

IN THE MATTER OF A FOOTBALL ASSOCIATION  
INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

WEST HAM UNITED FOOTBALL CLUB.

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WRITTEN REASONS AND DECISION OF  
THE INDEPENDENT REGULATORY COMMISSION FOLLOWING THE  
HEARING

ON 6 MARCH 2018

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## **Background**

1. These are the written reasons for a decision made by an Independent Regulatory Commission which sat by WebEx on 6 March 2018.
2. The Regulatory Commission members were Mr Gareth Farrelly, Chairman and Independent Football Panel Member, Mr Stuart Ripley, Independent Football Panel Member and Mr M Robinson, Independent Football Member.
3. Mr Paddy McCormack of the FA Judicial Services Department acted as Secretary to the Regulatory Commission.

## **Charges and Replies**

4. By letter dated 19 February 2018, The Football Association (“The FA”) charged West Ham United Football Club with misconduct for a breach of The FA Rule E25.
5. It was alleged that the Club failed to ensure that the Club Whereabouts information was accurate, three (3) times within twelve (12) months, contrary to Anti-Doping Regulation 14D. For completeness, Rule 14 of the Anti-Doping Regulations addresses the Club obligations and states that –
  - (a) *All Clubs must furnish The Association upon request with any whereabouts information The Association requires from time to time in respect of any Players who are not IRTP Players or NRTP Players. That information shall include as a minimum:*
    - (i) *training dates;*
    - (ii) *start and finish times of training;*
    - (iii) *the address at which such training will take place; and*
    - (iv) *the home address for a Player and any other address at which a Player regularly resides overnight.*
  - (b) *The Association (whether through the Anti-Doping Unit or otherwise) may issue directions from time to time about:*
    - (i) *the type of whereabouts information to be submitted by Clubs; and/or*
    - (ii) *the manner and time frame in which such whereabouts information must be submitted.*
  - (c) *It shall be a breach of this Regulation 14 for a Club to fail to provide whereabouts information directed regular detail in the manner directed by The Association, three times within any 12 month period.*
  - (d) *It shall also be a breach of this Regulation 14 by the Club if the information contained in such reports is either initially inaccurate or has not been updated by the Club as necessary to ensure it remains accurate, three times within any 12 month period.*

6. On 8 January 2018, an FA Anti-Doping team conducted drug tests on members of the West Ham United U18 Squad as part of the annual Anti-Doping Control Programme. On arriving at the venue to conduct the test, The FA Anti-Doping team were told by a Club Official that two (2) players were absent from training due to following the U23 Squad schedule.
7. With regard to the FA Anti-Doping Whereabouts provisions, this was the third incident involving West Ham United FC. On the 19 October 2017, the Club incurred their first Whereabouts strike when they failed to ensure that the home address submitted for Manuel Lanzini was accurate and up to date as at 28 September 2017. On this date, an FA Anti-Doping team attempted to conduct a drug test on Manuel Lanzini of the West Ham United First Team Squad at his home address, as part of the annual FA Anti-Doping Programme. The FA Supervising Officer was informed by a current occupant that the player did not live at this property.
8. On 4 January 2018, the Club incurred a second Whereabouts strike. It was noted that West Ham United FC failed to ensure that the home address for Manuel Lanzini was accurate and up to date as at 11 December 2017. On this date, an FA Anti-Doping team attempted to conduct a drugs test on Manuel Lanzini of the West Ham United First Team Squad at his home address, as part of the annual FA Anti-Doping Programme. In this case, The FA Supervising Officer was informed by the security guard working at these premises that the player did not live at the listed apartment number but lived at an alternate apartment number within this development's address.
9. Within the correspondence, the Club was warned that if it incurred three (3) Whereabouts strikes within a rolling twelve (12) month period, disciplinary proceedings would be brought against the Club for a breach of the Anti-Doping Regulations.
10. All Clubs are provided with the The FA Anti-Doping Whereabouts Guide. This is a comprehensive guide and this is further supported by updates from the Football and Administration Division of The FA. The Regulatory Commission was also aware that these provisions have been in place for a number of years now.
11. On 3 October 2017 and 13 December 2017, The FA Anti-Doping Whereabouts Administrator wrote to the Club stating that –  
  
*“As you will be aware, pursuant to Regulation 14 of The FA Anti-Doping Regulations, it is the responsibility of the Club to ensure that home addresses are kept up to date at all times for all players (First/Reserve/Youth).*
12. The FA Anti-Doping Whereabouts Administrator wrote to the Club, erroneously dated 4 December 2017 as the relevant incident occurred 8 January 2018, and stated, amongst other things, that –  
  
*“It is a requirement to ensure that all squad lists are kept accurate and up to date at all times”.*

The Commission was satisfied the above was a basic typographical error and did not have any material impact on the case.

13. On 26 February 2018, the Club admitted the Charge and submitted detailed correspondence seeking to explain the incidents and respond to the points raised by The FA. The Club submitted that there had been some administrative errors with regard to the first and second strikes and that this was directly related to IT issues and a typographical error when the address details were being inputted into their system. For completeness, the Club respectfully submitted that a warning should have been issued for the incident relating to the typographical error, a position not accepted by The FA.
14. With regard to the third strike, the Club submitted that there were a number of extraordinary circumstances which led to the players not being present at the training ground. It was averred that the players would in fact have been there but for illness to two U-23 players. At short notice, the two players were required to travel with the U-23 squad for their Premier League 2 fixture against Manchester United that evening. In fact, one player played the whole game and the other made a substitute appearance.
15. For the avoidance of doubt, the Regulatory Commission has carefully considered all the evidence and materials provided in connection with this case. It is aware of the importance of the Anti-Doping Regulations and that there is an increased focus in this area. It is a strict liability offence. It is to be expected that the Club has the sufficient expertise and resources in place to correctly implement and satisfy the Anti-Doping Programme. Furthermore, it is of concern that there were three incidents in such close proximity. The Club submitted that they have addressed a number of these issues and have improved their systems and training. It is to be hoped that this is the case.
16. The Regulatory Commission is aware that the Anti-Doping Whereabouts Guide has been in place in its current format for a number of years. This is of significance, as it is a critical starting point in offering guidance as to the correct financial sanction that should be imposed. This sanction should be fair and proportionate but equally be of a sufficient deterrent nature that Clubs will be diligent and ensure that they adhere to the Anti-Doping Regulations, as they are required to do. This requires having the correct systems and processes in place and also working alongside The FA. It is the opinion of the Regulatory Commission that the penalties and entry points should be amended to reflect the considerable changes in the Game from when this Guide was first introduced; both financially and in relation to the Anti-Doping requirements so that there is absolute clarity for all Participants and promote best practice.
17. Finally, the Regulatory Commission also had regard to the fact that the Charge was admitted by West Ham United FC and, as confirmed by Mr McCormack, the Club had no previous similar misconduct offences on their record. Credit was given for this admission by way of reduction in the overall sanction the Commission were originally minded to impose having noted all the other applicable considerations.

## **Conclusion**

18. Having carefully considered all the relevant factors, and having carefully considered the submissions made on behalf of West Ham United FC, the Regulatory Commission has unanimously decided to impose the following sanctions which the members consider fair and proportionate:

(i) West Ham United FC is fined the sum of £30,000.

19. This decision is subject to the relevant Appeal Regulations.

Mr Gareth Farrelly, Chairman

Mr Stuart Ripley

Mr Marvin Robinson

8 March 2017