game. A conversation between the Safety Officers of GFC and Sutton was wholly inadequate and it is no mitigation to point to the fact that staff were enjoying their Christmas break.
39. No less than 8 weeks separated the Sutton and Wimbledon matches and yet the Commission saw no signs of specific action having been taken by the Club. There were no specific references to those events in the following match programme, despite the assurance given by the Club to the FA in a letter of 3 January 2023 that the incident in question would be put in the match programme, and there does not appear to have been any concerted effort to find witnesses. If, as appears to have been the case, the CCTV had been demonstrated by the Colchester game as unfit for purpose, urgent steps should have been taken after that match to improve the CCTV coverage. The Commission does not accept that part of the Club's mitigation which asserted that it is more difficult to focus on a small group. The opposite is assuredly the case, provided CCTV coverage is of the requisite quality and standard. Indeed, the fact that a large percentage of the GFC supporters occupy the Rainham End terrace leads to the obvious conclusion that enhanced CCTV coverage should be installed to cover that area.

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

40. Following the first instance of racist abuse at the Colchester game, undercover stewards were sent to the Rainham End terrace. The Commission is bound to question whether sufficient numbers of stewards, be they undercover or not, were sent to the area either quickly enough or at all given that none of those stewards would appear to have heard the second instance of abuse hurled at the Colchester player and recorded in the Police crime report. Moreover, the fact that the perpetrator of that second instance of abuse felt free to hurl it is a clear indicator that stewards were not sent quickly enough or in sufficient numbers.
41. Neither is the Commission entirely satisfied that a specific announcement was made on the Club PA system given that the Club PA announcer's statement makes no mention of such an announcement.
42. The dearth of evidence regarding steps taken in the immediate aftermath of the Wimbledon incident speaks for itself.
43. The Commission does recognize the steps taken by the Club since these incidents, if not in

their immediate aftermath. The texting facility is a positive step and it is encouraging that the Club has started to receive emails from some supporters who condemn the sort of abuse that comprises the charges that the Club faces.

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

44. As yet, no supporter has been identified as involved in either the racist or sexist chanting. Although Mr Scally mentioned that he anticipated some movement on that matter, it is difficult to understand the source of that optimism.
45. Certainly, the Club cannot be blamed for the failure to identify at an early stage the supporter who was ejected from the Sutton match. The evidence is clear from the Sutton Safety Officer that the Police did not obtain the person's details.
46. However, accepting at face value the submission that the Club was faced with a new problem at the end of December 2022, the upgrading of the CCTV system should have been an urgent priority and an improved system should have been in place by the time of the Wimbledon match. Had that been done, the prospects of identifying the perpetrators of the abuse at that match would have been significantly improved.

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

47. Given that none of the perpetrators has yet to be identified, this factor is not applicable.

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

48. The FA accepts that there has been full co-operation from the Club.

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

49. As previously mentioned, GFC 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.

50. There has been no Action Plan previously imposed.

Other matters considered by the Commission

51. Whilst noting what was said on behalf of the Club about its catchment area and demographic, the Commission also notes that there are similar poor areas in the country where football clubs do not experience the same occurrences of racist or sexist abuse. The Commission further observes that, although the Club referred to the problem arising in December 2022, its own evidence was to the effect that there were 17 arrests and 19 ejections during the 2022/23 season. It was not clear to what extent, if at all, these incidents involved discriminatory behaviour, as opposed to some other form of anti-social behaviour, but the fact that they occurred means that it cannot properly be said that the Club ought not to have foreseen the need to improve its crowd control measures.

52. The Commission was disappointed to note that the “FA Action Plan meeting” did not take place until 5 months after the Colchester game. That it took place 2 weeks after receipt of the FA charges is a strong indicator that it was held in response to that development as opposed to having been a step taken by the Club of its own volition. The fact that the list of action points is so long is itself testament to the amount of work that has to be done by the Club. Yet, despite providing for a further meeting of the lead committee in September or October 2023, the Club accepted that no such meeting has as yet been fixed.

SANCTION

53. As the Commission has made clear in its reasons, and as accepted by the Club, these are serious breaches. The language used was at the worst end of the spectrum.

54. Moreover, the three matches took place over a period of no less than 2 months. For the reasons that the Commission has outlined above, there was a serious lack of urgency within the Club to react to the incidents and that inertia continued as reflected in the 5 months that elapsed before the June 2023 meeting and the lack of any tangible or recorded progress since then.

55. The Commission cannot accept the submission that no financial penalty should be imposed in this case. It takes into account that there have been no previous charges relating to this type of conduct. But the Commission also notes that this can only be said because the three charges relating to incidents spanning 2 months have all been heard together.

56. The Commission further takes note of the FA’s submission that, despite there being three separate offences, one sanction would be the appropriate manner of disposal so as to reflect the misconduct in its totality. The Commission will comply with that submission but feels bound

to point out that, if the charges had been treated separately, it would have been of the view that the total financial penalty to be imposed would be greater than the £15,000 that constitutes the maximum within the Guidelines in respect of a first offence. That being so, the Commission considers that the appropriate financial sanction, in the absence of cooperation and the early admission of the offences by the Club, would have been at the maximum level. However, giving such credit as can be given for that cooperation and admission, the financial penalty that the Commission imposes in relation to all three charges is a total sum of £12,500.

57. In addition to a financial penalty, the Commission is entirely satisfied that an action plan in accordance with Annex 1 to the Policy and Guidance is necessary in this case. It regards the action plan set out within the Club's "FA Action Plan" as wholly inadequate. Moreover, the meeting took place only shortly before the 2023/24 season began and no real progress has been made to implement it even though the season is well underway.
58. The Action Plan that the Commission proposes is contained within an Annex to these reasons. As regards the duration of the Action Plan, the Commission takes note of the fact that the current season is already in progress and that there is much for the Club to do in pursuance of that Plan. Accordingly, we direct that the Action Plan shall remain in place until the end of the 2024/25 season.
59. 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.
60. GFC is formally warned as to future conduct.
61. The above sanctions are formally imposed.
62. The Commission makes no order as to costs.
63. There is the right to appeal these decisions in accordance with FA Regulations.

COLIN McCAUL KC

PHIL RAINFORD

PETER FLETCHER

ANNEXE

GILLINGHAM FC ACTION PLAN

- 1) Gillingham Football Club (*'the Club'*) shall within 14 days communicate via the Club website and via social media, and in the next available home league match day programme.
 - a) The fact and background to the charges, including the fact that it involved abusive, offensive, racial and gender bias chanting by Club supporters at home matches against Colchester United and AFC Wimbledon and an away fixture at Sutton United.
 - b) The Club's condemnation of the chanting that underpinned the charges and the fact that it has a zero-tolerance policy towards discriminatory, abusive and insulting behaviour.
 - c) The fact that this resulted in the Club being charged and found guilty of Misconduct under the FA Rules, being warned as to its future conduct and having an Action Plan imposed upon it together with a significant fine to prevent any recurrence of the misconduct.
 - d) The Club's intention to develop existing initiatives to make it more inclusive and more proactive in the prevention and detection of any potential discriminatory or inappropriate words or behaviour in the future, at both home and away fixtures.

- 2) The Club shall:
 - a. Ensure all its match day operational planning, match specific risk assessments and stewarding briefing documents are fully documented and comprehensive to support and evidence due procedure, in particular in relation to any risk of discriminatory behaviour, and are readily available for inspection by the Football Authorities and the appropriate Safety Advisory Group.
 - b. Forthwith conduct a full review of its stewarding management, provision, deployments, and quality of stewarding training. In addition, existing processes should be closely examined to ensure quality steward incident reporting (verbal & written) is in place to support proportionate reactions to match day incidents and potential post-match investigations.
 - c. Maintain a detailed operational protocol in support of their safety management and to include any match specific action plans for dealing with discriminatory behaviour.

- d. Ensure that its Stewards handbook shall include a section addressing (1) identifying discriminatory behaviour, and (2) dealing with discriminatory behaviour; to ensure that the prevention and detection of any discriminatory or inappropriate behaviour is sufficiently addressed.
 - e. Evaluate their existing CCTV capabilities and operator training in relation to crowd monitoring and evidence gathering including the use of body worn cameras
 - f. The Club's Safety Officer shall liaise with his or her opposite number prior to all fixtures both home and away to exchange intelligence:
 - i.) On Club supporters who are or may be attending the home fixture, and any recent poor or discriminatory behaviour attributed to them.
 - ii.) On any factors which may negatively or illegally affect or influence their behaviour, this should include any members of the visiting Club whether they be former players or officials or individuals who are likely to experience abuse.
 - g. The Club Safety Officer should appraise the match officials before the game to discuss and evaluate any potential issues relating to crowd behaviour, particularly any discriminatory behaviour and have in place methods of communicating with match officials should it be necessary.
- 3) The Club shall:
- a) Develop proactive educational programmes/initiatives for supporters and written policies and procedures for the purpose of increasing awareness of unacceptable behaviour, deterring and minimising discriminatory and other inappropriate supporter behaviour, including the inappropriate usage of words, chanting, gestures, behaviour and conduct associated with ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation and disability.
 - b) Continue to develop an ongoing positive dialogue with *Kick It Out* and also *Her Game Too*, and further enhance these relationships for the purpose of seeking advice on and ratification of all such proposed programmes, initiatives, policies and procedures.
- 4) The Club shall further develop the Club Charter which must:
- a) Include a prominent 'Discrimination' section containing relevant and specific information on all aspects of discriminatory and offensive words and behaviour to

educate supporters on what language and actions are acceptable / unacceptable, whether at home or away fixtures.

- b) In addition to encouraging supporters to report discriminatory language to *Kick It Out* or *Her Game Too*, it must also have a robust mechanism for reporting such behaviour directly to the Club on a match day in live time.
 - c) Introduce and publicise a Club Sanctions Policy towards supporters committing acts of discriminatory behaviour both at home and at away fixtures to include offences and associated sanctions, in particular relating to discriminatory behaviour.
 - d) Establish and continue to develop the Gillingham Football Club Inclusion Advisory Group and consider involving members from relevant external agencies such as the police or *Kick It Out / Her Game Too*. The Club should initially strive to hold monthly meetings of this Group until the content of this Action Plan has been fully evaluated and tangibly actioned
- 5) The Club shall:
- a) Promote the Club Charter to its supporters by creating a prominent and well-labelled page on its website for the Club Charter and promoting the same in match day programmes, via its social media outlets and by such other means as are appropriate
 - b) Reference the Club Charter in all relevant match day communications with supporters, whether relating to home or away fixtures.
- 6) The Club shall develop and implement an appropriate media campaign across the Club website and the Club's social media accounts emphasising the Club's policies and its zero tolerance toward discriminatory, abusive and insulting language, behaviour and conduct.
- 7) The Club shall develop and deploy:
- a.) Prepared Public Address messages to assist in the prevention and detection of abusive and discriminatory behaviour.
 - b.) Printed messages in its match day programme, on any available big screen, on advertising boards and on stadium advisory posters, to assist in the prevention and detection of abusive and discriminatory behaviour.
 - c.) Content on the Club's website, social media platforms and in the Clubs Fan Guide to target the prevention, usage and detection of any potential discriminatory words or behaviour. Such announcements, messages and content (i) shall make clear in plain

effective language that discriminatory and abusive is illegal, offensive and will not be tolerated by the Club, and (ii) must be supported by clear reporting methods and facilities.

d.) Increase awareness of the recently introduced “Hear Hate? Don’t Hesitate!” Text message reporting system to their supporters ensuring that it is included (as appropriate) on both the Club website, their social media platforms, stadium posters, stadium big screens, concourse televisions and in every match day programme.

e.) Prior to each away match the Club shall publish warnings to its travelling supporters against the use of discriminatory and other inappropriate supporter behaviour and language. These warnings:

a. Shall be published on the Club’s website and social media outlets, whether as a stand-alone warning or as part of a ‘Travelling Fans Guide’, and

b. Shall be communicated directly, whether by text or other suitable means, to those supporters that the Club knows have purchased tickets for the relevant away game and/or are travelling to the relevant away game.

8.) The Club’s Safety Officer:

a. Shall visit and liaise with other EFL clubs to obtain best practice policies associated with the prevention and detection of discriminatory and inappropriate behaviour.

b. Shall 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.

9.) The Club shall review all its safety management plans and policies at least once a season.

10.) The FA shall monitor the Club’s compliance with this action plan by way of no less than two match day audits per season, whereupon the Club shall exhibit all requisite material to the FA representative in attendance at the ground. This action plan shall remain in force until the end of the 2024/25 season.