IN THE MATTER OF AN APPEAL FROM
THE DECISION OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION

B E T W E E N :-

CHELSEA FC

Appellant

and

THE FOOTBALL ASSOCIATION

Respondent

WRITTEN DECISION AND REASONS
OF THE APPEAL BOARD

Appeal Board:	Graeme McPherson KC (Chairperson)
	Abdul Iqbal KC
	Michael O'Brien
Secretary to Appeal Board:	Paddy McCormack
	(Judicial Services Manager)
Date:	30 April 2026
Venue:	Wembley Stadium
Appearances:	Kendrah Potts (Appellant's Counsel)
	Loraine MacDonald (Legal Counsel, Chelsea FC)
	Christopher Foulkes (Respondent's Counsel)
	Sophia Lopez-Khan (Observer)

(A) Introduction and Background

i) The Incident

1) On 31 January 2026 Chelsea FC ('***Chelsea***') played West Ham United FC ('***West Ham***') at Stamford Bridge in the Premier League ('***the Match***'). West Ham scored twice in the first half of the Match. Chelsea then scored in the 57th and 70th minutes to level the Match before (in the 90+2nd minute) Chelsea scored what proved to be the winning goal.

2) In or around the 90+5th minute of the Match Marc Cucurella (Chelsea) and Adama Traore (West Ham) contested a ball which was deflected behind the Chelsea goal line for a West Ham corner. As Cucurella got to his feet he made an action to lead with his head into the torso of Traore. Traore moved to the side to avoid Cucurella but then grabbed Cucurella by his shoulders and dragged him to the ground. As Traore then went to retrieve the ball Joao Pedro (Chelsea) pushed him in the back, causing Traore to turn and aggressively confront Pedro ('***the Initial Incident***')[1].

3) The Initial Incident prompted numerous players from each club to run to the corner of the pitch where the Initial Incident had occurred and become involved in (initially) a single melee lasting approximately 30 seconds and (subsequently) a number of smaller skirmishes lasting a further 15 seconds or so. We refer to such events collectively as '***the Incident***'. After a VAR review Jean-Clair Todibo (West Ham) was shown a red card for an act of violent conduct that he committed during the Incident and for which he was subsequently given a 3 match suspension.

ii) The Charges

4) FA Rule E20 provides that

> '*Each … Club shall be responsible for ensuring that its … players … do not:*
>
> *20.1 behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative*'.

[1] Traore and Pedro were each subsequently cautioned for their conduct in the Initial Incident.

5) By letters dated 3 February 2026 Chelsea and West Ham were each charged with misconduct for a breach of FA Rule E.20.1 in respect of the Incident. In the Charge letters the FA alleged that in around the 90+5th minute of the Match

   a) Chelsea had failed to ensure that its players did not behave in a way which was '*improper and/or provocative*' ('***the Chelsea Charge***')

   b) West Ham had failed to ensure that its players did not behave in a way which was '*improper and/or provocative and/or violent*'[2] ('***the West Ham Charge***')

   We refer to the West Ham Charge and the Chelsea Charge collectively as '***the Charges***'.

6) Each Charge letter explained that the FA had designated the case as a Non-Standard case '*… as the particular facts of the alleged Misconduct are of a serious and/or unusual nature and/or due to a proven breach of FA Rule E20 in the previous 12 months*'.[3]

iii) The clubs' respective responses to the Charges

7) On 6 February 2026 West Ham responded to the West Ham Charge. By letter dated 6 February 2026 West Ham

   a) Made what it described as a 'qualified' admission to the West Ham Charge and asked that the West Ham Charge be determined by a Regulatory Commission on the papers, without an oral hearing. West Ham's admission to the West Ham Charge was '*qualified*' in that, aside from accepting Todibo's act of violent conduct, West Ham

      i) Contended that the actions of all other West Ham players who had been involved in the Incident had been to '*diffuse* [sic] *the situation and remove players from the confrontation*'. West Ham identified a number of occasions during the Incident in which it contended that Chelsea players (and Chelsea players alone) had acted as aggressors and West Ham players had attempted to pacify matters and calm the situation, and so

      ii) Denied that any West Ham player aside from Todibo had behaved in an improper, provocative or violent manner.

[2] The difference in the wording of the Charges (i.e. the addition of the words '*and/or violent*' in the West Ham Charge letter) reflected Todibo's act of violent conduct during the Incident – see below.

[3] The West Ham Charge letter identified that a previous breach of FA Rule E20 had been committed by West Ham in a match against Nottingham Forest FC on 18 May 2025. The Chelsea Charge letter identified that previous breaches of FA Rule E20 had been committed by Chelsea in matches against Aston Villa FC on 27 December 2025 and against Fulham FC on 7 January 2026.

In other words, West Ham purported to admit the West Ham Charge on the very narrow factual basis that the only improper, provocative or violent act committed by any West Ham player during the Incident (and so which resulted in a breach of FA Rule E20 on the part of West Ham) had been the violent conduct of Todibo

b) Set out matters which it wished the Regulatory Commission to consider when determining the sanction to be imposed on West Ham, including
   i) What it described as the context against which the Incident had occurred (i.e. West Ham having fallen behind late on in the Match, thereby damaging its prospects of avoiding relegation)
   ii) West Ham's apology for its players' (sic) participation in the Incident
   iii) The adverse consequences that West Ham would suffer from the Incident (in particular, from the dismissal of Todibo) regardless of any sanction imposed by the Regulatory Commission in respect of the West Ham Charge
   iv) How West Ham had sought to prevent a recurrence of the Incident by speaking with its Head Coach and club Captain since the Match and impressing on them the importance of West Ham players refraining from similar conduct in the future.

8) On 6 February 2026 Chelsea responded to the Chelsea Charge. By letter dated 6 February 2026 Chelsea

a) Admitted the Chelsea Charge in unqualified terms and asked that the Chelsea Charge be determined by a Regulatory Commission on the papers, without an oral hearing

b) Set out what it described as 'context' to the Incident. Chelsea described the actions of its players following the Initial Incident as having been '*motivated by a desire to protect their teammates from being harmed and/or to diffuse* [sic] *the situation*'

c) Identified various matters which it wished the Regulatory Commission to consider by way of mitigation when determining the sanction to be imposed on Chelsea. Those matters included
   i) Chelsea's acceptance of the Chelsea Charge at the earliest opportunity
   ii) The fact that (1) the Incident was spontaneous and brief (approximately 30-45 seconds), and (2) Chelsea players had showed a low level of violence. Such matters

were said to put the conduct of the Chelsea players '*at the low end of the spectrum of seriousness for [mass confrontation] offences*'

iii) The motivation for the Chelsea players involving themselves in the Incident having been to act as '*peacemakers*' and to defend their teammates '*from the immediate threat of harm from the violent acts*' of West Ham players

iv) The fact that the Match was able to resume quickly and be completed without further incident

v) Chelsea's positive and proactive post-Match response to the Incident – investigating the Incident by speaking with each Chelsea player who had been involved and causing the Chelsea manager to address player conduct in a team meeting

vi) The fact that the previous breaches of FA Rule E20 by Chelsea relied on by the FA to make the Chelsea Charge a Non-Standard case had not been mass confrontation cases.

iv) The FA's Submissions on sanction

9) Since neither West Ham nor Chelsea elected for an oral hearing before a Regulatory Commission, the Charges were referred to a Regulatory Commission for determination on the papers.

10) On 11 February 2026 the FA produced written '*Submissions on Sanction*' to be considered by the Regulatory Commission. Those Submissions were divided into two sections:
   a) The first section was titled '*FA Sanction Guidelines for Non-Standard [FA Rule E20.1] Breaches'*
   b) The second section set out submissions on sanction specific to the West Ham charge and the Chelsea charge.

11) In the first section of the Submissions on Sanction the FA referenced Sanction Guidelines that had been introduced for the 2025/26 season in respect of Non-Standard breaches of FA Rule E20.1 ('***the Guidelines***'). The Guidelines record that in the event of a Premier League club being found in breach of FA Rule E20.1 in respect of a Mass Confrontation incident
   a) The '*Entry Point*' sanction would be a fine of £125,000[4]

[4] In its Submissions on Sanction the FA stated '*The Entry Point has been introduced to provide guidance on an appropriate starting point for sanction in Non-Standard matters*'. As we set out further below, that in our view is a correct description of the Entry Point – it is a starting point for the consideration of the appropriate sanction to

b) The '*Maximum Fine for Non-Standard E20 Breach*' would be £250,000

c) The Entry Point and Maximum Fine '*shall double and then treble (and so on)*' for each successive non-standard breach of FA Rule E20, including FA Rule E20.1 and FA Rule E20.2, within a 12-month period

d) A Regulatory Commission '*may exceed the above sanctions in exceptional cases where it deems appropriate at its absolute discretion*'.

12) In that part of the second section of the Submissions on Sanction that addressed the West Ham Charge, the FA

a) Identified that West Ham had a proven (admitted) Non-Standard breach of FA Rule E20.1 arising from a fixture against Aston Villa on 18 May 2025 for which West Ham had been fined £60,000. That fine pre-dated the Guidelines

b) Submitted that as a result

i) The Entry Point and Maximum Fine were doubled, and

ii) The Regulatory Commission should impose a sanction which used £250,000 '*as the starting point to which any relevant aggravating and mitigating features are to be applied*'

c) Explained

i) That it was Todibo's conduct during the Incident that had led to West Ham being charged with failing to ensure that its players did not behave in a way which was '*improper and/or provocative and/or violent*' (emphasis added), but

ii) That it did not accept West Ham's assertion that, save for Todibo's violent conduct, no West Ham player had acted in an improper or provocative manner during the Incident. The FA's position was that a number of West Ham players had acted in an improper and/or provocative manner during the Incident

d) Accepted that West Ham should be given credit for its prompt admission of the West Ham charge, although observed '*The Commission may consider any credit attributable to [West Ham] is tempered by the qualified nature of the admission*'.

13) In that part of the second section of the Submissions on Sanction that addressed the Chelsea Charge the FA

be imposed on a respondent that can be adjusted upwards or downwards depending on the circumstances of the case and the aggravating and mitigating features present in a particular case. It is not a minimum fine to be imposed on a respondent to an FA Rule E20 charge.

a) Identified that Chelsea had a very recent proven (admitted) Non-Standard breach of FA Rule E20.1 arising from a fixture against Aston Villa on 27 December 2025 for which Chelsea had been fined £150,000 (i.e. above Entry Point)
b) Submitted that as a result
   i) The Entry Point and Maximum Fine were doubled, and
   ii) The Regulatory Commission should impose a sanction which used £250,000 '*as the starting point to which any relevant aggravating and mitigating features are to be applied*'
c) Accepted that Chelsea should be given credit for its prompt admission of the Chelsea charge.

14) In the second section of the Submissions on Sanction the FA also

a) Reminded the Regulatory Commission that its role was to determine '*where a reasonable and appropriate fine lies within the available range*'

b) Invited the Regulatory Commission to assess the gravity of the breach of FA Rule E20 by each club and to assess their respective degrees of culpability for the Incident - in particular, to '*carefully consider the footage and determine the gravity of the breach and identify any aggravating factors from the particular actions of each Club's players*' (emphasis added). The FA also invited the Regulatory Commission to note
   i) '*the number of players from each side rushing/travelling at speed to the Incident*'
   ii) '*the extremely close proximity to the crowd*' given that the Incident took place around the corner flag on the Chelsea goal line
   iii) That '*both goalkeepers considered it appropriate to travel a considerable distance out of their goal to reach the site of the flashpoint*', as did players positioned on the opposite side of the pitch to that where the Incident began

   and to conclude that such matters were aggravating features

c) Invited the Commission to consider the Misconduct history of each club and the extent to which such history amounted to an aggravating feature

d) Submitted that when giving credit for prompt admission of the relevant Charge by each club, the discount to be applied should reflect the fact that '*neither club had any realistic*

prospect of defending the [relevant] Charge given the strength and quality of the evidence'.

v) The Decision of the Regulatory Commission

15) The Regulatory Commission[5] ('***the RC***') met on 16 February 2026 to consider the Charges. The RC had available to it

a) Video clips of the Initial Incident and the Incident
b) The Report of the Match Referee
c) The letters dated 6 February 2026 from West Ham[6] and Chelsea
d) The FA's Submissions on Sanction.

16) Having considered such materials the RC

a) Found the West Ham Charge proven against West Ham and fined West Ham £300,000. In making such finding the RC (1) rejected West Ham's submission that there had been no improper or provocative conduct by any West Ham player other than Todibo, and (2) found West Ham's breach of FA Rule E20.1 to have been committed on a wider basis than the qualified/narrow basis admitted by West Ham. and
b) Found the Chelsea Charge proven against Chelsea (and so accepted Chelsea's admission of the Chelsea Charge) and fined Chelsea £325,000.

We refer to that as '***the Decision***'. The RC gave Written Reasons for the Decision dated 19 February 2026.

17) Given the nature of this appeal (see below), we set out in a little detail how the RC came to impose the sanctions that it did on both Chelsea and West Ham.

a) The overarching approach of the RC

18) The RC

a) Identified the Guidelines as setting out Entry Points and Maximum Fines for a Misconduct breach of FA Rule E20.1
b) Purported to apply the Guidelines in order to determine the sanctions to be imposed on each club

[5] Gareth Farrelly (Chair), Alan Hardy and Tony Agana.

[6] Together with (1) the Delegate report on Match Officials, and (2) certain still images of the Incident enclosed with West Ham's letter.

c) Recognised that any sanction that it imposed had to be fair and proportionate.

As both parties accepted, that was the correct approach to be taken by a Regulatory Commission in a case such as this.

b) Gravity of the Incident and culpability of each club for the Incident

19) The RC recorded in the Decision that it had viewed the video evidence in detail in order to consider the gravity of the Incident and the culpability of the players from each club for the Incident, with particular focus on

a) The number of players involved in the Incident from both sides (of which there were many)
b) The players running from other areas of the pitch to become involved in the Incident
c) The duration of the Incident
d) How further 'break out incidents' had ensued in the immediate aftermath of the Incident
e) The level of aggression involved in the Incident
f) The proximity of the crowd to the Incident
g) The profile of the Match and its worldwide audience.

Those were factors that the RC described as being '*equally applicable to both [clubs]*'.

20) Having considered those factors the RC concluded

a) That the misconduct of both clubs' players[7] had contributed to what it described as a serious and unsightly Incident, and
b) That it made '… *no finding as to the level of culpability of both sides. This is a typical case where both sides claim that without the actions of the other, the Incident would not have occurred. However, that is quite a simplistic position in relation to this Incident, suffice to say that but for the actions of the other, there would be no breach, charge or subsequent need to determine sanction*'.

21) We take that passage and its context within the Written Reasons to mean that the RC concluded

[7] As we have said above, in making this finding the RC rejected West Ham's submission that (1) the only conduct for which it should be sanctioned in connection with the Incident was the violent conduct of Todibo, and (2) no other West Ham player had acted improperly or provocatively in connection with the Incident. The RC found that Chelsea and West Ham players had acted improperly and provocatively.

a) That the culpability of each side for the Incident was similar; neither side was any more or less culpable than the other for the Incident having taken place, and
b) That the gravity of the misconduct of players from Chelsea and West Ham – and so the gravity of the breach committed by Chelsea and West Ham – had (aside from the violent conduct of Todibo) been similar.

22) The RC then went on to analyse those additional aspects of the conduct of the players involved in the Incident that were not common to both clubs:

a) As regards Chelsea's conduct during the Incident the RC concluded
   i) That Cucurella had been partly at fault for the Initial Incident
   ii) That three Chelsea players had sought to incite the crowd during and at the end of the Incident

b) As regards West Ham's conduct during the Incident the RC concluded
   i) That Traore's disproportionate reaction in the Initial Incident had been the catalyst for the Incident
   ii) That Todibo (but no other West Ham player) had acted violently.

c) Other breaches of FA Rule 20 in the previous 12 months

23) As the FA had invited it to do, the RC accepted
a) That each club had 1 proven (admitted) Non-Standard breach of FA Rule E20.1 within the previous 12 months, and
b) That as a result
   i) The Entry Point in the Guidelines was doubled to £250,000, and
   ii) The Maximum Fine in the Guidelines was doubled to £500,000.

24) The RC also noted in relation to those Non-Standard breaches of FA Rule E20.1 that
a) West Ham's previous breach had occurred at the end of the previous season (and so more than 6 months before the Incident), while
b) Chelsea's previous breach had occurred only a few weeks before the Incident.

d) Wider previous disciplinary record

25) The RC identified that, as well as the single Non-Standard breach of FA Rule E20 committed by each club in the previous 12 months that triggered the doubling of the Entry Point and the Maximum Fine under the Guidelines
    a) West Ham had committed 1 further Non-Standard breach of FA Rule E20 and 1 further Standard breach of FA Rule E20 in the 5 years prior to the Incident
    b) Chelsea had committed 3 further Non-Standard breaches of FA Rule E20 and 1 further Standard breach of FA Rule E20 in the 5 years prior to the Incident. The Standard breach had been committed 24 days before the Incident.

e) Admissions and contrition

26) The RC recognised that each of West Ham and Chelsea
    a) Had admitted the relevant Charge promptly, although the RC
        i) Noted that given the '*overwhelming evidence in the case*' it was '*difficult to reconcile any other response*', and
        ii) Noted that West Ham's admission had been on the narrow factual basis that the only '*improper and/or provocative and/or violent conduct*' of its players had been the violent conduct of Todibo, a position that the RC had rejected
    b) Had expressed contrition for the Incident
    c) Had taken steps internally to prevent, or at least reduce the possibility of, a recurrence of the Incident in the future.

f) Assessing the appropriate sanction

27) As regards Chelsea, the RC concluded that '*having taken into account the relevant Entry Point [£250,000], the aggravating and mitigating*[8] *factors in this case and the analysis set out in paragraphs 21 and 23*[9] *[of the Decision]*'
    a) It was appropriate to increase the sanction to be imposed on Chelsea above the Entry Point, and

[8] Which excluded the Club's prompt admission of breach of the Chelsea Charge at this stage, since the RC went on to address that factor separately – see below.

[9] i.e. the RC's findings as regards (1) the culpability of Chelsea players for the Incident (2) the gravity of the misconduct of the Chelsea players in connection with the Incident, and (3) Chelsea's previous disciplinary record.

b) It would have imposed a fine '*in excess of £400,000*'[10] on Chelsea ('***the Pre-Plea Chelsea figure***') but that '*Given [Chelsea's] early admittance to the [Chelsea] charge*', a fine of £325,000 was appropriate and would be imposed on Chelsea. We refer to that as '***the Chelsea sanction***'.

28) As regards West Ham, the RC (1) recorded that it had adopted the same approach (i.e. identification of the appropriate Entry Point and then adjustment to reflect the aggravating and mitigating factors other than prompt qualified admittance of the West Ham charge), and (2) concluded

a) That it was appropriate to increase the sanction to be imposed on Chelsea above the Entry Point, and

b) That it would have imposed a fine '*of £375,000*' on West Ham ('***the Pre-Plea West Ham figure***') but that '*Given [West Ham's] early admittance to the [West Ham] charge*', a fine of £300,000 was appropriate and would be imposed on West Ham. We refer to that as '***the West Ham sanction***'.

[10] The use by the RC of the phrase "*in excess of £400,000*" in itself creates uncertainty as to the actual figure that the RC assessed as the appropriate "Pre-Plea Chelsea figure" so the Appeal Board necessarily used the figure of £400,000 for appeal purposes.

(B) Chelsea's appeal against the Decision

29) Chelsea appealed against the Chelsea sanction on 4 grounds. Those Grounds are

a) Ground 1: the RC erred in its approach to considering the seriousness of the Club's conduct and as a result came to a decision on the Chelsea sanction to which no reasonable body could have come and/or imposed a sanction that was excessive

b) Ground 2: the RC erred in determining that 3 Chelsea players had incited the crowd and should not have done so. As a result, the RC came to a decision on the Chelsea sanction to which no reasonable body could have come and/or imposed a sanction that was excessive

c) Ground 3: the RC failed to give Chelsea appropriate credit for its unqualified prompt admission of the Chelsea Charge, and in particular wrongly gave Chelsea less credit (in percentage terms) than the RC gave to West Ham for its prompt, but unjustifiably qualified/narrow, admission of the West Ham Charge. As a result, the RC came to a decision on the Chelsea sanction to which no reasonable body could have come and/or imposed a sanction that was excessive

d) Ground 4: by imposing a fine of £325,000 as the Chelsea sanction the RC imposed a fine that was excessive and disproportionate.

30) Save in one respect the FA opposed each Ground of Chelsea's appeal. That one respect was to accept that, having given West Ham credit for its (qualified) admission of breach equivalent to 20% of the Pre-Plea West Ham figure, the RC

a) Should not have given less credit to Chelsea for Chelsea's own prompt unqualified admission of the Chelsea Charge than it had given to West Ham
b) Erred in reducing the Pre-Plea Chelsea figure by only 18.75%
c) Should have given an equivalent percentage credit (i.e. 20%) to Chelsea against the Pre-Plea Chelsea figure for Chelsea's prompt admission of breach.

The FA thus accepted and averred on the appeal that the fine imposed by the RC on Chelsea should have been £320,000 (i.e. £400,000 less 20%), not £325,000.

31) West Ham did not appeal against the West Ham sanction. Nor did the FA appeal against the West Ham sanction (as it could have done had it considered the West Ham sanction to have been unduly lenient).

(C) The approach to be adopted by the Appeal Board on an appeal against sanction

32) It was common ground that this appeal against the Chelsea sanction

a) Was not a rehearing, and

b) Was by way of review.

33) A number of consequences flow from that:[11]

a) First, the question for us as an Appeal Board is not whether we would have imposed the penalty in fact imposed by the RC, but rather whether the appellant has satisfied us that the penalty imposed by the RC was one that could not have been imposed by a reasonable Regulatory Commission properly applying the principles relevant to the task before it. An Appeal Board should not interfere with a sanction imposed by a Regulatory Commission simply because the Appeal Board would itself have imposed a different penalty

b) Secondly, that in addressing that question an Appeal Board is entitled to examine not just the decision ultimately reached by the Regulatory Commission, but also the route by which the Regulatory Commission reached its decision on penalty. If the route taken by a Regulatory Commission to reach its decision is found to have been flawed, an Appeal Board can in an appropriate case (1) set aside the penalty arrived at by that flawed route, and (2) determine for itself what penalty should be imposed by following the correct route

c) Thirdly, evidential assessments and factual findings made by a Regulatory Commission should be disturbed on appeal only

i) If they are clearly wrong and could not have been made by a reasonable Regulatory Commission (which might be if there was no evidential basis for a finding of fact made by a Regulatory Commission or if the evidence was overwhelmingly contrary to the finding of fact made by the Regulatory Commission), and/or

[11] See for example *FA v Tottenham Hotspur FC* (10 June 2025); *FA v Klopp* (13 November 2022); *FA v Zaha* (17 February 2019)

ii) If wrong principles have been applied in making those assessments and findings

d) Fourthly, when considering matters of judgment or discretion exercised by a Regulatory Commission an Appeal Board should afford the decision of the Regulatory Commission (comprised of persons with considerable sporting and other relevant experience) a margin of appreciation.

34) As regards that final matter, we were addressed on how we should interpret the term '*margin of appreciation*' in the light of the observations of different Appeal Boards in

a) *FA v Klopp* (supra). That was an appeal by the FA on the sole ground that the Regulatory Commission had imposed a penalty that was '*so unduly lenient as to be unreasonable*' within the meaning of Regulation 5 of the Fast Track 7: Appeals – Fast Track Regulations. In that case the Appeal Board accepted a submission made on behalf of the respondent, with which the FA did not take issue, that when assessing whether a sanction imposed by a Regulatory Commission was unreasonable, the Regulatory Commission should be accorded a '*generous and significant margin of appreciation*' by an Appeal Board

b) *FA v Nottingham Forest FC* (27 February 2025) ('***Nottingham Forest 1***'). That was an appeal by the appellant club *inter alia* on the ground that a sanction imposed on it by the Regulatory Commission had been '*excessive*'. In that appeal the Appeal Board
   i) Confirmed that the nature of the decision being reviewed on an appeal such as this – the assessment of an appropriate sanction by a Regulatory Commission – '*is or is analogous to an exercise of discretion'*
   ii) Agreed that a '*margin of appreciation*' should be accorded to such a decision of a Regulatory Commission
   iii) Expressed reservations about the Appeal Board in *Klopp* having described that margin of appreciation as being '*generous and significant*' if by such words the Appeal Board had intended to suggest that the margin was to be greater than that allowed in a typical exercise of discretion
   iv) Preferred to apply the words '*margin of appreciation*' without adding to those words any qualification or other description of the nature or degree of that margin

c) *Nottingham Forest -v- The FA* (13 October 2025) (‘***Nottingham Forest 2***’). That was also an appeal by the appellant club *inter alia* on the ground that a sanction imposed on it by the Regulatory Commission had been ‘*excessive*’. In that appeal the Appeal Board

   i) Considered the differing approaches of the Appeal Boards in *Klopp* and *Nottingham Forest 1*, and

   ii) Adopted the same approach as had been adopted in *Nottingham Forest 1*, which it described as

   > ‘*… that identified in Klopp but with a more circumspect approach to the margin of appreciation to be accorded to the Commission*’.

35) Having reviewed those decisions (and the decisions that were referenced in *Zaha* and *Klopp*) and heard submissions from Chelsea and the FA

a) We agree that an Appeal Board should accord a ‘*margin of appreciation*’ to decisions of Regulatory Commissions that involve an exercise of discretion or judgment on the part of the Regulatory Commission. Determining sanction will frequently be a decision of that type, as it was in this case

b) We agree that it is not helpful to attempt to define the nature or degree of the ‘margin of appreciation’ to be given to the decision of a Regulatory Commission, whether by use of words such as ‘*generous and significant*’ or otherwise

c) We prefer simply to add the word ‘*appropriate*’ before ‘*margin of appreciation*’[12] so as to recognise

   i) That the margin of appreciation to be accorded by an Appeal Board to a decision of a Regulatory Commission is a flexible concept, and

   ii) That determining the margin of appreciation to be accorded to a decision of a Regulatory Commission will be an exercise to be conducted by an Appeal Board in each case in the light of all relevant circumstances of that case.

36) An example to illustrate the position may assist:

[12] As was done by the Appeal Board in *FA v Tottenham Hotspur* (supra)

a) Consider two cases:
   i) In Case A (i) guidelines exist which set an entry point for the sanction to be imposed by the Regulatory Commission, and (ii) there are few, if any, relevant aggravating or mitigating factors which could reasonably be said to justify increasing or decreasing the sanction from the entry point
   ii) In Case B (i) no guidelines exist (ii) there is no pre-defined or recognised entry point for the sanction to be imposed, (iii) previous Regulatory Commissions have used different figures in similar cases (iv) there are numerous aggravating and mitigating factors to be weighed in the balance in order to determine sanction

b) While it will always be a matter for the relevant Appeal Board, the margin of appreciation to be accorded to the decision of a Regulatory Commission in Case B may well be wider (or more generous and significant) than the margin of appreciation to be accorded to the decision of a Regulatory Commission in Case A.

37) When considering the Chelsea sanction, the approach that we adopted was to accord the RC what we considered to be an appropriate margin of appreciation in all the circumstances taking into account
   a) The existence of the Guidelines in this case
   b) The facts and circumstances of the case as the RC found them to be
   c) The aggravating and mitigating factors relevant to this case as the RC found them to be.

(D) Chelsea's second Ground of Appeal

38) We start by addressing Chelsea's second Ground of Appeal. We do so because (as we explain further below) the success or otherwise of that Ground of Appeal feeds into a consideration of Chelsea's first and fourth Grounds of Appeal.

39) The second ground of Chelsea's appeal is that the RC erred in concluding
   a) That three Chelsea players had sought to incite the crowd during and towards the end of the Incident
   b) That there was no justification for that behaviour
   c) That that behaviour should be considered an aggravating factor to be taken into account when assessing the Pre-Plea Chelsea figure and so when determining the Chelsea sanction.

40) Chelsea accepted that three of its players could be seen gesturing towards the crowd during and at the end of the Incident. However, it submitted
   a) That its players acted as they did to seek support from the crowd and encourage the crowd to simply get behind Chelsea in relation to the continuation and completion of the Match (and therefore unrelated to the Incident), and
   b) That its players' conduct in so acting had not been improper.

41) We were not persuaded by that submission:

   a) The conclusion reached by the RC as regards the actions of the three Chelsea players in question – that the gestures made by the Chelsea players had the capacity to be inflammatory and to incite the crowd, given their timing (while the Incident was going on and as the Incident came to an end) and location (adjacent to the Incident) - was one that was reasonably open to the RC on the evidence that was before it. We therefore refer to that conduct as '***the inciting gestures***' for the remainder of these Written Reasons

   b) The RC was entitled to conclude that the making of the inciting gestures was improper; indeed, we would have been surprised had the RC reached any other conclusion based on its factual findings about the inciting gestures. Acts or words that have the potential

to incite the crowd or others while a mass confrontation is ongoing will almost inevitably be improper.

42) The RC concluded that the inciting gestures were something that aggravated Chelsea's misconduct. However, in our view it is more appropriate to describe the inciting gestures as a factor to be considered when determining the overall gravity of Chelsea's misconduct in connection with the Incident. We return to this below.

43) Accordingly, we dismiss Chelsea's second Ground of Appeal.

(E) Chelsea's first Ground of Appeal

44) Chelsea's first ground of appeal was that

a) The seriousness of a party's wrongdoing carries substantial weight when determining the appropriate penalty to impose on that party. That is because a sanction must be proportionate to the wrongdoing in question. The FA did not contend otherwise

b) Despite that, the RC failed to analyse where Chelsea's conduct lay on the spectrum of seriousness of mass confrontation cases. Had it done so (and done so properly), the RC should have concluded
   i) That Chelsea's conduct in the Incident was 'typical' and not 'out of the ordinary' for a mass confrontation case, and
   ii) That there was nothing in Chelsea's conduct during the Incident which justified the RC increasing the Pre-Plea Chelsea figure above the Entry Point

c) The RC also erred in its assessment of the seriousness of the respective conduct of the clubs. In particular, the RC failed to take into account that the conduct
   i) for which West Ham was charged
   ii) which the RC found proven on the part of West Ham
   iii) for which West Ham was sanctioned

   comprised improper and provocative behaviour on the part of a number of West Ham players and violent conduct on the part of Todibo, and so overall was more serious than the conduct for which Chelsea was charged (and which Chelsea admitted) and for which Chelsea was sanctioned

d) The RC ought to have concluded that the Pre-Plea Chelsea figure (which ought to have reflected the gravity of Chelsea's misconduct, any factors that aggravated Chelsea's breach and the mitigation available to Chelsea other than in respect of its prompt admission of breach)
   i) Should be less, not more, than the Pre-Plea West Ham figure, and
   ii) Should be at or about the Entry Point.

i) The importance of assessing the gravity of a respondent's conduct

45) As was common ground between the parties, assessing the gravity of a respondent's conduct is an essential part of the role of a Regulatory Commission tasked with determining the appropriate sanction to be imposed on that respondent. While all mass confrontation cases are serious, a Regulatory Commission should undertake the task of carefully analysing where on a spectrum of seriousness the conduct of a respondent lies. That task requires a Regulatory Commission to analyse not only the overall nature of the mass confrontation, but also the extent of the involvement and the gravity of the misconduct of each club involved in the mass confrontation.[13] Only by doing so will a Regulatory Commission be able to properly determine

a) Where on the spectrum of seriousness for mass confrontation cases the misconduct of each club sits, and
b) How the misconduct of each club should be viewed vis a vis the other club involved in the mass confrontation.

46) Numerous decisions in which Regulatory Commissions have carried out such an exercise were shown to us during the course of the hearing. While every case, and every mass confrontation, will be different, that exercise of considering other cases clearly demonstrated

a) The features that are commonly seen in a typical mass confrontation case – and so what features might (all other features being equal) result in a fine at Entry Point being imposed, and
b) What features have been considered by previous Regulatory Commissions to make a mass confrontation case more or less serious than a typical case – and so what features might (all other things being equal) justify a fine being increased above or reduced below Entry Point to reflect the gravity of a club's misconduct

[13] To that end a Regulatory Commission will commonly consider matters such as (1) the number of players of the club involved, (2) from where on the pitch the club's players came in order to become involved, (3) the number of incidents in which the club's players were involved, (4) the duration of the incident(s) in which the club's players were involved, (5) the levels of aggression and violence shown by the club's players, (6) whether any of the club's players conducted themselves in a manner that had the potential to inflame the incident (either in the crowd or on the pitch), (7) the proximity of the club's players' conduct to the crowd, (8) the conduct of the clubs' managerial and technical staff, (9) the efforts made by the club's players to calm or end the incident. The profile of the match may be a factor, but a Regulatory Commission may conclude that that factor is now in-built into the Guidelines, which provide for higher Entry Points in matches involving higher profile clubs. That list is not exhaustive and it will be for a Regulatory Commission to determine what features are relevant in each case to its assessment of the gravity of the conduct of any club involved in a mass confrontation.

ii) The RC's (lack of) assessment of the gravity of Chelsea's conduct

47) Beyond expressing views that (i) the Incident was serious (ii) three Chelsea players had made the inciting gestures, and (iii) Todibo had acted violently, the Written Reasons are silent as to

a) Where on the spectrum of seriousness the RC viewed Chelsea's misconduct and West Ham's misconduct in connection with the Incident, and

b) How the RC viewed Chelsea's misconduct by comparison to West Ham's misconduct.

Regrettably that makes it impossible to see from the RC's Written Reasons not only what conclusion the RC reached as regards the gravity of Chelsea's misconduct, but also whether the RC carried out the exercise of analysing the gravity of Chelsea's misconduct, whether *per se* or in comparison to the misconduct of West Ham.

48) That in our view was an error on the part of the RC. Because there is nothing in the Written Reasons to suggest that the task of assessing the gravity of Chelsea's misconduct (or West Ham's misconduct) was properly carried out by the RC, we cannot be confident that the RC properly considered

a) Whether the conduct of Chelsea was 'typical' for a mass confrontation case, or more serious than a typical mass confrontation case, or less serious than a typical mass confrontation case, and so

b) Whether, having correctly identified the Entry Point of £250,000 as the starting point for its determination of the sanction to be given to Chelsea,

   i) The Entry Point figure was appropriate to reflect the gravity of Chelsea's conduct, or

   ii) The Entry Point should be adjusted up or down because Chelsea's conduct was more or less serious than a typical mass confrontation case.

49) In consequence of that error the route or process by which the RC arrived at

a) The Pre-Plea Chelsea figure, and

b) The Chelsea sanction

was in our view flawed.

iii) Assessing the gravity of Chelsea's misconduct

50) Chelsea submitted that, if we accepted its submission (1) that the RC had erred in not assessing the gravity of its misconduct properly or at all, and so (2) that the process by which the RC had arrived at the Pre-Plea Chelsea figure and the Chelsea sanction was flawed

a) We had before us all of the evidence that had been before the RC to enable us to undertake an assessment of the gravity of Chelsea's conduct, and so
b) We should undertake that exercise ourselves.

The FA did not take issue with that submission. And so that is what we did.

51) Save in one respect – the making of the inciting gestures – the conduct of the Chelsea players in connection with the Incident was in our view what one typically sees in a mass confrontation case. In particular

a) A number of Chelsea players were involved in the Incident, but no Chelsea player appears to have joined in the Incident from the bench and no Chelsea technical area occupant sought to involve themselves in the Incident
b) Chelsea players joined the Incident from various locations on the pitch. The Incident did not only involve Chelsea players who were already adjacent to the Initial Incident
c) While a number of Chelsea players were involved in pushing and shoving – some in an aggressive manner, some in an apparent attempt to separate other Chelsea and West Ham players from confronting one another – no Chelsea player committed any act of violence
d) There was no suggestion of any individual fearing for his own safety or being injured as a result of conduct of any Chelsea player in the Incident
e) The Incident lasted approximately 30-45 seconds
f) The Incident dissolved into a number of smaller break out incidents involving Chelsea players which relatively quickly blew themselves out.

52) As a result, the conclusions that we reached were that

a) But for the inciting gestures
    i) The level of Chelsea's misconduct was typical of what one commonly sees in a mass confrontation case
    ii) Chelsea's misconduct was in the middle of the spectrum of seriousness of such cases, and so

iii) The gravity of Chelsea's misconduct did not of itself justify any departure from the Entry Point

b) The inciting gestures increased the gravity of Chelsea's conduct in comparison to a typical mass confrontation case

c) The extent to which the inciting gestures increased the seriousness of Chelsea's misconduct was however relatively minor

d) While the Entry Point figure should be adjusted upwards to reflect the inciting gestures, that adjustment should similarly be relatively minor.

iv) Disparity: the position of West Ham

53) As with Chelsea, the RC did not carry out any analysis of the gravity of West Ham's misconduct. Had it done so we would have expected the RC to conclude

a) That save in one respect – the violent conduct of Todibo – the conduct of the West Ham players in connection with the Incident was also what one typically sees in a mass confrontation case, but

b) That Todibo's violent conduct was a matter that increased the gravity of West Ham's misconduct.

That would have led the RC to conclude that the Entry Point figure should also be adjusted upwards to reflect West Ham's misconduct being more serious than the norm in a mass confrontation case.

54) Given that there is no appeal against the West Ham sanction we did not consider it necessary to assess the relative significances and impacts

a) Of the inciting gestures on the gravity of Chelsea's misconduct, and

b) Of Todibo's violent conduct on the gravity of West Ham's misconduct.

In other words, we did not consider it necessary to determine which club's misconduct was the more serious on this occasion.

55) However, where a Regulatory Commission

a) Does have to consider the seriousness of the misconduct of more than one respondent in order to determine the sanction to be imposed on each of them, and so

b) Has in fact considered the seriousness of the conduct of each respondent individually

it will likely be beneficial for the Regulatory Commission to take a step back on the completion of that exercise, compare the conclusions that it has reached in respect of each respondent and ask itself whether those conclusions reasonably reflect the respective gravity of the misconduct of the respondents in comparison to one another.

v) Getting from the adjusted Entry Point to the Pre-Plea Chelsea figure

56) The factors that led the RC to arrive at the Pre-Plea Chelsea figure of £400,000 were identified in the Decision as being

a) (As aggravating features)
   i) The inciting gestures
   ii) Chelsea's previous disciplinary record
b) Mitigating features other than Chelsea's early admission of breach of the Chelsea Charge. Although the RC did not specifically identify what those mitigating factors were, we infer that the principal factors must have been the steps taken by Chelsea to prevent its players from becoming involved in similar incidents in the future and Chelsea's expression of contrition for the Incident and its misconduct.

57) Chelsea's submission was that no reasonable Regulatory Commission could have arrived at a Pre-Plea Chelsea figure of £400,000 on the basis of such matters. Even when according an appropriate margin of appreciation to the RC, the view that we reached was that Chelsea's submission was well-founded.

58) The overarching difficulty that we faced was that the RC once again gave no indication in the Decision as to the significance that it placed on the two factors that fed into its decision to arrive at a Pre-Plea Chelsea figure that was 60% above Entry Point. Doing the best that we can, we therefore make the following observations:

a) As we have said above, we can well see that the inciting gestures – whether they are categorised as increasing the gravity of Chelsea's conduct or because they are viewed as aggravating features - justify an upwards adjustment from Entry Point, and we make no criticism of the RC for having taken that view. But of themselves the inciting gestures do not in our view justify a significant upwards adjustment in this case

b) We also accept that it was open to a reasonable Regulatory Commission to conclude that Chelsea's disciplinary record was an aggravating factor that justified a further upwards adjustment from Entry Point. Quite what significance or otherwise a Regulatory Commission places on previous breaches of FA Rule E20 will be a matter for the discretion and judgment of the Regulatory Commission.[14] Factors to which regard might commonly be had in order to determine its significance might include

i) The number of prior breaches of FA Rule E20:

(1) Chelsea's Non-Standard breach of FA Rule E20 in the match against Aston Villa on 27 December 2025 is to be disregarded for that purpose. That is because that breach has already (under the Guidelines) had the effect of causing the Entry Point to double. If that breach was also then reflected as an aggravating feature in its own right, that would result in that breach being double-counted

(2) Ignoring the breach in the match against Aston Villa on 27 December 2025 means that in the 5 years prior to the Incident Chelsea had committed 3 Non-Standard breaches and 1 Standard breach of FA Rule E20

ii) The timing of previous breaches of FA Rule E20. Recent breaches might be considered as being more of an aggravating feature than historic breaches. Chelsea's prior breaches had taken place on 28 January 2021, 6 October 2024, 30 December 2024, 27 December 2025 and 7 January 2026

iii) The pattern of previous breaches of FA Rule E20. Repeated breaches in a short space of time might be considered to be more of an aggravating feature than breaches with lengthy gaps between them. The Incident was Chelsea's third breach of FA Rule E20 within a matter of weeks

iv) The nature and gravity of the previous breaches of FA Rule E20:

(1) FA Rule E20 is a broad Rule that covers a wide array of scenarios

[14] Chelsea put a number of decisions before us to illustrate the position. In *FA v Nottingham Forest* (12 January 2026, amended 16 January 2026) the Regulatory Commission concluded that the club's '*very poor disciplinary record for breaches of Rule E20.1*' – which had led the club to be fined ever-increasing amounts on six separate occasions between January 2022 and October 2024 - was a '*stand out and stand alone aggravating feature*' which justified an uplift of 80% from the starting point identified in that case in light of the apparent failure of the club to learn from its previous experiences and to instil into many of its players any real insight into the need for them to control their behaviour when in the public eye. In *FA v Birmingham City & Hull City* (5 November 2025) the Regulatory Commission recorded that Birmingham City had 5 proven previous breaches of FA Rule E20 in the current playing season demonstrating a consistent failing by the club to control its players. The Regulatory Commission in that case concluded that an uplift of 53% from Entry Point was justified. In less extreme cases – in our view, far more comparable to Chelsea - Regulatory Commissions concluded that much lower uplifts were appropriate. So (1) in *FA v Southampton FC & Coventry FC* (15 January 2026) an uplift of 20% was applied to reflect Southampton's 4 previous FA Rule E20 breaches, and (2) in *FA v Aston Villa FC & Tottenham Hotspur FC* (26 January 2026) an uplift of 20% was applied to reflect Aston Villa's 7 previous FA Rule E20 breaches.

(2) Previous mass confrontation cases might be considered to be more of an aggravating feature than other breaches of FA Rule E20. Chelsea's recent breaches of FA Rule E20 had not been mass confrontation cases

(3) Previous serious breaches of FA Rule E20 for which significant sanctions had been imposed might be considered to be more of an aggravating feature than less serious breaches of FA Rule E20.

59) Previous decisions of Regulatory Commissions and Appeal Boards do not create precedent in FA regulatory cases. However, as was made clear by the Appeal Board in *FA v Klopp* (supra), absent good reason to the contrary parties charged with a breach of FA Rules are entitled to expect a broad consistency of approach by Regulatory Commissions tasked with sanctioning them.[15] Having reviewed the decisions that were placed before us and considered the circumstances of the case against Chelsea as a whole, the RC's Decision that the Pre-Plea Chelsea figure should be 60% above the Entry Point appeared to us

a) To be substantially out of line with those decisions

b) To be one that lay beyond the range that could reasonably have been reached by a Regulatory Commission in this case

c) To be in all the circumstances excessive.

60) Once again the parties were agreed that in those circumstances we should determine for ourselves the extent to which the Pre-Plea Chelsea figure should differ from the Entry Point. Having done so we concluded

a) That it was indeed appropriate to make an upwards adjustment from the Entry Point to reflect

i) The gravity of Chelsea's misconduct as we have found it to be, and

[15] *'Achieving that requires a Regulatory Commission … to have regard to previous decisions of Regulatory Commissions and/or Appeal Boards and once again ask how, if at all, such decisions might be relevant to the facts of the case before it. As was said in The FA v Everton FC [28 September 2022] that does not mean that a Regulatory Commission should 'slavishly' follow the approach of an earlier Regulatory Commission. Nor does it mean that a Regulatory Commission can never adopt a different approach or arrive at a decision that might be considered inconsistent with that reached by an earlier Regulatory Commission. Not only do cases vary on their facts, but attitudes and approaches may, for good reason, change over time. The perceived gravity of what might have been considered trivial misconduct (or even acceptable conduct) at a particular point in time can alter. Provided that the approach taken by a Regulatory Commission and the decision reached by a Regulatory Commission is justifiable and reasonable on the facts of the particular case, it will be a rare case in which an Appeal Board will interfere.'*

ii) Chelsea's disciplinary record for breaches of FA Rule E20. Whilst that is an aggravating feature that justifies an uplift from Entry Point, it is not a serious aggravating feature in comparison to many of the other cases that were before us

b) That the appropriate adjustment, taking into account the mitigation available to Chelsea in the light of steps that it had taken to prevent a recurrence of the Incident and the contrition that it had demonstrated, was to increase the Entry Point by 25%.

61) The appropriate Pre-Plea Chelsea figure is thus in our view £312,500.

(F) Chelsea's third Ground of Appeal

62) Chelsea's third ground of appeal was that, having given West Ham credit equivalent to 20% of the Pre-Plea West Ham figure to reflect what the RC described as '*[West Ham's] early admittance to the [West Ham] Charge*', the RC erred in two respects in giving Chelsea credit equivalent to only 18.75% of the Pre-Plea Chelsea figure for its early admittance of the Chelsea Charge:

a) First, there was no reason why the percentage credit given to Chelsea for its early admittance of the Chelsea Charge should be any less than the percentage credit given to West Ham for early admittance of the West Ham Charge. As we have said above, the FA did not oppose that limb of this third Ground of Appeal

b) Secondly, the percentage credit given to Chelsea for its early admittance of the Chelsea Charge should have been greater than the percentage credit given to West Ham for its early admittance of the West Ham Charge in circumstances where
   i) Chelsea had admitted the Chelsea Charge without qualification, but
   ii) West Ham
      (1) had made only a qualified/narrow admission in respect of one aspect of the West Ham Charge, namely violent conduct on the part of Todibo,
      (2) had denied that any other West Ham player had acted improperly or provocatively, and
      (3) had subsequently been found guilty (in the face of that denial) of the West Ham Charge on a much wider basis than it had admitted
   iii) The contrition expressed by West Ham ought to have been treated
      (1) As being limited to contrition for Todibo's violent conduct, and
      (2) As not extending to the improper and provocative behaviour of its other players that had been denied.

63) Chelsea's position was that credit of not less than 30% should have been given against the Pre-Plea Chelsea figure to reflect its unqualified admittance of the Chelsea Charge.

i) Qualified v unqualified admissions of breach

64) We accept as a matter of principle Chelsea's submission that where two respondents are charged with comparable breaches of a Rule and

a) Respondent A admits the charge and the conduct said to underpin the charge in unqualified terms, and

b) Respondent B

i) Makes only a qualified admission of breach (i.e. an admission on a particular narrow factual basis) by (1) admitting some aspects of the conduct said to underpin the charge in unqualified terms, but (2) denying other aspects of the conduct said to underpin the charge, but

ii) Is subsequently found by the Regulatory Commission to have committed some or all of the additional (denied) conduct that underpins the charge (i.e. the Regulatory Commission finds the breach was committed on a wider basis than the respondent had admitted)

one would *prima facie* expect Respondent B to receive less credit for its qualified admission of breach than Respondent A would receive for its unqualified admission of breach.

65) Guidelines published by the Sentencing Council for England and Wales set out how a criminal Court will treat a guilty plea

a) Where the plea is made on a particular/narrow factual basis that is not accepted by the prosecution, and

b) Where the defendant's version of events is subsequently rejected at a Newton hearing or special reasons hearing, and so guilt is established on a wider basis that had been admitted.

In such circumstances the guidance given is that '*the reduction which would have been available at the stage of proceedings the plea was indicated should normally be halved. Where witnesses are called during such a hearing it may be appropriate to further decrease the reduction*'.

66) While always a matter for the discretion of the relevant Regulatory Commission, in our view an analogous approach is appropriate in disciplinary proceedings brought against respondents by the FA, so that a respondent

a) Who admits a charge only in qualified terms or on a narrow basis, and

b) Who is subsequently found guilty by a Regulatory Commission of the charge on a wider or more serious basis than that admitted

can expect to receive a significantly lower degree of credit than a respondent who admits a charge in unqualified terms.

67) Much the same can be said in relation to matters such as

a) Expressions of contrition by a respondent
b) Demonstrations of insight into misconduct
c) Steps taken by a respondent to prevent a recurrence of conduct that has led to the charge.

A respondent who, whether by words or conduct, demonstrates only a limited insight into its failings, or whose expression of contrition is qualified or limited, or who has taken steps to prevent a recurrence that a Regulatory Commission considers to be inadequate (or which history has shown have not worked in the past) should expect to receive less credit than a respondent whose words and conduct show greater insight, unqualified contrition and/or genuine and appropriate efforts to prevent recurrence. It will be for the Regulatory Commission in each case to assess where on the relevant spectrum a respondent lies.

68) In this case

a) West Ham's admission was in heavily qualified terms. Aside from Todibo's violent conduct, West Ham did not accept that any of its players had acted improperly or provocatively in connection with the Incident. That is to be compared with Chelsea's unqualified admission of the Chelsea charge
b) West Ham's denial that its players other than Todibo had acted improperly or provocatively showed a lack of insight into how its players should be expected to conduct themselves on the pitch. That is to be compared with the greater level of insight shown by Chelsea
c) West Ham expressed contrition only in respect of that misconduct which it admitted i.e. Todibo's violent conduct.[16] No contrition was expressed for the conduct of any other West Ham player. Once again, that compares unfavourably with Chelsea's unqualified contrition

[16] In reaching this conclusion we noted that in *Nottingham Forest 2* (supra) the Appeal Board declined to equate a club's failure to take responsibility for its players' conduct with a lack of contrition on the part of the club. While that was so in that case, we reach a different conclusion in this case. West Ham's 6 February 2026 letter did not demonstrate contrition for anything other than Todibo's violent conduct.

d) West Ham's efforts to prevent recurrence were limited to its Vice-Chair speaking with its Head Coach and Club Captain. There was no evidence that any message given to those individuals had been passed on to the club's players who had been involved in the Incident, let alone the club's playing squad as a whole. That is to be compared with Chelsea, who spoke both with the players involved in the Incident and with their players more widely about handling similar situations in future.

69) In such circumstances no reasonable Regulatory Commission could in our view have reached any conclusion other than that the credit to be given to West Ham for its admission of breach, expression of contrition, demonstrations of insight and efforts to prevent recurrence should be less (and significantly less) than the credit to be given to Chelsea for such matters. That was not however what the RC did. Instead the RC

a) Reduced the Pre-Plea Chelsea figure by £75,000 (18.75%) to reflect Chelsea's early unqualified admittance of the Chelsea Charge, and
b) Reduced the Pre-Plea West Ham figure by £75,000 (20%) to reflect West Ham's early qualified admittance of the West Ham Charge.

Whether one looks at the financial discounts applied by the RC (and concludes that the RC intended to give comparable credit to West Ham and Chelsea) or at the percentage discounts applied by the RC (and concludes that the RC intended to give slightly greater credit to West Ham than it gave to Chelsea), the RC fell into error.

ii) What does that mean for this ground of appeal ?

70) Concluding that the RC erred in the manner set out above is not an end to the matter on this Ground of Appeal. While Chelsea's early unqualified admission of the Chelsea Charge merited significantly greater credit than West Ham's early qualified/narrow admission of the West Ham Charge, that does not of itself mean

a) That West Ham was correctly given credit of 20% of the Pre-Plea West Ham figure and that Chelsea ought therefore to have been given a credit significantly greater than 20% of the Pre-Plea Chelsea figure, or
b) That the credit of 'only' 18.75% given to Chelsea against the Pre-Plea Chelsea figure was wrong.

71) Rather, the question for us was whether the discount of 18.75% applied by the RC to the Pre-Plea Chelsea figure in order to arrive at the Chelsea sanction

a) Was arrived at by the RC as a result of a flawed process
b) Was a discount that a reasonable Regulatory Commission could not have applied, and/or
c) Resulted in the Chelsea sanction being excessive.

72) As we have said above, the FA accepted that there was no basis upon which the RC could reasonably have decided to give credit to Chelsea of only 18.75% against the Pre-Plea Chelsea figure. Chelsea contended that in such circumstances we should consider for ourselves what an appropriate credit for Chelsea's early admittance and so forth should be. The FA also urged that course on us. That is therefore what we did.

iii) Principles applicable when considering credit for early admittances

73) From the individual experiences of the members of the Appeal Board we were conscious that Regulatory Commissions can (and frequently do) apply a wide range of percentage discounts to reflect the early admittance of a charge by a respondent. In advance of the hearing we therefore requested the parties should address us at the hearing on
a) The range of discounts commonly applied by Regulatory Commissions,[17] and
b) The principles that a Regulatory Commission should apply in order to determine the discount to be applied.

We were very grateful for their researches and submissions in such regard.

74) A number of the decisions identified by the parties referred to a one-third discount being the '*conventional*' starting point for the credit to be given for an early admittance of breach. Whilst that is so in criminal cases where a guilty plea is indicated at the first stage of proceedings (normally the first hearing at which a plea or indication of plea is sought and recorded by the court),[18]
a) That convention exists in criminal cases by virtue of the Guidelines that are published by the Sentencing Council. There are no similar guidelines published by the FA
b) There is not in our view any similar convention or starting point in disciplinary proceedings brought by the FA. A Regulatory Commission will always retain a

[17] The parties placed before us a considerable number of authorities to demonstrate the range of discounts commonly applied. Those authorities showed discounts from 16.67% to 33% being applied by Regulatory Commissions to reflect early admissions of charges by respondents.

[18] See the Guidelines published by the Sentencing Council

discretion as to the discount, if any, to be given to a respondent who admits a charge against it.

75) How a Regulatory Commission exercises that discretion will depend on the circumstances of the individual case before it. Factors such as

a) The timing of the admission
b) The fullness of the acceptance of the charge and of the misconduct underpinning the charge
c) The insight into the misconduct shown by the respondent
d) The contrition shown by the respondent for the misconduct

will commonly be factors that might bear on the discount. Additionally, we endorse the view that has been expressed by a number of Regulatory Commissions that it is open to a Regulatory Commission to have regard to the strength or otherwise of the evidence against the respondent when considering what credit to give for an early plea. Where there is in fact no defence to a charge, or where the evidence relied on by the FA is so overwhelming that a charge is for all practical purposes indefensible in the light of that evidence (for example, where there is video footage of a physical incident or an audio recording of a verbal incident) it is open to a Regulatory Commission to conclude that less credit should be given than might otherwise be the case.

iv) The credit to be given to Chelsea in this case

76) The conclusion that we reached was that credit of 20% of the Pre-Plea Chelsea figure should be given to reflect Chelsea's early admittance of the Chelsea Charge in this case given

a) The timing and extent of Chelsea's admission
b) The reality (in the light of the video evidence) of Chelsea having no defence to the Chelsea Charge
c) Chelsea's genuine and fulsome expression of contrition.

77) Applying that credit to what we have found to be the correct Pre-Plea Chelsea figure reduces the Pre-Plea Chelsea figure by £62,500 to £250,000. That is the fine that we conclude should be imposed on Chelsea in this case.

v) A word about West Ham

78) In light of

a) The very limited, narrow nature of West Ham's admission

b) The finding by the RC of additional improper and provocative conduct that had been denied by West Ham

c) The limited nature of West Ham's expression of contrition and insight into its misconduct

any discount applied to the Pre-Plea West Ham figure to reflect such matters should in our view have been extremely limited; a discount of no more than 10% (i.e. one-half of the discount to which we find Chelsea is entitled) would have been appropriate.

79) However, because there is no appeal before us in relation to the West Ham sanction, we have no power to adjust either the discount given to West Ham or the West Ham sanction itself. The 20% discount given to West Ham by the RC to reflect West Ham's qualified admission of the West Ham Charge thus remains undisturbed.

80) That outcome may on the face of it seem harsh on Chelsea and to result in a windfall to West Ham. But that is in our view the right outcome on this Ground of Appeal. Had we used (as we have found it to be) the incorrect discount given by the RC to West Ham as the figure from which to benchmark for a (higher) Chelsea discount, both discounts would then have ended up being wrong.

(G) Chelsea's fourth Ground of Appeal

81) Chelsea's fourth Ground of Appeal was that the Chelsea sanction of £325,000 was '*excessive*' and disproportionate.

82) To a degree this Ground of Appeal became redundant

a) Once we had determined that the RC had fallen into error during the process that it had undertaken in order to arrive at the Pre-Plea Chelsea figure

b) Once we had determined that the RC had fallen into error during the process that it had undertaken to discount the Pre-Plea Chelsea figure to arrive at the Chelsea sanction

c) In light of the parties' agreement that, in such circumstances, we should determine for ourselves what the Chelsea sanction should be

d) Once we had determined that the Chelsea sanction should be £250,000.

However, since the Ground was fully argued before us, we set out certain observations and conclusions that we reached on the Ground.

i) The test to apply

83) The parties agreed that we should adopt the meaning of '*excessive'* used in *FA v Zaha* (supra), namely

> '*materially more severe than was necessary or proportionate in the circumstances of the case*'.

92) That is the test that we applied.

ii) An overarching point

84) It was common ground between the parties

a) That prior to the 2025/26 season sanctions for breaches of FA Rule E20 for mass confrontations were generally far lower than the fines imposed by the RC (and by other Regulatory Commissions in similar cases this season), and

b) That the Guidelines for Mass Confrontations introduced for the 2025/26 season set Entry Points and Maximum Fines at levels significantly higher than that at which fines had historically been imposed by Regulatory Commissions in mass confrontation cases.

85) As the FA explained however, it was always understood and intended that the effect of introducing the Guidelines would result in fines for breaches of FA Rule E20 for mass confrontations being considerably higher than in previous years.

86) Chelsea accepted that it was not for the RC (or for us) to 'second-guess' the wisdom of the introduction of the Guidelines or the approach or figures set out therein; the Guidelines are to be followed and any complaint about the Guidelines is something to be addressed by Chelsea (or any other club) with the FA outside of the framework of a particular disciplinary case. However, Chelsea submitted that even following the introduction of the Guidelines

a) A Regulatory Commission retains a discretion as to the fine to be imposed for a breach of FA Rule E20 in a Mass Confrontation case, and
b) The overarching concern remains for any sanction imposed by a Regulatory Commission to be fair and proportionate.

87) We accept that the Guidelines do not remove the discretion that is given to a Regulatory Commission to determine what is a fair and proportionate penalty to impose for particular misconduct. As a result, a Regulatory Commission must still always ask itself whether, after applying the Guidelines, it has arrived at a sanction that is reasonable and proportionate to the wrongdoing that it is considering.

88) That said

a) The Guidelines set out the approach that a Regulatory Commission should take when determining what sanction to apply in a mass confrontation case,[19] and
b) We consider that it will be a rare case in which a Regulatory Commission concludes that a fine arrived at by the proper application of those Guidelines will be unfair or disproportionate.

[19] (1) Identifying the appropriate Entry Point (i.e. £125,000 or a multiple thereof in the event of the respondent having committed previous breaches of FA Rule E20 in the previous 12 month period) (2) adjusting that figure up or down to reflect the circumstances of the particular case before it (such as aggravating and mitigating features) and to arrive at a fine that is fair and proportionate in the circumstances of the case (3) setting a ceiling - a Maximum Fine (i.e. £250,000 or a multiple thereof in the event of the respondent having committed previous breaches of FA Rule E20 in the previous 12 month period) – above which a Regulatory Commission should not go unless (1) it concludes that the case is an exceptional one, and (2) it considers in its absolute discretion that that it should exceed the Maximum Fine.

iii) A second overarching point

89) In order to support its submission that the Chelsea sanction was unfair and disproportionate, Chelsea invited us to compare the Chelsea sanction with sanctions imposed by Regulatory Commissions in other cases of mass confrontation said by Chelsea to be similar to the present case, including decisions reached by Regulatory Commissions since the introduction of the Guidelines. We did not find that terribly helpful. While (as we have said above) parties charged with a breach of an FA Rule are entitled to expect a broad consistency of approach by Regulatory Commissions tasked with sanctioning them if a breach is found proven, as was said by the Appeal Board in *FA v Zaha* (supra) the task for a Regulatory Commission or an Appeal Board is not to consider where within a range of previous cases the case before it should 'slot in'.[20] Rather the task for a Regulatory Commission or Appeal Board is to decide what sanction is necessary and proportionate to reflect the circumstances of the particular case before it as a whole.

90) Accordingly, the fact that other Regulatory Commissions might have imposed lower financial sanctions in other cases does not really assist Chelsea's submission that the Chelsea sanction was disproportionate and excessive. Every case will be acutely fact sensitive. The question is whether, in the light of the facts of this case as a whole, the Chelsea sanction was disproportionate and excessive.

iv) The RC's Decision

91) Even affording an appropriate margin of appreciation to the Decision of the Regulatory Commission, the Chelsea sanction imposed by the RC was in our view excessive. A fine that was 30% above Entry Point did not in our view reasonably or proportionately reflect

a) The nature and gravity of Chelsea's misconduct in this case, and
b) The aggravating and mitigating features in this case.

The Chelsea sanction at which the RC arrived was in our view significantly at odds with the outcome in many similar and comparable cases determined by other Regulatory Commissions and was materially more severe than was necessary or proportionate in the circumstances of this case.

[20] And see also the observations of the Appeal Board in *FA v Klopp* (supra) at paragraphs 26 to 27

92) For the reasons that we have set out above, in our view a reasonable and proportionate sanction to impose on Chelsea in the circumstances of this case is a fine of £250,000.

(H) Final Order and Costs

93) Having carefully analysed

a) The materials before the Regulatory Commission,

b) The Regulatory Commission's Decision and Written Reasons, and

c) The written and oral Grounds and submissions advanced before us

we conclude that Chelsea's appeal should be allowed. The fine of £325,000 imposed by the Regulatory Commission on Chelsea is set aside. In its place we impose a fine of £250,000 on Chelsea.

94) We will consider any application that might be made for a costs order.

Graeme McPherson KC (Chairperson)
Abdul Iqbal KC
Michael O'Brien

Signed by the Chairperson on behalf of the Appeal Board
4 May 2026