

**IN THE MATTER OF A REGULATORY COMMISSION OF THE FOOTBALL ASSOCIATION**

**WEDNESDAY 30 OCTOBER 2024**

**BETWEEN:**

**THE FOOTBALL ASSOCIATION**

**And**

**PLYMOUTH ARGYLE F.C.**

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**WRITTEN REASONS**

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***Background***

1. These are the written reasons for the decisions made by a Regulatory Commission which sat on Wednesday 30 October 2024 to determine the Charge referred to below for a breach of FA Rule E21 in respect of events at the end of the Match between Plymouth Argyle Football Club ("**Plymouth**") and Hull City Football Club ("**Hull**") in the Championship on 4 May 2024 ("**the Match**").
2. The Regulatory Commission met via a Teams call on Wednesday 30 October 2024, commencing at 10am. The Commission comprised Mr Christopher Stoner KC (Chair) (Independent Legal Panel Member), Ms Alison Ryston (Independent Football Panel Member) and Mr Peter Fletcher (Independent Football Panel Member). Mr Marc Medas, Judicial Services Officer, acted as secretary to the Commission and we record our thanks to him.

3. By a Charge Letter ("**the Charge**") dated 7 July 2024 Plymouth were charged with a breach of Rule E21 in respect of the Match. The Charge states:

*"It is alleged that Plymouth Argyle FC failed to ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers) conduct themselves in an orderly fashion whilst attending the Match and do not behave in a way which is improper, threatening or provocative; and/or not encroach on to the pitch or commit any form of pitch incursion, contrary to FA Rules E21.1 and E21.3."*

4. Having checked The FA Handbook for season 2024/25, the Regulatory Commission noted that the introductory wording of Rule E21 has slightly changed for the 2024-25 season. Rule E.21, E.21.1 and E21.3 now provide:

*"A Club must ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers) attending any Match do not:*

*E21.1. behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative.*

...

*E21.3. encroach on to the pitch or commit any form of pitch incursion."*

5. The Commission considered this change but determined that the amendments were not relevant to the matters it had to consider. The removal in the introductory wording of the obligation that spectators '*conduct themselves in an orderly fashion*' in the Commission's view added nothing and was again not relevant to the issues it had to determine, which relate to unchanged words of E21.1 and E21.3.
6. Prior to the hearing all members of the Commission considered all the papers contained within the bundle, comprising some 240 pages. Upon examination it became evident that a number of the pages are repetitious. However, all documents were considered as was the video clip provided to us.

7. Shortly before the hearing commenced, at the Chair's request, we were provided with a different version of the video clip. This was the full video provided by Plymouth. For reasons unknown the clip which had originally been provided to us had omitted the first 12 seconds of the full video clip, thereby distorting the timings included in The FA's written submissions. We were all able to consider the new video clip before the hearing started.
8. All the evidence was carefully considered. That not all the evidence is referred to in these Written Submissions does not mean that such evidence as is not expressly referred was not considered. It was and all evidence and submissions have been taken into account.

### **Response to the Charge**

9. In a Reply Form dated 10 September 2024 Plymouth admitted the Charge and elected for a paper hearing. In doing so Plymouth indicated that it wished for correspondence attached to the Reply Form to be put before the Commission.
10. In the context of the response to the Charge the accompanying letter dated 10 September 2024 stated:

*"The Club admits the Charge on the basis set out herein. However, the Club wishes to clarify at the outset that whilst it fully accepts that its supporters behaved in an "improper" manner contrary to FA Rule E21.1, given the nature of the Incident (as defined below), it does not believe that its supporters behaved in a way which was "offensive, violent, threatening, abusive, indecent, insulting or provocative" (as also set out under FA Rule E21.1). The Club fully acknowledges that the Incident should never have occurred, however, it is important to point out that it was celebratory in nature and not in any way hostile, offensive, violent, threatening, indecent, insulting or provocative in nature and the Club requests the Regulatory Commission to take this into account when considering this case and the most appropriate sanction to impose.*

*The Club wishes for this matter to be dealt with as expeditiously and cost-effectively as possible and therefore requests a paper hearing (as confirmed in the enclosed Reply Form)."*

11. The FA, in written submissions dated 24 September 2024, submitted that in accordance with Regulation 31 of the Non-Fast Track Regulations there remains a factual dispute between the parties as to whether Plymouth are in breach of that part of Regulation E31.1 which provides:

*“A Club must ensure that spectators and/or its supporters (or anyone purporting to be its supporters or followers) attending any Match do not behave in a way which is ... threatening ... or provocative.”*

12. The Commission agreed with this submission. Notwithstanding the admission of the Charge, Plymouth have clearly submitted that its supporters did not behave in a manner which was threatening or provocative and that, accordingly Rule E21.1 was not breached in this way. The Commission concluded it must treat these allegations as not admitted and that as a Commission we must determine on the available evidence whether The FA has made out its case to the contrary. There is no doubt the burden lies with The FA to do so.

13. We should add that contrary to the suggestion in Plymouth's Reply, relevantly recited at paragraph 10 above, The FA never charged Plymouth with failing to ensure its spectators, and/or its supporters (and anyone purporting to be its spectators or followers) behaved in a manner which was offensive, violent, abusive, indecent or insulting. This is evident from considering the terms of the Charge.

### **Background Facts**

14. The background facts are easily stated. The Match was an important one for Plymouth: it had to win the game to guarantee survival in the Championship for the 2024/25 season. The Match was attended by some 16,800 spectators.

15. Plymouth won the Match and upon the final whistle being blown by the Match Referee there was a mass incursion onto the pitch. Whether the number of spectators is properly measured in the high hundreds, or the low thousands does not matter as there is no doubt there was a mass pitch incursion.

16. The FA, in its written submissions, asserts that the home supporters left the field of play after approximately 15 minutes. Whilst we note this statement, we have not seen any evidence to support it.
17. The Match Referee, Mr Bond, confirmed that he and the other Match Officials were not approached and that they were “*safely escorted from the field of play*”. There is no suggestion of any injuries having occurred during the pitch incursion.

### ***Threatening/provocative behaviour***

18. We now turn to consider that element of the Charge which remains in dispute. Much of the evidence before the Commission concerns planning for the Match, including in respect of the eventuality of a mass incursion. We shall turn to this below. The evidence before the Commission relating to the actual behaviour of the Plymouth fans post-Match was principally the video clip provided by Plymouth. Indeed, The FA submitted in its written submissions that the ‘primary’ evidence in support of the disputed element of the Charge was the sheer number of supporters that entered the field of play.
19. We were also referred to an email from David Beeby, the Club Secretary of Hull which comprised his response to an email from [REDACTED] of The FA asking if Hull wished to report anything regarding the Plymouth fans entering the field of play. Mr Beeby said:
- “A couple of our players were pushed by supporters during the pitch invasion but none of them have specifically come forward to make a complaint. I asked Jacob Greaves if he wished to make a complaint as I saw that he had been pushed on multiple occasions but he didn’t.”*
20. The FA also submitted that the video/CCTV evidence supplied by Plymouth was inadequate. We shall return to this below, but for present purposes The FA invited us to draw an inference from the failure to provide proper and comprehensive footage, although what that inference should be was not expressly identified.
21. We do not think we need to consider what inferences may or may not be properly drawn by the relatively sparse CCTV/Video evidence produced by Plymouth, which did seem to the Commission rather oddly not to address key issues, given the number of scenes of supporters celebrating in the stands, those key issues being the events on

the pitch and the stewarding response to them. That we do not need to consider the suggested inference is because the evidence we have seen and considered in the form of the video/CCTV that was supplied, along with Mr Beeby's evidence are quite sufficient for us to conclude that the behaviour of the Plymouth supporters was not only improper, but also threatening and provocative.

22. The video provides clear evidence that there was a mass incursion of supporters onto the pitch upon the Match Referee blowing the final whistle. This, no doubt, is reflective of Plymouth's acceptance of a breach of Rule E21.3. This was a mass incursion into the workspace of the Match Officials and the players and coaching staff of both Plymouth and Hull. Whilst it is accepted that the invasion was celebratory in nature, the video clearly shows that players and match officials were quickly enveloped into a mass of humanity. At the time that was happening, it cannot have been certain that the mood would remain celebratory and/or that all those on the pitch would be sharing in the celebratory mood.

23. Furthermore, as we shall detail below, whilst Plymouth wrote to Hull stating:

*"In order to assist, irrespective of the result or the impact of the result, can you please direct your Players/Staff to leave the pitch immediately on the final whistle and head towards the tunnel/dressing room area. Pitch security will be deployed for the Hull City players, and they will be escorted by security in person."* (underlining added for emphasis). Unfortunately, this did not happen. The video clearly shows between 1 minute 45 seconds and 1 minute 51 seconds a Hull player making his way through the supporters in the pitch wholly alone, in stark contrast to the Plymouth players ahead who were escorted.

24. Furthermore, we note the email from Mr Beeby to the effect that a couple of Hull players were pushed. The FA have drawn our attention to the lefthand corner of the screen on the video where it appears a Hull player and supporters have physical contact, although whether this was purely accidental or otherwise, we simply cannot tell. Of course, the important point is that the spectators should not have been on the pitch and no possibility of physical contact should have arisen.

25. We also note that in their Letter of Detailed Observations dated 7<sup>th</sup> May 2024, Plymouth state: *"Whilst there was a large number of supporters on the pitch the atmosphere was a celebratory one and no anti-social behaviour was observed. There was no use of*

*pyrotechnics, and no missiles were observed as being thrown.*” On this last point we do not agree. The video clearly shows, at approximately 29 seconds, a projectile coming in a relatively high arc from off the screen to the left-hand side and landing in the supporters toward the middle of the pitch. It also appears that same projectile then bounces on into the spectators to the right-hand side of the centre spot (as can be seen around the 31/32 second mark of the video). A football is also kicked by a spectator toward other spectators on the left side of the screen at the 29 second mark.

26. We do not know what the first projectile was. It may have been another ball. However, what it was, in the Commission’s view, is less important than the fact it was being thrown or kicked and could easily hit the unwary causing injury.
27. In all these circumstances, the Commission’s clear view is that the workspace of the Match Officials, players and coaches was invaded by spectators behaving in a manner which can properly be described as being threatening and provocative as well as improper. The sheer size of the pitch incursion is such that there are clear associated risks and dangers to the players, coaching staff and Match Officials and also to the spectators themselves. The fact that no injuries were reported is a matter of relief, but also of good luck. The fact the occasion can now be viewed with hindsight as one which was wholly celebratory does not negate the fact it is a threatening occurrence to those whose workspace is being invaded when it is happening.
28. The behaviour is also provocative. Supporters invading the pitch incite or provoke others to join them on the pitch. That this occurred is evident from the CCTV/Video we have seen. There is a clear build up of spectators around the perimeter ready to invade once the final whistle sounded. Inferentially that encouraged others to join them on the pitch and indeed the video clearly shows that supporters were still coming on to the pitch some time after the whistle blew: see for example the fixed view from the CCTV/Video between 0:27 seconds and 0:39 seconds.
29. Accordingly, the Commission is entirely satisfied that The FA has proven the Charge pursuant to Rule E.21.1 that Plymouth failed to ensure that its spectators, and/or its supporters (and anyone purporting to be its supporters or followers) attending the

Match do not behave in a way which was improper, threatening or provocative, notwithstanding this was only admitted by Plymouth in respect of 'improper' behaviour.

## **Sanction**

30. The Charges having been admitted and, in so far as they are not admitted, having been proven, the Commission's remaining task relates to sanction. The FA, in its written submissions, invited the Commission to adopt the approach taken by the Regulatory Commission in the case of *The FA v Birmingham City* (16 September 2019) and *The FA v Bristol Rovers* (27 July 2022). Whilst the Commission is not bound by these decisions, it recognises the same approach has been adopted on other occasions and that the approach found in those decisions promotes a sensible and logical approach to consideration of the facts to determine the appropriate sanction.

31. That approach is to consider the following factors:

31.1. The seriousness of the breach (namely the gravity of the Club's breach of the FA Rules, not the consequence of a mass incursion onto the pitch).

31.2. The culpability of the Club, adopting the approach of the Appeal Board in *Reading v The FA* (7 October 2015), namely of a sliding scale of culpability.

31.3. The harm caused by the incident, adopting the definition of 'Harm' identified in *The FA v Birmingham City* (16 September 2019) as being wider than the immediate consequence of the incident; and

31.4. The mitigation available to the Club.

32. To clothe the skeleton provided by this approach, we need to consider the evidence with which we have been presented and as we turn to that evidence it is right to identify at the outset that the Commission was of the clear view that whilst there is much to



applaud in the planning undertaken by Plymouth for the Match, unfortunately in the Commission's view the execution of that planning at the Match was poor.

### *Evidence*

33. The evidence relied upon by The FA is identified in the Charge as being:

33.1. An email from the Match Referee, Mr D Bond, dated 4 May 2024.

33.2. A letter from Mr. Z Newton, Club Secretary of Plymouth Argyle FC to [REDACTED] The Football Association, dated 7th May 2024.

33.3. A Letter from Mr. C. Kent, Head of Venue at Plymouth Argyle FC to Mr. L. Rosenior, Head Coach of Hull City AFC, undated.

33.4. An email from Mr. Z. Newton, Club Secretary of Plymouth Argyle FC to Plymouth Argyle Football Staff, dated 30 April 2024.

33.5. A Pitch Incursion Policy, undated.

33.6. A Steward Deployment Plan, undated.

33.7. Pre-Match Meeting Briefing Slides, undated.

33.8. Email correspondence between Mr. Z Newton, Club Secretary of Plymouth Argyle FC and EFL Security and Safety Officials, dated 29th April – 14 May 2024.

33.9 Email correspondence between [REDACTED] The Football Association and Mr. D. Beeby, Club Secretary of Hull City AFC.

33.10. EFL Guidance – Tackling Pitch Incursions; undated.

33.11. Instructions for Mr. G. White, Safety and Security Advisor, The Football Association, undated.

33.12. Report from Mr. G. White, Safety and Security Advisor, The Football Association, dated 2nd July 2024.

33.13 Video clip of the incident.

34. In addition to the foregoing, the Commission had the benefit of written submissions, including on sanction, from The FA.

35. The evidence relied upon by Plymouth was contained in a letter accompanying Plymouth's Reply Form, namely that from the Club Secretary, Mr Zac Newton, dated 10 September 2024 and the appendices to that letter. This letter also contained detailed submissions on behalf of Plymouth, including as to what were said to be issues of mitigation in Plymouth's favour. The appendices to the letter included:

35.1. A letter from Inspector Robin Loveridge of the Devon & Cornwall Police; undated.

35.2. An email from Martin Kennedy, an EFL Security and Safety Consultant dated 14 May 2024.

35.3. A matrix for Match Categorisation.

35.4. Matchday Stewards Briefing for the Match.

35.5. Pitch Incursion Procedures Stewards Briefing.

35.6. Qualifications and Biography of Ian Dryland, Safety Officer.

35.7. Photos of the Stewards Pitch Invasion Training.

35.8. Plymouth Argyle Safety Certificate.

35.9. Match Specific Pitch Incursion Policy.

35.10. Email to Match Officials; undated.

35.11. Briefing Letter to Match Officials; undated.

35.12. Letter to Hull; undated.

35.13. EFL 'Tackling Pitch Incursions' Guidance.

35.14. Match Specific Risk Assessment for the Match (Pitch Invasion) dated 30 April 2024; and

35.15. Plymouth Argyle generic Risk Assessment (season 2023/24).

36. In addition to the foregoing, the Commission was mindful that within The FA's documentation it also had Plymouth's detailed observations letter dated 7 May 2024.

37. As a general observation the Commission feels moved to comment that in cases such as this, it can only proceed on the basis of the evidence before it. The Commission encourages any Club which has been charged with a breach of Rule E21, especially one which admits the Charge and/or elects for a paper hearing, to consider when submitting its documents that the Commission cannot be taken to assume or know matters which are not evidenced before it.

38. To illustrate this point with one example from the present case a table has been produced to us which appears to detail the number of stewards deployed for the Match, in 3 different columns, each with a different total at the bottom. However, the columns are given no heading or other form of identification. As such, whilst we are able to identify that the document refers to stewarding numbers, the detail and the nuances of the document are very difficult, if not impossible, to understand.

39. Furthermore, as previously alluded to, The FA has criticised the CCTV/Video presented by Plymouth. The Commission considers these criticisms to be well made. The documentation provided by Plymouth includes the following comments:

(a) Pitch Incursion Policy for the Match: "There will be a dedicated CCTV operator"; and

(b) In the letter accompanying the Reply Form, Mr Newton states: "*As per the Club's 'Pitch Incursion Policy' (set out in Appendix 9), CCTV was used throughout the Incident. A designated individual in the control room was reviewing the fixed CCTV cameras that showed the pitch as the Incident occurred in real time, in order to*

*ensure the safety of supporters. This included a review to ensure no pyrotechnics were being used and there was no violence or disorder.”*

40. The 2 minute and 47 second video clip with which we have been provided, which contains large tracts of views of the supporters who remained in the stands, does not, in the Commission’s view, properly reflect matters the Commission expected to see: for example, how stewards formed near the tunnel at the end of the Match is simply not visible until 1 minute and 51 seconds into the video/CCTV, when a number of stewards can be seen around the tunnel area, although the Commission hesitates to suggest this is evidence of a ‘cordon’. This is in the context of Plymouth’s assertion in the detailed observations letter dated 7<sup>th</sup> May 2024 that *“This increased risk prompted the safety team to set up an exclusion zone cordon (to protect the tunnel/player’s facilities) and to be in a position to ensure that the Home and Away supporters were kept separate well ahead of the final whistle.”*
41. It is at the same time on the CCTV/Video that the Commission sees the Cordon in front of the away supporters, with a number of Stewards with linked hands in what was a clearly effective and commendable cordon.
42. The scarcity of CCTV/Video footage, in circumstances where Plymouth have prayed in aid, including in mitigation, the planning of a dedicated CCTV operator and viewing on CCTV of the incident, is disappointing and unhelpful as it simply does not help the Commission in understanding the full picture.
43. These observations made the Commission now turns to consider the evidence that has been provided, as outlined above. In doing so, the Commission does not intend to repeat each element of the evidence. We have, however, considered it all in detail.
44. The Commission accepts that Plymouth undertook a significant amount of planning ahead of the Match. In Mr Newton’s letter of detailed observations dated 7 May 2024 he said:

*“Retaining our status as an EFL Championship club was wholly dependent on the outcome of this match, and only a home win would guarantee that PAFC would avoid relegation to EFL 1, regardless of results elsewhere. Due to the significant impact of the result of this fixture, tensions were heightened both before and during the match, and our pre match risk assessment, supported by the Devon & Cornwall Police*

*assessment, was that it was more likely than not that a mass pitch incursion would occur, especially if PAFC maintained their Championship status.*

*In view of this increased risk, significant additional planning and resources was allocated to this fixture.”*

45. As a Commission we recognise and applaud steps taken by Plymouth, for example:

(a) The Head of Venue wrote to the Hull City head coach and staff, asking that they direct their players to lead the pitch immediately on the final whistle, heading toward the tunnel/dressing room area. The letter stated: *“Pitch security will be deployed for the Hull City players, and they will be escorted by security in person.”* The letter is undated, but the detailed observations letter from Plymouth indicates it was sent on 29 April 2024.

(b) All football staff and players were briefed. The email we have been shown commences *“It is very likely that there will be a pitch incursion at the end of our final match of the season on Saturday.”* The email then contained instructions in the event of a mass pitch incursion happening. Again, what we have been provided with is not dated, but we are told it was sent on 30 April 2024.

(c) A detailed Match Incursion Policy was completed for the Match, which included within the Appendix briefings for Match Officials, Players, Management and Playing Staff, Matchday Staff and a pre-recorded message which states:

*“Please leave the pitch immediately and return to your seat.*

*It is a criminal offence to be on the pitch.*

*Players will not return until the pitch is clear.”*

The document also included a stewarding plan, being that which we have already referred to as including 3 unidentified columns. It does, as we understand it, show that it was planned to have a total of 186 stewards on duty for the Match.

(d) The Match Officials were written to. The email we have been provided is, once again, undated but we are told it was sent on 30 April 2024. It states

*“The safety and wellbeing of match officials is of paramount importance, and we are conscious that the risk of a pitch incursion for this fixture is higher than normal. To that end, in the next 24 hours you will receive a separate letter from our safety team detailing the pitch incursion plan with specific reference to the actions that will be taken to minimise the risk to your safety. Please don’t hesitate to contact me if you have any questions or additional requests. Please confirm attendance and I look forward to seeing you all on Saturday.”*

The Match Referee, Mr Bond, confirmed in his Extraordinary Incident report dated 4 May 2024: *“Following the final whistle a large number of Plymouth Argyle supporters invaded the field of play. This was expected and covered off in the pre match safety briefing. No match officials were approached or in danger and were safely escorted from the field of play.”*

- (e) A tabletop discussion was undertaken on 1<sup>st</sup> May 2024, focussing ‘on the specific roles of various individuals and groups, including Safety Officer and Deputy Safety Officer, designated pitch incursion teams, Club Secretary (Passive Gold) and ... Head of Venue/operations’. “It included a run through of the likely sequence of events and discussions around various possible scenarios and how to best ensure the safety of the match official, players and other participants from both teams.”
- (f) A pre-Match briefing was held on 2 May 2024, attended by all key staff, including executive managers, media, grounds team, supporter liaison team, safeguarding team, football staff liaison, head of venue, club secretary and safety officer. We were told this included a section on the pitch incursion plan *“which was briefed in detail at the meeting.”*
- (g) Pre-match briefings were also held on the day of the match, including of the Match Officials, where the briefing was attended by the Safety Officer, Senior Police representative, Club Secretary, tunnel and an EFL safety consultant who was at the match to observe preparations.
- (h) The Commission was also informed: *“The Club undertakes regular pitch invasion training for stewards, delivered by Mr. Ian Dryland, the Club’s highly experienced*

*Safety Officer who is also a former police officer. Details of Mr. Dryland's experience in safety and security matters is set out in Appendix 6. Also, photographs of some steward training sessions delivered by Mr. Dryland are included in Appendix 7."*

We considered the photos provided and compared that to the CCTV/Video clip that was provided. We shall comment on this below.

46. It is right to record that Plymouth provided a letter from Inspector Loveridge of the Devon & Cornwall Police, who comments:

*"Could the pitch incursion [have] been avoided or stopped? Quite simply no and the reason for this is very simple. To stop an incursion would have required a considerable use of force from both stewards and the police ... In conclusion there was a robust joint planning process, the club plan with increased steward numbers and messaging was enacted to try and avoid an incursion. When an incursion took place it was jointly dealt with as per the plan quickly and efficiently with no public safety issues or disorder resulting."*

47. It is also right to record that an EFL Security and Safety Operations Consultant, Martin Kennedy, was present on the day of the Match and he concludes in an email statement provided to Plymouth:

*"In conclusion, I thought the stewarding plan combined with the policing plan was thorough, professional, and proportionate and in my opinion, it is difficult to identify anything further that the safety team could have done to prevent the incursion that took place, but their response ensured that the safety of players, match officials and supporters was effectively managed without incident."*

### **Seriousness of the breach**

48. Taking the foregoing into account and having identified a number of positive aspects of the planning undertaken by Plymouth, using the rubric of the approach from *The FA v Birmingham* we now turn to the matters where the Commission considers Plymouth fell short. As previously stated, broadly speaking the Commission is of the view that the execution of the planning was poor, although the Commission also considers that aspects of the planning could have been better.
49. The first point is one which is evidenced in the execution of the plan and relates to the number of stewards on duty. On the photos of the pitch incursion training undertaken by Mr Dryland, the number of stewards is such that they would appear to be able to link hands to form a barrier or, even if that were not possible, there were sufficient stewards to form a real deterrent.
50. In stark contrast at the Match the video/CCTV we have seen, and we reiterate we can only judge what we have seen, illustrates quite evidently that the number of stewards in front of the stand opposite the camera falls well short of the number envisaged in the pitch incursion training. Indeed, the number of stewards (even combined with the police officers on duty) offered no deterrent to supporters running onto the pitch once the final whistle was blown. The only area we have seen on the video/CCTV supplied with an effective deterrent was in front of the away end, where stewards stand with linked hands.
51. We understand from the documents that 186 stewards were engaged and 181 were actually on duty during the Match. In Plymouth's letter dated 10 September the Club 'defends its approach to stewarding arrangements for the Match'. This was in the face of Mr White, a Safety and Security Advisor for The FA in a report to The FA, making criticisms, including stating "*... it is clear from the footage that their [stewards] number was not enough to deal with an incident of this nature. A much more substantial increase should have been considered and discussed with senior management and partner agencies. This would have enabled a stronger pitch protection around the whole perimeter, towards the end of the match and acted as a visual deterrent.*"
52. The Commission agrees with these criticisms. Plymouth states that it had 181 stewards in place for the Match, including 93 SIA qualified staff. This, it states, is significantly more than the 151 stewards it would normally have for a 'medium risk' fixture.



53. The Commission does not agree that 30 more stewards is a 'significant' number, especially given what had been predicted as outlined in Plymouth's letter dated 7 May 2024 as recited at paragraph 44 above and the other planning ahead of the Match, given its significance to the Club. Furthermore, once account is made of the 'fixed' stewarding positions, the number of *mobile* stewards was, in the Commission's view, not adequate. Indeed, we do not think that the number of *mobile* stewards would comply with the 'high-risk' ratio in the Green Guide, which Plymouth suggest in the letter dated 10 September 2024 was exceeded.

54. In the Commission's view a more visible and robust line of stewards would have acted as a deterrent. Whether or not it would have prevented the pitch incursion is speculative, but it would have been more reflective of comprehensive planning. The Commission is drawn to the conclusion there were insufficient stewards retained for the Match.

55. Allied to the inadequately resourced stewarding line, the Pitch Incursion Policy clearly states:

*"Public address system announcements. There will be pre-match, half time and end of match announcements reminding supporters it is a criminal offence to go onto the pitch. There will be no end of match music whilst there are any supporters on the pitch. Should there be a pitch incursion a pre-recorded message will request supporters leave the pitch."*

56. We have already recited the pre-recorded message. However, once again emphasising that we can only judge on the evidence presented to us, we have no evidence that any messages were played over the public address, especially at that time just before the game ended, once it was plain that supporters were amassing with the intent of going onto the pitch. Further, we note that in Plymouth's detailed response letter dated 7 July 2024, it is not suggested that any announcements were deployed asking supporters not to enter the pitch area. Rather, the reference to the public address is confined to its use in encouraging supporters to return to their seats, which we construe as meaning from the pitch once an incursion has already occurred.

57. Further, in the letter accompanying the Reply Form Plymouth state:

*“The pre-planned post-Match music was cut short and announcements were made over the PA system via the Control Room in an attempt to dissuade supporters from encroaching onto the pitch and in order to clear the pitch as quickly as possible once supporters had entered the pitch.”*

58. In itself this is an interesting observation, given the pre-match incursion plan, recited at paragraph 55 above, clearly provides that no music would be played whilst supporters are on the pitch. Once again emphasising we can only judge what we have been provided, it is clear to the Commission from the CCTV/Video clip:

(a) That no public address announcements can be heard during that clip; and

(b) With spectators on that pitch, flatly contrary to the pre-match incursion plan, celebratory music was started 1 minute and 33 seconds into the video.

59. The Commission notes that it is said that a message was displayed on the big screen, albeit according to Plymouth’s letter dated 10 September 2024 only after the incident had occurred, although the video/CCTV evidence we have does not show the big screen. The Commission questions the effectiveness of a message on the large screen after a mass incursion has taken place, especially in the absence of prior, repeated warnings over the public address system.

60. The Commission acknowledges, as it was informed in Plymouth’s letter accompanying the Reply Form dated 10 September 2024, that the following message had been directly sent to all season ticket holders and Match attendees, as well as being shared on social media and being reported in the local media:

*“Ahead of Saturday’s final Sky Bet Championship game of the season against Hull City, we felt it was important to remind supporters of the need to remain off the playing surface before, during and after the game.*

*Although we are acutely aware several scenarios are still possible for Saturday afternoon, we must remind you, in the interests of safety for everyone inside Home Park Stadium, that the pitch is for managers, players, and match officials, while the stands are there for your support.*

*The EFL, Football Association and Football Supporters' Association have introduced measures and sanctions to tackle anti-social and criminal behaviour, such as entering the pitch, and offenders will be reported to the police and prosecuted.*

*Entering the field of play is a risk to supporters, with potential to fall and injure yourselves, while the club will also likely be fined should any pitch incursions take place.*

*As previously communicated, it is also our Annual Academy showpiece open day on the pitch on Sunday, so we require the surface to be in the best possible condition.*

*This is an incredible opportunity for the next generation of Argyle player to experience running out at Home Park Stadium for the first time, watched by their families and friends, and we want this occasion to be the best possible."*

61. That this message was direct messaged to all those attending is commendable. However, the Commission notes there is no evidence that this or a similar message was repeated on the day of the Match at the Stadium, whether that be in any digital or hard-copy programme, over the public address before the game started, at half time or during the Match (as well as at the end of the Match as we have described) or through any signage.
62. A significant further aspect of the failure in executing the pitch incursion plan relates to the Hull players. It is wholly unacceptable to the Commission that any player was pushed, irrespective of how that happened. Furthermore, as we have detailed when considering the disputed element of the Charge, it is plain from the limited CCTV/Video we have seen that all the Hull players simply were not provided with an escort from the pitch. Most notably, starting at 1 minute and 45 seconds in the video clip a Hull player can be seen walking through the spectators wholly unescorted, in stark contrast to the 2 Plymouth players ahead of him.
63. In this regard, Plymouth have prayed in aid and we have praised the fact that Hull's Head Coach and staff were written to with advice as to what their players should do in the event of a mass incursion, before stating "*Pitch security will be deployed for the Hull City players, and they will be escorted by security in person.*" The Pitch Incursion policy also states: "*In the event of a mass incursion, their focus will be the safety of the matchday officials and players.*"

64. Unfortunately, however good the planning may be, its worth is significantly reduced or destroyed by poor execution of the plan.
65. Furthermore, once again based on the evidence we have seen in the CCTV/Video, in the Commission's view the stewards located near the tunnel failed to form a secure cordon. Instead, there is a rather randomly positioned collection of personnel in the area.
66. In all the circumstances we consider the seriousness of Plymouth's breach of FA Rules 21.1 and 21.3 to be significant.

### ***Culpability***

67. We have adopted the approach of the Appeal Board in *Reading v The FA* (7 October 2015), who identified that there is a sliding scale of culpability, namely (1) the most serious, for example a deliberate decision not to provide the necessary resources for financial reasons; (2) a reckless disregard in respect of the Club's duties; (3) gross negligence; (4) negligence simpliciter and (5) a situation where a club has marginally failed to avail itself of the 'due diligence' defence set out in Rule E21.5.
68. In the present instance the Commission considered the planning that went into the Match, much of which was commendable, but also what it considered to be the poor execution of its pitch incursion plan. In particular the Commission considered what it considered to be the low stewarding numbers, namely just 30 above a 'normal' medium risk game when, as evidenced by its letter dated 7 May 2024 as recited at paragraph 44 above, a mass pitch incursion was considered likely.
69. In these circumstances the Commission considered whether Plymouth's culpability was properly categorised as 'gross negligence', but having had regard to all the circumstances outlined above it was satisfied that it was properly classified as negligence simpliciter.

## **Harm**

70. 'Harm' in this sense, as identified by the Regulatory Commission in *The FA v Birmingham* (16 September 2019) is not limited to just the immediate adverse consequences of the mass pitch incursion, but also encompasses a wider meaning including, as relevant in the Commission's view to the present instance, to:

- (a) The creation of a dangerous or hostile situation, even if that situation did not in fact escalate;
- (b) The creation of a risk of 'copycat incidents'; and
- (c) Any wider damage to the reputation of football.

71. That the occasion was ultimately a joyous one celebrating survival in the Championship does not matter. A potentially dangerous and/or hostile situation was created with the fact that no incidents occurred being a happy outcome of happenstance, as opposed to being relevant to the club's execution of its duty to ensure the scenario did not develop in the first instance. Players were clearly mobbed by supporters running onto the pitch and not all players were escorted off, as we have already identified. Furthermore, as we have also previously identified, some projectiles were kicked or thrown, whilst celebratory music was introduced notwithstanding no announcement had been introduced telling supporters to leave the pitch.

72. The focus on the risk of copycat incidents was particularly strong in circumstances where Plymouth fairly drew our attention to the fact that at the end of the 2022/2023 season a number of fans encroached on this pitch after Plymouth gained promotion, even though that did not result in a charge.

73. The Commission notes that Inspector Loveridge, in his letter submitted by Plymouth, states:

*"Celebratory pitch incursions over recent years nationally have become commonplace across the country up and down the league pyramid, supporters now see it as a right of passage. This is a culture that is going to take a long time to change."*

74. For the reasons we have explained we do not agree with Inspector Loveridge when he goes on to suggest that Plymouth, in this instance, had done all it could to proactively avoid the incursion happening. The Commission notes and wholly endorses the EFL Guidance on Tackling Pitch Incursions which states:

*“We need to move away from almost an acquiescence, that pitch incursions at the conclusion of the season are celebratory in nature and to be expected.”*

75. That is partly done by ensuring that Clubs comply, both in planning and in execution, with their duties pursuant to Rule E21.

76. In all the circumstances, the harm in the present instance was, in the Commission's view, properly categorised as significant.

### **Mitigation**

77. Plymouth put forward lengthy submissions on mitigation in the letter accompanying the Reply Form dated 10 September 2024. The various headings, reflecting the points advanced in mitigation, were:

- (a) Context of the Match and the Incident/no harm caused to players and Match Officials.
- (b) Policing Arrangements
- (c) Stewarding Arrangements
- (d) Match-Specific Preparations and Documentation
- (e) Communications to supporters
- (f) CCTV Footage and Review
- (g) Actions taken post-Match
- (h) Lack of control over supporters (as a contrast to the ability to control, for example, employees)
- (i) Admission of the Charge; and
- (j) Previous Disciplinary Record.

78. We do not intend to detail all that was advanced as 'Mitigation'. Indeed, without intending any criticism of Plymouth, the Commission considers that a lot of what is said in the letter dated 10 September 2024 under the umbrella heading of 'mitigation' is in fact properly categorised more generally as submission. Irrespective of this, however, it was all carefully considered by the Commission and we shall provide comments on each of the categories advanced below.

79. As an introductory comment it is inevitable from the foregoing paragraphs that we do not agree that some of the points advanced offer much or any mitigation. However, in respect of each category raised in Plymouth's letter (using the same lettering as identified in paragraph 77 above):

- (a) We do not consider that the fact no harm was caused to players or Match Officials offers much in the way of mitigation. Given our criticisms of the execution of the pitch invasion plan, the Commission considers this to have been fortuitous happenstance as opposed to something which arose directly from planning and, most particularly, execution of that planning. Players were pushed and projectiles were kicked or thrown.

Furthermore, the Commission does not consider the context of the Match offers more than limited mitigation. It rightly alerted Plymouth to the threat of a mass pitch incursion, but as identified in the EFL Guidance on Pitch Incursions, there cannot be acquiescence in and an expectation of end of season celebratory incursions. Rule E21 applies as much to an end of season game as to any other game. Planning and the execution of the plan should reflect this.

- (b) It is accepted that Plymouth worked with the Police and met with them in advance of the Match on more than one occasion and that credit should be given for this. However, the Commission considers that ultimately responsibility lies with the Club. Plymouth's letter dated 10 September 2024 refers to the Police's comments about not using force to stop the incursion and also that Plymouth believe that it would have exacerbated the situation had police officers sought to make arrests on the pitch. In the Commission's views, these points cannot and do not sidestep the lack of execution of the plan and the criticisms we have made.

- (c) In so far as stewarding numbers are relied upon and a defence mounted to the criticisms made by Mr White in his report to The FA, we have already explained our reasons for stating that we do not believe sufficient stewards, in particular mobile stewards, were deployed for the Match. We add that when planning, and engaging a further 30 stewards over the normal number for a medium risk fixture, Plymouth did not know what the result would be and therefore did not know whether the general mood of the Plymouth supporters would be celebratory because survival in the Championship had been achieved (as proved to be the case) or the rather darker mood that would have been associated with relegation. We therefore reject this point as being a point of mitigation.
- (d) In so far as there was match-specific documentation, we have already identified and commended this. It offers some mitigation. However, as we have also commented, the best pre-Match planning there can be is of little assistance if the execution of the plan at the Match itself is poor.
- (e) In terms of communications with supporters, we have also already praised the direct message sent to all attendees, but commented on the lack of other elements we would have expected to see. Once again observing that we can only judge what we have been shown, there is no evidence of engagement with fan groups as envisaged in the EFL Guidance on Tackling Pitch Incursions, which is a surprise given the mitigation offered states the strategy adopted was “*based on the advice of the EFL on pitch incursions.*”
- (f) Although the use of CCTV is advanced as a point in mitigation, we do not accept it as such. We have seen no evidence of its use and do not understand how it was used positively: it certainly does not appear to have reduced the size of the pitch incursion in any way, and we have seen no evidence that it has been used to identify a single supporter on the pitch for the purpose of post-match action.
- (g) Indeed, Plymouth refer to actions taken post-match as mitigation. The Commission considers there is no mitigation on this point. Whilst the Commission notes that the Police elected not to bring any criminal charges, that does not absolve the Club of its responsibilities. In the context of a pitch incursion at the end of the second successive season, to have no evidence of any attempt being made to identify individuals to take action, whatever that may be, is very disappointing to the Commission indeed. For Plymouth to state as they do in their letter dated 10 September 2024 on this point:”



*“Following the Incident, the Club is committed to further improving its practices with regards to supporter behaviour and is taking measures to try to prevent any repeat occurrence. This includes the Club’s plans to address this issue with supporter’s groups at upcoming meetings and continuing to closely liaise with DCP in respect of its planning and preparations for all upcoming fixtures at the Stadium.”*

regretfully, in the view of the Commission, comes across as empty words. Indeed, the Commission considers that Plymouth’s post-Match reaction to what has occurred to have been disappointingly dismissive.

- (h) Plymouth then cite as mitigation a suggestion that there is a valid distinction between employees, over whom it has control, and supporters over whom, as we understand the submission, it suggests it only has limited control. Having regard to the terms of Rule E21 and, in particular Rules E21.1 and E21.3 the Commission fails to understand how this is a point in mitigation. Perhaps it is best understood as simply repeating that Plymouth considers it did all it could in planning for the Match. On that basis we have already indicated that some mitigation arises from the planning that was undertaken, but equally we repeat that we consider the execution of the plan was poor.
- (i) We accept that some mitigation is due to Plymouth for admitting the Charge, albeit that this point is tempered by the fact Plymouth left in issue whether its supporters behaved in a manner which was threatening and provocative which, for the reasons we have explained, we found to be the case.
- (j) We also accept there is some mitigation in that Plymouth have not previously been charged with a breach of Rule E21.

80. In addition to the foregoing the Commission observes that Plymouth have co-operated with The FA throughout the process, albeit the extent of co-operation is tempered by the sparsity of the CCTV evidence submitted, especially given the statement in The FA’s submissions on Sanction which stated:

*“To date no CCTV, beyond the 2 minute 47 second complication, has been provided. If this is the only CCTV available, this is a significant failure by the Club especially as one of the key actions in the pitch invasion plan was a dedicated CCTV operator to focus on the pitch incursion and gathering footage (albeit focussing on the use of*

pyrotechnics). If further CCTV does exist, the Club are invited to provide it without delay so as to assist the Commission in the determination of this matter." (underlining added for emphasis).

In particular we highlight the last sentence of this passage, not least in the context of Plymouth having advanced the use of CCTV as a point in mitigation (which has been addressed above), but not having acceded to this request.

### **Guidance/Previous Cases**

81. There is no guidance or standard sanction applicable for breaches of the nature admitted and proven in this instance.
82. The Commission was mindful that Plymouth are and were at the time of the incident a Championship Club and the members of the Commission were also mindful of previous decisions for breaches of Rule E21 on which they had sat, whilst at the same time remaining mindful that this matter must be sanctioned on the basis of its own facts.

### **Sanction**

83. In all the circumstances we impose a sanction we consider reflects the seriousness of the pitch incursion at the Match, having regard to Plymouth's status as a Championship Club and having regard to the all the circumstances of the matter, including the planning that took place, that which did not take place, and what we consider to have been the poor execution of the pre-Match plan. We also have regard to the mitigation we have accepted which, for the reasons stated above, the Commission considered was ultimately somewhat limited.
84. Accordingly, having adopted a starting point that a financial sanction was the appropriate sanction, and that the fine should be of at least £50,000, having regard to mitigation the fine we impose is one of £45,000.

85. We also warn Plymouth as to its future conduct and determine that Plymouth must pay the Commission's costs.

86. To assist in the communication of the seriousness of pitch incursions to supporters, we also require Plymouth to publish the outcome of this Commission hearing on the Club's website and a summary in the next matchday programme (if one is produced), whether that be online or physical or both.

87. Plymouth has a right of appeal as provided by the Disciplinary Regulations.

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**Christopher Stoner K.C.**

**On behalf of the Regulatory Commission**

**4 November 2024.**