# BEFORE AN APPEAL BOARD OF THE FOOTBALL ASSOCIATION

**BETWEEN:** 

## MR JOSEPH BARTON

The Appellant

-and-

#### THE FOOTBALL ASSOCIATION

**The Respondent** 

#### WRITTEN REASONS OF THE APPEAL BOARD

#### Introduction

1. By Notice of Appeal dated 11 May 2017 Joseph Barton appeals the decision of the Regulatory Commission dated 26 April 2017 ("the Decision") by which he was suspended from all football and football related activities for a period of 18 months with immediate effect. Mr Barton had pleaded guilty to Misconduct arising out of his placing 1260 bets on professional matches over a period of 10 years in breach of Rule E8 of The FA Rules, therefore the Decision related only to sanction. In addition to the suspension, Mr Barton was also fined the sum of £30,000 and was ordered to pay the costs of the Commission however the appeal does not seek to disturb those ancillary orders.

- 2. The Commission sat on 21 April 2017 and was comprised of Christopher Quinlan QC (Chairman), Alan Hardy and Marvin Robinson. At that hearing The FA was represented by Christopher Coltart QC and Mr Barton was represented by Nick De Marco. Both counsel also represented the parties before the Appeal Board.
- 3. The Appeal Board is comprised of David Casement QC (Chairman), Paul Raven and Ifeanyi Odogwu. The appeal hearing took place at Wembley on 20 July 2017 and those attending the hearing other than the Appeal Board were as follows:

Joseph Barton Appellant
Nick De Marco Counsel

Karim Bouzidi Clintons - solicitor
Caroline Hrabi Clintons - solicitor

Eddy Jennings Player Representative - observer

Dr Raj Seghal Observer

Nick Cussack PFA Representative – observer

Holly Higgins Pupil barrister – observer

Christopher Coltart QC Leading Counsel for The FA

Amina Graham The FA - Head of Regulatory

Advocates Department – observer

Yousif Elagab The FA - Regulatory Advocate

Mark Ives Head of Judicial Services – Appeal

**Board Secretary** 

Paddy McCormack Judicial Services Manager – Appeal

**Board Secretary** 

Adam Moon DTI Global – stenographer
Sophie McGregor DTI Global – stenographer

4. The appeal hearing concluded at 5:30pm after a full day's submissions and the decision was reserved to enable the Board to deliberate on the lengthy submissions that had been presented by both parties.

#### The Decision of the Regulatory Commission

- 5. The Decision consisted of 51 pages plus an appendix setting out the charges to which Mr Barton had pleaded guilty. It set out carefully the procedural and, at times, fraught background that led up to the hearing on 21 April including applications for disclosure and also an application for recusal which was refused. There is no appeal from that refusal to recuse. There is a detailed summary analysis of the bets that were placed by Mr Barton between the 2005/06 season until the 2015/16 season and noting the features which are relevant under the 2011 Guidelines and the 2014 Guidelines which were promulgated by The FA to assist with bringing consistency to sanctions in this area.
- 6. The Commission noted that Mr Barton's betting activities were brought to the attention of The FA by Betfair on 14 September 2016 when it received an email and a spreadsheet of the relevant betting. The FA then launched its investigation. This led to Mr Barton being interviewed on 21 November 2016 and then being charged by letter dated 22 December 2016. Mr Barton promptly admitted the charges on 31 January 2017 and in his Formal Response it was stated on his behalf "[he] does not seek, and has not sought to minimise his culpability for his conduct which was a clear breach of the Rules, over a long period of time."
- 7. The evidence adduced at the Commission hearing is summarised at paragraphs 59 to 90 of the Decision. This included evidence from Mr Barton himself, Dr Hopley, consultant psychiatrist, and Professor Steve Black. Each witness was cross-examined and the Commission set out its findings in respect of their evidence.

- 8. The Decision addressed the competing contentions in respect of the 2011 and 2014 Guidelines. There was much debate about the applicability and effect of the 2011 Guidelines. This appears to be because the 2011 Guidelines were promulgated after the most serious of the breaches were committed by Mr Barton, namely betting on one's own team to lose although he did not play in those matches and could not have affected their outcome, as was accepted by the Commission. The competing contentions and the Commission's conclusions are set out in paragraphs 94 and 120 of the Decision.
- 9. It is notable that in this appeal there is no challenge to the Commission's findings in respect of the Guidelines. For the reasons set out in the Decision, the dispute between the parties ultimately appeared to vanish amidst the consensus that guidelines are exactly that, guidelines, and they do not set out a prescribed minimum sanction and do not set out an exhaustive list of factors. This appeal proceeded on the basis that the Commission's findings were correct and the 2014 Guidelines were those that were applicable. Although no longer a matter in dispute, the Board considers the findings of the Commission are obviously correct. Guidelines which are introduced to assist with consistency in sanctions are, absent clear wording or strong indications to the contrary, clearly intended to have retrospective effect. They are intended to reduce the need or appropriateness of having to trawl through many previous cases to discern some point or other which might distinguish or resemble the present case.
- 10. It may be useful to set out the 2014 Guidelines at this juncture

|  | Bet placed on Participant's competition but not involving his Club (including spot bet).  | Bet placed on<br>own team to<br>win.                  | Bet placed on<br>own team to<br>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 from the bet(s). | Warning<br>Fine   | Fine  | Fine   | Fine  | Fine  |
| Sports sanction<br>Range   | Suspension n/a where Participant has no connection with the Club bet on*  | 0-6 months to<br>be determined<br>by factors<br>below | 6 months – life<br>to be<br>determined by<br>factors below | 0 – 12 months   | 6 months - life   |
| Factors to be<br>considered in<br>relation to any<br>increase/decrease                         | Factors to be considered when determining appropriate sanctions will include the following:   |   |  |   |   |
| from entry point   | Overall perception of impact of bet(s) on fixture/game integrity  Player played or did not play  Number of  Bets Size of  Bets  Fact and circumstances surrounding pattern of betting  Actual stake and amount possible to win  Personal Circumstances  Previous record — (any previous breach of betting Rules will be considered as a highly aggravating factor)  Experience of the participant |   |  |   |   |
|  | Assistance to the process and acceptance of the charge  |   |  |   |   |

11. The Commission had been presented with detailed and lengthy submissions regarding previous cases. The advocates pointed to aspects of each case that were similar and which were distinguishable from the

- present. As the Commission noted at paragraph 127 "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."
- 12. Further, the Commission identified as a more serious breach where a player bets on his own team to lose. Under the guidelines that is regarded as more serious and potentially far more serious than betting for one's own team to win. It carries enhanced perception of potential unfairness even if the player is not playing in the game. However, if the player is playing in a match in which he has bet for his team to lose that is a serious aggravating factor. That is clearly reflected in the Guidelines themselves which provide for a sanction range of 0-6 months suspension for betting on one's own team to win and a sanction range of 6 months to life suspension for betting on one's own team to lose. The difference in approach is very clear although it will be possible, depending upon all of the factors including those listed in the Guidelines, to have a sanction outside of the range provided.
- 13. The context of the bets made in respect of his own team was set out by the Commission. The Commission exonerated Mr Barton from any form of cheating or having any influence over those matches in which he placed bets for his own team to lose. The findings regarding context are important and are repeated here:
  - 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.
- 14. The Commission took each of the factors identified in the Guidelines in turn and analysed them in paragraphs 145 to 165 of the Decision. It is notable that over the ten year period concerned Mr Barton placed approximately 15,000 bets on sporting matters. The 1,260 bets which are the subject of these charges accounted for less than 10% of his overall betting on sport. Those in which he bet for his own team to lose amounted to 15 bets which, because they were not all single bets, covered 6 matches, all of which occurred prior to the end of the 2010-11 season.
- 15. In their findings, the Commission also addressed the personal circumstances of Mr Barton. It was found that there was no issue that Mr Barton clearly has a gambling addiction. The Commission found at paragraph 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."

- 16. However, the Commission went on in the Decision to make certain findings on the psychiatric evidence which have been a subject of this appeal:
  - 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.

17. Another important part of the Commission's assessment in respect of the psychiatric evidence given by Dr Hopley is at paragraph 87 of the Decision:

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.

18. The findings in respect of the psychiatric evidence were discussed at length during the hearing before the Board.

#### The Notice of Appeal and the Submissions on behalf of Mr Barton

- 19. The Notice of Appeal advanced the appeal on different bases but in essence it came down to the one assertion; that the period of suspension was excessive. It was argued by Mr De Marco, distilling the many arguments down, that the period excessive because (a) it was out of kilter and well in excess of the other cases that have been referred to and (b) the Commission failed to give reasons for rejecting an important aspect of the evidence of Dr Hopley and its rejection was so unreasonable that no Commission properly directing itself could have come to that conclusion.
- 20. In respect of the first general basis described above he argued that:
  - "A proper review of the principles behind the (non-mandatory)
    Sanction Guidelines to the Betting Rules, the way those Guidelines
    have been applied and the principles which can be derived from all of
    the other FA cases on betting demonstrates a clear pattern. In short, <u>no</u>
    <a href="mailto:case">case</a>, in which a player bet against his own team but <u>did not play</u> in the
    game, has ever led to a sanction of <u>longer than 6 months</u>. Cases
    involving sanctions of <u>12 months and beyond</u> have all involved not
    only a player betting against his own team <u>but also</u> that player having
    an <u>influence</u> (because he played in the match he betted on) and/or
    often some other particularly aggravating factor." (underlining as it
    appears in the Notice of Appeal)
- 21. A range of cases were set out in the Notice of Appeal including FA v Mangan (2009) (5 months), FA v Lewis Smith (2016) (17 months), FA v Pilkington (2016) (4 years with one year suspended), Leadbetter v FA (2016) (12 months) and FA v Parfitt-Williams (2017) (6 months).
- 22. On behalf of Mr Barton it was submitted that given he is in the late stages of his career the length of suspension would effectively end his career as

it would effectively prevent him from playing for two seasons. It was argued this was more serious than for a younger player who could still look forward to playing after his suspension was over.

- 23. In paragraph 12.11 of the Notice of Appeal it was contended that the Commission and The FA have both been mistaken in their interpretation of Guidelines which state: "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." It was submitted that the first of those scenarios only applied when the player played and bet against his club. This can be dealt with briefly. The Appeal Board has no difficulty in rejecting that argument. The plain reading of the passage quoted identifies a situation whereby a bet placed by a Participant against his own team will always be a serious aggravating factor even if he was not involved in the match.
- 24. At paragraph 12.2 of the Notice of Appeal it is asserted that the Commission was wrong to reject a certain part of Dr Hopley's evidence as "unpersuasive". Dr Hopley explained why he did not accept the argument that, in the case of Mr Barton, "a person who gambles within his financial means and stopped overnight" might be said to have a greater control over his gambling than others. The criticism advanced on behalf of Mr Barton is that no reasons are given for that rejection and the rejection was entirely contrary to the evidence. As set out in the Notice of Appeal:

"Dr Hopley explained (elsewhere in his evidence also) that (i) The type of gambling addiction Mr Barton had was not one focused on the winning

of money but focused on correctly guessing sporting outcomes and (ii) it took a significant crisis (i.e. the potential end of his football career by the charges) to get him to stop betting on football. That evidence was compelling. The Commission should have accepted it. At least, if they rejected parts of it as unpersuasive they should explain why, and they have failed to do so."

- 25. Mr De Marco argued, and there was no disagreement on this at least by Mr Coltart, that the key aspect of the betting offences was perception. However Mr De Marco went further and submitted in circumstances where it was accepted that the player bet for his team to lose and he had no influence over the outcome of a match because he was not playing there was no real perception of unfairness or at least no more than where he bet on his team to win.
- 26. It was also argued by Mr De Marco that the number of bets was not the key issue and in fact there was no reason to penalise someone more for multiple bets than for a single bet, assuming for the purposes of analysis that they were identical bets made in identical circumstances. The Appeal Board does not accept that proposition. Whilst the totality principle is extremely important in such cases it cannot be right that the placing of one isolated breach receives the same punishment as multiple breaches involving the same type of bet and the same circumstances. Clearly multiple breaches are always to be considered as more serious than one single breach even if the overall sanction is tempered, perhaps greatly tempered, by the totality principle.
- 27. It was also asserted that the Commission had wrongly refused to suspend part of the sanction on the erroneous basis that the offences were too serious to warrant suspending part of the suspension period. We see nothing at all in this point because the Commission was aware it had a power to suspend and chose not to exercise it because of its view on the seriousness of the matters before it. We are not satisfied there has been

any sound basis put forward for challenging the Commission's decision in that regard assuming the overall sanction is not excessive. It cannot be a self-standing ground or basis of appeal in such circumstances.

## **Response of The FA and Submissions**

- 28. Mr Coltart's written response to the Notice of Appeal began by addressing the Guidelines and asserting that the Commission was entitled to have regard to the 2014 Guidelines. He noted that there was no appeal in respect of that point. As we have noted above it was clearly correct that the Commission should have regard to the Guidelines to aid their exercise of discretion and there was no sound basis for arguing the contrary.
- 29. In dealing with the Appellant's submissions on previous cases it was submitted by Mr Coltart that previous cases are too varied to provide any meaningful assistance to a Commission especially in this area involving betting offences. He took as an example *FA v Parfitt-Williams* who received a sanction of 6 months and who had laid bets against his own team and like, Mr Barton, did not play. He laid 28 bets over a two month period as opposed to Mr Barton who laid 1,260 bets over 10 years, he laid 3 "own team bets" as opposed to Mr Barton's 41 such bets and he laid 2 for his own team to lose as opposed to 15 such bets by Mr Barton. The particular mitigation in the case of Parfitt-Williams was addressed including his age and the effect of an injury on him. Previous cases are therefore of no real assistance. Every case turns on its own facts.

- 30. Regarding extra mitigation based upon the stage reached by Mr Barton in his career this was misconceived. It might be argued that a young player would be more severely affected by such a sanction because that might bring about the end of his career. The same might be said of a player who was at his peak. The effect of the sanction is a result of the breach of the Rules and as the Commission put it "the suspension must lie where it falls." The Appeal Board accepts this submission as being obviously correct.
- 31. Mr Coltart agreed that perception was key to the reasoning behind the rules and Guidelines. However, he argued that the dangers of adverse perception are not limited to instances where the player has backed the opposition to win. They can equally arise through a player backing his own team instead. He also submitted that issues of perception clearly arise in relation to betting against one's own team even though not directly involved in the game. "Given the extreme unlikelihood of a player wanting to bet against his own team, the mere fact of it is sufficient to raise suspicion of wrongdoing" (paragraph 31 of the Response). The Board agrees with that approach. The problem of perception, to varying degrees, applies to all bets in respect of one's own team whether a Participant is involved in the game or not.
- 32. The text of the Guidelines was addressed by Mr Coltart as to whether it identified as a serious aggravating factor a Participant who bet against his own team even if he was not involved in the match. As set out above, we agree with Mr Coltart's interpretation and that of the Commission that such is an aggravating factor.
- 33. In respect of Dr Hopley's evidence Mr Coltart submitted that the Commission was entitled to come to the conclusion that it did. The Commission is not bound to accept an expert's evidence: "If they found this part of his evidence less than convincing (and one could well understand why they might) they were entitled to do so." (paragraph 44)

of the Response). He went onto submit that it was not necessary to address this point because The FA and Commission accepted that Mr Barton has had a gambling addiction throughout. The short point is that his addiction did not provide a complete answer and Mr Barton retained a degree of choice in what he did. It was said that Dr Hopley agreed there were others on the spectrum above Mr Barton and, whilst impaired, his ability to make informed choices remained.

### **Appeal Board's Findings**

- 34. The Appeal Board does not accept that the various cases that have been cited show that the decision of the Commission was excessive. It has been said consistently that previous decisions of Regulatory Commissions regarding sanctions are not binding upon other Commissions. Each case is different with various points in mitigation and aggravation. The present case involved serious breaches including Mr Barton's betting on his own team to lose even if he was not playing. It is expressly stated to be a serious aggravating factor and even if the Guidelines did not exist it would obviously be regarded as a serious aggravating factor. The Guidelines make explicit that which is obviously the case. The approach adopted by the Commission was entirely correct which was to look at the overall circumstances and to consider all mitigating and aggravating factors including the non-exhaustive list of matters set out in the Guidelines.
- 35. The submission that the Commission should have suspended part of the suspension because that is a common aspect of sanctions even in serious cases is not a submission that can be accepted assuming that the overall sanction was not excessive. A suspension of part of the suspension is a matter entirely within the discretion of the Commission.
- 36. Subject to the point regarding Dr Hopley's evidence dealt with below the Commission took into account all relevant mitigating and aggravating

factors which were before it. It was clear that Mr Barton was not involved in any cheating, he did not influence any games and there was nothing suspicious about his bets. It also found that he suffered from a gambling addiction. However, it also found that there was a very large number of bets over a ten year period and even after The FA challenged him about his tweets in 2012 regarding betting and sent him a copy of the Rules regarding betting, summarising for him their effect, he still carried on betting. That is clearly a serious aggravating factor along with the previous betting on his own team to lose even though he was not playing.

- 37. If matters rested there, the appeal would be dismissed. It is not for the Appeal Board to decide whether it would have handed down a different sanction if it had been dealing with matters at first instance. The question before the Appeal Board is whether the sanction is excessive. Subject to the point we now turn to we would not have considered the sanction excessive. This is particularly so because of the age and experience of Mr Barton and the fact that he was given a written warning in 2012 which he failed to heed.
- 38. The factor to which we now turn is the psychiatric evidence of Dr Hopley. We were taken by Mr Coltart to the various extracts from the transcript of his evidence to understand why the Commission was unpersuaded by Dr Hopley's evidence that, the fact Mr Barton bet within his means and did not end up destitute, did not mean he had a greater degree of control than otherwise might be the case. The same was said of Mr Barton stopping gambling on football overnight, once the charges were brought. Mr Coltart candidly admitted it was unfortunate the Decision itself did not explain why Dr Hopley's evidence was not found persuasive in this regard. However, it was legitimate to consider the background documents such as the transcript and report to see if the Commission's reasons could be discerned. Given that the question of degree of control is a key feature in such cases, the Board was taken through the relevant extracts of the evidence.

39. However, despite going through the various extracts it was still unclear to the Board why the Commission rejected the opinion of Dr Hopley in this crucial regard. Mr Coltart suggested that it must have been because the Commission regarded the evidence on this point as "counterintuitive." Given the standing and expertise of Dr Hopley, and in the absence of any opposing expert evidence, it is unclear how his evidence could have been rejected merely because it was "counterintuitive". Clearly this is not a satisfactory position to be in where there should be reasons for accepting or rejecting evidence, especially expert evidence. With questions of fact it may be obvious why evidence was not accepted. Where there are competing experts, it may be that one is preferred above the other in which case the reasons will be clear from the evidence regarded as preferable even if not repeated in the decision. However, in this case the degree of control is a crucial issue and there was no opposing expert opinion. It was not disputed that he had a general gambling addiction. In his report at paragraph 11.8 Dr Hopley opined:

"It is clear from reviewing Mr Barton's history that his level of compulsive gambling is such that whilst he feels that he is making informed wise, scientific decisions regarding the bets he places, the volume and frequency of his bets indicated that his ability to control those impulses is very limited."

In cross-examination Dr Hopley said "So I would put him to the moderate to severe end of that spectrum. Albeit for the fact that he's wealthy, he would have had some of the problems we're are taking about: marital difficulties, financial difficulties et cetera." (page 133 line 25 of the transcript)

In another exchange Mr Coltart asked Dr Hopley

"Q. Just go back to the financial issue for a moment or two, the fact of the matter is that he has managed, hasn't he, to constrain himself. He said "I

never bet beyond my means" and that is indicative, isn't it – it must be indicative – of an ability to exercise a certain degree of control over his gambling behaviours?

A. There was definitely some degree of control in there, but as we already talked about, the addiction for Mr Barton is the process, it is beating the system. For him it was never the money." (page 136 line 7)

In respect of the point about Mr Barton stopping overnight in respect of his gambling on football once the charges were brought Dr Hopley said " As I said earlier, the reason for that is that faced with such a significant event as a commission hearing, the reality breaks through all of that cognitive distortion, all of the self-deception, all of that stuff that we know occurs with gamblers and other addicts, and lands in the part of its frontal lobe that it needs to sit in, where it has not successfully done for some ten years." (page 130 line 12)

- 40. The central opinion of Dr Hopley, who is a most distinguished expert consultant psychiatrist, was that it was the process Mr Barton was addicted to. Thankfully it was not the money aspect he was addicted to therefore he could impose a limit. However, the addiction to the process of placing a bet was moderate to severe on the spectrum.
- 41. The Appeal Board sees no reason why that evidence was found unpersuasive, in the absence of countervailing evidence. It was a crucial part of Mr Barton's case as it would be for any addiction case. The Appeal Board also considers if that expert opinion had not been rejected there would have been significant further reduction in the period of suspension.
- 42. We consider it was not reasonable for the Commission to reject the evidence of Dr Hopley in respect of the degree of impairment to Mr Barton's control. We therefore exercise the discretion regarding sanction afresh. We take into account all of the factors correctly identified by the Commission, those that are aggravating and those that are mitigating, but

we also take into account the evidence of Dr Hopley which we find should have been regarded as persuasive. The period of suspension the Appeal Board considers appropriate is reduced so that it expires on 1 June 2018. In the judgment of the Appeal Board that period of suspension reflects the overall seriousness of the breaches and also the mitigation including the full extent of Mr Barton's addiction.

#### **Conclusion**

43. For the reasons set out above the Appeal Board concludes that the period of suspension imposed by the Regulatory Commission was excessive in the circumstances. The period of suspension is therefore reduced so that it will expire on 1 June 2018. The ruling made by the Regulatory Commission is therefore varied accordingly. All other aspects of the ruling by the Commission including the fine and costs orders shall remain in place.

DAVID CASEMENT QC (CHAIRMAN)

PAUL RAVEN

IFEANYI ODOGWU

25 July 2017