

IN THE MATTER OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

MANCHESTER CITY FOOTBALL CLUB;
CHELSEA FOOTBALL CLUB.

WRITTEN REASONS AND DECISION OF
THE INDEPENDENT REGULATORY COMMISSION FOLLOWING THE
HEARING
ON 13 DECEMBER 2016

Background

1. These are the written reasons for a decision made by an Independent Regulatory Commission which sat on 13 December 2016.
2. The Regulatory Commission members were Mr G Farrelly, Chairman, Mr U Onwere and Mr I Odogwu.
3. Mr P McCormack of the FA Judicial Services Department acted as Secretary to the Regulatory Commission.

Charges and Replies

4. By letters dated 5 December 2016, The Football Association (“The FA”) charged Manchester City FC and Chelsea FC respectively with misconduct for a breach of The FA Rules pursuant to Rule E20 (a) in respect of their Premier League fixture on 3 December 2016.

5. For completeness, the Rule E20 states that –

Each Affiliated Association, Competition and Club shall be responsible for ensuring:

(a) that its directors, players, officials, employees, servants, representatives, spectators, and all persons purporting to be its supporters or followers, conduct themselves in an orderly fashion and refrain from any one or combination of the following: improper, violent, threatening, abusive, indecent, insulting or provocative words or behaviour, (including, without limitation, where any such conduct, words or behaviour includes a reference, whether express or implied, to any one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability) whilst attending at or taking part in a Match in which it is involved, whether on its own ground or elsewhere; and

(b) that no spectators or unauthorised persons are permitted to encroach onto the pitch area, save for reasons of crowd safety, or to throw missiles, bottles or other potentially harmful or dangerous objects at or on to the pitch.

6. It was alleged that in or around the 95th minute of the fixture, both Manchester City FC and Chelsea FC failed to ensure that its players conducted themselves in an orderly fashion and/or refrained from provocative behaviour.
7. The FA designated both as a Non Standard Case due to:
 - (i) The involvement of technical area occupants and/or stewards;
 - (ii) The proximity of the incident to the crowd; and
 - (iii) Actual and/or potential incitement of the crowd.
 - (iv) Chelsea FC also had a fourth element to make their charge Non Standard, namely they were charged with breaches of FA Rule E20(a) following fixture against West Bromwich Albion FC on 13 January 2016 and Tottenham Hotspur on 2 May 2016.
8. The Charges were consolidated pursuant to Regulation 3.3 of the Disciplinary Procedures Regulations of The FA Handbook Season 2016-2017. It was stated that the proceedings would be conducted together and the Charges would be determined at a joint hearing.
9. Manchester City FC and Chelsea FC both admitted their respective Charges on 8 December 2016 and requested the opportunity to attend a Regulatory Commission for a Personal Hearing.

Hearing

10. The following is a summary of the principal submissions provided to the Regulatory Commission. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or submission, should not imply that the Regulatory Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Regulatory Commission has carefully considered all the evidence and materials provided in connection with this case.
11. Manchester City FC were represented by Mr Nick Carter, Club Legal Director. Mr Mark Bradley, Football Administrative Executive at Manchester City FC was also in attendance. Chelsea FC were represented by Mr Jim Sturman QC. Mr David Bernard, Director/Club Secretary and Mr Tristan Russell, Legal Counsel at Chelsea FC was also in attendance.
12. Mr Elagab opened the cases for The FA and noted these cases were dealt with under the 'Schedule B' (Fast Track) Disciplinary Procedures. Mr Elagab explained that the Charges had been admitted by both Clubs. He then led the Regulatory Commission through the main points, these points were; the players' conduct, the mass confrontation and protecting the integrity of the game. The Regulatory Commission

viewed the video evidence in detail. Mr Elagab remarked that The FA to some degree understood the players' reactions but a key point of concern in this case was; the fan involvement, and the fans being close to the field of play.

13. Mr Carter offered significant mitigation on behalf of Manchester City FC and openly explained what he perceived to be the circumstances behind their breach. There had been additional cross-disclosure correspondence submitted based on disagreements the two Clubs had in relation to their interpretation of the events. He explained that the Club had a previous unblemished record. His submissions were of assistance to the Regulatory Commission.
14. Mr Sturman then offered mitigation on behalf of Chelsea FC and openly explained what he perceived to be the circumstances behind their breach. Again, the additional cross-disclosure correspondence was acknowledged and Mr Sturman submitted his position and submissions into the differing interpretation of the events.
15. Mr Sturman accepted that the Club would be punished more severely based on their previous record. This could not be disputed but he submitted that the culture of the Club had changed under the new manager. His submissions were of assistance to the Regulatory Commission. He submitted that this was not the worst case of this nature, there was no sustained aggression and the incident did not last too long. There was no disrespect shown to the referee and this incident was less serious than previous infractions.
16. One of the critical and challenging questions for the Regulatory Commission was the level of culpability of those involved. The Regulatory Commission was not unanimous as to which party actually caused the mass confrontation. There was considerable deliberation as to whether the Sergio Aguero tackle was the primary instigator of the incident or whether the Nathaniel Chalobah push was responsible. The majority decision was that whilst the Nathaniel Chalobah push was the catalyst for the escalation, the nature of the tackle was the principle instigator.
17. As to the discussion on the culpability of the respective parties and where it lay, in assessing the subsequent incidents, the Regulatory Commission concluded that when viewed globally both parties were equally culpable. This was a high profile, top of the table clash with a worldwide audience.
18. The Regulatory Commission took into account that Manchester City FC had no previous record.
19. The Regulatory Commission considered previous sanctions imposed on Chelsea FC with regard to breaches of Rule E20 which are detailed as follows:
 - (1) On 23 October 2011, the Club was fined £20,000 for an incident that occurred in a fixture v Queens Park Rangers;

- (2) On 11 February 2015, the Club was fined £30,000 for an incident that occurred in a fixture v Everton Football Club;
- (3) On 19 September 2015, the Club was fined £40,000 for an incident that occurred in a fixture v Arsenal Football Club;
- (4) On 24 October 2015, the Club was fined £50,000 for an incident that occurred in a fixture v West Ham United Football Club;
- (5) On 13 January 2016, the Club was fined £65,000 for an incident that occurred in a fixture v West Bromwich Albion Football Club; and
- (6) On 2 May 2016, the Club was fined £290,000 for an incident that occurred in a fixture v Tottenham Hotspur Football Club.

20 In relation to sanction, the Regulatory Commission were drawn to the Guidance for Participants and Clubs 2016-17. The Guidelines state that – *“in non-standard cases where a breach has been admitted or found proven, a Regulatory Commission may impose sanctions as high as those shown in the guidelines below...”*

21 In addition, the Guidelines state – *“where appropriate to do so, a Regulatory Commission may double the above sanctions for any subsequent breach which occurs either within the same fixture or in any previous fixture within the preceding 12 months.*

Please note that a Regulatory Commission may exceed the above sanctions in circumstances where it deems appropriate at its absolute discretion”.

22 The Regulatory Commission took into account when making its decision that this was the first incident of this nature involving Manchester City FC. In arriving at their sanction decision the Commission found this to be a strong mitigating factor and credit was given by reduction in the overall sanction.

23 The Regulatory Commission also took into account when making its decision that this was the seventh incident of this nature involving Chelsea FC. The Commission considered this a extremely aggravating factor which was reflected with an increase in their financial penalty.

24 Finally, the Regulatory Commission also had regard to the fact that the Charges were admitted by both Manchester City FC and Chelsea FC at the earliest opportunity. Credit was given for these admissions by way of reduction in the overall sanction the Commission were originally minded to impose having noted all the other applicable considerations.

Conclusion

25 Having carefully considered all the relevant factors, and having carefully considered the submissions made on behalf of Manchester City FC and Chelsea FC, the Regulatory Commission has unanimously decided to impose the following sanctions which the members consider fair and proportionate:

- (i) Manchester City FC is fined the sum of £35,000.
- (ii) Chelsea FC is fined the sum of £100,000.
- (iii) Both Clubs must pay a contribution of £500 each towards the costs of the Commission.

26 This decision is subject to the relevant Appeal Regulations.

Mr G Farrelly, Chairman

Mr U Onwere

Mr I Odogwu

15 December 2016