

FOOTBALL ASSOCIATION REGULATORY COMMISSION

In the matter of disciplinary proceedings brought pursuant to the Football Association Rules for the season 2016-2017

THE FOOTBALL ASSOCIATION

- and -

JOSEPH BARTON

Commission: Christopher Quinlan QC (Chairman)
Alan Hardy
Marvin Robinson

Mark Ives, Head of Judicial Services & Commission Secretary

Date: 21 April 2017

Appearances: *Football Association*
Christopher Coltart QC, Counsel for the FA
Yousif Elagab, Regulatory Legal
Amina Graham, Head of Regulatory Advocates Department

Player

Joseph Barton ('the Player')
Nick De Marco, Counsel
Karim Bouzidi, Solicitor
Caroline Hrabí
Eddy Jennings, Player's Representative
Bradley Orr, Player's Representative

Others

Neil Pugh, FA Investigations Officer, observing
Matt Williams, Head of Football & Governance, Burnley FC, observing
Nick Cusack, PFA Union Representative, observing

REASONS OF THE REGULATORY COMMISSION

A. INTRODUCTION

1. The Regulatory Commission ('the Commission') was appointed to hear and determine proceedings brought against Joseph Barton ('JB/the Player') following his being charged with Misconduct arising out of his placing 1260 bets on professional football matches over a period of 10 years.
2. The Player admitted Misconduct. The primary issue for the Commission was sanction.
3. The hearing took place at Wembley Stadium on 21 April 2017. Submissions finished at approximately 18.45. Necessarily, the Commission reserved its decision. This document constitutes its final reasoned Decision, reached after due consideration of the evidence, submissions and the other material placed before it.
4. This is necessarily a summary. The Commission considered all the material placed before it and the written and oral submissions advanced on behalf of The FA and the Player. The fact that specific reference is not made herein to any part or aspect thereof does not mean it was not considered and given due weight.

B. THE PROCEEDINGS

(1) Charges

5. At all material times the Player was a professional footballer and was bound by the Rules of the Football Association ('the Rules'). Part E of the Rules is headed "Conduct". By Rule 1 the Football Association ('FA') may act against a participant in respect of any "Misconduct" which includes a breach of "the Rules and Regulations of The Association and in particular Rules E3 to 28" (Rule E1(b)).

6. The relevant Rule is Rule E8. In very general terms the Rule concerns and prohibits betting on football matches. Its ambit has been extended during the period covered by the charges ('the relevant period'). The material changes are explained below.

7. The Player was charged by letter dated 22 December 2016 ('the charging letter'). The charging letter alleged:

Misconduct under FA Rule E1(b) in respect of 1260 bets placed on football matches between 26 March 2006 and 13 May 2016.

It is alleged that each bet is a separate breach of FA Rule E8 (as applicable). The particulars of each charge are set out below at Appendix A.

8. The particulars of the charges are set out in Appendix A to this Decision. The charging letter required him, *inter alia*, to complete the required form by 5 January 2017, to indicate whether he wished to admit the charges and whether he wanted a personal hearing. He replied asking for a personal hearing and in due course the Commission was appointed.

9. In his plea on 31 January 2017 the Player accepted all of the charges against him. In his Formal Response dated 14 February 2017 ('the Player's') his Counsel asserted thus: "[he] does not seek, and has not sought to minimize his culpability for his conduct which was a clear breach of the Rules, over a long period of time".

(2) Preliminary Issues

(a) Directions

10. The parties agreed draft Directions. The Commission Chairman approved and issued them on 2 February 2017. The substantive hearing was fixed for 8 March 2017.

(b) Disclosure

11. On the same occasion (2 February), the Commission Chairman heard oral submissions in relation to the Player's disclosure application by way of a telephone conference. The Player sought disclosure of the following:

- a. The minuted item of the March 2011 FRA minutes that reference or record the approval of the 2011 Guidelines, including any commentary on the same, and/or any other reference to this item in the minutes.
- b. The complete document or documents that contain the 2011 Guidelines.

12. The FA resisted the application and opposed disclosure.

13. During the course thereof the parties made oral submissions, in addition to written ones filed in advanced thereof.

14. The parties agreed on the following:

- a. The procedure: the material should be placed before the Chairman, who would consider it in light of the parties respective submissions
- b. The correct test to be applied by the Chairman when reviewing the material: anything therein which might reasonably be considered capable of undermining the FA case against the Player or of assisting his case should be disclosed.

15. Adopting that approach, on the 2 February 2017 the Commission Chairman ruled (so far as is material) thus:

"On the basis of the issues as I understand them, I direct that the following should be disclosed to the Player:

(1) Item 6(i) on the FRA Agenda for 7/3/11 was "FRA to review draft of Betting Rules for submission to Council (attached at E)"

(2) From the Minutes of 7/3/11 meeting, it is clear that the content of attachment E ('The Betting Rules') was discussed during the course of that meeting.

(3) The Minutes for 7/3/11 do not expressly state that the Betting Rules was approved (with amendment or otherwise).

(4) The Minutes of the 11/4/11 FRA meeting record at "Matters Arising" from the Minutes of 7/3/11, the following, "...noted that the wording of the betting Rules should be attached to the minutes to demonstrate the formal recording of their approval (attached at appendix 1)".

(5) I infer from that entry in the 7/4/11 Minutes that the Betting Rules were approved at the 7/3/11 meeting. I direct The FA to confirm or correct that inference.

Other than the above, I declined to make any further disclosure. There is nothing therein which might reasonably be considered capable of undermining the FA case against the Player or of assisting his case.

I shall keep the matter and the documents under review."

16. On the 3 February 2017 the Player's Counsel filed what he described as an "Urgent Application". Therein he said he was "disappointed" with the Commission Chairman's decision. He sought immediately (i.e. by close of business that day) disclosure of the material requested or a concession in terms he proposed and/or asked The FA to invite the Chairman to order such full disclosure by 16.00 that day or otherwise list the preliminary hearing before a Full Tribunal, "adjourning the main hearing and all further directions to until 7 days after the conclusion of that preliminary hearing". He ended his application thus: "All our client's rights to appeal and pursue FA Rule K arbitration are expressly reserved".

17. On the 5 February 2017, the Commission Chairman ruled as follows:

"1. I have read the 'Urgent Application' and response from the FA, both received on Friday. On Thursday 2/2/17 and by consent, I dealt with the Player's disclosure application as a Preliminary Application. I ruled upon it. I consider that ruling on disclosure to be "final and binding" pursuant to Regulation 4.2(a) (p346 FA Handbook).

2. As for the application for another Preliminary Application on "the issue of when the Guidelines (not the Rules) were adopted",

(1) Reading the whole of para 4 of my 'Disclosure Ruling' I thought it sufficiently clear (and remain of that view) that the Guidelines were part of the material before the meeting. Let me confirm: the Guidelines were part of the material before the 7/3/11 and 7/4/11 Meetings.

(2) I see no merit in the application and pursuant to my power under Regulation 4.2(a) dismiss it summarily.

(3) The timetable will remain as set."

18. On the 7 February 2017 Mr De Marco produced another document. This was entitled "CLARIFICATION OF THE STATUS OF THE '2011 SANCTION GUIDELINES'". He ended that document by stating:

"Mr Barton shall proceed in this case on the basis set out above, and in accordance with the current timetable. He reserves all of his rights, including the right to appeal and/or bring a Rule K arbitral challenge to the legality of the Commission's determinations, if the Commission later treats the 2011 Guidelines as having any force in 2011, or of being approved at the March 2011 meeting, or if The FA submit the same despite the Chairman's clear rulings."

19. He asked for it to be sent, to the Commission, the Chair of the FA Judicial Panel of The FA, and the FA's "Head Solicitor".

20. In an email on 9 February 2017 Leading Counsel for the FA (by now instructed and who appeared before the Commission in due course) asserted as follows:

- a. *"I am quite satisfied that the Guidelines were properly adopted and that no point arises in relation to this issue. I note from your recent document dated 7th February that you are still concerned by the references in the documents to the 'Betting Rules' rather than to the Guidance. I can see how this is confusing, but it is a red herring I'm afraid. In relation to the meeting on 7th March, the*

specific pack of documents accompanying the 'Betting Rules' agenda item included also the Guidelines, which were therefore put before the FRA. Identical observations arise in relation to the meeting on 11th April, when the document in question also incorporated both the new Rules and also the Guidelines. It was that document which was approved.

- b. *There is nothing in the documents which could assist your case or undermine the FA's. If it was otherwise, I would of course let you know".* That accorded with the Chairman's own independent assessment.

21. For the avoidance of doubt (if there be any) the Commission Chairman kept the issue and the documentation under review. However, in light of our approach to the Guidelines (as explained in paragraphs 107-120 below) the matter fell away, – as Mr De Marco ultimately recognised it might.

(c) Composition of the Commission

22. The substantive hearing was fixed for 8 March 2017. On 7 March the Player applied to adjourn the hearing upon being told that the FA's witness Blake Lewendon ('BL') was not fit to attend the hearing (in person or by any other means). His Counsel submitted that it was necessary for him to be able to question him. The Chairman acceded to that application, which the FA opposed.

23. On 24 March 2017, the Commission Chairman conducted a Directions hearing with the sole purpose of fixing a date. It is unnecessary to add to the length of this document by recording the many emails and submissions devoted to what should have been the straightforward matter of fixing a date. It proved impossible without a hearing.

24. Thereafter the Commission Chairman fixed the hearing for 6 April 2017, one of the dates contended for by The FA. It was a date said to be inconvenient for the

Player's solicitor¹. Thereafter, the Player's Counsel submitted a wide-ranging document seeking several things including an application for the Chairman (1) to reconsider that hearing date and (2) recuse himself. Not for the first time in these proceedings his Counsel referred to other remedies said to be available to him (if the said order/direction was not changed in line with his application).

25. As for the hearing date, the FA amended its position. Without conceding that there was merit in any of his submissions that the 6th April was neither viable nor fair, it was prepared to accede to the Player's Counsel's request for the hearing to be on a different date, namely 21 April. The Commission Chairman granted the Player's application and fixed it for that date.

26. As for the application for the Chairman to recuse himself. The basis was a submission that his conduct of this case "*discloses to the reasonable bystander a bias against Mr Barton*". The FA responded thus: "*any suggestion of apparent bias, meanwhile, is completely unfounded*".

27. The Commission's Chairman considered the Player's application and refused it. It was, in his judgment and for reasons he set out in writing, utterly without merit. The Chairman left it to the Player's Counsel to pursue or withdraw it. He chose to do neither, "*without waiving the rights that Mr Barton as any other Participant must have*".

28. At the start of the substantive hearing both parties stated in terms that neither had any issue with the composition of the Commission or with any member of it.

29. It is however, important to emphasise, not least for the Player's benefit, that the fact the application was made had absolutely no bearing upon the Commission's determination of the appropriate sanction for his admitted Misconduct. The two are quite separate issues and remained so in the Chairman's mind and in the judgment of the Commission.

¹ For professional reasons

(d) Substantive hearing

30. The Commission heard 'evidence' and submissions on 21 April 2017. At the start, a further preliminary point was raised. The Player sought disclosure of a draft version of a decision of another FA Regulatory Commission in a different betting case. It was said to be relevant. With the appropriate consents in place and on terms, the disclosure was made. The draft decision (anonymised herein as *P-W*) was provided to the parties.
31. The hearing started at 10.45 and submissions concluded at approximately 18.45. At that stage, the Commission reserved its decision.

C. MISCONDUCT

(1) **Breach of FA Rules**

32. The Player admitted Misconduct. Joseph Barton is a professional footballer. He was born on 2 September 1982. He has had a long and successful professional career playing for Premier League football clubs as well as in France and Scotland. He is presently registered with Burnley FC. He enjoys a high profile within football and public profile beyond.
33. During the 2005/06, 2006/07, 2007/08 & 2008/09 seasons, FA Rules prohibited Participants from being able to bet on the result, progress or conduct of a match or competition in which the Participant participated, or in which the Participant had any influence, either direct or indirect. The Rules were extended for the 2009/10 season to include matches or competitions in which the Participant had participated in that season.

34. On 1 August 2014, the FA betting Rules changed to introduce a total prohibition on Participants from betting on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world, including, for example and without limitation, the transfer of players, employment of managers, team selection or disciplinary matters.

35. Save for the 2012/13 season, he has been a professional footballer under FA jurisdiction from 5 July 2001 to 30 June 2016.

36. 2005/06 Season

- a. At the relevant time the Player was registered as a player with Manchester City FC ('MCFC'). MCFC competed in the Premier League, FA Cup and Football League Cup.
- b. During this season the Player placed a total of 35 bets on competitions in which he was a participant contrary to Rule EB. In summary those best are as follow
 - i. All 35 bets were on PL matches
 - ii. Stake - £1,559.94, with winnings of £461.55
 - iii. He placed 4 bets on 2 MCFC matches, and played in the full 90 minutes in 1 of them.

37. 2006/07 Season

- a. The Player remained registered with MCFC.
- b. He placed a total of 20 bets on competitions in which he was a participant contrary to Rule E8. None was placed on a MCFC match.
- c. The total stake was £1238.81; he lost £662.75.

38. 2007/08 Season

- a. At the commencement of the 2007/08 season and for the duration of the relevant bets, JB was registered as a player with Newcastle United FC (NUFC).

- b. He placed a total of 12 bets on competitions in which he was a participant contrary to Rule E8. None was placed on a NUFC match.
- c. The total stake was £443; he profited in the sum of £241.24.

39. 2008/09 Season

- a. The Player remained registered with NUFC.
- b. He placed a total of 82 bets on competitions in which he was a participant contrary to Rule E8. He placed 17 bets on 6 matches involving NUFC. He did not play in any of those matches.
- c. The total stake was £5,450.42. he lost £2,431.91

40. 2009/10 Season

- a. The Player remained registered with NUFC.
- b. He placed a total of 58 bets on competitions in which he was a participant contrary to Rule E8. His total stake was £6,705.05 and profit £971.25.
- c. He placed 2 bets on 2 matches involving NUFC, but played in neither.

41. 2010/11 Season

- a. The Player remained registered with NUFC.
- b. He placed a total of 197 bets on competitions in which he was a participant contrary to Rule E8. His total stake was £30,796.06, with a loss of £7,566.87.
- c. He placed 5 bets on 3 matches involving NUFC. He was in the starting XI and played the full 90 minutes in one of them. He placed two bets each backing NUFC to win.

42. 2011/12 Season

- a. At the commencement of this season and for the duration of the relevant bets, JB was registered as a player with Queen's Park Rangers FC ('QPR').

- b. He placed a total of 153 bets on competitions in which he was a participant contrary to Rule E8. He placed 1 bet on 1 match involving QPR but did not play in it.
- c. The total stake was £31,599.24; he lost £4,963.30.

43. Throughout the 2012/13 season was on loan at Olympique de Marseille and was not registered with a Club under FA jurisdiction.

44. 2013/14 Season

- a. At the commencement of this season and for the duration of the relevant bets, JB was registered as a player with QPR.
- b. He placed a total of 106 bets on competitions in which he was a participant contrary to Rule E8. He placed 4 bet on 2 matches involving QPR but played in neither.
- c. The total stake was £18,174.34 with a profit of £3,106.01.

45. 2014/15 Season

- a. The Player remained registered with QPR.
- b. On 1 August 2014, the FA betting Rules changed to include a total prohibition on Participants betting on any football related matter, anywhere in the world.
- c. He placed a total of 345 bets on competitions in which he was a participant contrary to Rule E8, with a total stake of £65,810.03. He lost £113.94
- d. He placed 9 bet on 4 matches involving QPR. He did not play in any of those matches.

46. 2015/16 Season

- a. At the commencement of this season he was registered as a player with Burnley FC ('BFC').

- b. He placed a total of 253 bets on competitions in which he was a participant contrary to Rule E8, with a total stake of £43,395.90. He lost £4,758.64. None was placed on a BFC match.

47. In paragraphs 72-77 of his first written statement, BL, set out a summary of the Player's bets. There was no issue with that summary:

- a. The total number of bets was 1,260.
- b. They were placed over 10 years.
- c. The total stake of those bets over that period was £205,172.79.
- d. His winnings amounted to £88,196.72
- e. His return was £188,464.50.
- f. Therefore, the Player made a loss of £16,708.29 from this gambling.

48. Therefore, in summary, he placed 42 bets in 20 matches involving teams he was registered with at the time of making the bets. Analysing those 42 bets:

- a. The overall stake on those bets was £5,307.11 and the loss deriving these bets was £3,755.27.
- b. He played in only 2 of those 20 matches in which his team was involved. In neither match did he place a bet on his team to lose that match.
- c. 15 bets were backing his team to lose, the overall stake being £1,688.00, in which he made a loss of £1,199.40.
- d. A further 15 bets were for his team to win, gambling a total of £1,944.50 with a loss of £1,984.50.
- e. The remaining 12 were for a draw or some other result (such as fewer than 2.5 goals being scored).

49. To continue the factual narrative, by a letter dated 24 January 2012 the FA wrote to the Player informing him of reports it had received concerning 2 tweets posted on his Twitter account. The tweets were thus:

Posting at 3.46 pm on 22 January 2012 which states;

"Part 1 of my Manchester double prediction up. Albeit by the skin of ones teeth....."

Posting at 6.01 pm on 22 January 2012 which states;

"Manchester double.....nice. Looking forward to NFL and fancy over 2.5 goals in Malaga/ Barca game."

50. The said letter also informed him of the terms of Rule E8(b) and provided a copy of the full Rule extracted from the FA Handbook. He was invited to respond no later than 30 January 2012. He did so in a letter dated 27 January 2012, the material part of which is reproduced below (paragraph 78). Plainly after that letter he continued placing bets in breach of Rule E8.
51. On 14 September 2016 The FA received an email from Betfair informing it that they believed the Player had breached FA betting Rules. Betfair provided The FA with a spreadsheet of the relevant betting and BL began an investigation.
52. On 21 October 2016 BL informed JB of that investigation and explained that he would wish to interview him in due course. That interview took place on 21 November 2016. His Counsel was present. During the course thereof the Player
- a. Said that he had been betting on football "*from whenever I can remember*". He said he believed he was permitted to bet on football so long as "*you weren't playing in the game...it wasn't your team...*".
 - b. Said he thought new Rules came into force in the 2012/13 or 2013/14 seasons, such that he was prohibited from betting on "*leagues that you're involved in*". He believed the Rules related to games in respect of which the player had some influence and they were designed to "*stop cheating*".
 - c. Asked if he accepted responsibility for all bets placed on his Betfair account, he replied, "*yes, to the best of my knowledge...I haven't gone through all of the ones that aren't with a fine toothcomb [sic] but, as I say, 99.9% you know, they look like my bet pattern. I'm not disputing...*"

- d. He accepted that he was acting in breach of the Rules, as they were explained to him, *“obviously not knowing it at the time or being oblivious to it at the time Now, today, yes I do accept that”*.
- e. He was asked about specific bets. When being questioned about backing Newcastle to beat Stevenage (a match in which he played for Newcastle), he said this: *“Betfair haven’t thrown the FA –so I’m thinking I haven’t broken any laws because nobody has contacted me...I’m thinking I’m in my own name, in my own address, so if there is software and the companies have got a duty of care to you to tell you people who are betting are people who might be match-fixing. So at this point I’m thinking I’m doing nothing wrong.”*
- f. He said he stopped betting on his own team at a point *“because I’d become aware of a change in the Rules”*.

53. BL gave evidence before the Commission. Questioned by Mr De Marco, he confirmed there was no suspicion of match-fixing in this case. He was asked questions about the number and nature of the multiple bets which the Player placed. He said the betting data showed that he did not bet against his team in games he participated in. It also revealed that he was not *“very successful at betting on his own team”*. He said he had investigated 15 to 20 betting cases with The FA but in only 2 others had he seen bets numbering over 1000, so far as he could remember.

54. The Commission also heard from a Betfair employee. He confirmed that the account was opened in the Player’s name, with an address, date of birth and passport in support. Questioned by Mr De Marco he said the account came to the attention of the trading team on 14 September 2016 because of winnings the previous day. It was then passed on to the integrity team, whose remit is to detect suspicious and corrupt betting activity. However, it is important to emphasise that the account never came to the attention of the integrity team because of any suspicious betting: there was no activity of that kind. He confirmed that the Player did use a multiple exchange product, rarely used for football and now only available for horseracing.

(2) Scottish Proceedings

55. It is convenient to mention the proceedings brought in Scotland. They are raised in the Player's Response and addressed in The FA's Reply dated 21 February 2017 ('the FA Reply'). The Player invited the Commission to "*take into account*" the 1 game suspension imposed in respect thereof so as to reduce any sanction the Commission would otherwise impose by one week. As he expresses it in his Reply dated 28 February ('the Player's Reply'), any sanction imposed on the Player that suspends him from playing for any period generally for repeated breaches of the Betting Rules (but not betting on own team) should be reduced by one week.

56. The suspension was imposed by the Scottish FA following a hearing at which the Player admitted breaches of the Scottish FA Betting Rules. They reflected 44 bets upon football matches (outside Scotland) made between 1 July 2016 and 15 September 2016 in contravention of Disciplinary Rule 31 of the Scottish FA Rules. The 44 bets were laid over a period of 10 weeks. No 'own team' bets were laid in Scotland, still less bets on his own team to lose.

57. He was disciplined by The Scottish FA for those bets, because he was registered to Rangers FC and so with the Scottish FA at the material time. He served the suspension in England because he had transferred to Burnley.

58. In the circumstances, it is submitted the 1 match suspension should be taken into account so as to reduce any sanction the Commission would otherwise impose by one week.

D. PLAYER'S EVIDENCE

(1) Player's Evidence

59. The Commission read and considered the Player's statement dated 14 February 2017. He also gave evidence before the Commission. In summary, his account was as follows.

60. He accepted placing all the bets. He described the volume of bets as "*astonishing*". He said he had placed "*over 15000 bets on sports in the last 10 years*". He said he had now stopped betting. Betting was not about the money; he lost what to some is a lot of money.

61. In his statement, he addressed his knowledge of the Rules. As to that he said:

9. As I explained, I had a general awareness of the rules on betting and I was aware of the change which took place in or around 2014 which tightened the rules and brought in a blanket ban on betting. There was also a difference in my mind about what was against the rules, and what was harmful and would be enforced by the FA.

62. Even though he had an addiction, he followed what he described in his statement as a "*principle*". He put it in this way:

betting, I always followed the simple principle that you should not place a bet on an negative outcome which you had the ability to control or make more likely, and you should not place a bet with the benefit of inside information. Basically you should not cheat. That is a principle which I followed not only because of the rules but because it represents basic fair play. I would never throw a game or do anything intentional to damage my team's chances of winning. I did back myself to score a goal in one of my games, but I would never in a million years have backed myself to score an own goal, or to give a penalty away or anything like that. I may have many other faults but intentionally letting my team down, is not one of them.

63. He said he did not "*know the Rules inside out*". He said he was surprised when told by BL that in the 2005/06 season it was a breach to bet on any competition he was involved in. He pointed to the fact he was betting for 10 years in his own name

without ever being stopped by The FA which led him to conclude, wrongly as he admitted, that he was not doing anything that “*The FA really thought merited action*”.

64. In his statement and before the Commission he spoke as to the nature and extent of his addiction. He was exposed to gambling as a child. He gambled because of his addiction; it was a way of gaining a direct interest in the outcome of games. None of the bets on his own teams relied on or were motivated by “inside information” which gave him an advantage or because of some influence he could assert. The fact they involved his team was incidental to the bet. They were modest in size.

65. He also addressed the 15 bets where he backed the opposition to win in 6 matches against his own team. He was not in the squad for any of them and had no ability to influence the outcome. Most were modest in size. They too were not made with ‘inside information’. Some were component parts of a wider bet placed on other matches.

66. In the same statement, he commented upon the 15 bets where he backed his own team to win in 9 matches. He played in 2 and the fact he betted had no bearing on how he performed. Turning his mind back to 2006 (the first time he did it) he thought then he might have believed he could place such a bet without breaching the Rules. The second time he backed his club (Newcastle United) to beat Stevenage. They lost. He was not involved in any of the other matches and had no inside information, he said.

67. By way of conclusion in paragraph 53 of his statement he said this:

53. As I said at the outset, I am not seeking to avoid responsibility or to deny that my actions amounted to a breach of the rules. Rather I want the panel to have the fullest information possible about the bets, why I placed them, and what my motivation was at the time. I know that I broke the rules but I was not trying to cheat my team, my opponents, the FA or the betting companies. I made absolutely no money from my betting. In fact I lost a large amount. None of the betting was based on any information that was not publicly available. A very large number of the bets on teams that I was registered to play with, were linked to bets in relation to games and teams that I had absolutely no connection with. I think that if people saw the volume and patterns of bets they would not think that there was anything sinister or dodgy going on. I think that they will recognise it for what it was, an addiction, a compulsion to bet on sports.

68. He said he intended to seek professional help with his addiction and offered to help The FA and/or PFA work advising young players on the risks of gambling.

69. He was questioned by his own Counsel, he said it was only when he was confronted with the data that he appreciated the “gravity” of his betting activity. During the relevant period he placed approximately 15000 bets on all manner of different sports, of which over 1200 were on football. He spoke lucidly and candidly about why he was betting and the effect on his life. It is not his only addiction. Reflecting on matters he said this:

“...I thought I actually loved watching football when it turns out that I actually enjoyed having a bet on football and other sports, more so than I did, er, out of love of those sports”.

70. His difficulties are compounded by the fact betting is “everywhere” in sport, including football. Though he did not say this, one cannot miss the fact that a man with a gambling addiction is presently playing in a shirt which has emblazoned on its front a betting company’s logo.

71. He has attended meeting of Gamblers' Anonymous and said he had managed (with considerable effort) not to bet on football since told of this investigation. Candidly, he said he not yet been able to stop betting entirely on sporting events. He told the Commission of his admirable work raising awareness of and addressing homophobia in football.

72. The Player told Mr Coltart that for him the betting was not about the money but the "*it was having an interest in what was happening...*". He grew up in an environment where there was betting and it had been part of his life for as long as he could recall.

73. The FA did not dispute that he has an addiction. The issues concerned the extent and effect of that on his gambling activities or as Mr Coltart put it, the "*magnitude of it*". On those issues, it is important to note:

- a. He agreed that he always betted within his means.
- b. Since the investigation, he has been able to and has stopped betting on football.

74. He was asked questions about his knowledge of the FA Rules when he was betting. On this topic and his efforts to familiarise himself with the Rules it is desirable to reproduce the questions and answers:

"...

Q. You knew, didn't you, because you told the FA investigators when you were interviewed, that some of the bets at least that you were laying were in breach of the Rules?

A. Yeah.

...

Q. At what point did you attempt at that time, back in 2006 this is, to ascertain whether you were actually permitted to lay those bets or not?

A. Well, for me it was ~ it's the same as we know there's banned substances on the drugs list, but we don't check them every year. You know, you just steer away from certain things because you know that's forbidden. But I don't go and read, you know, the banned substance

list every year. With betting, I knew the Rules had changed. I knew they had gone from being, you know, really lax ~ well, you could pretty much bet on anything, or like my belief was you could bet on pretty much anything....So my belief was the Rules had progressively been tightened up over the years, you know, from when I was younger when I placed these bets, I believed that as long as you weren't playing in the game and you had no direct influence on that game, that you could – you could bet in it.

...

Q. ...During the ten-year period with which we are concerned, what attempts did you make to familiarise yourself with the FA's Rules on gambling.?

A. The same attempts you make to familiarise yourself with the Rules on refereeing. You know, you kind of pay a passing glance at them, but –

Q. Really?

A. But no more, no less.

...

Q.But is the answer to the question that you didn't ever check [what the Rules were in relation to them], during the period with which we are concerned, 2006 to 2016?

A. I'd seen that the betting regulations had become tighter. I was aware that they had changed, that they'd become more stringent.

Q. Wasn't that even more reason, then, to check what the new regulations were going to say?

A. No - it should have been, but it wasn't.

Q. And you did have, didn't you, Mr Barton, a professional responsibility to ensure that you knew precisely what the Rules were?

A. Yes.

...

Q. What I'm saying is that you had a professional responsibility to ensure that you understood what the Rules were. Do you accept that?

A. Yes.

...”

75. He said he never asked anyone at his clubs. Burnley had not told him. He accepted it would have been “relatively straightforward” to have done so. The FA and PFA provide such information.

76. He was asked about a number of tweets on his *Twitter* account and the 2012 letter exchange with The FA. He denied that this tweet, posted on his account 20 November 2011, was or was intended to be a 'tip' to his followers:



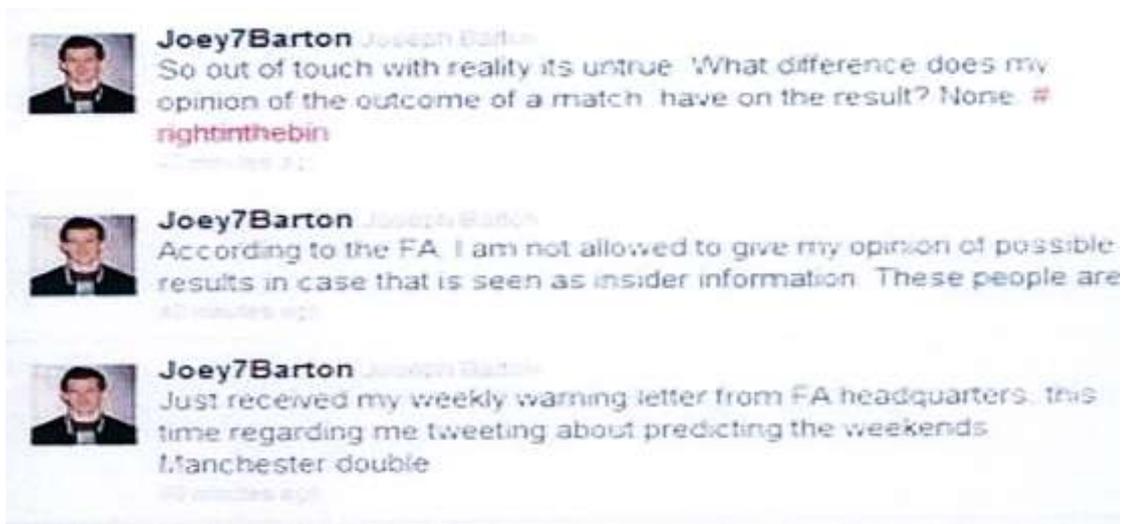
Joey7Barton Joseph Barton
Fancy over 2.5 goals today in both games. MFC v BCFC and CFC v LFC. That's what I'd go for /
20 Nov

Even though it was later followed by this tweet:



Joey7Barton Joseph Barton
Lovely over 2.5 goals in both Sky games prediction. Very tasty. No thanks necessary chaps
20 Nov

77. He agreed that enclosed with The FA letter dated 24 January 2012 was a copy of Rule E8. He said he would have looked at it. He denied that these tweets after receipt of the letter were indicative of his true reaction to it:



78. He said he did read the letter. When asked if he threw the letter in the bin, initially he said he threw all letters in the bin; later said he had not put it in the bin. He was

asked about his letter in response, dated 27 January 2012, the relevant part of which reads:

My Tweet was merely a prediction and my personal thoughts on the day's football results. I did not intend to nor to influence any of my followers to bet on the outcome of any football match. I was merely trying to promote a discussion with my Twitter followers.

I am fully aware and in support of the FA's rules on matters such as these and will be mindful of this going forward.

79. As for that response, he explained:

- a. The first sentence - he did in fact place a bet on the Chelsea FC v Liverpool FC match played on 20/11/11, but he said it would have been “silly” for him to have told The FA that.
- b. As for the last sentence, he agreed that after that letter he continued betting on football, including on the 27 (the date of his reply to The FA), 28 and 29 January. By “mindful” he said he meant talking about it online.

80. He was asked about this tweet on his account:



“Q. So you knew at that point that for you unfortunately, as a professional footballer, betting on football matches anywhere in the world was not allowed? Yes?”

A. *Yeah, I didn't know it was anywhere in the world, I just knew we couldn't bet on the leagues we were playing in or the competitions, and so on and on forth. I didn't understand it was like - I didn't know it was everywhere in the world. I should have known, but I didn't - I didn't know. But I knew it was forbidden for me to bet on my own league and, um, like the FA cup, if we had played in the FA cup, and so on and so forth.*"

81. It is right to observe that thereafter he placed approximately 560 bets in breach of the Rules. Asked why, he said he was addicted and it was "*incredibly difficult to stop*". He did not seek professional help as he had, then, no one he could turn to. Frankly, he also said it had gone on for so long unnoticed that he did not want to draw attention to it. He said, "*I believed that - falsely, as I know today - I believed that the FA was only interested in suspicious betting patterns*".

82. He was asked about the '*perils*' of betting on his own team. Once more he was open in his responses. Asked what an informed person would think if they knew he was betting on his own team to lose, he said: "*Has he thrown the game, has he fixed the game?*" He said that was especially so if the player was playing that game. He likened it to a jockey riding a horse he had backed to lose. He agreed that there was also that risk if the player was associated with or affiliated to the club, but did not play, if the "*sums were big enough*".

83. Mr Barton emphasised this: "*I am not a cheat, I have never tried to influence a game*". The FA did not suggest that he ever had. The Commission accepted that he had not and sanctioned him on that basis.

(2) Dr Philip Hopley

84. Dr Hopley is a consultant psychiatrist. The Commission read his report dated 8 February 2017. It also heard oral evidence from him on 21 April.

85. In his opinion the Player has an addictive personality, closely linked "*his deep sense of competitive nature and his fascination for sporting events*". His history demonstrates "*a*

clear history of gambling addiction”. This, he described as a, “disorder” which consists of “repeated episodes of frequent, repeated episodes of gambling which dominate an individual’s life”.

86. He gave evidence to the Commission. Asked by Mr De Marco what control the Player had over his gambling he said, “under certain circumstances, Mr Barton, like any gambler, is able to modify some of the gambling behaviour...At no point, though, has he succeeded so far as I can say in successfully extinguishing the addictive tendency which he has, which we know existed in different forms at earlier stages of his career”.

87. Asked by Mr Coltart whether it was being suggested that the Player was completely powerless in relation to his gambling he said, “because one would never say in the face of any addiction that anyone is completely powerless”. Asked whether he retained the ability to make informed choices, he said, “it is impaired but not completely obliterated”. He saw how “the argument could be made” that a person (like this player) who gambled within his financial means and had stopped overnight might be said to have retained a greater degree of control than others but did not agree with it. He conceded the Player’s evidence that he always bet within his means was evidence of some element of control on his part. The Commission found his explanation of how that sat with his addiction unpersuasive.

(3) Professor Steve Black

88. Stephen Black is a renowned sports conditioning and performance coach. In his written statement, which the Commission read before the hearing, he states expressing that he is not impartial; he describes the Player as a “client and a friend”. He has known him since October 2013 and said the Player has a “good mind and a good heart” who is “generous both materially and of spirit”. He opined that he has worked “very successfully” to “eradicate” the “demons within himself”. He thought the Player had ‘matured considerably’ during the time he had known him.

89. He gave evidence to the Commission. He spoke of the Player in glowing and enthusiastic terms; he apologised for doing so but such apology was unnecessary. Of the Player was said he “*was a good lad*” with “*a good heart*”; he was a “*fantastic team mate*” with an inquiring mind, who was determined to improve himself. He made this plea: “*I ask you, because that's what I've turned up for, to show compassion because he's moving in the right direction. The last thing this lad wants is discouragement*”.

(4) Jim Cassell

90. Served with the Player’s Reply to The FA’s Submissions dated 28 February 2017 was a further statement, from Jim Cassell, Academy Manager, Manchester City Football Club, 1998-2009. Therein he stated *inter alia*:

My memory of Joe was his passion to play football and to work hard and conscientiously at whatever he did within and beyond football...I understand betting is a massive issue within all sports... I have known Joe for much of his adult life and betting is an integral part of his social culture.

E. SANCTION

91. The Commission intends no discourtesy to either Counsel by not repeating their detailed and helpful written and oral submissions. It had full regard to them.

92. Mr De Marco’s headline was that “*a reasonable and fair sanction would be a suspension...for between 3-4 months, with all but the first 2 weeks being suspended upon the repeat of any breach of the Rules within the next 24 months*”. In any event, he submitted that any sporting sanction over 6 months would be excessive.

93. Mr Coltart, whilst not expressing any view as what the sanction should be, submitted, “*...any suggestion of a suspension of three to four months, with or without any part of that being suspended, would wholly inadequately reflect the seriousness of the gambling offences in this particular case*”.

(1) Guidelines

94. The Football Regulatory Authority ('FRA') is a division of the FA. It was established to be the regulatory, disciplinary and rule-making authority of the FA. From time to time the FRA has issued sanction guidelines to assist FA Regulatory Commissions tasked with deciding on the appropriate sanction in betting cases ('the Guidelines'). The introduction of such Guidelines does not represent any departure from established practice. Their purpose is to assist Commissions in passing sanction.

95. At issue in this case, and to which in the Commission's judgment a disproportionate amount of time and effort was devoted, was the status and applicability of the 2011 Guidelines. They were the subject of a preliminary disclosure application (see paragraphs 11-21 above).

96. The Guidelines comprised three essential elements:

- a. The penalty guidelines.
- b. A non-exhaustive list of factors to be considered when assessing the seriousness of a breach and
- c. Notes thereto.

97. As to the penalty Guidelines, these relate to financial and sporting sanctions according to the seriousness of the Rule breach. The 2011 Guidelines provided as follows:

	Bet on Participant's competition not involving his Club	Bet placed on own team to win	Bet placed on own team to lose	Bet placed on particular occurrence not involving the player who bet	Bet placed on particular occurrence involving the player who bet
Financial entry	Warning Fine	Fine	Fine	Fine	Fine

point					
Sports sanction range	Suspension not applicable where Participant has no connection with the Club bet on	0-6 months to be determined by factors below	6 months-life to be determined by factors below	0-12 months	6 months - life

98. The most recent Guidelines adopted and approved by FRA are those issued for the 2014/15 season ('the 2014/15 Guidelines'). As to the penalty guidelines, these relate to financial and sporting sanctions according to the seriousness of the breach as follows:

SANCTION GUIDELINES – BETTING CASES CHARGED UNDER FA RULE E8(b)

	Bet placed on Participant's competition but not involving his Club (including spot bet).	Bet placed on own team to win.	Bet placed on own team to lose.	Bet placed on particular occurrence(s) not involving the player who bet (spot bet).	Bet placed on particular occurrence(s) involving the player who bet (spot bet).
Financial Entry Point – Any fine to include, as a minimum, any financial gain made from the bet(s).	Warning Fine	Fine	Fine	Fine	Fine
Sports sanction range	Suspension n/a where Participant has no connection with the Club bet on*	0-6 months to be determined by factors below	6 months - life to be determined by factors below	0 – 12 months	6 months - life
Factors to be considered in relation to any increase/decrease	Factors to be considered when determining appropriate sanctions will include the following:				

from entry point	<p>Overall perception of impact of bet(s) on fixture/game integrity</p> <p>Player played or did not play</p> <p>Number of Bets</p> <p>Size of Bets</p> <p>Fact and circumstances surrounding pattern of betting</p> <p>Actual stake and amount possible to win</p> <p>Personal Circumstances</p> <p>Previous record – (any previous breach of betting Rules will be considered as a highly aggravating factor)</p> <p>Experience of the participant</p> <p>Assistance to the process and acceptance of the charge</p>
------------------	---

99. The same ten factors to be considered when determining appropriate sanctions appeared in the 2011 Guidelines. In neither version are they said to be exhaustive. The explanatory notes thereto provide, *inter alia*:

“The assessment of the seriousness of the offence will need to take account of the factors set out above. A key aspect is whether the offence creates the perception that the result or any other element of the match may have been affected by the bet, for example because the Participant has bet against himself or his club or on the contrivance of a particular occurrence within the match. Such conduct will be a serious aggravating factor in all cases. A further serious aggravating factor will be where the Participant played or was involved in the match on which the bet was made.

Betting offences are separate and distinct from charges under FA Rule E5 which concerns match fixing. It should be noted that save in exceptional circumstances a Participant found to have engaged in fixing the outcome or conduct of a match would be subject to a lifetime ban from the game. Where it can be proved that a bet has actually affected a

result or occurrence within the match then such conduct will be specifically charged rather than treating the incident as a betting offence.”

100. The Commission returns below (see paragraph 107) to the explanatory notes.

101. It is to be noted that as between the 2011 and 2014/15 Guidelines there is no material difference in the:

- a. Factors to be considered when determining the appropriate sanction;
- b. The sanction range for placing bets on own team to win or to lose.

(a) The Player's submissions

102. The Player's position in relation to the Guidelines was (in summary) as follows. In his oral argument he expressly did not resile from his detailed written submissions on this topic. In those written submissions, he did not accept that the Guidelines were first adopted at the FRA meeting on 7th March 2011. But if they were, they were not in force until the start of the 2011-2012 season. He developed those submissions in argument.

103. As the Guidelines make clear sanction is ultimately a matter of “discretion”. Mr De Marco recognised, it was open to the Commission to apply “*similar (or even identical) sanctions, or ranges of sanctions, as set out in*” the Guidelines. It might be wondered why the point was taken and “*more than desirable argument*” devoted to it (as Mr De Marco acknowledged there had been). The reason is clear: it affected the Player's bets on his own team to lose, all placed before the 2011 Guidelines. If his point was a good one, it meant the starting point was not 6 months as provided by the Guidelines. Instead there was an absolute discretion, the Commission could go lower and that is what he sought. To get that running, he needed –he thought - to avoid the Guidelines.

104. On his argument, it followed, that sanctioning of the Player's Misconduct fell into two separate parts, each subject to different regimes. The first part: the Player's

bets placed before the start of the 2011/12 season were not covered by any Guidelines. They could not be applied retrospectively, he argued. Therefore the sanction for his betting in that earlier period was to be dealt with without reference to any Guidelines; it was a matter entirely for the discretion of the Commission. It followed, he argued, that even though it was during this period that he was laying bets on his own team to lose, the Commission cannot take as its starting point a suspension of 6 months to life (as would otherwise be the case by application of the Guidelines).

105. The second or latter part: the bets covered by the period from the start of the 2011-12 season onwards are covered by the Guidelines. However, given that during this period the Player did not bet against his team to lose, the appropriate entry point for sanctions is 0-6 months' suspension.

(b) The FA's submissions

106. The FA described Mr De Marco's analysis as "*flawed*". It submitted that the only Guidelines relevant to this case are those presently in force, namely the 2014/15 Guidelines. Mr Coltart submitted that the correct approach for the Commission to adopt in this case is therefore to analyse the whole of the Misconduct in question, throughout the relevant period - by reference to those Guidelines.

(c) The Commission's approach to the Guidelines

107. The appropriate starting point is the Guidelines themselves. The age or edition matters not for these purposes. The explanatory notes thereto state the following:

"The guidelines are not intended to override the discretion of the Regulatory Commissions to impose such sanctions as they consider appropriate having regard to the particular facts and circumstances of a case. However, in the interests of consistency it is anticipated that the guidelines will be applied unless the applicable case has some particular characteristic(s) which justifies a greater or lesser sanction outside the guidelines."

108. The same Notes accompanied the 2011 Guidelines. Therefore, the effect of the Guidelines is clear:

- a. It is anticipated that they should be taken into account by a Commission when considering any penalty for betting offences.
- b. They indicate a range of appropriate penalties, and identify a list of relevant factors which should be taken into account.
- c. They do not override the Commission's discretion to impose such sanctions as it considers appropriate.
- d. It remains open to an individual Commission to depart from them where some particular characteristic/s of the case justifies it.

109. Therefore, they do not create a prescribed minimum sanction.

110. Turning to the law, in *R v Bao* [2008] 2 Cr App R (S) 10, the defendant pleaded guilty on 30th April 2007 for an offence committed before that date. Guidelines for the offence in question were published by the Sentencing Guidelines Council on 14th May 2007, following which she fell to be sentenced on 16th July 2007.

111. The Court of Appeal expressed the position as follows:

“17. In considering the guidelines the judge was not acting in a way which was contrary to the ECHR Art.7.1 rights of the appellant. The penalty for the offence at the time when this appellant committed the offence in 2005 had already been set at a maximum of seven years' imprisonment. That maximum penalty had not been changed at any relevant time. The provisions of Art.7 are directed at “... the mischief of retroactive or retrospective changes to the law”: see Bowker [2007] EWCA Crim 1608 at [27], per Sir David Latham V.P. In the present case there has been no change in the law. The sentencing guideline report foreword specifically states it will apply to sentencing after May 14, 2007. That is the key expression. The guidelines published by the Sentencing Guidelines Council are reflections of current sentencing policy and practice. They are not Rules of law. In that respect they are no different from the status of guideline cases of this court, which were used to provide assistance on

sentences in different types of case. The “tariff” might change from time to time but so long as the sentencing regime or maximum sentence had not changed, a judge would be obliged to follow the most recent guideline case if handed down before sentencing. This would be so, even when the new guideline on the tariff had been promulgated after the offence or conviction or guilty plea, as here.

18. In our view there is no difference in principle since the establishment of the current regime where the Sentencing Guideline Council publishes its definitive guidelines. If the contrary position were to hold, it would lead to manifest inconsistencies in sentencing. It would add yet further complications to an already complicated sentencing regime. Therefore we reject the submission that the judge was wrong to follow the Sentencing Guidelines Council's report.”

112. In *R v H & Others* [2012] 2 Cr App R (S) 21, Lord Judge CJ (at 14)said:

“As is well known, the 2003 Act created the Sentencing Guidelines Council. By s.172 it was the duty of the sentencing court to “have regard” to any guidelines issued by the Sentencing Guidelines Council. In accordance with its responsibilities, in 2007 the Sentencing Guidelines Council issued a definitive guideline relating to the Sexual Offences Act . Then, from April 2010, the Coroners and Justices Act 2009 (the 2009 Act) in effect abolished the Sentencing Guidelines Council and created a new body with additional responsibilities as the Sentencing Council for England and Wales. The overall effect of this legislation was that the definitive guidelines issued by the Sentencing Guidelines Council in relation to sexual cases continue in operation, at any rate until reconsidered by the Sentencing Council. By s.125 of the 2009 Act every court, when sentencing an offender, is required to follow any relevant guideline including the sexual offences definitive guideline, unless satisfied that to do so would be contrary to the interests of justice. In short, consistently with the statutory provisions, the starting point for the sentencing decision should normally be assessed by reference to the guidance in force on the sentencing date.”

113. The reasoning in *R v H* was approved by the Supreme Court in *R v Docherty* [2017] 1 WLR 181. On his deployment of this case, the Commission rejects Mr De Marco’s criticism of Mr Coltart. It was unwarranted. The Supreme Court was considering the principles of *lex mitior* (i.e. where the available punishment at the

date of sentencing is less severe than at the date of commission of the offence), and *lex gravior* (i.e. where it is more severe than at the date of the offence). *Lex mitior* does not arise on the facts of this case.

114. The second sentence of Article 7.1 of the Article 7.1 ECHR gives effect to *lex gravior*:

“No punishment without law

“1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.”

115. At paragraph 53 of his judgment Lord Hughes said this (on the applicability of Guidelines):

*“The reality is that all changes in sentencing law or practice have to start somewhere. It is perfectly rational, indeed sensible, for a date to be fixed and for the sentencing of any offender which takes place after that date to be governed by the new rule/practice, whenever the offence was committed, in accordance with the usual English approach and subject only to avoiding *lex gravior*. That is the practice now adopted by the Sentencing Council when promulgating new guidelines. Such guidelines are issued on the explicit basis that they are to become applicable from a stated date, as soon after publication as it is practicable for courts and practitioners to be equipped with and digest copies. The new guidelines are made applicable to any sentence passed after that date, whenever the offence was committed...”*

116. It is the established and well understood approach in the criminal courts of England and Wales to apply Guidelines in force at the time of sentencing. It is difficult to see why that approach should not apply in regulatory proceedings. Mr De Marco pointed to the statutory basis in criminal law for such an approach, namely s.125 Coroners and Court Act 2009. That, he argued, was a material point of difference: there is no such provision in FA Rules or regulations. The

Commission disagrees: s125 is merely the mechanism which gives effect to operation of the guidelines; it does not affect the principles at work.

117. Indeed, there is support for the proposition that it is the correct approach in FA proceedings. In *FA v Robert Heys* [2013], the respondent had, over the period 2004-2013, placed 231 bets on his club, of which 33 had been for the club to lose (or at least not to win). The last of those bets had been laid in the 2008-9 season, namely before The FA's 2011/12 Guidelines came into in force. These Guidelines were nonetheless considered by the Commission in imposing an immediate suspension of 21 months. Mr Heys appealed against the length of that suspension on the grounds that it was excessive.

118. In its decision dismissing the appeal, The Appeal Panel endorsed that approach. At paragraph 36 of its Decision it stated:

"The Commission did not fail to take account of any relevant factor, and did not take account of any irrelevant factor. Even though the Guidelines were only produced during the 2011-12 season, they are relevant when a Commission is sentencing even in respect of offences pre-dating the Guidelines. They are a guide, they do not stipulate any particular outcome, and they make clear that ultimately penalty is a matter for a Commission having regard to all relevant facts and circumstances. We find no fault with the Commission's approach to the Guideline factors."[emphasis added]

119. In any event, as Mr De Marco recognised in the very final part of his oral submissions:

"It really boils down in one way to whether or not you regard these guidelines as constraining you in any way, even in terms of a presumption. Because if you do, then the analogy made in terms of minimum sentences by the Supreme Court is the right one. But if you don't, if you take the approach that Mr Goulding and the appeal court did in the Heys case, which is they don't really constrain you in any way at all, they don't even necessarily give you a presumptive

starting point, they are simply something you can look at, if that is the approach you take to the guidelines, then I accept that the fact that they came in later doesn't make any difference.”

120. This Commission’s approach to the Guidelines was as follows:
- a. The relevant Guidelines are those presently in force, namely the 2014-2015 season. There was no issue between the parties that they have been lawfully adopted and are presently in force.
 - b. They identified for the Commission a non-exhaustive list of relevant factors which the Commission considered in assessing the seriousness of the Player’s Misconduct.
 - c. They do not set a prescribed minimum sanction, even where this Player placed a bet on his own team, to lose or otherwise.
 - d. The Commission retained a discretion to, and in any event must impose such sanction as it considers appropriate.

(2) Previous ‘Betting Cases’

(a) The Player’s submissions

121. Mr De Marco invited the Commission to consider the following:
- a. *FA v Mangan* (2009) Regulatory Commission
 - b. *FA v Heys* (2013) Regulatory Commission
 - c. *Heys v FA* (2013) Appeal Panel
 - d. *FA v Blackstock* (2014) Regulatory Commission
 - e. *FA v Lewis Smith* (2016) Regulatory Commission
 - f. *FA v Demichelis* (2016) Regulatory Commission
 - g. *FA v Pilkington* (2016) Regulatory Commission
 - h. *Leadbetter v FA* (2016) Appeal Panel
 - i. *FA v Bunyard* (2016) Regulatory Commission

122. He placed before the Commission a FA spreadsheet of 59 betting cases considered between 2007/08 - 2016/17 seasons and the draft decision in *P-W*. He argued that a “clear pattern” emerged from the previous cases. He submits that “where the betting breaches lead to a perception, or in the more serious cases, a real suspicion, that a player or manager might have either influenced the outcome of a match or had inside information that assisted in making a bet, then the sanction shall be far more serious than when these aggravating factors are not present”.

123. He submitted that the “role of perception” is the most important factor to emerge from the cases and the Guidelines. Mr De Marco submitted that the reasonable observer would not perceive the integrity of the matches the Player participated in was somehow compromised by his breaches. Thus, he invited the Commission to find, as a starting point to sanction, that a sanction of between 3 months suspended (i.e. 0 Months immediate suspension) and 5 months immediate suspension is the appropriate range in this case. Bearing in mind the points he made about perception, he submitted the Player’s case is on fact much closer to the 3-month suspended suspension in *Blackstock* than it is to the 5-month immediate suspension in *Mangan*.

(b) The FA’s submissions

124. The FA’s position is summarised with conspicuous clarity in paragraphs 25 and 26 of The FA’s written submissions:

“25. Time and again, the practice of seeking to identify the correct sanction in case (A) by reference to what might have happened in the earlier cases of (X), (Y) and (Z) has been deprecated by Regulatory Commissions and Boards of Appeal.

26. The reason for this is clear. Each case will be fact specific, with an indefinite number of aggravating and mitigating factors to be taken into account, some relating to the offences in question and some relating to the offender’s personal circumstances. Seeking to transpose those matters directly into later cases is always unrealistic.”

125. In paragraphs 27-29 thereof Mr Coltart illustrated, by reference to 2 cases referred to by Mr De Marco the “*dangers of attempting this form of comparative analysis*”. As he puts it, ‘*the points of difference and similarity are too wide and too varied to be of any meaningful assistance, especially when later tribunals will not be bound by the views of their predecessors in any event*’. He went further in his detailed analysis of the cases in his oral submissions.

(c) The Commission’s approach

126. Sanctioning in cases of Misconduct is properly performed by the application of principles, and – where appropriate – Guidelines, to the specific facts of individual cases. The previous cases cited by Mr De Marco are illustrative of that approach, on their individual facts. Save to the extent they establish or articulate principles, they are to be viewed in that limited way.

127. The Commission was treated to close and detailed analysis of the cases by Mr De Marco. He did so to demonstrate features of similarity and dissimilarity. Although Mr Coltart described the exercise as “*pointless*” he picked up the gauntlet and was not outshone. Their joint efforts, demonstrated *par excellence*, that no matter how detailed or close the analysis it does not properly lead to the distillation of sentencing guidelines or perimeters of the kind contended for by Mr De Marco.

128. The reasons are clear:

- a. Regulatory Commissions are not bound by earlier decisions of other Regulatory Commissions.
- b. The facts are too varied and different to find sufficient features of similarity.
- c. That is not their purpose nor the exercise individual Commissions are engaged in when sanctioning.
- d. The express purpose of the Guidelines is to drive consistency of approach and sanction by reference to, and the application of, defined factors to the particular facts of individual cases.

129. In addition, this Commission adopted the approach foreshadowed by the Appeal Board in *Heys*:

47. Each case turns on its own particular facts. For this reason, we consider other cases to be of limited assistance, particularly where written reasons are unavailable which would provide details of the offence(s), and the factors taken into account by the Commission in reaching its decision in that case. We did not have any reasons in the case involving Mr Rolls.

48. If another case has any value in such circumstances, it might be as a final check for a Commission. Where a Commission, taking account of all relevant facts and circumstances, has reached a provisional conclusion in the case before it, the decision in another case which it is invited to consider might be used to test whether the Commission's provisional conclusion requires reconsideration. However, this will be very much dependent on the availability of details about the other case, and we would deprecate Commission hearings being weighed down by detailed dissection of other cases for similarities and dissimilarities.

(3) Approach to Sanction - Generally

130. The Player was to be sanctioned for placing 1260 bets over 10 years. There were elements of his Misconduct which are more serious than others. For example, the bets placed on his own team to lose. It was simply not possible to sanction for the individual elements. The sensible and fair approach - and the one adopted by the Commission - was to impose a single global sanction to reflect the totality of his Misconduct. It did so by reference to the all relevant factors, including those listed in the Guidelines. Naturally, it did so in light of the written and oral submissions made by the parties and the aggravating and mitigating factors as it assessed them to be..

131. It is therefore sensible to consider the relevant factual features of this case.

(4) 'Assessment of the Relevant Factors'

(a) Overall perception of impact of bets on integrity of the game

132. The Betting Rules create strict liability. There is no need to show any evidence of an intention to influence a match. They exist to protect the integrity of the game and public confidence in football. That is why the perception of the impact on the integrity of the game is an important consideration.

133. It is important to state, not least for the Player's benefit – to whom this issue was (understandably) important – but also the wider public that there was no suggestion that the Player was engaged in match fixing. When questioning the Player Mr Coltart said this, *"I hope it is and if it is not I'm going on make it crystal clear now – there is no suggestion you have been engaged in any match fixing or unduly seeking to influence the outcome of any game..."*. It is clear from this Decision, but to repeat: he is sanctioned on that basis.

134. It is, though, a question of perception. The Guidelines make clear that which the Commission would readily have found in any event: *"A key aspect is whether the offence creates the perception that the result or any other element of the match may have been affected by the bet, for example because the Participant has bet against himself or his club or on the contrivance of a particular occurrence within the match"*. Thus, perception is *"a key aspect"*.

135. The Player bet on his own team, He backed his team to win but also bet against it. He placed 42 bets in 20 matches involving teams he was registered with at the time of making the bets. To repeat the analysis from above:

- a. The overall stake on those bets was £5,307.11 and the loss deriving therefrom these bets was £3,755.27.
- b. He played in only 2 of those 20 matches in which his team was involved. In neither match did he place a bet on his team to lose that match.

- c. 15 bets were backing his team to lose, the overall stake being £1,688.00, in which he made a loss of £1,199.40.
- d. A further 15 bets were for his team to win, gambling a total of £1,944.50 with a loss of £1,984.50.
- e. The remaining 12 were for a draw or some other.

136. As the Guidelines state, and the Commission agrees, betting against a player's own club is "*a serious aggravating factor in all cases*". The Player did this 15 times.

137. Further, the Guidelines provide, and the Commission agrees, that "*a further serious aggravating factor will be where the Participant played or was involved in the match on which the bet was made*". He did this in 2 matches though never when he had bet on his team to lose.

138. The reason why they are serious aggravating factors is because of the perception such betting gives rise to.

- a. Betting on team to lose - if the match *or any aspect* was in fact 'thrown' or fixed there would be specific charges to reflect that. The gravamen of betting in this way is that it creates suspicion of wrongdoing, that something is not right with the match or an aspect of it. It is a serious aggravating factor because it strikes at the integrity of football. Candidly, the Player acknowledged this when Mr Coltart questioned him. Additionally, there arises the perception that the gambler has an unfair advantage over the public generally and the organisation taking the bet.
- b. Betting on own team - simply betting on a participant's own team, even if it is to win, gives rise to the same perception that the gambler has an unfair advantage over the public generally and the organisation taking the bet. That too is serious.

139. However, these bets must be seen in their proper context. The Commission notes:

- a. He never played in, nor was he in the match day squad, when he backed his team to lose. He had absolutely no influence at all on the results of those matches.
- b. There was nothing suspicious about the actual betting and returns from betting. He did not win money from the bets he placed and he did poorly when he bet on his own team, especially when he bet on his own team to lose.
- c. These bets were made a long time ago.
- d. Not all were single bets.
- e. Some of these bets were relatively modest in size. Though some were not, with stakes of hundreds of pounds (£250, £350, £500 and £650).
- f. The bets played a very small part of his betting rule breaches. It was rare for him to bet on his own team, and it was most exceptional for him to bet on his own team to lose.
- g. He never sought to conceal his identity when making the bets. He did so using his own name and account, such that he could have been (and was) quite easily identified.

140. For a single bet placed on a Participant's own team to lose, the Guidelines suggest (as a guide) that a fine and a suspension of 6 months to life (the precise sanction to be determined by the relevant factors) is appropriate. That reflects the gravity of such conduct. It is to be noted that is so notwithstanding that there is no element or allegation of match fixing. This Commission took a similarly serious view of such conduct. The Player placed 15 bets on his own team to lose.

141. Even if -and the Commission did not approach sanction in this way - 6 months was a prescribed minimum it is not so simple (or crude) as to multiply 6 months by 15 breaches to arrive at 90 months. There are all manner of good reasons why such an approach is wrong. However, the reference to 15 breaches of this kind illustrates the seriousness of his conduct in this regard.

142. That is not to say the other bets (i.e. not on his team) are free of issues so far as perception is concerned. Betting on all football by participants is banned for good reason. Mr Robinson illustrated why that is so when he questioned the Player; and in fairness the Player readily agreed with it. An individual's sporting connections may be many and varied. The sporting public cannot know what information is or may be being deployed or relied upon when a footballer bets on a football match. We make it clear that there was no allegation that the Player actually relied upon specific 'inside information' in this case. Further, he was not charged with using or providing to another any such information. The Commission reflected both facts in the sanction.

143. As a guide the Guidelines suggest (not prescribe) that for a single bet placed on a Participant's own team to win, a fine and a suspension of 0 to 6 months (the precise length to be determined by the relevant factors) is appropriate. Once more that is so notwithstanding that there is no element or allegation of match fixing.

144. A total of 42 bets on his own team makes the Player's offending serious indeed. Of course, it is further to be noted that this conduct does not stand alone; it has to be seen in the context of a total bets on football numbering over 1000.

(b) Player played or did not play

145. The Player played in only 2 of the 20 matches in which he placed bets on matches involving his own team. In neither match did he place a bet on his team to lose that match.

146. As the Guidelines state, and the Commission would in any event conclude, "*a further serious aggravating factor will be where the Participant played or was involved in the match on which the bet was made*".

147. The reason why they are serious aggravating factors is because of the perception such betting creates. It again gives rise to the perception that the gambler has an unfair advantage over the public generally and the person/organisation taking the bet and/or that he has the unfair ability to influence the match or any aspect of it.

148. However, the Commission notes that:

- a. He never played in a match where he backed his team to lose.
- b. These bets were made a long time ago.
- c. They represent a tiny fraction of his overall bets.

(c) Number of bets

149. This is simply stated: 1260.

(d) Size of bets

150. The size of the individual bets varied considerably. There were single and multiple bets. From £5 to over £900.

151. Mr De Marco made the point that relative to his income, they were “*very small*” and not comparable with a player on a lower salary placing bets well into the hundreds or thousands of pounds. The Commission sees the force of the last point.

(e) Fact and circumstances of the pattern of betting

152. First, the period of time. He placed the first bet on 26 March 2006 and the last on 13 May 2016: over 10 years. His bets were regular but there is nothing about them or the pattern which is suspicious.

153. Second, context. He was betting on many sports. These 1260 bets represent a fraction (under 10%) of approximately 15000 he placed on sporting matters during the relevant period.

(f) Actual stake and amount possible to win

154. The total value of the stakes laid was £205,172.79. A simple attempt at finding the average (dividing that sum by the number of bets, 1260) gives a figure of approximately £162. His gross return (not profit) was £188,464.50. Overall, he lost £16,708.29

(g) Personal circumstances

155. First, there is no issue before the Commission that Mr Barton has a gambling addiction. The extent and effect of that was explored with Dr Hopley and the Player. The Commission accepted that he has (and has had for many years) a compulsive urge to bet on sport. His betting was not calculated to make money, but for other reasons. That mitigates the gravity of his 'offending'.

156. However, the Commission agreed with The FA that the effect of addiction must be assessed carefully. The condition did not render him completely powerless at any point during the relevant period. He was able to and did bet 'within his financial means'.

157. In this context, the Commission notes and accepted that since the investigation started, he has stopped betting on football. That is very much to his credit, as is the fact he has taken steps to address that addiction. It is also impressive that he did not pretend that he had mastered it; no one would sensibly expect him to have done so in such a short period of time. What it does illustrate though, is that he had and retains the capacity to stop betting on football. That is relevant when the Commission has to assess the extent to which his addiction was responsible for these repeated and sustained breaches.

158. The FA invited the Commission to consider to what extent his gambling was a product of the addiction "and" his "*dismissive attitude to the Rules*" together with his view that this sort of betting was not the type at which the Rules were aimed (a view

the Player espoused in interview). The answer, in the Commission's, judgment is that each played a part. The major 'driver' was his condition. However, what the Commission cannot overlook are the events of 2012 (as explained below in paragraph 165) and his own view - wrong as he now accepted it was - of what he was doing. The Commission found that both his attitude towards the Rules and his view that his betting was not the type the Rules were aimed at and/or The FA was interested in, played some part in his conduct. His addiction may have distorted his thinking in part, but it is not a complete answer for this continued conduct.

159. Mr De Marco invited us to consider the fact that the player is at the end of his career. He put it in this emotional way: "*the real effect of an unsuspended ban of more than a few weeks would be the equivalent of a lifetime ban*". That depends upon a variety of different factors. For example, on the length of the suspension and on the Player's circumstances. The Commission addresses this point in more detail below, when dealing with the question of suspending the operation of a suspension (see paragraphs 169-171 below).

(h) Previous record

160. The Player has a previous disciplinary record but no findings for gambling offences. The Scottish proceedings concerned contemporaneous gambling. His record did not aggravate the instant Misconduct.

(i) Player's experience

161. He is now and for some time has been established professional with a long career of playing in England and abroad at a very high level. He is a capped international. It affords no mitigation. Given the continuing nature of his conduct and the fact his betting started before he became a professional player the Commission did not consider it an aggravating factor.

(j) Assistance to the process and acceptance of the charge

162. To the Player's credit
- a. He entered an early guilty plea.
 - b. It is correct that he made significant admissions when interviewed.
 - c. He expressed remorse, which the Commission accepted as genuine.
 - d. He offered to assist other players with similar problems and/or to warn them of the perils thereof.

(k) Other features

163. The Guidelines do not purport to be exhaustive. There are other features the Commission considers relevant when assessing the gravity of his conduct.

164. First, his knowledge of the Rules.

- a. He admitted when questioned by Mr Coltart that at least some of the bets he placed he did so knowing it was in breach of the Rules.
- b. He accepted that he had a professional responsibility to acquaint himself with the detail and ambit of Rules. As he accepts, he took no adequate steps to do so.

165. Second, and it flows from the first, the Player's exchange with The FA in 2012 and the conclusions the Commission draws from it. He continued betting after he was provided with the Rules and a summary of them. It must have been clear to him what was and was not permitted. Not only did he not desist betting in breach of the Rules, he was publically dismissive of them and of The FA. The Commission accepts he had a gambling addiction, and that may have played a part in his continued betting. However, it is not a complete answer for it, nor for his attitude to the Rules. It demonstrates some element of control and conscious decision making and disregard for and disrespect of the Rules. The fact he continued after The FA's letter in 2012 is a further aggravating factor.

(6) Determination on Sanction

(a) Sporting sanction

166. The betting breaches are so serious that there must be a sporting sanction for this conduct. In putting his submission in the way he did, Mr De Marco acknowledged that to be the case.

167. Balancing all of the matters summarised above, the evidence heard and read and the arguments the Commission considered, the Commission concluded that the shortest possible sanction to reflect the totality of his betting breaches was a suspension from football and footballing activity for a period of 18 months. In doing so it had regard to the Scottish ban.

168. The Commission considered that sanction against the previous betting cases placed before it. Insofar as they assist, that sanction is not out of kilter with any of them. By reference to the Guidelines it might be thought lenient. But, it reflects, properly in the Commission's judgement, the many features of mitigation the Player is entitled to pray in aid.

169. The Commission considered the Player's submission to suspend part of that suspension. Regulation 8.3(d) of the FA Disciplinary Procedures – Regulation 2016-17 empowers the Commission to suspend up to three-quarters of the penalty (unless it is a lifetime ban). The Regulations do not provide any assistance with the factors which might be considered when deciding whether, and to what extent that power, is exercised.

170. The Commission considered the reason advanced on the Player's behalf. They do not justify suspending any part of the sporting sanction. The totality of the offending is so serious as to merit an immediate suspension of the length determined.

171. As for his age, and the fact he is coming towards the end of his career, the Commission makes these points. He has enjoyed a full career. He has been breaching the betting Rules for a substantial part of that career. Had he been apprehended and charged earlier, the result - almost certainly - would have been an immediate playing suspension (and all the consequences) . He has avoided that and enjoyed the fruits. He cannot now pray in aid chronology to avoid a meaningful sanction. Further, a younger player charged earlier in their career might well have a legitimate sense of grievance if s/he loses part of their career to suspension, but an older player (by virtue of that fact alone) does not. In the Commission's judgement, the suspension must lie where it falls.

(b) Financial sanction

172. The Commission was told the details of the Player's present playing contract, his income and the financial consequence any suspension would have upon him. It had proper regard to those matters.

173. As Mr De Marco rightly observed there is no consistent measure or approach discernible from the previous cases when it comes to assessing a financial penalty. It might be fixed by reference to returns or to winnings. It must always have regard to the individual and their means.

174. It is appropriate to impose a financial penalty, even though he did not profit from his breaches. The Commission, having regard to his contract and means and the effect of the sporting sanction (in consequence of the express provisions of his contract) , assessed the appropriate sum of the fine at £30,000.

(c) Costs

175. The Player admitted Misconduct. He sought, as was his right, a personal hearing.

176. The Commission determined that he should pay the costs of the Commission for the hearing on 21 April. The Commission excludes any costs associated with the adjourned hearing set for 8 March 2017 (Disciplinary Regulation 8.8(b)).

G. SUMMARY

177. The substantive hearing of this matter lasted over 7 hours. At times the argument would not have been out of place before the High Court or the Court of Appeal. This was a football disciplinary tribunal, convened to sanction a player for his admitted Misconduct. The Commission never lost sight of that. Indeed, the most compelling part (with respect to others) of the hearing was when the Player addressed the Commission directly or was giving his evidence, using his own words to explain his own thoughts and actions.

178. At the end of the exercise each member of the Commission stood back and reflected on the sanction. By whatever route it was arrived at, are we, as individual members, satisfied that the sanction is reasonable, proportionate and, in a single word, fair? Each member concluded that it was.

179. For the reasons adumbrated above the Commission concluded that the appropriate penalty is as follows

- a. Joseph Barton is suspended from all football and football activities for a period of eighteen (18) months.
- b. The said suspension has immediate effect.
- c. He is fined the sum of thirty thousand pounds (£30,000).
- d. He must pay the costs of the Commission hearing on 21 April 2017.

180. It is customary where misconduct charges are upheld to warn the player as to his future conduct.

181. The Player has a right of appeal as provided by the Disciplinary Regulations.



26 April 2017

Christopher Quinlan QC

Chairman

Signed by the Chairman on behalf of the Regulatory Commission

APPENDIX A

Charges

It is alleged that each bet is a separate breach of FA Rule E8 and all references to specific bets are set out in exhibit BL3.

Where a 'multiple bet' includes a selection on more than one competition, the following approach has been taken:

- Where the bet includes a League selection and Cup and/or Non-Participation selection, it has been included in the breakdown of League breaches.
- Where the bet includes a Cup selection and 'Non-Participation' selection, but not a League selection, it has been included in the Cup breaches.

For the avoidance of doubt, only one competition from any given 'multiple bet' has been included in the total number of breaches.

2005-06 season

35 Breaches of FA Rule E8(a) (p.74 FA Handbook 2005/6)

- 1) 4 breaches of FA Rule E8(a) between 15 April 2006 and 29 April 2006 in respect of **Premier League matches played by Manchester City FC ('MCFC')** while you were registered under contract with MCFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating.

- 2) 31 breaches of Rule E8 between 26 March 2006 and 19 April 2006 in respect of **Premier League matches other than those involving MCFC** while you were registered under contract with MCFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Competition in which you were participating.

2006-07 season

20 Breaches of FA Rule E8(a) (p.74 FA Handbook 2006/7)

- 3) 9 breaches of Rule FA Rule E8(a) between 16 October 2006 and 18 March 2007 in respect of **Premier League matches other than those involving MCFC** while you were registered under contract with MCFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Competition in which you were participating.

- 4) 11 breaches of Rule E8 on 19 September 2006 in respect of **Football League Cup matches other than those involving MCFC** while you were registered under contract with MCFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Competition in which you were participating.

2007-08 season

12 Breaches of FA Rule E8(a) (p.79 FA Handbook 2007/8)

- 5) 12 breaches of Rule E8 between 21 October 2007 and 11 May 2008 in respect of **Premier League matches other than those involving Newcastle United FC ('NUFC')** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Competition in which you were participating.

2008-09 season

82 Breaches of FA Rule E8(a) (p.111 FA Handbook 2008/9)

- 6) 6 breaches of FA Rule E8(a) between 17 August 2008 and 14 March 2009 in respect of **Premier League matches played by NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating.

- 7) 60 breaches of FA Rule E8(a) between 16 August 2008 and 12 April 2009 in respect of **Premier League matches other than those involving NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Competition in which you were participating.

- 8) 1 breach of FA Rule E8(a) on 24 September 2008 in respect of a **League Cup match played by NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating.

- 9) 4 breaches of Rule E8 between 12 August 2008 and 24 September 2008 in respect of **League Cup matches other than those involving NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Competition in which you were participating.

- 10) 1 breach of Rule E8 on 3 January 2009 in respect of **FA Cup matches other than those involving NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Competition in which you were participating.

- 11) 10 breaches of Rule E8 on 6 August 2008 in respect of **a Friendly match played by NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating.

2009-10 season

58 Breaches of FA Rule E8(a) (p.112 FA Handbook 2009/10)

- 12) 2 breaches of FA Rule E8(a) between 17 October 2009 and 28 December 2009 in respect of **Football League Championship matches played by NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

- 13) 35 breaches of Rule E8(a) between 15 September 2009 and 24 April 2010 in respect of **Football League Championship other than those involving NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

Includes a multiple bet involving a FAC fixture (Bet 168)

- 14) 15 breaches of Rule E8(a) between 12 August 2008 and 24 September 2008 in respect of **FA Cup matches other than those involving NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

- 15) 6 breaches of Rule E8(a) between 25 August 2009 and 19 January 2010 in respect of **League Cup matches other than those involving NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

2010/11 season

196 Breaches of FA Rule E8(a) (p.116FA Handbook 2010/11)

- 16) 2 breaches of FA Rule E8(a) on 28 November 2010 in respect of **Premier League matches played by NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

- 17) 130 breaches of Rule E8(a) between 14 August 2010 and 17 May 2011 in respect of **Premier League matches other than those involving NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

Includes a multiple bet involving an FAC fixture (Bet 377) and 2 multiple bets involving FLC fixtures (Bet 330 & 360)

- 18) 2 breaches of FA Rule E8(a) on 8 January 2011 in respect of a **FA Cup match played by NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

- 19) 25 breaches of FA Rule E8(a) between 17 November 2010 and 17 April 2011 in respect of **FA Cup matches other than those involving NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

- 20) 1 breach of FA Rule E8(a) on 9 March 2011 in respect of a **Premier League Reserve League match played by NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

- 21) 36 breaches of FA Rule E8(a) between 10 August 2010 and 27 February 2011 in respect of **League Cup matches other than those involving NUFC** while you were registered under contract with NUFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

2011/12 season

153 Breaches of FA Rule E8(b)(i)(A) (p.120 FA Handbook 20011/12)

- 22) 107 breaches of Rule E8 between 14 August 2011 and 2 May 2012 in respect of **Premier League matches other than those involving Queens Park Rangers FC ('QPR')** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

Includes 2 multiple bets involving FAC fixtures (Bet 443 & 468) and a multiple bet involving a FLC fixture (Bet 497)

- 23) 1 breach of Rule E8 on 23 August 2011 in respect of a **League Cup match played by QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

- 24) 25 breaches of Rule E8 between 9 August 2011 and 26 February 2012 in respect of **League Cup matches other than those involving QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

- 25) 20 breaches of Rule E8 between 1 October 2011 and 5 May 2012 in respect of **FA Cup matches other than those involving QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

2013/14 season

106 Breaches of FA Rule E8(b)(i)(A) (p.123 FA Handbook 20013/14)

- 26) 4 breaches of Rule E8 between 1 March 2014 and 29 March 2014 in respect of **Football League Championship matches played by QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

- 27) 63 breaches of Rule E8 between 4 August 2013 and 21 April 2014 in respect of **Football League Championship matches other than those involving QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

Includes 3 multiple bets involving FAC fixtures (Bet 606, 620 & 622)

- 28)** 23 breaches of Rule E8 between 17 December 2013 and 17 May 2014 in respect of **FA Cup matches other than those involving QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

Includes a multiple bet involving a FLC fixture (Bet 579)

- 29)** 16 breaches of Rule E8 between 28 August 2013 and 2 March 2014 in respect of **League Cup matches other than those involving QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result and/or progress and/or conduct of a Match and/or Competition in which you were participating, or had participated in that season.

2014/15 season

345 Breaches of FA Rule E8(1)(a)(i) (p.115 FA Handbook 20014/15)

- 30)** 5 breaches of FA Rule E8(1)(a)(i) between 4 March 2014 and 14 March 2015 in respect of **Premier League matches played by QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.

Includes a multiple bet involving a FA Cup fixture and a Non-Participation fixture (887)

- 31)** 87 breaches of FA Rule E8(1)(a)(i) between 17 August 2014 and 18 May 2015 in respect of **Premier League matches other than those involving QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.

Includes 7 multiple bets involving FAC and Non-Participation fixtures (Bet 710, 712, 713, 943, 944, 947 & 948) and a multiple bet involving FLC and Non-Participation fixtures (Bet 873)

- 32)** 4 breaches of FA Rule E8(1)(a)(i) on 4 January 2015 in respect of **FA Cup matches played by QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.

- 33)** 50 breaches of FA Rule E8(1)(a)(i) between 5 December 2014 and 30 May 2015 in respect of **FA Cup matches other than those involving QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.

Includes a multiple bet involving a FLC fixture (Bet 730), a multiple bet involving FLC & Non-Participation fixtures (Bet 732) and 18 multiple bets involving Non-Participation fixtures (Bet 707, 708, 709, 751, 752, 757, 758, 759, 762, 794, 807, 830, 831, 832, 849, 850, 853 & 930)

- 34) 24 breaches of FA Rule E8(1)(a)(i) between 11 August 2014 and 1 March 2015 in respect of **League Cup matches other than those involving QPR** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.

Includes 10 multiple bets involving Non-Participation fixtures (687, 688, 731, 779, 780, 781, 784, 785, 818 & 819)

- 35) 175 breaches of FA Rule E8(1)(a)(i) between 7 August 2014 and 21 June 2015 in respect of **Non-Participation matches** while you were registered under contract with QPR.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.

2015-16 season

253 Breaches of FA Rule E8(1)(a)(i) (p.115 FA Handbook 20015/16)

- 36) 29 breaches of FA Rule E8(1)(a)(i) between 11 September 2015 and 13 May 2016 in respect of **Football League Championship matches other than those involving Burnley FC ('BFC')** while you were registered under contract with BFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.

Includes 5 multiple bets involving FAC and Non-Participation fixtures (Bet 1120, 1124, 1174, 1175 & 1241) and a multiple bet involving FLC and Non-Participation fixtures (Bet 1155)

- 37) 31 breaches of FA Rule E8(1)(a)(i) between 8 November 2015 and 23 April 2016 in respect of **FA Cup matches other than those involving BFC** while you were registered under contract with BFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.

Includes 10 multiple bets involving Non-Participation fixtures (Bet 1093, 1125, 1158, 1165, 1176, 1179, 1189, 1190, 1191 & 1238)

- 38) 28 breaches of FA Rule E8(1)(a)(i) between 22 September 2015 and 28 February 2016 in respect of **League Cup matches other than those involving BFC** while you were registered under contract with BFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.

Includes 15 multiple bets involving Non-Participation fixtures (Bet 1039, 1040, 1041, 1065, 1066, 1067, 1070, 1071, 1072, 1073, 1076, 1156, 1198, 1199 & 1201)

- 39) 165 breaches of FA Rule E8(1)(a)(i) between 29 August 2015 and 10 May 2016 in respect of **Non-Participation matches** while you were registered under contract with BFC.

The particulars of each breach are as follows:

It is alleged that you bet on the result, progress, conduct or any other aspect of, or occurrence in, a football match or competition; or any other matter concerning or related to football anywhere in the world.