

**IN THE MATTER OF AN APPEAL BOARD OF THE
FOOTBALL ASSOCIATION**

BETWEEN:

NOTTINGHAM FOREST F.C.

Appellant

-and-

THE FOOTBALL ASSOCIATION

Respondent

WRITTEN REASONS

1. The Appeal Board conducted a paper hearing on Friday 10 October 2025 to determine an appeal by Nottingham Forest F.C. ("**NFFC**") against the decision of a Regulatory Commission ("**the Commission**") dated 17 October 2024 which imposed a fine of £125,000 on NFFC. That was for an admitted breach of FA Rule E20.1 for failing to ensure its players did not behave in a way which was improper and/or provocative. This arose from an incident in or around the 88th minute of the Premier League match between Chelsea F.C. and NFFC on 6 October 2024. The Commission's decision was explained in Written Reasons dated 21 October 2024.
2. The appeal was determined on the papers, the Appeal Board meeting by MS Teams. The Appeal Board comprised Mr Christopher Stoner KC (Chair, Specialist Panel Member), Ms Sally Davenport (Legal Panel Member) and Mr Tony Agana (Football Panel Member). Mr Michael O'Connor, Judicial Services Assistant Manager, acted as secretary to the Appeal Board. We are most grateful to Mr O'Connor for his assistance.

Summary

3. The Appeal Board allows NFFC's appeal on two specific and limited grounds but otherwise dismisses the appeal. The sanction imposed by the Commission is reduced by the Appeal Board to £112,000.

4. This document contains the written reasons for the Appeal Board's decision.

Background

5. By a charge letter dated 7 October 2024, NFFC was charged with a breach of FA Rule E20.1 ("**the Charge**"). The particulars of the Charge were:

"It is alleged that in or around the 88th minute of the fixture [namely Chelsea FC v NFFC on 6 October 2024], Nottingham Forest FC failed to ensure that its players did not behave in a way which is improper and/or provocative."

Please note that The Football Association has designated this as a Non-Standard Case due to the involvement of technical area occupants and a previous proven breach of FA Rule E20 arising from the fixture against Liverpool FC on 2 March 2024."

6. The relevant rule, being Rule E20.1 provides:

"E20: Each Affiliated Association, Competition and Club shall be responsible for ensuring that its Directors, players, officials, employees, servants and representatives, attending any Match do not:

E20.1. behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative."

7. The Football Association relied upon video clips and a report of the incident from the Match Referee, Mr C Kavanagh, which was in the following terms:

"In the 89th minute there was a trip by Nottingham Forest player Neco Williams on a Chelsea player. The momentum of the Chelsea player takes him into his manager and both end up on the ground. Following this there were large numbers of players, subs and technical area staff involved in a mass confrontation."

After we calmed down the situation, we cautioned Neco Williams for the trip, Marc Cucurella for dissent towards the 4th official and Levi Colwill for Adopting Aggressive attitude. The rest of the incident was confirmed as check and cleared by the VAR."

I am reporting this incident to the FA due to the number of participants involved."

8. The FA also relied on the 'Essential Information for Clubs 2024-25' document. This is relevant because it provides, under a sub-heading 'Mass Confrontations':

"It is the responsibility of the match officials to report a 'mass confrontation' incident where two or more Players or Club Officials are involved in a confrontation with opposing Players or Club Officials. The FA will generally only investigate if such a report is received but reserves the right to do so regardless."

The offending Clubs, rather than their Players or Officials, will be sanctioned in the event of a charge and any similar offences within the previous 12 months can result in an increased penalty.

PROCESS

- *A match official reports a 'mass confrontation' incident to The FA.*
- *This could lead to a charge, warning or no further action taken, depending on the seriousness and circumstances of the incident.*
- *These charges can be treated as either 'standard' or 'non-standard'.*

In non-standard cases where a breach has been admitted or found proven, a Regulatory Commission may disregard the standard penalty and may impose sanctions as high as those shown in the guidelines below."

9. The sanction shown for the Premier League for a 'Non-Standard' breach of Rule E20 in the guidelines, is a maximum fine of £250,000. The document then states:

"For each successive non-standard breach of the FA Rule E20, including E20.1 and E20.2, within a 12-month period the maximum fine shall double and then treble (and so on) the amount set out above."

10. As NFFC was fined, in a non-standard case, for a breach of Rule E20 in the case arising from the fixture against Liverpool on 2 March 2024, which was within the previous 12 months, the maximum guideline fine which could be imposed on NFFC in the present instance was £500,000.

11. By its Reply Form dated 10 October 2024, NFFC admitted the Charge. NFFC did not request the opportunity to attend the Commission for a personal hearing, instead opting for the matter to be dealt with at a paper hearing. In support of its position NFFC filed a document entitled 'Club Submissions'.

12. Those submissions included the following:

"1. Introduction

[NFFC] admits the charge under FA Rule E20.1 ... relating to the fixture against Chelsea on 6 October 2024 ("the Match"). NFFC makes this admission on the basis that two or more NFFC Players or Club Officials were clearly involved in a confrontation with opposing Players and Club Officials. However, and whilst it regrets and sincerely apologises for what occurred, NFFC submits that there are significant mitigating factors that should be considered by the Regulation Commission in this case.

2. Mitigating Factors.

2.1. Those mitigating factors can be summarised as follows:

2.1.1. The confrontation was initiated by Chelsea player Levi Colwill, who behaved in an extremely aggressive manner towards Neco Williams. Colwill was also joined by Wesley Fofana and Malo Gusto, who displayed similarly unacceptable levels of aggression.

2.1.2. As evidenced by [a clip supplied] as far as 9 seconds in, Neco Williams is the only NFFC player in the altercation, with Colwill and Fofana having set upon him, Gusto was also on his way to join his teammates at the same moment.

2.1.3. It was only after this point that Anthony Elanga and other NFFC teammates rush in to support Neco Williams. Although regrettable, NFFC avers that this reaction was natural and reflective of normal human nature in these circumstances. It is unrealistic to suggest that NFFC could have prevented the escalation, given the nature of the initial aggressive physicality directed at Neco Williams by two Chelsea players.

2.1.4. Neco Williams' foul on Cucurella does not justify Colwill and Fofana's hyper-aggressive reaction. Notably, when Cucurella committed a more egregious foul on

Anthony Elanga at 0:02 of the same clip, no NFFC player reacted in the same manner as Chelsea players did against Neco Williams; and

2.1.5. Exhibit NFFC-1¹ demonstrates that NFFC player's involvement helped calm the situation rather than exacerbate it. The confrontation was diffused within 45 seconds, despite Nicolas Jackson slapping Morato during the confrontation, an action to which NFFC submits (i) its players reacted with considerable restraint; and (ii) is reflective of the steps it has taken to address the criticism it received in The FA v Nottingham Forest FC in January 2023. Furthermore, despite the mitigating factors highlighted above, NFFC has reminded its players of their obligations under Rule E20 following this incident."

13. NFFC's written submissions then proceeded to deal with the earlier breach referred to in the Charge, namely the Liverpool game on 2 March 2024. NFFC said:

"NFFC acknowledges the proven (admitted by the Club) breach of Rule E20 from the Liverpool fixture on 2 March 2024 that has been cited by The FA. However, this incident was very different both in terms of the misconduct itself and the circumstances surrounding it and should therefore be distinguished by the Regulatory Commission. That charge arose from NFFC staff (not players) surrounding a Match Official who had objectively failed to apply the laws of the game correctly in a crucial fixture, despite being warned of his impending mistake by the fourth official. The sanction of £75,000 in that case reflected the strong mitigating circumstances which applied to that charge."

14. Reference was then made by NFFC to what it anticipated the Commission would deem to be aggravating features, namely the number of players involved and the potential incitement of the crowd, before commenting *"To that end NFFC wishes to point out that these elements are solely attributable to Chelsea players, particularly the actions of Colwill and Fofana, and should therefore not impact the determination of NFFC's sanction."*

15. The submissions concluded with comments on sanction, including observing that the case had been designated as 'non-standard', meaning a fine of £250,000 could be imposed, although there is no recognition that given the terms of the *Essential Information for Clubs 2024-25* document recited above, allied to the admitted breach

¹ Another video clip.

of E20 arising from the Liverpool game in March 2024, the maximum fine was in fact £500,000. NFFC concluded by stating that in all the circumstances the standard fine of £20,000 was the appropriate starting point, which sum should then be reduced due to NFFC's admission and *"the strong mitigating factors it has cited."*

16. The FA filed written submissions in Reply. We do not intend to repeat all the submissions in these Written Reasons, but, as with NFFC's submissions, we have carefully considered them to understand what had been said to the Commission. The FA's submissions also dealt with a Charge against Chelsea F.C. arising from the same incident, including responding to submissions advanced by Chelsea F.C. Both Charges had been consolidated pursuant to Regulation 13 of the General Provisions of the Disciplinary Regulations to be determined by the Commission.

17. We observe that The FA commented:

"In respect of NFFC, the breach of E20.1 during the fixture against Liverpool FC on 24 March 2024 was designated Non-Standard with NFFC receiving a £75,000 fine. The maximum sanction available to the Regulatory Commission in respect of NFFC in this matter is therefore doubled to £500,000."

18. The FA also commented on NFFC's written submissions in the following terms:

"It is not accepted that the aggravating feature of the number of players involved should only be attributed to [Chelsea FC] and not impact the determination of NFFC's sanction. All of NFFC's outfield players become involved in the confrontation, with only Matz Sels (goalkeeper), remaining in his goal area ...

NFFC seek to distinguish the previous misconduct under E20, as the 'incident was very different both in terms of the misconduct itself and the circumstances surrounding it'. In respect of both charges, the misconduct was a failure by the Club in its responsibility to ensure the players and officials attending a Match do not behave in a way which contravenes FA Rule E20. The misconduct is clearly therefore of a similar nature."

The Commission Decision

19. The Commission met on 17 October 2024 and produced Written Reasons on 21 October 2024. We have considered those Written Reasons carefully. We do not need

to recite all elements of them. It suffices for us, for example, to record that the Commission carefully and fairly set out a summary of NFFC's written submissions at paragraphs 17 – 21.

20. At paragraph 24 of its Written Reasons the Commission said:

“The Regulatory Commission viewed the video evidence in detail and gave consideration to a number of factors – the number of players involved from both sides, the duration of the incident, the level of aggression involved and the proximity to the crowd. For completeness, there was no finding as to the level of culpability of both sides. It was evident that the foul by Mr Williams, the push, caused Mr Cucurella to collide with the manager resulting in the manager being knocked off his feet. Consequentially, this was the catalyst for the incident, and the reaction of both sets of players followed.”

21. Having expressly stated they made no finding on the level culpability as between Chelsea F.C. and NFFC, the Commission considered the sanction against Chelsea F.C, determining that a fine of £40,000 was appropriate, reduced from £50,000 to reflect the admission of the charge. In considering the charge against Chelsea the Commission recorded that *‘the Club [Chelsea F.C.] submissions were not persuasive.’* We shall return to the position regarding Chelsea F.C. below.

22. They then turned to the appropriate sanction for NFFC stating:

“The same approach was taken with Nottingham Forest F.C. The Commission considered previous sanctions imposed on [NFFC] with regard to breaches of Rule E20 which are detailed as follows:

- (1) The club was fined £10,000 for an incident that occurred in an EFL Championship fixture v Derby County FC on 22 January 2022.*
- (2) The club was fined £25,000 for an incident that occurred in a Premier League fixture v Crystal Palace FC on 12 November 2022.*
- (3) The club was fined £40,000 for an incident that occurred in an EFL Cup fixture v Wolverhampton Wanderers on 11 January 2023.*
- (4) The club was fined £55,000 for an incident that occurred in a Premier League fixture v Wolverhampton Wanderers on 1 April 2023; and*

(5) The club was fined £75,000 for an incident that occurred in a Premier League fixture v Liverpool F.C. on 2 March 2024.

This was the sixth incident of this nature in two years and eight months. Again, the club's submissions were not persuasive. The club failed to accept the part that Mr Williams' conduct had played in the incident. The submission that the number of players involved, and the potential incitement of the crowd was solely attributable to the Chelsea players, specifically Mr Colwill and Mr Fofana, was not accepted and sought to contradict the evidence. But for Mr Williams actions, the incident would not have occurred. This may be viewed as simplistic, but it is obvious from the video evidence. What happened as a consequence of this brings us to the charge and the role of the Commission to determine what they believe to be a fair and proportionate sanction.

It is telling that in the previous breach The FA v Nottingham Forest & Wolverhampton Wanderers FC on 24 January 2023, the Commission stated, inter alia, at paragraph 18: -

"Turning to NFFC, we accept that their role within the incident itself was a lesser one, but nevertheless contributed to a deeply unseemly scene. Their position is aggravated by a significantly worse misconduct history for E20 offences. It seems to this Commission that the Club are doing very little to address this sort of behaviour. Indeed, we note in NFFC's written submissions there is not one word of regret or apology, which is disappointing nor any indication that they are addressing the issues that clearly exist. However, we given them credit for their admission of the charge."

In this case, again, [NFFC] have failed to accept any responsibility for their role in the incident, seeking to apportion all of the blame to Chelsea F.C. This was not accepted by the Commission. In addition, the club made reference to the previous sanction of £75,000 for the E20 breach in the Liverpool fixture but failed to set out any of the "strong mitigation circumstances" that applies to this case. Therefore, the Commission were not in a position to consider the merits of this mitigation and any application to their current case. Aside from a cursory mentioned of reminding their players of their obligations under Rule E20, the club appears to have taken no proactive steps to address the recurring behaviour.

Under the Essential Information for Clubs 2024-25, and The FA submissions, the Commission were drawn to the fact that this is a second non-standard breach of Rule E20 for [NFFC] within 12 months, the previous fine being £75,000. However, this does not tell the whole story. As set out above, this is the sixth breach in two years and eight

months. The maximum fine available to the Commission is £500,000.00. The FA submissions state that any sanction must sufficiently punish the respective clubs but also serve as an adequate deterrent going forward. More importantly, the Commission notes that any sanction must be fair and proportionate. The previous record of [NFFC] is an aggravating factor as is the lack of contrition. There has been no evidence put forward to the Commission to demonstrate that the club are addressing what is now becoming a serial problem. Applying the same analysis as above, by taking the offending behaviour into account and the club's previous disciplinary record, notably this being the sixth incident within the previous five seasons, and the second non-standard charge within 12 months, the Commission were minded to impose a fine of £150,000. There was limited credit given for the admittance and the fine was reduced to £125,000.

23. Accordingly, the Commission imposed a fine of £125,000 on NFFC.

24. We said above that we would return to the position of Chelsea F.C. Given the points taken by NFFC in its appeal, as set out below, we consider it is necessary to also record the Commission's findings on sanction against Chelsea F.C. Having considered two previous breaches of Rule E20, in 2021, the Commission said:

"It was noted by the Regulatory Commission that this is the third incident of this nature in over three years and four months. The club submissions were not persuasive. It was not accepted that Mr Colwill's actions were simply to defend his teammate and manager. It is unclear what he was seeking to defend them from. In addition, the technical area occupants entering the field of play and their actions clearly escalated the incident. In cases of this nature, it is invariably claimed that the intention of those individuals who become involved is to de-escalate the incident and act as peacemakers, but it is discouraged and unsightly. This was a televised, high profile Premier League fixture. There was no justifiable reason for the conduct of those involved and it only served to inflame the incident.

In determining the fines issued to clubs at this level, the Commission considered the Standard Penalty Guidelines for Premier League Clubs in relation to such incidents, that being as referenced by both clubs, a £20,000.00 fine. However, this was not a Standard Case, and the Commission has a discretion with regard to sanction. In the Essential Information for Clubs 2024-2025, it is stated, inter alia, that the maximum fine for Non-Standard E20 breaches is £250,000. Furthermore, the Guidance states: -

‘for each successive breach of Rule E20, including E20.1. and E20.2, within a 12-month period the maximum fine shall double and then treble (and so on) as set out’.

The Regulatory Commission did take into account the fact the charge was admitted and acknowledged the written submissions. However, this was a serious incident involving a large number of players from both sides, and any sanction must be reflective of this. Taking the offending behaviour into account and the club’s previous disciplinary record, notably this being the third incident within the previous five seasons, the Commission were minded to impose a fine of £50,000.00. There was credit given to the admittance and the fine was reduced to £40,000.00”.

25. Accordingly, Chelsea was fined £40,000 for its part in the confrontation.

The Appeal

26. NFFC appealed the Commission’s decision by a Notice of Appeal dated 24 October 2024. The matter has taken some time to come before the Appeal Board whilst issues regarding the composition of the Appeal Board were resolved.

27. The Appeal is advanced on 3 of the 4 potential grounds available to Participants pursuant to Regulation 6 of: Fast Track 7 Appeals – Fast Track, namely: (a) that the Commission failed to give NFFC a fair hearing; (b) that the Commission came to a decision to which no reasonable body could have come; and (c) the penalty imposed was excessive.

28. For the purpose of the Appeal, NFFC has provided its Notice of Appeal in the form of written ‘Appeal Submissions’, whilst The FA has provided a written Response to the Notice of Appeal which is dated 28 October 2024. The Appeal Board have carefully considered both parties submissions and wish to express their gratitude to the parties for their assistance in providing these submissions.

29. The Appeal Board have also carefully considered the whole bundle before it, which includes that before the Commission, the 3 video clips with which we have been supplied and the Written Reasons of the Commission as well as the above-mentioned submissions. In addition, the Appeal bundle also contained the Written Reasons of the Appeal Board in *The Football Association v Jurgen Klopp*² referred to in The FA’s submissions in response to the Notice of Appeal.

² 11 November 2022

30. The purpose of The FA referring us to the *Klopp* decision was to identify what The FA submitted was the correct approach to be taken by us as an Appeal Board, namely that identified in paragraph 20 of the Written Reasons in *Klopp*. The FA acknowledges that the nature of the appeal in that case, which was one by The FA against sanction, means that the ground of failing to give the Participant a fair hearing was not available to The FA, nor considered in that matter.
31. Since the production of The FA's submissions, however, some further guidance on the approach of an Appeal Board has been provided in *Nottingham Forest F.C. v The Football Association*³.
32. A particular point which was examined by the Appeal Board in that recent *NFFC* appeal was the suggestion in *Klopp* that when considering evidential assessments, factual findings and the exercise of a judicial discretion in the context of an appeal by way of review, the Commission should be "*accorded a generous and significant margin of appreciation by the Appeal Board.*" Also, on the issue of sanction, the sole ground of appeal in the *Klopp* case being that the Commission had imposed sanction '*...that was so unduly lenient as to be unreasonable*', the Appeal Board in *Klopp* similarly commented that "*when assessing whether a sanction is unreasonable, the same generous and significant margin of appreciation applies*" before referring to an earlier decision in *Wilfred Zaha v The FA*⁴.
33. In the recent *NFFC* appeal, the Appeal Board (which was also considering, at this part of its decision, an issue of sanction) said:
- "As regards [the] submission that we should apply the 'generous and significant margin of appreciation' enunciated in Klopp, we note that this was said in relation to an appeal by The FA under Regulation 5.3 of the Fast-Track Appeals Regulations in an appeal based on the ground that the sanction imposed was 'so unduly lenient as to be unreasonable'. The regulation that we must apply is Regulation 2.4 of the Non-Fast-Track Regulations which provides for a right of appeal by a Participant on the grounds that the body whose decision is appealed against 'imposed a penalty, award, order or sanction that was excessive.'*

³ Decision 27 February 2025, Chair: Rt Hon Lord Dyson.

⁴ Decision dated 17 February 2019

34. Of course, in the present instance, we as an Appeal Board are considering an appeal where we must consider the application of Regulation 6 of Fast-Track 7: Appeals Regulations.

35. The Appeal Board in the recent NFFC appeal then continued:

“We have no doubt that we should accord a margin of appreciation to the Commission’s decision. The appeal is by way of a review and not a re-hearing. It is against a decision which, if it is not an exercise of discretion, is an exercise of judgment. It is not a hard-edged decision on a question to which there can only be one answer...”

“... We have reservations about describing the margin of appreciation as ‘generous and significant’ if these words connote that the margin should be greater than that allowed in a typical exercise of discretion. If the Appeal Board in Klopp intended that the words should have such a connotation, they did not explain why or what the words meant. In most contexts where a margin of appreciation is applied to a challenged decision, the nature of degree of margin is not described or qualified. That is the approach that we think should be applied here.”

36. In considering NFFC’s appeal in this matter we have adopted the same approach as that identified in the recent *NFFC* appeal, namely that identified in *Klopp* but with a more circumspect approach to the margin of appreciation to be accorded to the Commission. Although in the recent *NFFC* appeal there were no applicable guidelines, whilst in the present instance there were standard guidelines and, for non-standard cases, the *Essential Information for Clubs 2024-5* which is set out above, in our view that does not in any way affect the correct approach to be adopted. Instead, it sets parameters for the exercise of discretion. The correct approach includes the important principles that the Appeal Board hearing is a review, not a re-hearing and the burden is on the Appellant to establish its grounds of appeal.

37. We now turn to the points made in this appeal. The following paragraphs contain a summary of the arguments advanced by the parties in writing. They are only a summary and are not intended to reflect every word and point taken. However, even if not expressed in the summary below, as an Appeal Board we have taken into account all the points advanced to us in the written submissions.

38. NFFC advances the following grounds in its Notice of Appeal:

(1) Under Regulation 6.1: that the Commission failed to give NFFC a fair hearing:

- (a) It is said the Commission failed to adequately and fairly assess NFFC's submissions when compared to those of Chelsea F.C, especially in citing a 'lack of contrition' as an 'aggravating factor', as well as, it is said, wrongly claiming that NFFC has failed to accept any responsibility for its role in the incident, instead seeking to apportion all blame to Chelsea F.C."
- (b) It is said to be irrational for the Commission to have dismissed the Club's 'cursory mention of reminding their players of its obligations under Rule E20' while granting credit to Chelsea for providing a similarly cursory mention.
- (c) It is said the Commission's failure to apply a consistent standard to both clubs in terms of fairly, properly and even-handedly evaluating their respective apologies and remedial actions highlights a fundamentally flawed decision-making process, demonstrating a lack of parity between the parties.
- (d) It is said the Commission incorrectly and unfairly focused on Mr Williams' initial foul as the catalyst for the incident. This, NFFC states, was notwithstanding that its central submission was that Chelsea's players, particularly Mr Colwill, were the true catalyst. It is also said that in identifying Mr Williams' foul as the catalyst the Commission, to some extent, justified the extreme reaction of the Chelsea players.
- (e) It is also said the Commission overlooked the far more egregious shove by Mr Cucurella on Mr Elanga, demonstrating a serious flaw in the approach to the evidence, with the Commission holding NFFC's players to a higher standard of culpability.
- (f) It is alleged the Commission wrongly stated that NFFC had not identified the mitigating circumstances in the earlier decision relating to the game involving Liverpool in March 2024, it being said that the 'mitigating circumstances' had been identified in its written submissions when identifying "*[A Match Official] ... had objectively failed to apply the laws of the game correctly in a crucial fixture, despite being warned of his impending mistake by the fourth official.*" It is said the Written Reasons ought to have been accessible to the Commission and to have dismissed the point on the basis the Commission had not been provided

with them was unreasonable, amounting to further evidence NFFC was denied a fair hearing.

(g) Overall, it is said the forgoing points demonstrate a serious misinterpretation of the evidence and sequence of events leading to the confrontation, with the Commission's failure to correctly address causation and to fairly, properly and even-handedly consider NFFC's submissions, which fundamentally undermines the fairness of the Commission's findings. It is said the lack of parity between Chelsea F.C and NFFC is striking.

(2) Under Regulation 6.3: the Commission came to a decision that no reasonable Commission could have come to. This is said to be based on the above stated matters, meaning that no reasonable Commission could impose a fine of £125,000. Specific instances are given of the credit given for admission being different in the case of Chelsea and NFFC as well as it being said there was a failure to appropriately or forensically address or contextualise the actions of Chelsea's players in terms of causation and provocation, instead artificially inflating the culpability of NFFC's players.

(3) Under Regulation 6.4: the Commission imposed a sanction which was excessive:

(1) The fine of £125,000, when compared to Chelsea F.C. which was fined £40,000, was excessive and the failure to distinguish between the actions of the clubs penalised NFFC disproportionately.

(2) It is said that the previous breaches of Rule E20 by NFFC do not provide the Commission with a basis to ignore or misinterpret the evidence or the significant mitigation put forward by NFFC.

(3) It is said that it is irrational for Chelsea F.C. to have received a fine which is less than 1/3 the size of that imposed on NFFC when on the weight of the evidence Chelsea players: (i) initiated the confrontation; and (ii) aggravated the situation by allowing one of its players to slap one of NFFC's players, with the significance of the slap not being properly considered.

(4) It is said the Commission failed to appropriately consider NFFC's previous efforts to address conduct issues and the practical impact of this (especially, the restraint shown by NFFC's players given the slap previously referred to).

- (5) Overall, it is said the decision to impose such a substantial fine failed to recognise the context of the incident, the high degree of provocation or the significant mitigating factors in NFFC's favour.

39. The FA's written response is summarised below:

- (1) Save for one point, referred to below, where The FA concedes the appeal should be allowed and the sanction reduced, The FA's stance is that the sanction imposed is not excessive, but entirely proportionate and justified in all the circumstances.
- (2) Little interrogation of the Written Reasons of the Commission is required to identify the context in which distinct sanctions were reasonably reached for Chelsea F.C. and NFFC, namely not the Misconduct of the confrontation at the Match, but instead the decidedly worse disciplinary record of NFFC, a factor which, The FA state, NFFC has failed to acknowledge in its submissions.
- (3) With respect to the appeal made under Regulation 6.1, namely that NFFC did not get a fair hearing:
- (a) The FA do not accept there was a 'striking difference in treatment' between NFFC and Chelsea, noting that the Commission found that both Club's written submissions '*were not persuasive*'.
- (b) The FA says it is wrong to say that Chelsea was credited for remedial action, it being said that the single reference to steps taken by Chelsea was at paragraph 15 of the Commission's Written Reasons, with no credit given for such remedial action.
- (c) The Commission was not irrational, or indeed wrong, in concluding that NFFC had taken no proactive steps to address repeated breaches of Rule E20, other than a ' cursory mention of reminding their players', there being no evidence to the contrary. Given the previous poor disciplinary record, it was reasonable for the Commission to treat this action, or lack thereof, differently to that of Chelsea F.C.
- (d) The Commission was entitled to conclude that NFFC displayed a lack of contrition on the basis of the written submissions, given the lack of responsibility taken by NFFC for the misconduct. Admission of a charge, The

FAs says, does not equate to a demonstration of remorse and cannot be assumed and any references to apology or regret in the submissions were immediately caveated with an attempt to justify, excuse or minimise the misconduct. NFFC, says The FA, has failed to express unequivocal remorse for its role in the misconduct.

- (e) In failing to take responsibility, NFFC has sought to attribute all aggravating features to the misconduct of Chelsea F.C. whilst identifying the actions of Chelsea's players as 'mitigating factors' for its own misconduct.
 - (f) The bar for overturning the finding that the catalyst for the incident was the actions of Mr Williams has not been reached and all the Commission has done is made a factual finding that the act of Mr Williams began the chain of events that resulted in the mass confrontation.
 - (g) The assertion that the Commission found this to be a justification for the reaction of Chelsea F.C. is wrong, with the Commission rejecting the submission made by Chelsea that Mr Colwill's actions were simply to defend his teammate and manager.
 - (h) It is unfounded to suggest that the Commission failed to give NFFC a fair hearing by dismissing the submission based on the mitigation in the matter involving the Match against Liverpool in March 2024.
- (4) With respect to the argument on the sanction being excessive, The FA submits:
- (1) To simply compare the sanction of the two clubs is artificial and fails to consider the different circumstances of the two clubs and ignores the basis on which the Commission reached differing sanctions.
 - (2) NFFC has wrongly sought to suggest that the Commission applied greater culpability to NFFC as opposed to Chelsea. In fact, the Commission explicitly stated that they made no finding as to the level of culpability.
 - (3) NFFC have failed to has regard to the fact the maximum fine for NFFC was £500,000, whilst that for Chelsea was £250,000. In the present instance NFFC had been fined £75,000 just 7 months earlier and had breached the E20 duty on 6 occasions in the preceding 2 years and 8 months. Given that NFFC was

only fined 25% of the maximum available, it is arguable that instead of being excessive, given the extremely poor record of consistent breaches, the sanction imposed was in fact generous on the part of the Commission.

- (4) The sanction was not materially more than was necessary or proportionate and does not meet the threshold to be considered excessive.

Analysis

40. Before turning to the submissions of the parties, we wish to deal with two matters. The first is our analysis of the approach taken by the Commission and the second is that part of the Appeal The FA concedes should be allowed, with a consequential adjustment to the sanction.

41. As to the first point, the Appeal Board have carefully considered the Written Reasons of the Commission. We are very clear as to how the Commission approached its task, which ultimately was one of sanction in respect of two admitted charges of a breach of Rule E20, both clubs involved having rightly admitted the charge against them. Furthermore, the Appeal Board consider it is important to note that the Commission was dealing with the matter as a paper hearing, in circumstances where it determined that the submissions made to it were not persuasive.

42. In this context, the approach, once the Commission had considered all the evidence, was:

- (1) To carefully summarise the written submissions received from both clubs (even though both were determined by the Commission to not be persuasive).
- (2) At paragraph 24 to highlight a number of factors (recited above) to which they gave consideration having reviewed the video evidence 'in detail'.
- (3) At paragraph 24, to expressly identify that it was not making any finding as to the level of culpability of both sides. In the context of a paper hearing, where the Commission found that both parties submissions were 'not persuasive', the Appeal Board consider that this was a decision which was well within the margin of appreciation afforded to the Commission.

- (4) The Commission then turned to sanction.

(5) In sanctioning Chelsea F.C. first, they had regard to the fact it was a non-standard case with the guidelines suggesting a maximum fine of £250,000, and, second had regard to the fact it was a serious incident involving players from both sides and the previous disciplinary record, which identified this was the third incident in five seasons, the previous 2 being in 2021. The Commission considered an appropriate sanction of £50,000, reduced to £40,000 once credit was given for the charge being admitted, that being the only factor for which credit was given.

(6) The Commission then, as they expressly stated, adopted "*the same approach*" with NFFC. However, it had clearly (and in the Appeal Board's view, rightly) made a significant impression on the Commission that this was the *sixth* breach of Rule E20 by NFFC in 2 years and 8 months, including a breach for which a significant fine had been imposed within the previous 12 months. The Commission quoted a statement from the decision of a different Commission in January 2023 expressing concern about NFFC's E20 disciplinary record at that time. The Commission had regard to the guidelines which made the relevant maximum fine £500,000. Having rejected the submission the number of players involved and the potential incitement of the crowd was solely attributable to Chelsea F.C. and noted that the mitigating circumstances in the case involving the Liverpool case in March 2024 had not been identified, the Commission, *because of the poor E20 disciplinary record*, imposed a fine of £150,000 which was reduced to £125,000 having given credit to NFFC for its admission of the Charge.

43. The second point is that by its written submissions, The FA accepts that the appeal should be allowed in one respect. That is because the credit given to NFFC's penalty for admitting the Charge amounted to 16.7% of the starting point (namely before credit was applied), whereas that given to Chelsea for admitting its charge amounted to 20% of the starting point. In the Written Reasons, the Commission applied 'credit' for the admission to Chelsea F.C, but 'limited credit' to the admission of NFFC. The FA accept that NFFC should also be given a 20% credit and that no reasonable body, suggest The FA, could have done differently.

44. Whilst the Appeal Board, if it is being suggested, are far from convinced that a particular percentage discount of 20% has to applied in every case for an admission and we would not wish it to be thought that we are sanctioning such an approach for every case, in the present instance, where the admission was made by both parties at the earliest opportunity and was in respect of charges arising from exactly the same

set of facts, we can see no reason for a different credit to be applied, nor do we think the credit can properly be described differently between the parties. In such circumstances, the Appeal Board is prepared to accept what The FA has suggested and apply a 20% credit for the admission to the sanction imposed on NFFC, mirroring the credit given to Chelsea F.C.

45. We shall refer to the mathematics of this, once we have referred to the next point.
46. The above point falls under the ground of appeal advanced under Regulation 6.3, namely that the Commission made a decision which no reasonable Commission could have made. In addition, in the Appeal Board's view a second, relatively minor, point is also made out under this ground of appeal.
47. As its recited above, in its Written Submissions to the Commission, NFFC stated that *"it regrets and sincerely apologises for what occurred"*. However, in paragraph 33 of their Written Reasons the Commission determined that an '*aggravating factor*' in the case was NFFC's 'lack of contrition'.
48. The Appeal Board notes that in its submissions to us The FA has cojoined contrition with accountability and sought to argue that the reference to a lack of contrition equates, in essence, to NFFC's failure to accept responsibility for its part in the mass confrontation.
49. Purely, on the accountability point, by way of example, the Appeal Board is quite satisfied that the Commission was correct to reject, in paragraph 30 of the Written Reasons, NFFC's submission (found at paragraph 4.1 of their submissions to the Commission) that the number of players involved, and the potential incitement of the crowd were *solely* attributable to Chelsea players.
50. However, in the Commission's view failing to take responsibility (or accountability) is not necessarily the same thing as a lack of contrition. Whilst this may have been what the Commission intended to refer to, if it was, that is not clear from the Commission's Written Reasons. We consider the benefit of the doubt should fall in favour of NFFC. If the Commission did consider the failure to take responsibility to be an aggravating feature it could have, but did not, say so. Instead, in circumstances where the Commission actually found a 'lack of contrition' to have been an 'aggravating feature', given there was an apology and expression of regret, we consider that the Commission was wrong.

51. Considering the impact of this point on the level of the sanction is not straightforward. Importantly, although identified as an aggravating feature, we do not consider it was a point of particular significance. An aggravating feature does not set the level of the fine but instead effectively operates as an uplift in setting the starting point before, in this case, the credit for the admission is applied. It was clearly of far more importance to the Commission, rightly in the Appeal Board's view, that there was significant aggravation caused by the very poor disciplinary history of NFFC in E20 offences, especially in circumstances where a £75,000 fine had been imposed (against a then maximum fine of £250,000) just months before (which increased the maximum fine available to the Commission to £500,000).
52. When considering the Written Reasons, we note that after the reference to the lack of contrition, the Commission said: "*There has been no evidence put forward to the Commission to demonstrate that the club are addressing what is now becoming a serial problem*". In the Appeal Board's view, this is a reference back to the very poor E20 disciplinary record.
53. Whilst we consider that the lack of contrition can only have been considered by the Commission as a relatively minor point of aggravation, we think it is appropriate to adjust the sanction for what we consider to be a wrong reference to a lack of contrition *as an aggravating factor* given the apology and expression of regret.
54. In all the circumstances, we consider that it is appropriate and proportionate, disregarding this as an aggravating feature, to consider that the sanction would have been a starting point (before the application of the admission credit) of a fine of £140,000 instead of £150,000. As a check and balance to £10,000 being an appropriate adjustment we note that in applying the credit for the admission, which is a significant matter, the credit for the admission at the first opportunity (assuming a starting point of £150,000) amounts to £30,000.
55. Thus, it follows, that in all the circumstances we consider that had the Commission not erred in finding, as an aggravating feature, the lack of contrition, it would have applied a starting point of £140,000.
56. It also seems to us that it is then correct to apply the 20% credit for admission of the Charge, in parity with the credit given to Chelsea F.C, to that starting point meaning that the sanction is reduced to £112,000.

57. For reasons we shall proceed to explain, having carefully considered all the points advanced we have rejected all other points raised in support of the grounds of appeal advanced. In explaining why we shall seek, for identification purposes, to identify the points as they are summarised in paragraph 38 of these Written Reasons above.
58. As to paragraph 38(1)(a), we have accepted the lack of contrition point, albeit in circumstances of being a ground under Regulation 6.3 and not 6.1.
59. We turn to the suggestion the Commission was wrong to determine that “*NFFC have failed to accept any responsibility for their role in the incident, instead seeking to apportion all blame to Chelsea F.C.*”. Considering this as a different argument than those relating to admission of the Charge and the contrition shown, with which we have already dealt, but instead considering this as a point of ‘responsibility’ or ‘accountability’, we have already referred to our view that the Commission was correct to reject the submission made at paragraph 4.1. of NFFC’s submissions to the Commission that, as an aggravating feature, the number of players involved, and the potential incitement of the crowd, were *solely* the responsibility of Chelsea players.
60. That point was referred to in paragraph 30 of the Commission’s Written Reasons. In so far as, at paragraph 32, the Commission stated more broadly that NFFC had failed to accept any responsibility for its role in the incident “*seeking to apportion all the blame to Chelsea F.C.*”, which was not accepted by the Commission, the Appeal Board, in reviewing the decision, considers this was a finding the Commission was entitled to make having regard to the margin of appreciation to be afforded to the Commission and in circumstances, as already explained, where it found that the submissions on both clubs were not persuasive.
61. As to the point identified in paragraph 38(1)(b) of our Written Reasons above, we think it is simply wrong to say, as NFFC has, that Chelsea F.C. was given a credit for saying that its manager addressed the players after the match on the issue of the mass confrontation and had organised a meeting on the point on the players’ return from international duty, whilst no credit was given for NFFC stating that it had reminded its players of their obligations under rule E20.
62. As identified above, the only ‘credit’ given by the Commission to either club was for the admission of their respective charge. Further, in so far as the Commission referred in its Written Reasons, at paragraph 32, to the point being a ‘cursory mention’ by NFFC, this was said in the context of the Commission considering the recurring behaviour

given NFFC's E20 disciplinary record, and the lack of any evidence as to how NFFC had addressed that issue which in that context, in the Appeal Board's view, was an entirely legitimate comment to make.

63. Next is the point identified at paragraph 38(1)(c) above that the Commission failed to apply a consistent approach to both clubs in respect of their respective apologies and remedial actions. We have already dealt with the treatment of the apology and the allegation of a difference in approach on the 'credit'. We see nothing in this point as a stand-alone allegation. Indeed, we consider it was intended as a submission drilling down on the points already made.
64. We can deal with the points at 38(1)(d) and (e) above together. The essential point, which was fleshed out in NFFC's written submissions to us based on what was said to be the Commission's interpretation of the evidence and the Club's interpretation of the evidence, is that the Commission was wrong to find that Mr Williams' foul was the catalyst for the altercation. Instead, says NFFC, it was the action of Chelsea players, particularly Mr Colwill.
65. We reject this as a submission that NFFC did not receive a fair hearing or, indeed, that the Commission reached a decision which no reasonable Commission could have reached. The issue is not one of what we would have found, but whether the Commission fell outside of the margin of appreciation accorded to it. We find it did not. In stating this we repeat the points we have made in outlining our understanding of the Commission's approach in this matter at paragraph 42, in particular 42(3), above.
66. Having made it plain that the level of culpability was not a finding the Commission was making, in the context of a paper hearing where it considered the submissions from both clubs were not persuasive, in our view the Commission was entitled to find the Catalyst for the incident was Mr Williams' foul to which "*the reaction of both sets of players followed*" (as it found in paragraph 24 of its Written Reasons).
67. This was not, in the Appeal Board's view, ascribing any level of culpability to Mr Williams or NFFC. Rather, it is a statement of fact the Commission was entitled to make, which, the Appeal Board notes, mirrors the Match Referee's Extraordinary Incident Report, which itself did not refer back to what NFFC identify as the 'more egregious shove' of Mr Cucurella on Mr Elanga, which we note was not given as a foul at the time.

68. There is a further reference to Mr Williams' foul in paragraph 30 of the Commission's Written Reasons. This reference, in the Appeal Board's view, to the fact of Mr Williams' foul being the catalyst for the incident has to be considered in its proper context: namely the Commission's rejection in that paragraph of its Written Reasons of the submission of factors '*solely*' attributable to Chelsea players.
69. Importantly, the Appeal Board does not accept that there is any suggestion in the Commission's Written Reasons that the foul of Mr Williams' in any way 'justified' the reaction of the Chelsea players. That is evident from the Commission's statement in paragraph 26 of its Written Reasons that it did not accept that Mr Colwill's actions were simply to defend his teammate and manager.
70. Equally, the Appeal Board wholly rejects the suggestion that the Commission found either club's players to be subject to a higher standard of culpability than the other. That is evident from the express finding, in paragraph 24, that "*there was no finding as to the level of culpability of both sides.*"
71. The next point, summarised in paragraph 38(1)(f) above, relates to the Commission's treatment of NFFC's reference to the E20 decision against it earlier in 2024 arising from a match against Liverpool F.C. which decision triggered the provision in the guidelines increasing the maximum potential fine to £500,000.
72. Ultimately, the Appeal Board agree with The FA's submission presented to the Commission, namely that whilst the breach of Rule E20 arising from that Match was in different circumstances, the misconduct remains of a similar nature which equates to a breach of the same Rule, namely E20.
73. NFFC advances this point in support of the argument that it was not given a fair hearing because the Commission said NFFC had failed to set out any of the alleged 'strong mitigation circumstances' referred to, such that the Commission was not in a position to consider the merits of that mitigation.
74. In fact, as recited above, NFFC said in its written submissions to the Commission that "*The sanction of £75,000 in that case reflected the strong mitigating circumstances which applied to that charge.*"

75. In its submissions to us, NFFC says that the mitigating circumstances referred to were those set out in NFFC's submissions to the Commission, namely where it said the charge arose from staff surrounding a Match Official *"who had objectively failed to apply the laws of the game correctly in a crucial fixture, despite being warned of his impending mistake by the fourth official."*
76. If that was what was intended to be the reference to the 'strong mitigating circumstances', the Appeal Board wholly understands why the Commission was confused. In the Appeal Board's view, we consider that this statement more naturally attaches to the prior sentence in NFFC's submissions to the Commission, namely: *"However, this incident was very different both in terms of the misconduct itself and the circumstances surrounding it and should therefore be distinguished by the Regulatory Commission."*
77. The Appeal Board reject the suggestion the onus was on the Commission to seek out the Written Reasons and consider them. However, we have sought out the Written Reasons in the decision referred to dated 23 March 2024. As we understand that decision, the mitigation argument was rejected at paragraph 25.
78. Having identified that we wholly understand why the Commission were confused in thinking there were specific mitigation factors in play in the earlier decision, now understanding that the point was one relating to the difference in the circumstances, as we have stated we agree with The FA that the misconduct remains of a similar nature, namely a breach of Rule E20. The Appeal Board considers there is nothing in this point which assists NFFC in arguing it did not receive a fair hearing, nor, indeed, that the Commission reached a decision which no reasonable Commission could reach.
79. Overall, and having regard to the summary point referred to in paragraph 38(1)(g) above, for the reasons stated above, we reject the submission the points cumulatively evidence that NFFC did not receive a fair hearing.
80. We turn to the arguments advanced under Regulation 6.3, summarised at paragraph 38(2) above, namely that the Commission came to a decision which no reasonable Commission could have reached. In so far as NFFC's Notice of Appeal advances this ground *"In light of the above matters"* it relies on the points advanced in support of the argument NFFC did not receive a fair hearing.

81. We have already identified two points on which we allow the appeal on this ground. Additionally, we have reconsidered all other points advanced in support of the suggestion that NFFC did not receive a fair hearing, which we have rejected on that ground, but in the context of whether they support a suggestion that the Commission reached a decision which no reasonable Commission could have reached. For the same reasons as expressed above we conclude they do not.
82. That leaves the appeal against sanction, under Regulation 6.4, which is summarised in paragraph 38(3) above.
83. As identified in paragraph 42 of these Written Reasons above, the Appeal Board is quite satisfied that the Commission adopted the same approach to sanction for NFFC as it did with Chelsea F.C.
84. However, given the very specific circumstances applicable to NFFC, namely the fact this was the sixth rule E20 breach inside 2 years and 8 months, allied to fact of this being the second E20 breach within a 12 month period, thereby engaging the Essential Information for Clubs guidelines and the maximum fine being £500,000, it is wholly inappropriate in the Appeal Board's view to draw any comparison to the quantum of the sanction imposed on Chelsea F.C. even though the sanctions relate to the same incident.
85. The Appeal Board is quite satisfied that it was appropriate for the Commission to consider that the maximum fine was £500,000, given the E20 breach arising in the game against Liverpool just 7 months earlier. Equally, whilst a previous breach of Rule E20 in the past 12 months has that impact on the maximum fine identified in the guidelines, the Appeal Board is also wholly satisfied that the Commission was, quite separately, entitled to have regard when considering sanction overall to have regard to the totality of the E20 offending it referred to.
86. NFFC also suggests, in appealing the sanction, that the Commission failed to appropriately consider the Club's previous efforts to address conduct issues and the practical impact of this.
87. In the Appeal Board's view this is simply not a fair criticism of the Commission in circumstances where NFFC did not present evidence of such efforts to the Commission. The highest that it can be put for NFFC, based on its written submissions to the Commission, is that in paragraph 2.1.5. it suggests that its players acted with

considerable restraint in the circumstances described, which it said was reflective of the “*steps it has taken*” to address the criticism in a previous E20 decision in January 2023, before adding that NFFC had reminded its players of their obligations under Rule E20. However, that submission begs the question of: what steps have been taken? They are simply not identified and, as such, not visible to the Commission. Nor, we might add, are they visible to us.

88. In such circumstances, the Appeal Board rejects the submission that the Commission failed to appropriately consider NFFC’s previous efforts to address conduct issues.

89. NFFC also makes submissions on sanction which essentially refer back to whom it holds responsible for the confrontation.

90. We reject the suggestion that the Commission has ignored or misinterpreted the facts or evidence in the case. Its approach and findings, for the reasons we have identified above, were within the margin of appreciation afforded to the Commission.

91. Equally, the Appeal Board is satisfied that the sanction is one which, given the margin of appreciation afforded to the Commission, it was entitled in all the circumstances to impose.

Outcome

92. For the reasons identified, we allow the appeal on the two identified specific grounds, under the umbrella of being decisions which no reasonable Commission could have come to, namely:

92.1. As supported by The FA that the credit for admitting the Charge should be the same percentage as that granted to Chelsea F.C., given that both clubs admitted the charges against them at the earliest opportunity and the charges both arose from the same facts; and

92.2. The finding, as an aggravating feature, that there was a lack of contrition on NFFC’s part, when in its written submissions to the Commission it had said that “*it regrets and sincerely apologises for what occurred.*”

93. Otherwise, the appeal is dismissed.

94. The consequence is that pursuant to Fast Track 7, Regulations 18.1 and 18.2 we allow the appeal in part and reduce the sanction imposed by the Commission from £125,000 to £112,000.

95. This decision is final and binding pursuant to Fast Track 7, Regulation 17.

Costs

96. In its Written Submissions to the Appeal Board at paragraph 7.1. The FA has said that in the event the Appeal is unsuccessful, the Appeal Board is invited to order NFFC to pay the Appeal Board's costs.

97. We decline to do so. NFFC has succeeded in part, including, effectively, by consent on one point. The appeal was therefore, in the Appeal Board's view, always properly brought. However, it has only succeeded in part. The appropriate order on costs, in the Appeal Board's view, is that there is no order as to costs.

Christopher Stoner KC (Chair)

Sally Davenport

Tony Agana

Signed by the Chair on behalf of the Appeal Board

13 October 2025.