BEFORE THE REGULATORY COMMISSION
OF THE FOOTBALL ASSOCIATION

IN THE MATTER OF

THE FOOTBALL ASSOCIATION

and

MILLWALL FC

WRITTEN REASONS
OF THE REGULATORY COMMISSION

WARNING TO READERS

THIS DOCUMENT CONTAINS REFERENCE TO OFFENSIVE AND/OR DISCRIMINATORY LANGUAGE

Regulatory Commission:	Graeme McPherson KC (Chairperson) Alan Hardy Andrew Adie
Secretary to the Commission:	Conrad Gibbons (Judicial Services Assistant Manager)
FA Representatives:	Chris Foulkes (Counsel) Tom Middleton (FA Regulatory Advocate)
Millwall FC Representatives:	Nick De Marco KC (Counsel) Imogen Duffy (Wiggin LLP, Observer) Oliver Warren (Millwall FC Legal Counsel, Observer)
Date:	6 November 2026
Venue:	Wembley Stadium

(A) Introduction

(1) The match and the incidents

1) On 24 January 2026 Millwall Football Club ('***the Club***') played Charlton Athletic FC ('***CAFC***') in the EFL Championship ('***the Match***'). The Match took place at the Club's home ground ('***the Stadium***').

2) Incidents occurred during the Match. For present purposes the relevant incidents ('***the Incidents***') comprise the following:
   a) In about the 5th minute individuals in the crowd could be heard to chant '*South London spastics*' a number of times
   b) In about the 9th minute individuals in the crowd could again be heard to chant '*South London spastics*' a number of times
   c) In about the 55th minute individuals in the crowd could again be heard to chant '*South London spastics*' a number of times
   d) In about the 57th minute individuals in the crowd could be heard to chant '*You take it up the arse*' a number of times
   e) In about the 90th + 3 minute individuals in the crowd could again be heard to chant '*South London spastics*' a number of times.

   All of the chanting (1) came from individuals who were (or purported to be) spectators or supporters of the Club, and (2) were directed at supporters of CAFC.

(2) The Charges

3) By letter dated 9 March 2026 the FA charged the Club with Misconduct for breaches of FA Rule E.21.1 ('***the Charges***') in connection with the Match. The FA alleged

   a) That in each of the 5th, 9th, 55th and 90th + 3 minutes of the Match the Club had failed to ensure that its spectators and its supporters (and anyone purporting to be its supporters or followers) did not conduct themselves in a manner prohibited by FA Rule E.21.1 while attending the Match in circumstances where that conduct was discriminatory, in that the Incidents referred to in paragraphs 2 (a), (b), (c) and (e) above included references to disability contrary to FA Rule E.21.4

b) That in the 57th minute of the Match the Club had failed to ensure that its spectators and its supporters (and anyone purporting to be its supporters or followers) did not conduct themselves in a manner prohibited by FA Rule E.21.1 while attending the Match in circumstances where that conduct was discriminatory, in that the Incident referred to in paragraph 2(d) above included reference to sexual orientation contrary to FA Rule E.21.4.

4) With the Charges the FA enclosed
   a) The evidence on which it relied in support of the Charges. That evidence included
      i) A witness statement from [redacted] summarising the Incidents and exhibiting video and audio of the Incidents
      ii) An email from Kick It Out forwarding to the Club and to the FA two reports from individuals who had witnessed the Incidents during the Match
      iii) Video clips of the Incidents (with audio)
      iv) Correspondence with the Club
   b) The FA's Policy and Guidance on the Regulation of Discriminatory Conduct by Spectators ('***the Guidance***'). We refer to the Guidance below.

(3) The Club's response to the Charges

5) By its '*Disciplinary Proceedings: Reply Form*' dated 23 March 2026 the Club admitted the Charges. It requested a personal hearing before a Regulatory Commission.

6) With/shortly after that Reply the Club provided

   a) A witness statement (and subsequently, a supplemental witness statement) from Paul Sayer, the Club's Head of Operations and Safety Officer. Mr Sayer's statements addressed *inter alia*
      i) the extent of the Club's compliance with an Action Plan then in place as a result of a previous Regulatory Commission decision (defined below as '***the 2025 Action Plan***')
      ii) the approach adopted by the Club at every match *inter alia* to minimise the risk of incidents such as the Incidents occurring
      iii) the Club's preparations for the Match
      iv) the Club's response to the Incidents during the Match

v) the Club's response to the Incidents since the Match

and also exhibited a large number of documents to evidence the matters set out in that statement

b) A witness statement from Max McLellan, the Club's Director of Communications. Mr McLellan's statement addressed *inter alia*

i) the generic efforts made by the Club through social media in the area of anti-discrimination

ii) the steps taken by the Club in that regard before and after the Match

iii) the extent of the Club's compliance with the 2025 Action Plan insofar as such matters fell within his remit

iv) his presence at the Match and the role that he played in response to certain of the Incidents

c) A witness statement from Jason Vincent, the Club's Safeguarding, Equality, Diversity & Inclusion Lead. Mr Vincent's statement addressed *inter alia*

i) the work done by the Club in recent months and years in the area of anti-discrimination

ii) the extent of the Club's compliance with the 2025 Action Plan insofar as such matters fell within his remit

d) A witness statement from Pru Buckley, Head of Ticketing at the Club. That statement addressed *inter alia*

i) how and to whom tickets for the Match were sold by the Club

ii) the extent of the Club's compliance with the 2025 Action Plan insofar as such matters fell within her remit

e) A witness statement (and subsequently, a supplemental witness statement) from Mark Fairbrother, the Club's Managing Director. Mr Fairbrother's statements addressed *inter alia*

i) his presence at the Match and the role that he played in response to the Incidents

ii) the post-Match reaction of Club supporters to the Incidents

iii) the financial and wider consequences that the Club contended would ensue in the event that the sanction imposed on the Club in respect of the Incidents included a partial or full closure of the Stadium

iv) the Club's response to the Incidents since the Match

f) Detailed written submissions dated 24 March 2026 addressing the Charges and how the Club invited the Regulatory Commission to approach sanction ('***the Club's Submissions***'). The Club's Submissions

i) Set out the Club's submissions as to the factual background to the Incidents

ii) Addressed the Club's previous disciplinary record under FA Rule E.21 (see below)

iii) Addressed the regulatory framework relevant to the Charges

iv) Set out how it contended the Regulatory Commission should apply that regulatory framework to the facts of this case. The Club addressed each of the factors identified in the Guidance as being relevant to sanction

v) Set out the further mitigation on which the Club relied

vi) Asserted that

(1) There would likely be little benefit in the Regulatory Commission imposing a further Action Plan or amending the 2025 Action Plan

(2) No partial or full stadium closure should be ordered

(3) A '*substantial fine … within/at the top end of the £75,000 limit identified in the Guidelines*' was an appropriate and proportionate sanction to impose on the Club.

7) On 26 October 2026 the FA served Written Submissions on Sanction ('***the FA's Submissions***'). In the FA's Submissions the FA

a) Summarised its position on the regulatory framework relevant to the Charges

b) Set out its own submissions as to the factual findings that the Regulatory Commission should make as regards each of the factors identified in the Guidance as being relevant to sanction (and more widely)

c) Set out its position as to the sanction that the Regulatory Commission should impose:

i) It agreed that a further Action Plan was not appropriate

ii) It submitted that a partial stadium closure ought to be imposed

8) On 28 October 2026 the Club served further Written Submissions on Sanction ('***the Club's Supplemental Submissions***') in response to the FA's Submissions. The Club's Supplemental Submissions
   a) Confirmed that they were to be read alongside the Club's Submissions, and
   b) Summarised (and reaffirmed) the Club's position on
      i) The factual background to the Incidents
      ii) The regulatory framework relevant to the Incidents
      iii) The Conclusions that it invited the Regulatory Commission to reach in respect of each of the factors identified in the Guidance as being relevant to sanction
      iv) The appropriate and proportionate sanction that the Regulatory Commission should reach.

(4) The hearing before the Regulatory Commission

9) The Charges were considered by us as the appointed Regulatory Commission ('***the RC***') on 6 November 2026:

   a) In advance of the hearing the Members of the RC were able
      i) To read the entirety of the written materials relied on by the parties, and
      ii) To view videos and listen to the audio of the Incidents

   b) At the hearing
      i) We were shown one video provided by the Club which we had not been able to access prior to the hearing
      ii) We heard oral evidence from each of Mr Sayer, Mr McLellan and Mr Fairbrother
      iii) We heard detailed oral submissions from the parties.

10) We say at the outset
   a) That we were satisfied that each of the witnesses from whom we heard gave truthful evidence and were doing their best to assist us on the matters about which they were able to give evidence, and
   b) That we were greatly assisted by the quality of the written and oral submissions of both parties.

11) At the end of the hearing we reserved our Decision. This document now sets out that Decision and our Written Reasons for our Decision.

(B) The relevant Regulatory Framework

(1) FA Rule E.21.1

12) FA Rule E.21.1 provides as follows:

> '*A Club must ensure that its spectators and/or its supporters (and anyone purporting to be its supporters or followers) attending any Match do not*
>
> *1 behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative;*
> *...*
> *4 conduct themselves in a manner prohibited by paragraph E.21.1 in circumstances where that conduct is discriminatory in that it includes a reference, whether express or implied, to one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.'*

13) Where FA Rule E.21.4 is engaged, FA Rule E.21.1 creates a 'strict liability' offence; an FA Rule E.21.5 defence[1] is not open to a club charged with a breach of FA Rule E.21.1 if (as here) the relevant conduct is discriminatory. In such a case the extent to which the club used all due diligence to discharge the responsibility set out in FA Rule E.21.1 goes only to mitigation and sanction.

(2) The Guidance

14) As with any breach of FA Rule E.21.1, when determining the appropriate sanction in a case such as this a Regulatory Commission will consider
   a) The seriousness of the breach of FA Rule E.21.1 committed by the club,
   b) The culpability of the club underlying those breaches, and
   c) The harm caused by the incidents that give rise to the breaches[2].

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[1] FA Rule E.21.5: *it shall be a defence to a Charge in relation to Rules E.21.1 to E.21.3 (only) if a Club can show that all events, incidents or occurrences complained of were the result of circumstances over which it had no control, or for reasons of crowd safety, and that its responsible officers or agents had used all due diligence to ensure that its said responsibility was discharged. However, when considering whether this defence is made out a Regulatory Commission will have regard to all relevant factors including:*
** The extent to which the Club has discharged its duty;*
** The severity of the issues involved;*
** The extent to which similar issues have occurred previously in which case whether the Club took sufficient action in preventing further such incidences*'.

[2] '*Harm'* in this context should in our view be given a wide interpretation. While it encompasses physical harm or damage to property, it will also include matters such as the capacity to offend and impact the dignity of those exposed to the conduct (whether those at whom the conduct is directed or more widely) and the potential for damage to be caused to the integrity and reputation of English football: see the Introduction to the Guidance.

15) The Guidance additionally sets out a number of specific factors to which a Regulatory Commission '*will have due regard*' and '*will consider'* (emphases added) when assessing sanction in a case such as this. We consider those factors individually below. However, as has been described in previous Regulatory Commission decisions

a) Factors 1, 2 and 3 are matters relevant to the seriousness of the breach and to the harm caused by the incidents, and

b) Factor 4 (and in appropriate cases, Factor 7) are matters relevant to the culpability of the Club in respect of the breaches.

Care must therefore be taken to avoid double-counting when the various factors are considered individually and in the round.

(C) Is this a Second or Further Offence ?

(1) The relevance of a breach being a Second or Further Offence

16) The Guidance distinguishes between

a) A First Offence, for which the Guidance requires an Action Plan to be imposed (with the aim of precluding a repeat of the conduct which formed the basis of the conduct that led to the club being in breach of FA Rule E.21), either as a stand-alone sanction or alongside a financial penalty, and

b) A Second or Further Offence. In the case of a Second or Further Offence the Guidance states
   i) That the matter should be treated '*with the utmost seriousness*'
   ii) That there is a presumption that the imposition of a further Action Plan will not be appropriate (if the offence has occurred either during the period of the previously imposed Action Plan or within a year of the expiration of that Action Plan)
   iii) That as well as penalties provided in the relevant paragraphs of Part A of the Disciplinary Regulations[3], the Regulatory Commission '*shall consider imposing'* (emphasis added) any combination of
      (1) A financial penalty in accordance with Table 1 of the Guidance
      (2) The closure of a stand (or part thereof) of a club's stadium for a specified number of matches ('***Partial Stadium Closure***')
      (3) The closure of a club's stadium for a specified number of matches (i.e. the playing of a match or matches without spectators being present) ('***Full Stadium Closure***').

(2) The Club's previous breaches of FA Rule E.21

17) The Club has a significant history of breaching FA Rule E.21:

a) On 26 January 2019 the Club breached FA Rule E.21 in a home match against Everton FC. That breach related to Club supporters chanting abuse that was discriminatory by

[3] Which include a reprimand/warning as to future conduct, a fine, the closure of a ground permanently or for a stated period, the playing of a match without spectators present and/or at a specific ground and '*such further or other penalty or order as [the Regulatory Commission] considers appropriate*'.

reference to race. In Written Reasons dated 24 June 2019 and 31 July 2019 the Regulatory Commission that considered the charge against the Club

i) Found that for approximately 14 seconds a small group of Club supporters chanted '*I'd rather be a Paki than a Scouse*'

ii) Rejected (by a majority) the Club's submission that, had it been available, the Club would have been able to establish an FA Rule E.21 due diligence defence (i.e. that it had in fact used all due diligence)

iii) Imposed an Action Plan ('***the 2019 Action Plan***') that would remain in place until the conclusion of the 2020/2021 season

iv) Fined the Club £10,000.

We refer to this as '***the 2018/2019 Club Breach***'

b) On 22 April 2023 the Club breached FA Rule E.21 in an away match against Wigan Athletic FC. That breach related to Club supporters chanting abuse that was discriminatory by reference to religion. In Written Reasons dated 6 October 2023 the Regulatory Commission that considered the charge against the Club

i) Found that on 3 occasions during the match a '*very significant number'* of Club supporters repeatedly chanted '*fuck the pope and the IRA*' and '*I bought a flute for 50 pence, the only thing I could play was fuck the pope and the IRA*'

ii) Imposed an Action Plan ('***the 2023 Action Plan***') that would remain in place until the conclusion of the 2024/2025 season

iii) (By a majority) determined that no fine would be imposed on the Club.

We refer to this as '***the 2022/2023 Club Breach***'

c) On 1 March 2025 the Club breached FA Rule E.21 in an away match against Crystal Palace FC. That breach related to Club supporters chanting abuse that was discriminatory by reference to sexual orientation. In Written Reasons dated 23 June 2025 the Regulatory Commission that considered the charge against the Club

i) Found that on 2 occasions during the match (once for about 16 seconds, once for about 9 seconds) a number of Club supporters – likely in the hundreds – chanted words to the effect '*You know what you are, you know what you are, Chelsea rent boy, you know what you are*'

ii) Imposed a further Action Plan ('***the 2025 Action Plan***') that would remain in place until the conclusion of the 2025/2026 season

iii) Fined the Club £15,000

iv) Warned the Club as to its future conduct.

We refer to this as '***the 2024/2025 Club Breach***'

d) On 16 September 2025 the Club breached FA Rule E.21 in an away match against Crystal Palace FC. That breach related to Club supporters chanting abuse that was discriminatory by reference to disability. In Written Reasons dated 19 February 2026 the Regulatory Commission that considered the charge against the Club

i) Found that on 1 occasion during the match a substantial number of Club supporters chanted words to the effect '*You know what you are, you know what you are, South London spastics, you know what you are*' for a period of about 11 seconds

ii) Imposed a further Action Plan ('***the 2026 Action Plan***') that would remain in place until the conclusion of the 2026/2027 season and fined the Club £45,000

iii) Warned the Club as to its future conduct.

We refer to this as '***the 2025/2026 Club Breach***'.

18) Each of the Regulatory Commissions that imposed sanctions on the Club in respect of the 2024/2025 Club Breach and the 2025/2026 Club Breach concluded that the Club's breach was a Second or Further Offence. Each of those Regulatory Commissions therefore considered (as required by the Guidance) whether to order a Full or Partial Stadium Closure as part of the package of sanctions imposed on the Club:

a) The Regulatory Commission that considered the 2024/2025 Club Breach concluded that a Full or Partial Stadium Closure was not an appropriate sanction in that case

b) The Regulatory Commission that considered the 2025/2026 Club Breach concluded that a Full or Partial Stadium Closure was not appropriate or proportionate in that case, but did observe that '*our decision may well have been a different one if the match had been a home fixture for [the Club]*'.

19) The FA invited us to consider each of the 2018/2019 Club Breach, the 2022/2023 Club Breach, the 2024/2025 Club Breach and the 2025/2026 Club Breach as previous Club Breaches (with all but the 2018/2019 Club Breach being '*recent breaches*') for the purpose of the Charges. We agree with those descriptions (and in these Written Reasons we refer to

the 2018/2019 Club Breach, the 2022/2023 Club Breach, the 2024/2025 Club Breach and the 2025/2026 Club Breach collectively as '***the Club's Previous Breaches***'. We thus approached sanction on the basis

a) That this was the Club's fifth breach of FA Rule E.21 in the 7 year period between January 2019 and January 2026 (albeit that the first of those breaches was by 2026 relatively historic), and
b) That this was the Club's fourth breach of FA Rule E.21 in the less than 3 year period between April 2023 and January 2026.

20) Before leaving this section we also observe that, while all of the incidents giving rise to the Club's Previous Breaches involved mass discriminatory chanting, the category of discrimination varied from incident to incident. We consider what flows from that below.

(3) Conclusion

21) In light of the Club's Previous Breaches we concluded that it was entirely appropriate to treat this case

a) As one falling within the '*Second or Further Categories*' section of the Guidance[4], and accordingly
b) As a case of the '*utmost seriousness*'.

[4] In determining whether a breach is a Second or Further Offence the Guidance does not distinguish between breaches which occurred at home matches and breaches that occurred at away matches. There is in our view good reason for that; a breach of FA Rule E.21 is a breach, regardless of where the breach occurred. We consider below whether the fact that the 2022/2023 Club Breach, the 2024/2025 Club Breach and 2025/2026 Club Breach were all at away matches (making the Match the first home fixture of the Club since 26 January 2019 at which a breach of FA Rule E.21 occurred) has relevance in other respects.

(D) An overarching observation on the purposes of sanctioning a respondent

22) In *The FA v Klopp* (Appeal Board, 13 November 2022) the Appeal Board observed as follows:

> *'39. Our attention was drawn to decisions in Hartlepool United FC & Others v The FA [Appeal Board 21 September 2018 @ paras 18-19] and The FA v Everton FC [Regulatory Commission 28 September 2022 @ paras 17-18]. In each of those cases the tribunal had cause to consider the extent to which, if at all, it was appropriate for a Regulatory Commission to include a 'deterrent component' in its assessment of the appropriate penalty:*
>
> *a) In Hartlepool United FC v The FA the Regulatory Commission had increased penalties that would otherwise have been imposed on respondents specifically on the grounds of deterrence i.e. specifically to deter the respondents and third parties from behaving in a similar way in the future. The Appeal Board concluded that the Regulatory Commission had been wrong to do so and allowed the appeal on the basis that, because an impermissible discrete 'deterrent element' had increased the penalties above the level which would otherwise have been imposed had such deterrent element not been included, the penalties imposed had been excessive*
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> *b) In The FA v Everton FC the Regulatory Commission had to consider the wider and more fundamental question of whether a Regulatory Commission could even have regard to issues of deterrence when considering sanction. It concluded – following the Appeal Board's decision in The FA v Daniel Sturridge (which in turn followed the decision of Richards J in Bradley v The Jockey Club)*
>
> *i) That a Regulatory Commission is entitled to have in mind the combined aims of punishing the offender, deterring him and others from offending and protecting the integrity of the sport when considering what sanction is to be imposed, provided that the sanction in fact imposed remains a proportionate response to the offending in question,*
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> *ii) That there is thus nothing objectionable per se in a Regulatory Commission recognising (and indeed intending) that a sanction would have a deterrent effect provided that the sanction imposed remains proportionate to the facts of the individual case in question, but*
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> *iii) That a Regulatory Commission should not however increase a sanction 'beyond a proportionate level in order to achieve the otherwise legitimate aim of deterrence'.*
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> *40. We endorse what was said in those decisions:*
>
> *a) When considering sanction a Regulatory Commission is entitled to have regard to issues of deterrence as a legitimate sanctioning objective (along with other legitimate*

sanctioning objectives such as punishment of the offender and wider issues such as protecting/preventing harm to the integrity, reputation and image of the game) if it considers the same to be relevant

b) While a Regulatory Commission is entitled to impose a sanction which has combined aims of punishing the offender, deterring him and others from offending and protecting/preventing harm to the integrity, reputation and image of the game, the sanction imposed must remain a proportionate response to the facts of the case under consideration and the offending in question

c) A Regulatory Commission is not entitled to include a 'deterrent element' in/add a 'deterrent element' to a sanction if by doing so the overall sanction imposed would become disproportionate to the offending under scrutiny in the particular case. Put simply, a Regulatory Commission is not entitled to increase a sanction for the purpose of deterring others (or the respondent) from offending in the future if by doing so the nature or level of the sanction imposed would increase to a level that was no longer proportionate to the facts of the case for which the sanction is being imposed'.

23) We kept those observations in mind when approaching sanction in this case. In our view the '*legitimate sanctioning objectives*' relevant to this case comprised principally

a) Punishing the Club for the breaches committed
b) Deterring the Club (which in a case such as this must also mean its supporters) from committing similar breaches in the future (or as both parties agreed in closing it could be phrased, preventing a recurrence of similar misconduct)
c) Deterring others from committing similar breaches or otherwise behaving in a way similar to the conduct of the Club that gave rise to the breaches
d) Protecting third parties from harm
e) Protecting the integrity, reputation and image of football.

24) We also kept very much in mind that any sanction imposed for the purpose of achieving those objectives should be no more than a proportionate response to the particular facts of the offending in question. Thus having arrived at what we determined to be the appropriate sanction to meet those objectives, we stood back and asked ourselves whether, considered in the round, that sanction was a proportionate response to the Club's breaches in this case. We were satisfied that it was.

(E) The facts

25) In this section we set out the principal factual findings that we considered to be relevant to determining the sanction to be imposed on the Club. We do so in large part by reference to the factors specifically identified in the Guidance as ones to which we should have regard for that purpose. However, as the Guidance makes clear, the list of factors in the Guidance is not exhaustive and we therefore set out below any significant additional factors to which we had regard when considering all of the circumstances of/relating to the Incidents.

(1) The number of supporters involved

26) The attendance at the Match was a little over 19,000. Of that number 3,000 were in attendance from CAFC, meaning that there were approximately 16,000 Club supporters in the ground.

27) It was common ground that it was not possible to identify with precision how many individuals were involved in each of the Incidents. The Club invited us to conclude that it was in the region of 80-100 individuals, all of whom were in the north-eastern corner of the Dockers Stand in Blocks 19, 20, 47 and 48. That figure was based on an estimate given by an individual who (after the Match) complained to Kick It Out that they had heard the words used in the Incidents and estimated that '*maybe 80-100+3*' had been involved in the chanting. That email did however continue '*It was the Millwall stand closest to the big screen/away end. It was a loud chant of lots of people … roughly it was all that end*'.

28) We had the benefit of video and audio for each of the Incidents. We also had the benefit of an email from a second individual who (after the Match) complained to Kick It Out and stated

> '*Ranged from one stand to most of the stadium at times … The chant almost always started in the west*[5] *stand upper in the corner nearest the away support but also spread throughout the ground once started on multiple occasions*'.

29) Having considered all of the sources of evidence available to us, the conclusion that we reached was that the number of supporters involved in the Incidents

[5] That was wrong. The Dockers Stand was the stand nearest the away support, and that is on the eastern side of the Stadium, with Blocks 19, 20, 47 and 48 of the Dockers Stand nearest of all. We were satisfied that the reference to '*west stand*' was a mistake, and that the reference ought to have been to '*east stand*'.

a) Was considerably higher than the 80-100 suggested by the Club. The number of individuals was likely to have been in the hundreds, quite possibly more, and
b) Was not limited to individuals in Blocks 19, 20, 47 and 48 of the Dockers Stand. While that does appear to have been where each of the Incidents began, our assessment of the audio and video was that the chanting spread from those blocks to other parts of the Stadium.

30) Whatever the precise number though, and wherever they might have been located in the Stadium, the chanting in each Incident was sufficiently loud for it to be heard (easily) in the Stadium and on the Sky television coverage of the Match.

(2) The nature of the behaviour of those involved

31) We start by recording as fact that the chanting described in paragraph 2 above took place. Each of the chants was plainly discriminatory, as any reasonable person would have appreciated.

32) As with any instance of discriminatory chanting, the Incidents were serious and wholly unacceptable. Their gravity was aggravated in this case by the facts
a) That each Incident involved the offending words being repeated more than once
b) That five separate Incidents occurred during the Match
c) That the Incidents were collectively discriminatory in more than one respect.

33) The chanting undoubtedly caused 'harm' within the meaning that we have given to that term above. The Club does not seek to suggest otherwise.

(3) The duration of the Incidents

34) Each Incident lasted between about 10 and 20 seconds. Together the Incidents lasted approximately 70 seconds.

35) Both individually and cumulatively the duration of the Incidents was significant[6].

[6] We took care when considering Factors (2) and (3) to avoid double counting – repetition of a chant within a single Incident and multiple Incidents of discriminatory chanting in a single match will inevitably increase the overall duration of the Incidents.

(3A) Some further factual findings about the Incidents

36) We make the following additional factual findings in relation to the Incidents:

a) Who heard the chanting ?

37) The chanting was not heard by Mr Sayer. That was because he was (as he was required to be by the Club's planning documents for the Match) located in the Control Box at the Stadium throughout the Match. The Control Box is (as good as) sound-proofed against noise from the Stadium.[7] During the Match Mr Sayer was thus (as he always is on a match day) totally dependent on individuals outside the Control Box reporting to him – directly or indirectly – that discriminatory chanting is occurring or has occurred. While we consider the same in more detail below, given that Mr Sayer is very much the lynchpin for determining how the Club responds to any discriminatory chanting that might occur, ensuring

a) That he is made aware of discriminatory chanting in the Stadium, and so
b) That a foolproof mechanism exists for him being made so aware

is self-evidently critical to the Club being able to respond (effectively or at all) to any discriminatory chanting.

38) While many of the individuals who participated in the Incidents were located in Blocks 19, 20, 47 and 48 of the Dockers Stand, adjacent to a corner of the North Stand where CAFC supporters were seated, the chanting was audible throughout the Stadium. Indeed, the only witness who gave evidence on behalf of the Club who admitted to having heard the chanting (Mr McLellan) was located at the tunnel, which is situated at the halfway line below the Barry Kitchener Stand, which is on the opposite side of the Stadium to the Dockers Stand[8].

39) The chanting must therefore have been heard

a) By many of the 200+ stewards and stewarding supervisors deployed around the Stadium[9]

[7] As Mr Sayer explained, sometimes occupants of the Control Box are even unaware that a goal has been scored since the celebrations cannot be heard.

[8] The Club's Tunnel Steward was also located in the tunnel. No witness who gave evidence for the Club was able to tell us whether he had heard the chanting, since (1) Mr McLellan did not speak to him during the Match about it, and (2) no-one appears to have asked him since the Match. We found both matters surprising, particularly given that the chanting was audible from the tunnel.

[9] Mr Sayer confirmed that the Club has records of where each individual steward on duty at the Match had been deployed. Those records were not provided by the Club for the purpose of the Charges. We were however provided with the Club's generic Stewarding Plan for the relevant season, which confirmed that many tens of stewards were

b) By those stewards – plainly visible in the videos that we saw – adjacent to individuals who could be seen participating in the Incidents

c) By most if not all of the supporters of CAFC and the Club within the Stadium.

b) What did those individuals who heard the chanting do about the Incidents ?

40) Mr McLellan heard three of the Incidents (the 5th, 9th and 55th minute chanting). His response was

a) To instruct the Club's IT team to display a message on the big screen (which was done – see below), and

b) To inform Mr Fairbrother by telephone, who did nothing with the information.

Mr McLellan was the only Club official who made any sort of report 'up the chain' about the Incidents or indeed who did anything at all in response to the Incidents.

41) No steward or stewarding supervisor reported any discriminatory chanting during the Match. We consider the consequences of that for present purposes below. However, we find as a fact

a) That that was <u>not</u> because no steward or stewarding supervisor heard the chanting, and so

b) That the Club's response to the Incident is to be considered in the light of stewards and stewarding supervisors having heard the Incidents but having done nothing about them. Indeed, Mr Sayer accepted in cross-examination that those individuals must have heard the Incidents.

42) We were also told in evidence that when the Club made post-Match enquiries of the contractor responsible for supplying the majority of the stewards for the Match, it was expressly told by that contractor that no steward provided by the contractor had in fact heard any of the Incidents. That claim was of itself extraordinary given the audibility of the chanting and the proximity of many stewards to individuals participating in the chanting. What was however even more remarkable is that the Club appears to have taken that assertion at face value and not sought to challenge the absurdity of that claim by the

deployed in the Dockers Stand, in the North Stand and in the Barry Kitchener stand. We were therefore satisfied that the chanting must have been heard by many stewards.

contractor. There was no evidence of what the Club had done to investigate the conduct of its own stewards.

43) Finally we note with very considerable disappointment that not one single supporter (of either the Club or CAFC) appears to have made any report of any of the Incidents during or after the Match. That so many individuals must have heard the chanting and simply ignored it is a sad reflection of things. However, of greater significance for present purposes is the relevance of that fact to the Club's prevention, reporting and investigation strategies. The Club has invested a considerable amount of time and effort into supporter initiatives to address discriminatory and other inappropriate behaviour. Many of those strategies depend in large part on individuals who are not involved in discriminatory chanting, but who witness it, taking a positive responsibility for

a) Reporting those that are so involved, and
b) Assisting the Club to identify those involved.

The fact that not one single Club supporter was willing to do that at or after the Match calls into question the effectiveness of those parts of the Club's anti-discrimination strategies.[10]

c) What did the Club do about the chanting during the Match ?

44) The only step taken by the Club in response to the chanting was to display on the big screen, repetitively[11] throughout the Match, the message '*Hear Hate ? Don't Hesitate*', together with an invitation for anyone witnessing discriminatory abuse to text the Club's dedicated number. As we have said above, no-one in the Stadium took up that invitation.

45) The Club did not

a) Make any announcement over the Stadium PA system directing that the discriminatory chanting should stop
b) Deploy any additional stewards or police to the areas from where the chanting was originating

[10] We make clear that we are not saying that the majority of the Club supporters are endorsing the misbehaviour of the minority; indeed, we were told that many Club supporters regularly condemn the chanting of discriminatory words in meetings and fan forums. What we are saying is that those Club supporters who rightly find language such as that used in the Incidents abhorrent must step up and actively assist the Club to prevent it and stamp out its use in the Stadium. That cannot be done by those supporters staying silent.

[11] We were given no detail as to the duration of each occasion for which the message was displayed or the frequency of repetition.

c) Use CCTV during the Match to seek to identify the source(s) of the chanting or individuals involved.

46) The Club did not in fact identify any individual who was participating in the Incidents.

d) What did the Club do after the Match about the Incidents ?

47) The Club did nothing about the Incidents immediately after the Match; the Incidents do not appear to have even been discussed within the Club until post-Match debrief meetings took place several days later.

48) Even then, it is not clear what (if any) steps the Club took in response to the Incidents:

a) Mr Sayer's evidence was that, despite having been present at such meetings, he remained unaware that the Incidents had taken place until the Club received a letter from the FA dated 30 January 2026 highlighting the Incidents and asking for the Club's observations. His evidence was that discriminatory chanting was not mentioned at either meeting

b) Mr McLellan's evidence was that at/after such meetings he began the process of gathering evidence which would enable the Club to respond to what he considered to the inevitable letter from the FA seeking observations (i.e. a letter in the form in fact sent by the FA on 30 January 2026). His evidence was that the discriminatory chanting was referenced at the debrief meetings.

49) When the Club eventually did begin to take steps to investigate the Incidents, there was little that could be done about the Incidents themselves. Its review of a video clip found on social media led it to identify one individual who had been involved in one of the Incidents. That individual admitted his involvement in the relevant Incident, attended an education course and was excluded by the Club from the Stadium for a period.

e) Steps taken to minimise the risk of repetition of the Incidents

50) It was clear from the evidence before us that since the Incidents

a) The Club has identified a number of improvements that could be made in order to minimise the risk of recurrence of the Incidents, and

b) The Club has implemented a substantial number of those improvements.

51) However, what was less clear was exactly what had prompted the identification and making of those improvements:
   a) As above, very little appears to have been done by the Club in the immediate aftermath of the Match
   b) More appears to have been done following the Regulatory Commission's Decision to fine the Club £45,000 and warn the Club as to future conduct in respect of the 2025/2026 Club Breach in February 2026
   c) Yet more appears to have been done following an earlier decision of another Regulatory Commission relating to these Charges.[12]

52) In light of that the FA invited us to infer that the Club's actions since the Incidents to minimise the chances of recurrence
   a) Were not the result of a wish to avoid a repetition of the Incidents *per se*, but rather
   b) Were a consequence of these proceedings and the disciplinary proceedings relating to the 2025/2026 breach.

53) While the Club's evidence on (1) when improvements had first been thought about and then made, and (2) what had prompted those improvements, could have been clearer, we concluded that that was not an inference that we could safely, or should, draw. As we have said above, we are satisfied that the Club is genuinely committed to improvement and to minimising the likelihood of conduct such as the Incidents occurring in the future. While steps might have been taken by the Club more promptly following the Incidents, we are satisfied that those steps that have in fact been taken were motivated by the Club's commitment to improvement and not by the threat or actuality of disciplinary sanction for events that had already occurred.

(4) The Club's conduct before, during and after the Match

a) Introduction

[12] We were made aware (1) that another Regulatory Commission had previously considered the Charges, and (2) that an Appeal Board had remitted the Charges for consideration by a fresh Regulatory Commission i.e. us. We were told the dates on which those events had occurred. Beyond that we were told nothing about what had gone before in these proceedings.

54) This factor is broken down into four questions in the Guidance:

a) Did the Club take all reasonable steps in its preparation and planning for the Match ?
b) Did the Club take all reasonable steps in dealing effectively with the Incidents when they arose ?
c) Did the Club take all reasonable steps in identifying the supporters involved ?
d) Did the Club take sufficient action against those supporters responsible (where those supporters were identified) ?

55) Before we address those questions we make four introductory observations.

56) First, as the Club submitted, the test is framed in terms of the reasonableness of the steps/action taken by the Club, not the effectiveness of the steps/action. It is perfectly possible for a club to take '*all reasonable steps*' and for those steps to still not be effective to prevent discriminatory chanting.

57) Secondly, the test to be applied to answer the first three questions is not whether the Club acted 'reasonably' or took 'reasonable steps/actions' in the respects identified. The question in each case is whether the club took '*all reasonable steps*'. That is a demanding test to satisfy.

58) Thirdly, although those questions are expressed separately, there is (or at least can be) an overlap between them. So for example

a) As we set out below, the Club failed to take all reasonable steps in its preparation and planning for the Match and failed to take all reasonable steps to deal effectively with the Incidents during the Match
b) The Club's failure to take all reasonable steps to deal effectively with the Incidents when they occurred during the Match was however (at least in large part) a consequence of its lack of pre-Match preparation and planning
c) Those failures before and during the Match adversely impacted the Club's ability to identify and take action against individuals involved in the Incidents.

59) We make that observation because (as the Club submitted) it is important when considering the consequences that the Club's conduct – and in particular, the failings of the Club - has for the sanction to be imposed on the Club

a) To avoid attributing the same failure to the Club on more than one occasion, and so
b) To avoid 'double counting' against the Club when considering these questions.

That is the approach that we took when approaching sanction in this case.

60) Fourthly, although (as we set out below) we find that the Club's conduct fell significantly short in certain respects in relation to the Incidents, we consider that it is important to record that the Club has made enormous efforts in recent years – and has made significant progress – to address its historic reputation for ill-discipline on the part of its supporters. Mr Fairbrother spoke with passion and force about what the Club has done and is continuing to do in that respect, and about his own wish to see misconduct such as the Incidents stamped out for good. He and the Club are to be applauded in that regard, and we did not lose sight of the same when determining sanction.

b) Preparation and planning for the Match

i) The steps taken reflected how the Club would prepare for an 'ordinary' match

61) Although (in large part because it assessed the Match as being high-risk) the Club took steps to prepare for the Match over and above those that it typically took at that time for an 'ordinary' match, Mr Sayer candidly accepted that the Club took no significant steps to prepare for the possibility of discriminatory chanting at the Match beyond what he described as '*the usual preparation and training that our stewards are equipped with*' (to which we refer below). He explained that that was because
   a) Prior to the Match there had been no history of discriminatory chanting between the Club and CAFC, and so
   b) The Club did not regard the Match as bringing with it any risk of discriminatory chanting over and above the risk that the Club faced in any other match.

62) That view was in our view overly optimistic:

   a) The Club rated the risk of '*inappropriate, discriminatory or offensive language or chanting inside [Stadium]*' as being 3 out of 5 '*fairly likely*'. While the Club's Risk Matrix defined that as meaning '*there is a 1 in 10,000 chance of the hazardous event happening*', the Club plainly did not consider the risk of discriminatory chanting at the Match to be '*very unlikely*' or even '*unlikely*' (which were the two categories of risk

below '*fairly likely*' in the Risk Matrix). Given that level of risk assessment it was obviously necessary for the Club

i) To plan how to minimise that risk so far as possible, and

ii) To prepare for how to respond if that risk was to occur

b) The Club did indeed have in place pre-prepared written plans and procedures for the Match for minimising the risk of discriminatory chanting and dealing with the same if it occurred. However, those plans and preparations were no different to the plans and preparations put in place by the Club for any other match despite the fact that the Match was a south London derby with a sell-out crowd which (the Club concluded)

i) Was a high-risk match, and

ii) Created increased risks of disorder/physical harm.

In our view if the nature of the Match gave rise to an increased risk of rival supporters engaging in disorder, it was somewhat naïve to conclude that there was no increased risk (1) of verbal exchanges between rival supporters taking place, and (2) of those exchanges including discriminatory language, in comparison to a 'typical' match.

63) We were also somewhat troubled by the fact that in the Club's Risk Assessment Matrix the Club assessed '*Severity/Consequences*' if '*Inappropriate, discriminatory or offensive language*' was used inside the Stadium as '*1'* – which is defined as '*Insignificant – No injury*'. While we appreciate that the Risk Assessment Matrix primarily addresses the risk of physical harm or injury, categorising the '*Severity/Consequence*' of discriminatory chanting in this way at '1' has the obvious potential for the overall Risk Rating (calculated by multiplying 'Likelihood' by 'Severity/Consequence') to end up being understated; indeed, using a '*Severity/Consequence*' score of 1 for discriminatory chanting (because physical injury will never ensue from chanting alone) means that regardless of the figure used for '*Likelihood*' the relevant overall Risk Rating for discriminatory chanting will never exceed 5 (from a maximum of 25), when

a) Scores of 1-4 do not require any future consideration or action, and

b) A score of 5 is still defined as '*Adequate – look to improve at next review*'.

64) Against that introduction we therefore turn to consider the preparations and plans made by the Club to address the possibility of discriminatory chanting.[13]

ii) The plans and procedures that the Club had in place to minimise the risk of discriminatory chanting

65) The Club's pre-Match preparation and planning was primarily contained/evidenced in 3 documents.

66) The first was the Club's Stewarding Plan (No 4) 2025-2026[14]. That Plan

a) Set out the matchday safety structure adopted by the Club. Mr Sayer was at the top. The structure then identified individuals who reported in to Mr Sayer, individuals who reported into those individuals, and so forth
b) Set out the training and briefing that stewards and supervisory stewards were to undergo before matches
c) Identified the number of stewards to be deployed at identified locations within the Stadium
d) Included a '*Statement of Stewarding Style*', referencing the need for stewards
    i) to be firm in dealing with '*any breaches of Ground Regulations*', and
    ii) to '*at all times understand their role in the plan and what their actions are designed to achieve*'
e) Confirmed
    i) '*there will be a zero tolerance approach*' to any discriminatory behaviour, and
    ii) '*All incidents MUST be reported through the chain of command to [Mr Sayer]*'.

[13] The generic steps taken by the Club to plan and prepare for matches have evolved over time, in part to reflect the Club's own experiences and conclusions as to what needs to be done to satisfy the Club's FA Rule E.21.1 obligations and in part to satisfy the particular requirements of the various Action Plans imposed on it over the years, including the 2025 Action Plan (being the Action Plan in place at the time of the Match). By the time of the Match the Club was in large part compliant with the 2025 Action Plan. Only a few weeks before the Match the FA had inspected the Club with a view to assessing its progress against the 2025 Action Plan. The report of that inspection recorded (1) the Club's commitment to making it inclusive and anti-discriminatory and the proactive steps taken by the Club in that regard, and (2) that the Club was broadly compliant with the 2025 Action Plan (and that in many respects was exceeding what was required by the 2025 Action Plan) - although it did identify certain respects where improvement could still be made. We considered the Club's preparations and plans in the light of such matters.

[14] Aspects of the 2025 Action Plan related to stewarding, and in particular to ensuring (1) that stewards were properly trained and subject to performance reviews (2) that good quality incident reporting methods (verbal and written) were in place to support proportionate reactions to matchday incidents and post-match investigations, and (3) that stewarding briefing documents sufficiently addressed the prevention and detection of discriminatory or inappropriate behaviour. While (3) appears to have been achieved, as we set out below the Club fell short on (1) and (2).

The steps outlined in the Stewarding Plan were thus primarily directed at how stewards were to behave if discriminatory chanting was to occur.

67) The second was the Club's Risk Assessment for the Match. That document identified the following '*Current Controls Used*' as preventative/preparatory steps in relation to discriminatory chanting:

a) Signs in Stadium about offensive language, plus Ground Regulations which are also in the match day programme
b) Dedicated police Hate crime team in attendance to process any prisoners around Tragedy/Hate Crime
c) Additional police spotters inside the Stadium
d) Additional professional stewards
e) SLO visibility
f) HEAR HATE campaign using big screen and on seats in the stadium
g) Signage up around the Stadium/new policy in place
h) HEAR/HATE campaign with text number around the stadium for reporting any forms of abuse
i) Visible stewards officials sited around Stadium
j) Banning process and tariff in place as well as educational programmes
k) LOVE FOOTBALL, PROTECT THE GAME charter on fan behaviour
l) Procedures for warning spectators and escorting them from the Stadium.

68) A number of those steps – such as (a), (f), (g) and (k) - were primarily preventative[15]. A number of those steps – such as (b), (c) and (l) - existed to deal with issues if they arose. Some steps – such as (d), (e), (h), (i) and (j) – addressed both matters.

69) The third was the Club's pre-Match Crowd Management Briefing. That Briefing document set out the protocols to be followed in the event of discriminatory behaviour occurring. It stated '*each and every instance identified must be reported to control room and every opportunity to take positive action will be explored*'.

[15] And we acknowledge that the Club was also at the time taking numerous additional steps to demonstrate to the world at large and supporters in particular that the Club is, or wishes to be, an inclusive Club at which all forms of discrimination are unacceptable. There was evidence before us of a variety of different campaigns and liaisons that are (and were in the time of the Match) in place to promote inclusivity and educate against discrimination.

70) The Club's pre-Match Crowd Management Briefing thus

a) Echoed the Stewarding Plan, and

b) Was similarly directed at how stewards were to behave if discriminatory chanting was to occur during the Match.

iii) Our view of the adequacy of the Club's pre-Match planning to prevent discriminatory chanting from occurring

71) We were satisfied that the Club made all reasonable efforts in this regard. The Club took substantial positive steps to ensure that its anti-discrimination messaging was communicated widely and repeatedly to supporters before the Match. The fact that individuals nonetheless did engage in discriminatory chanting was despite the Club's efforts, not because of any deficiency in those efforts.

iv) Our view of the adequacy of the Club's pre-Match planning as to how to respond to an incident of discriminatory chanting in the event that such an incident occurred

72) From the documents that we have referenced above, we were satisfied that prior to the Match

a) The Club had given thought to how it would react should discriminatory chanting occur, albeit that it had largely done so for home matches generally and not specifically for this Match, and

b) The Club had in place written procedures which, if followed, would be an adequate response should discriminatory chanting occur. In particular, such procedures would (if followed)

i) Result in discriminatory chanting being reported by any individual (steward or Club employee or official) through the relevant chain of command

ii) Result in Mr Sayer being alerted in the Control Room immediately to any discriminatory chanting that occurred

iii) Enable Mr Sayer to then

(1) Consider how to respond to the discriminatory chanting, and

(2) Deploy all or some of the raft of tools at his disposal[16] to stop such chanting, to prevent such chanting from recurring during the match, to identify individuals involved in such chanting and to punish such individuals.

73) However, the key words in the previous paragraph are those that we have underlined – '*if followed*'. Pre-prepared plans are no good if those that have to implement them

a) Are unaware of them, or

b) Are insufficiently trained to implement them effectively.

In that regard we turn to consider the Club's plans and preparations (1) to steward the Match, and (2) to ensure that stewards as well as Club officials and employees all knew the 'relevant chain of command' along which reports were to be made.

74) Before us

a) There was no real evidence of the training that stewards deployed at the Match had received prior to the Match

i) From the Club, or

ii) From its stewarding contractor

as regards the recognition of discriminatory conduct or how to respond to the same. Given that the Club is obliged to keep training records, that omission was significant

b) There was no evidence[17]

[16] For example (1) displaying a message on the big screen (and in what terms) (2) causing PA announcements to be made within the Stadium, whether in pre-prepared terms or in bespoke terms (3) using CCTV to identify individuals involved (4) deploying additional stewards to appropriate areas (5) deploying stewards with body-worn cameras to appropriate areas (6) deploying police to appropriate areas

[17] The Club drew our attention to, and sought to rely on, emails from [redacted], who had been present before and during the Match. [redacted] emails referenced (1) '*good informative briefings and clear instructions to staff*' and (2) him having '*personally attended the supervisors, main stewards and match officials briefings on the day of the [Match]*', which briefings '*included how to address any such occurrences of discriminatory behaviour*'. However, the Club did not serve a witness statement from [redacted] and he did not give evidence before us. There was thus no detail of what was said (or when, or by and to whom), no information about how any such information was communicated to individuals other than supervisors and main stewards, and the FA had no opportunity to cross-examine [redacted]. In those circumstances we felt that we could give no significant weight to [redacted] emails, particularly when it was open to the Club to call to give evidence from whoever [redacted] might have witnessed (1) giving the briefing(s), and (2) receiving the briefing(s), so as to put in evidence what those individuals in fact said and heard.

i) That stewards deployed on the day had in fact been briefed in the terms anticipated in the Club's Stewarding Plan and Crowd Management Briefing – in particular as regards
   (1) What was required of them in the event of discriminatory chanting occurring, or
   (2) The relevant 'chain of command' into which they were to report
ii) That Club employees and officials had been made aware of
   (1) What to do in the event of discriminatory chanting occurring, or
   (2) The relevant 'chain of command' into which they were to report
iii) That the procedures set out in the Club's planning documents had actually been made known to the individuals who would be responsible on Match day for putting them into effect.

The best that the Club was able to do in its evidence was tell us what it would have expected to have been done in that regard; it was unable to tell us what had in fact been done.

75) The burden is on the Club to demonstrate that it took all reasonable steps in the respects described in the Guidance. In our view, in circumstances where
   a) Not one single steward appears to have made a report of discriminatory chanting despite the same having been plainly audible (and, we find, in fact heard) by a very significant number of stewards and stewarding supervisors
   b) No employee or official of the Club (other than Mr McLellan) appears to have made a report of discriminatory chanting despite the same having been plainly audible (and, we find, in fact heard) throughout the Stadium
   c) There was thus an abject failure by stewards, Club employees and Club officials to follow 'chain of command' reporting protocols, meaning that Mr Sayer and his team in the control room remained wholly unaware of the Incidents until days after the Match

   it is incumbent on the Club to demonstrate that those failures occurred despite all such reasonable steps having been taken by it.

76) The Club failed to discharge that burden. Its (*prima facie* adequate) plans for responding to discriminatory chanting ought to have been fully and properly communicated to those on the front line and elsewhere in the Stadium on whom the Club would be wholly reliant to instigate its response to discriminatory chanting. There was no evidence that they were so

communicated, and in our view the inference that can most sensibly be drawn from the absence of any response by any of those individuals (aside from Mr McLellan) to the Incidents is that they were not. And because they were not fully and properly communicated to stewards, Club employees and Club officials, no-one understood that the Club expected them to react (or how they should react) when the Incidents occurred.

v) Conclusion

77) We accept that the steps taken by the Club in advance of the Match to minimise the possibility of discriminatory chanting occurring during the Match were reasonable and adequate. We also accept that the high-level preparation that the Club did before the Match to have in place a zero tolerance plan as to what to do if discriminatory chanting occurred during the Match was reasonable and adequate. Where however the Club fell significantly short of what was required of it was in communicating that plan clearly and adequately to those required to implement it. In that regard

a) The Club's shortcoming was serious, and
b) As we set out below, the consequences of that shortcoming were far-reaching.

b) Steps to deal with the Incidents during the Match

78) We have already set out above what the Club did and did not do in response to the Incidents.

79) What it did do – displaying a message periodically on the big screen – was indeed part of the plan that the Club had in place to respond to discriminatory chanting. However

a) That step was instigated by Mr McLellan. Mr Sayer was not involved in the decision to display the message. Not involving Mr Sayer in that decision was a shortcoming in the Club's response to the Incidents

b) The very fact that 5 Incidents occurred during the Match despite the message being shown demonstrates the insufficiency of that step alone in preventing repetition of the discriminatory chanting. We did not share Mr McLellan's view that, because there was no repetition of discriminatory chanting between the 9th and 55th minutes, displaying a message on the big screen could be regarded as a successful response to the Incidents.

80) What the Club did not do was inform Mr Sayer or anyone in the Control Room of the Incidents. As a result, the Club's Safety Officer – the individual tasked in the Club's pre-prepared plans with formulating and co-ordinating the Club's response to the Incidents - remained unaware even that the Incidents were going on. And as a result of that

a) No announcement or announcements were made over the PA system. In his evidence Mr Sayer made clear that he would have been reluctant to instruct any such announcements to be made; his view is that PA announcements are inflammatory and do more harm than good. But nonetheless
   i) The Club had pre-prepared announcements available (as recorded in the audit of the 2025 Action Plan), and
   ii) The Club was deprived of the opportunity to use that tool if (as in fact happened) Incidents continued to occur

b) No additional stewards or police were deployed to Blocks 19, 20, 47 or 48 of the Dockers Stand, whether to prevent a recurrence of the chanting, to stop any chanting that might start to be repeated or to identify those involved in the chanting

c) The Club's CCTV was not used to try to identify individuals in the Incidents. Instead it continued to pan the crowd throughout the Stadium in a manner that made it impossible for the Club to subsequently identify individuals.[18]

81) In other words, a number of important steps
   a) That the Club's pre-Match written plans anticipated being taken in the event of discriminatory chanting occurring during a match, and
   b) That (we find) would have been taken during the Match once the Incidents began, and
   c) That (we find) would likely have either prevented recurrence of the early Incidents during the Match or (at the very least) identified and weeded out a number of individuals involved in the Incidents

   simply were not taken by the Club.

[18] To illustrate what could have been achieved had he been able to direct the use of CCTV during the Incidents, Mr Sayer explained that it is possible for the Club's CCTV to zoom in so precisely that he is able to read a newspaper being held by a supporter. While we did not take that literally, it demonstrates how useful a tool the Club's CCTV can be to identify perpetrators of misconduct – if properly used.

82) As a result, we find that the Club did not take all reasonable steps to deal effectively with the Incidents when they occurred. Furthermore

a) The failures on the part of the Club in that regard were significant and serious[19]

b) The consequences of those failures were far-reaching – the Incidents continued unchecked and unchallenged throughout the Match.

c) Steps to identify and take action against individuals in the Incidents

83) With one exception, no supporter of the Club who participated in the Incidents

a) Has been identified, or

b) Has had action taken against them.

As we have said above, the exception is an individual who the Club identified via footage posted on social media.

84) The fact that no other individual involved in the Incidents was identified is disappointing and concerning, particularly when viewed against the findings of other Regulatory Commissions in respect of the 2022/2023 Club Breach, the 2024/2025 Club Breach and the 2025/2026 Club Breach, all of which record that the Club failed to identify any individual involved in the discriminatory chanting in those cases either. Nonetheless we reminded ourselves that the question for us to consider was not whether the steps taken by the Club to identify individuals involved in the Incidents had been effective; the question was whether the Club had taken all reasonable steps in such regard.

85) The Club's evidence on this matter in large part focussed on the difficulties that it faced in identifying individuals involved in the Incidents in circumstances where

a) None of the stewards had reported any chanting or identified anyone involved in any of the Incidents

b) No supporter had reported any individual involved in any of the Incidents

[19] Despite what we regard (and which Mr Sayer broadly accepted) to have been obvious shortcomings in the manner in which the Club dealt with the Incidents during the Match, the Club maintained in its closing submissions that it had in fact taken all reasonable steps to deal effectively with the Incidents (albeit that its written submission acknowledged that its response '*was not as effective as it should have been*'). We were surprised at that. In our view that demonstrated a significant and troubling lack of insight on its part as to quite how inadequate its response to the Incidents (individually and collectively) had been, both by reference to its own internal planning documents and generally. We return to the significance of that below.

c) The Club's CCTV could not be used to identify any individual involved in any of the Incidents.

In other words, circumstances where there had been no contemporaneous efforts to identify individuals involved in the Incidents and the Club's efforts to identify individuals had only begun days after the Match had concluded.

86) However, in very large part those difficulties were of the Club's own making, since had the Club reacted during the Match as it ought

a) Stewards would have been able to identify there and then individuals involved in the Incidents
b) Supporters could have been asked there and then to identify individuals involved in the Incidents
c) The Club's CCTV could have been used to identify individuals involved in the Incidents.

87) Even given the situation in which the Club found itself after the Match though we were of the view that the Club could and should have done more than in fact it did to try to identify individuals involved in the Incidents.[20] So for example

a) For every match the Club has available to it details such as names, addresses, phone numbers and email addresses of the vast majority of individuals in the Stadium who have bought tickets. The Club knows which ticket(s) those individuals have bought, and so where they are sitting within the Stadium. While identifying individual seat locations is not always possible from video footage, what that does mean is that the pool of individuals in Blocks 19, 20, 47 and 48 in which the Incidents began is far smaller than the crowd as a whole. We were told that those blocks hold 1,274 supporters (in seats and safe standing), of which well over 1,000 are season ticket holders who (we infer) will occupy the same seat week in week out. We were surprised that the Club has not sought to focus more heavily on those individuals with a view to identifying individuals involved in the Incidents

[20] Which in large part comprised (1) making stills from certain social media footage of individuals involved in the Incidents, and (2) circulating those stills at subsequent matches in the hope of matching those stills to individuals in the crowd.

b) The Club also knows the identities of all individuals who were away supporters at the matches that gave rise to the 2022/2023 Club Breach, the 2024/2025 Club Breach and the 2025/2026 Club Breach. Yet the Club has made no effort to cross-reference the identities
   i) Of those individuals with one another, or
   ii) Of those individuals with those individuals who held tickets in Blocks 19, 20, 47 and 48

   to identify the extent of the overlap, if any, between those cohorts

c) The Club has not sought to engage the help of what came to be described in the hearing as the 'good' supporters of the Club to identify the 'bad' supporters. The Club sought to persuade us that the Club is now a progressive, inclusive club and that the majority of its supporters abhor behaviour of the type that occurred in the Incidents. If that is right, then the Club should have the confidence that its 'good' supporters will, if asked, step up to help the Club eradicate the bane of the 'bad' supporters and the adverse impact that they have on the Club as a whole. Whether that would reveal identities of 'bad' supporters to the Club is to a degree speculative, but it is difficult to see how anything other than good could come from such a step.

88) As a result, we find that the Club did not take all reasonable steps to identify the individuals in the Incidents, with the result that the Club was able to take action against only one individual:
   a) The failures on the part of the Club in that regard were significant
   b) Those failures meant that, yet again, supporters of the Club involved in discriminatory chanting remain unidentified.

89) Before we leave this section we make reference to a hurdle in identifying individuals in the Stadium highlighted by the Club, namely the fact that its supporters are apparently able to move between Blocks within a Stand without challenge. That concerned us, and in our view it is a practice that the Club should review urgently and to which the Club should put a stop as soon as possible. The benefits of its ticketing policy and its stewarding policy are potentially substantially undermined if, once within the Stadium, ticket holders can simply move between Blocks within a Stand as they wish.

(4A) The Club's wider response following the Incidents

90) Following the Match the Club

a) Has engaged with its supporters to condemn the Incidents and to discuss the same

b) Has taken a significant number of actions (going above and beyond those required by the Action Plan in force at the relevant time) to prevent or minimise the chances of a recurrence of the Incidents.

91) Those matters are to the credit of the Club, as is the fact that those actions appear (at least in the short term) to have had some success. So for example we were told that the recent local derby between the Club and West Ham FC passed off without incident.

(5) The Club's co-operation with the FA in connection with the Incidents

92) As the FA acknowledges, the Club has co-operated fully with the FA in respect of the Incidents and the Charges (as indeed we note it did in connection with the incidents and charges that led to the other Club Breaches).

(6) The Club's previous disciplinary record

93) As at November 2026 the Club's previous disciplinary record as regards FA Rule E.21 can only be described as very poor. We have set out above the prior incidents of FA Rule E.21 misconduct committed by the Club. To put that in context

a) Only four clubs have been guilty of more than one breach of FA Rule E.21 in the past 5 years[21]

b) Of those four clubs, only one (King's Lynn) has committed a breach of FA Rule E.21 during the period of a previously-imposed Action Plan or within 12 months of the expiry of a previously-imposed Action Plan.

[21] Gillingham FC – 3 breaches between December 2022 and February 2023; Preston North End FC – 2 breaches in December 2023 and January 2024; Kings Lynn FC in September 2022 and December 2024. The identity of the fourth club is to remain private and confidential at the present time.

94) The Club's Previous Breaches and prior disciplinary record are a significant aggravating feature in this case. The one factor that prevents it from being even more serious is that this is the Club's first 'home' breach of FA Rule E.21 for several years; the more recent Club Breaches of FA Rule E.21 have resulted from the conduct of its supporters at away fixtures.

(7) Compliance with a previous Action Plan

95) As we have said above, the Club was broadly in compliance with the 2025 Action Plan at the time of the Match, albeit as we set out in Footnote 14 above a failure to achieve what was required by two elements of the 2025 Action Plan were at the heart of the Club's failings in this case.

96) Broad compliance is not however a matter for which the Club is entitled to credit. Compliance is what is expected, and is thus a neutral factor. Non-compliance would have been an aggravating factor.

(8) Other relevant factors ?

97) The factors listed in the Guidance are not exhaustive. When considering sanction a Regulatory Commission is also obliged to take into account any additional relevant factors, whether they be aggravating or mitigating factors.

98) The Club's Written Submissions and Supplemental Submissions identified a number of matters said by the Club to amount to mitigation. By and large we rejected those submissions; they did not provide any significant mitigation for the Club. The one additional factor that we did however consider to be relevant was the manner in which the Club has responded to the Charges:

a) The Club pleaded guilty to the Charges at the earliest opportunity

b) In cases where (as here) a charge is one of strict liability, the fact of a guilty plea may not of itself entitle a respondent to credit (or credit of the magnitude that a respondent is traditionally given if/when it pleads guilty to a breach to which a defence is *prima facie* available). In such circumstances it is however in our view still appropriate for a Regulatory Commission to have regard to how the respondent has responded to the

charges for the purpose of considering whether the respondent should receive credit. So in a case such as this

i) a respondent who seeks to argue that it did use all due diligence and that, had it been available as a defence to the charge, it would have been able to rely on an FA Rule E.21.5 defence, may receive little, if any credit, for its guilty plea if a Regulatory Commission subsequently finds that those arguments were unrealistic or unreasonable, while

ii) a respondent who acts reasonably throughout its response to a charge relating to FA Rule E.21 (for example, by adopting a realistic approach towards any shortcomings and what is needed to address them) may well receive credit of a type often associated with a guilty plea.

99) In other words, when assessing what credit might be given for a guilty plea to a strict liability offence a Regulatory Commission might wish to have regard not simply to the fact of the guilty plea, but also to the factual basis upon which the plea was entered by the respondent and the reasonableness of the factual position of the respondent adopted as regards the charge.

100) In our view this case falls between the two extremes referenced in paragraph 98 above. In many respects the Club defended the Charges on a realistic and reasonable basis. However,

a) Its refusal to acknowledge that failings as regards ensuring that stewards, employees and officials all knew of the Club's zero tolerance policy to discriminatory chanting and of the 'chain of command' reporting procedures to be adopted by each of them in the event of discriminatory chanting meant that

i) It had not taken all reasonable steps in its preparation and planning for the Match, and

ii) It had not taken all reasonable steps to deal effectively with the Incidents during the Match, coupled with

b) Its consequent attempts to argue that it had in fact taken all reasonable steps in such regards

in our view meant that the Club should receive less than full credit for its guilty plea.

(9) Conclusions

101) Having considered the above matters in the round the conclusions that we reached[22] were

a) That the Incidents – involving multiple uses across the duration of the Match of repeated discriminatory phrases of more than one type – were serious

b) That the failings on the part of the Club underpinning the Charges were serious

c) That the Club's degree of culpability in relation to the Incidents was significant

d) That while no physical harm was caused by the Incidents, spectators at the Match and those that saw the Match on Sky would inevitably have been offended, and the reputation of the Club and English football would have been tarnished

e) The Club's previous disciplinary record was a significant aggravating feature

f) The Club could rely as mitigating factors (and so was entitled to credit for)
   i) The efforts that it has made since the Match
      (1) To fix deficiencies in its policies and the implementation of those policies (including those we have identified above)
      (2) To prevent or minimise the chances of a recurrence of the Incidents
      (3) To continue in its endeavours to make the Club an inclusive club and eradicate behaviour such as that which occurred at the Match
   ii) Its co-operation with the FA in relation to the Charges
   iii) Its early guilty plea to the Charges and the manner in which it has responded to/defended the Charges.

[22] And we once again record that in reaching these conclusions we took care to avoid double-counting against the Club where individual failings on the part of the Club had multiple or cumulative consequences.

(F) Sanction

102) Against that background we now turn to the sanction that we impose. As we set out below, we concluded that in this case the legitimate aims of sanction were appropriately and proportionately achieved by imposing a package of sanctions on the Club. In our view, taken as a whole the individual elements of the package of sanctions that we impose operate

a) To punish the Club for the breaches of FA Rule E.21 that underpin the Charges
b) To deter the Club (which in a case such as this must also mean its supporters) from committing similar breaches in the future/preventing a recurrence of similar misconduct
c) To deter others from committing similar breaches or otherwise behaving in a way similar to the conduct of the Club that gave rise to the breaches
d) To protect third parties from harm
e) To protect the integrity, reputation and image of football.

(1) A further Action Plan

103) The Guidance states that for a Second or Further Offence '*there will be a presumption that the imposition of a further Action Plan shall not be appropriate*'. In our view this is however a case where that presumption is rebutted on the evidence. The aim of an Action Plan is to preclude or minimise the risk of conduct which formed the basis of the Relevant Breach (as defined in the Guidance) being repeated in the future. There are in our view two matters arising out of the Incidents

a) That are not adequately addressed by the existing 2026 Action Plan or (from the documents that we saw in evidence) the Club's documents,
b) That have not adequately been addressed by the Club since the Match, and
c) That should be addressed in a revised Action Plan.

104) We therefore direct that the 2026 Action Plan shall be amended to add requirements that

a) For each home match the Club shall document
    i) How, when and by whom (1) each of the stewarding supervisors to be deployed at the match, and (2) each of the stewards to be deployed at the match, have been briefed (whether individually or in groups), and

ii) A summary of the briefing[23] given to those stewards as to how they should each respond in the event of an individual or individuals in their earshot engaging in discriminatory chanting before, during or after a match.

That document should be signed for each match by each and every individual(s) who in fact gave briefing(s) to supervisory stewards and to stewards

b) The Club

i) Shall evaluate what steps can reasonably be taken to prevent or minimise the migration of supporters between Blocks at the Stadium before and during matches. That should be done by Friday 18 December 2026, and

ii) Shall put such steps into practice. Those steps should be in place by Friday 29 January 2027.

105) We also direct that the duration of the 2026 Action Plan (with those additions) be extended until 12 midnight on the day of the Club's last game of the 2027/2028 season.

(2) A financial penalty ?

106) It is not mandatory to impose a financial penalty as part of any sanction for a breach of FA Rule E.21.1. However, in our view imposing a financial penalty on the Club – and a very significant financial penalty – is appropriate and proportionate in this case.

107) The FA Disciplinary Regulations empower a Regulatory Commission to impose a fine on a respondent without specifying an upper limit. Table 1 in the Guidance identifies a fine within the range of £5,000 to £75,000 as being one that a Regulatory Commission might impose on an EFL Championship Club.

108) When quantifying the appropriate financial penalty to impose on the Club our starting point was to consider that a fine of £60,000 was appropriate. That figure in our view

a) Reflected the seriousness of the Incidents and the culpability of the Club, and

[23] The combination of the 2026 Action Plan, the Club's Stewarding Plan and the Club's updated Matchday Safety Briefing already adequately set out the matters on which the stewards should be briefed. The purpose of this additional document is to record the substance of the actual briefing given, so that it can be readily seen whether the briefing in fact given to all stewards etc matches that which ought to have been given to all stewards etc.

b) Was consistent with both the Guidance and the approach taken by the Regulatory Commission in respect of the 2025/2026 Club Breaches.

109)From that starting point

a) The Club's very poor disciplinary record is a significant aggravating feature. That aggravating feature caused us to increase the fine from the starting point to £90,000

b) That sum then fell to be reduced to reflect the mitigation that was available to the Club and the matters for which we have found the Club is entitled to credit.

c) We determined the appropriate financial penalty to be £70,000.

(3) A Full or Partial Closure of the Stadium ?

i) Is a form of Closure appropriate ?

110)The fine that we have imposed on the Club undoubtedly

a) Punishes the Club for the breaches of FA Rule E.21 committed in respect of the Incidents, and
b) Should act as a deterrent to other clubs.

111)However, in our view a fine alone (even with an enhanced Action Plan) is inadequate as the appropriate sanction in this case. In particular, that combination

a) Is not in our view an adequate punishment for the Club, and
b) Does not in our view provide adequate deterrence to the Club – and in particular, its supporters – against future breaches.

In our view the time has now come to impose a sanction of a materially different nature on the Club, namely a Partial Stadium Closure. In particular, Blocks 19, 20, 47 and 48 should be closed.

112)The FA invited us to adopt that course because, it submitted, history has shown that combinations of Action Plans and fines have been wholly ineffective to prevent the Club – through its supporters – committing breaches of FA Rule E.21. We agree. We have no confidence that, were we to impose 'only' a fine and an extended Action Plan on the Club, it – and more particularly its supporters – will be deterred from acting in a manner similar

to the Incidents in the future when history has shown that such a combination of sanctions simply has not had that effect.

113) Imposing a fine on a club does impact supporters by reducing the funds available to the club to spend on other matters. However, that impact on supporters is an indirect one; it is not an impact that hits supporters directly. History has shown that such indirect impact has been wholly insufficient to deter the Club's supporters from involving themselves in discriminatory chanting or from simply turning a blind eye to the same while others around them carry on such chanting and escape unidentified and unpunished.

114) A Partial Stadium Closure has a direct impact.[24] Those that are unable to attend a match feel the impact most keenly. Its impact is visible – in the form of empty Blocks – to all at the Match. That should – and we hope will – have a deterrent effect that steps taken pursuant to Action Plans and fines have so far failed to do.

115) In response to the FA's submission the Club relied on a number of matters:

a) First, that a Partial Stadium Closure is unprecedented at an EFL club and would carry reputational consequences for the Club out of all proportion to its misconduct. It is true that the Club would be the first EFL club to be made subject to a Partial Stadium Closure. But no club has ever come close to matching the Club's disciplinary record. When viewed against that previous record, the stigma of a Partial Stadium Closure is not disproportionate to the Club's breaches

b) Secondly
   i) That the FA was wrong to submit that history demonstrates that all previous Action Plans had failed and that a wholly different approach is now needed to prevent future Incidents, and

[24] It also has a financial impact on the Club in lost ticket sales and lost ancillary revenue that might otherwise have been spent by non-attending supporters. We kept that in mind when determining (1) whether a Partial Stadium Closure was appropriate, and (2) the totality of the sanction resulting from that Partial Stadium Closure and the fine that we imposed.

ii) That the most recent 2026 Action Plan (imposed after the Match) is in fact working to deter Incidents, as shown by the fact that since February 2026 there has been no discriminatory chanting by Club supporters.

However, the differences between the 2026 Action Plan and the 2025 Action Plan are (for our purposes) minor and insignificant[25]. The 2025 Action Plan did not deter discriminatory chanting; such chanting occurred while it was in place. The fact is that the substance of the measures contained in the 2025 Action Plan, now the 2026 Action Plan, have not prevented discriminatory chanting

c) Thirdly, that a Partial Stadium Closure hurts 'good' supporters as well as 'bad' supporters and would thus be disproportionate. It is correct that a Partial Stadium Closure does not discriminate between 'good' and 'bad' supporters. However

i) That is the inevitable consequence of a Partial Stadium Closure. Since that is a sanction expressly anticipated by the Guidance, it cannot be a reason for not imposing a Partial Stadium Closure. Such an order is not in our view disproportionate

ii) The parts of the Stadium that we order should be closed are those

(1) From which the Incidents began, and

(2) In which the Club's evidence confirmed its 'bad' supporters were generally to be found.

The Partial Stadium Closure that we order thus maximises the direct impact on 'bad' supporters and minimises the direct impact on 'good' supporters

iii) The Club's view of those supporters who are not 'bad' supporters being 'good' supporters is in our view overly simplistic. 'Good' supporters have let down the Club as well, by not reporting discriminatory chanting, by not involving themselves in efforts to stamp out discriminatory chanting and by not involving themselves in efforts to identify 'bad' supporters. There is nothing objectionable in 'good' supporters being adversely affected by a Partial Stadium Closure

d) Fourthly, that a Partial Stadium Closure could well antagonise Club supporters and, rather than encouraging better conduct in the future (1) undermine the Club's own

[25] The majority of the changes made to the 2025 Action Plan by the 2026 Action Plan concern away matches. Those that concern home matches are of no real relevance to this case.

efforts to educate and control its supporters, and (2) actually cause, rather than prevent, future misconduct. We rejected that argument. That would not be a reasonable reaction, and the fact that Club supporters might behave unreasonably in response to a particular sanction is not a reason for not imposing it. In any event, it will be for the Club to ensure that the reason for the Partial Stadium Closure is properly explained to its supporters and to ensure that its supporters understand

i) That they are not being 'picked upon' by the FA or by the RC, but rather
ii) That the sanction is the consequence of repeated, serious misconduct on the part of the Club's 'bad' supporters that must not recur.

In other words, it is for the Club to ensure that appropriate explanatory messaging to its supporters accompanies the Partial Stadium Closure

e) Fifthly, that a Partial Stadium Closure hurts not just the Club and its supporters but (for example) local businesses whose matchday revenues will be impacted by a smaller crowd. That was not in our view a good point:
   i) As above, that is the inevitable consequence of a Partial Stadium Closure. Since that is a sanction expressly anticipated by the Guidance, it cannot be a reason for not imposing a Partial Stadium Closure
   ii) We were not persuaded that, merely because supporters might be unable to access certain Blocks of the Stadium, they would avoid the surrounding area altogether. The more likely scenario is that they would simply watch any match for which they are unable to access the Stadium from elsewhere.

116) None of the Club's submissions persuaded us that the FA's position – that a Partial Stadium Closure should be ordered – was inapt in this case.

ii) Extent of the Partial Stadium Closure

117) As we have said above, Blocks 19, 20, 47 and 48 are the Blocks that are to be subject to the Partial Stadium Closure.

iii) Duration of closure

118) We concluded that the duration of the Partial Stadium Closure should be 2 matches. One match was not in our view sufficient in this case.

iv) When should the Partial Stadium Closure take effect ?

119)As the FA acknowledged, a number of logistical, safety-related and administrative steps will need to be undertaken by the Club in order to comply with a Partial Stadium Closure order. In part those steps will be internal within the Club. However, we anticipate that there will also need to be liaison by the Club

a) With its supporters, and

b) With the MPS.

120)We therefore direct that the Partial Stadium Closure should take effect at the Club's first home EFL League match once 14 days have elapsed from the date on which this Decision and Written Reasons is communicated to the parties in finalised form. Should (once the steps anticipated in the previous paragraph begin to be undertaken) that period be insufficient to enable the Partial Stadium Closure to be effected safely, the Club has permission to apply to us to extend that period.

v) Suspend all or some of the 2 match Partial Stadium Closure ?

a) The power to suspend and the test for suspending

121)The power of a Regulatory Commission to suspend a penalty is to be found in Paragraph 43 of the FA Disciplinary Regulations. That paragraph provides as follows:

> '*Save where any Rule or regulation expressly requires an immediate penalty to be imposed, and subject to paragraphs 44 – 46 below, the Regulatory Commission may order that a penalty imposed is suspended for a specified period or until a specified event and on such terms and conditions as it considers appropriate*'.

122)The use of the word '*may*' in Paragraph 43 confirms that (save in the situations referenced in the carve-out at the start of the Regulation) a Regulatory Commission has a discretion whether or not to suspend a penalty.

123)Paragraphs 45 and 46 are of no relevance for present purposes. Paragraph 44 provides as follows:

> '*When considering imposing a suspended penalty, a Regulatory Commission must*
> *a) Determine the appropriate penalty for the breach, irrespective of any consideration of it being suspended; and*
> *b) Consider whether there is a clear and compelling reason(s) for suspending the penalty. If so*
> *i) Set out what the clear and compelling reason(s) are*

ii) Decide on the period of the suspension or event until which the penalty will be suspended
iii) Upon what other terms or conditions, if any, the penalty will be suspended'.

124)The use of the word '*must*' in Paragraph 44 confirms that it is mandatory for a Regulatory Commission to adopt the process set out therein if it has concluded pursuant to Paragraph 43 that, in the exercise of its discretion, it is appropriate for it to consider whether or not to suspend a penalty. If triggered, Paragraph 44 thus requires a Regulatory Commission to adopt a two-step process:

a) First, to determine the appropriate penalty for the breach without any consideration of whether or not that penalty might appropriately be suspended. That is what we have done above

b) Secondly, after completing that first step, then (and only then) to consider whether there are clear and compelling reasons to suspend that penalty.

125)Two recent decisions of the Appeal Board – *The FA v Lake* (21 May 2024) and *The FA v Sharpe* (30 July 2026) have considered how a Regulatory Commission should determine whether there are '*clear and compelling reasons*' for suspending all or part of a penalty:

a) Each Appeal Board was of the view a Regulatory Commission cannot suspend a penalty unless it concludes that there is a reason to do so
i) That is clear, and
ii) That is compelling
i.e. both conditions must be satisfied. That is the approach that we adopted

b) Each Appeal Board concluded that a Regulatory Commission should not speculate (without any sufficient evidential basis) about whether there is or might be a clear and compelling reason to suspend a penalty. The Appeal Board in *Sharpe* however concluded that it would be permissible in an appropriate case for a Regulatory Commission to draw inferences from the primary evidence that was before it and reach conclusions about whether a clear and compelling reason exists based on those inferences. That is the approach that we adopted

c) The Appeal Boards disagreed as to whether a Regulatory Commission could

i) Take account of facts and matters in order to arrive at the appropriate penalty irrespective of any consideration of it being suspended, and then

ii) Rely on all or any of those same facts and matters as a 'clear and compelling reason' to suspend the penalty.

The Appeal Board in *Lake* considered such an approach to be impermissible since it meant using '*the same mitigation twice*'. The Appeal Board in *Sharpe* disagreed for the reasons set out at paragraph 37 of that Decision. It concluded that there is no absolute prohibition on a Regulatory Commission (when taking the second step required by the two-step Paragraph 44 exercise) considering matters that it had already considered when taking the first step required by the Paragraph 44 exercise. Rather in each case it would be for a Regulatory Commission

(1) To identify and consider as part of the process required by the first step all facts and matters that are relevant to that first step i.e. facts and matters relevant to its determination of the appropriate penalty for the breach in all the circumstances of the case, and then (having completed that first step)

(2) To consider whether there exists any fact or matter that, alone or in combination, amounts to a clear and compelling reason to suspend that appropriate penalty. The fact that one or more of the facts or matters identified might already have been identified and considered during the first step would not mean that that fact or matter will *per se* have to be ignored by the Regulatory Commission for the purpose of the second step.

126) We adopted the approach set out in *Sharpe*. Thus while (as we set out above) a number of the matters submitted by the Club to be '*clear and compelling*' reasons for suspending the Partial Stadium Closure were also matters relied on by the Club as mitigation, there was in our view nothing objectionable *per se* in the Club doing so.

b) Clear and compelling reasons to suspend any part of the fine ?

127) In our view there were no clear or compelling reasons to suspend any part of the fine that we imposed.

c) Clear and compelling reasons to suspend the whole of the Partial Stadium Closure ?

128) The Club submitted that clear and compelling reasons to suspend the whole of the Partial Stadium Closure do exist in this case – in particular

a) Because the 2026 Action Plan – imposed after the Incidents – has proved to be effective in deterring discriminatory chanting. But we have already dismissed that argument above. The substance of the 2025 Action Plan in place at the time of the Incidents has been shown to have been ineffective to prevent discriminatory chanting, and the (for present purposes irrelevant) evolution of that 2025 Action Plan to become the 2026 Action Plan does not change that

b) Because
   i) The Club has identified and remedied the 'operational gap' that occurred in relation to the Incidents, and
   ii) That remedial action has been tested and shown (in the highest-risk fixtures such as the Club's match against West Ham) to be effective.

   But while that may be so, it is not a clear and compelling reason for suspending a Partial Stadium Closure. The aim of a Partial Stadium Closure is to punish and deter. The fact that the Club should now be better placed to respond more effectively if/when discriminatory chanting occurs in the future is not a clear and compelling reason to suspend the same

c) Because the effect of a Partial Stadium Closure will fall '*overwhelmingly on supporters who were not involved*'. We have addressed that above. It is not a good argument

d) Because a suspended Partial Stadium Closure would still deliver the deterrent that the FA seeks and would place the incentive to behave on the Club's 'bad' supporters ('*where it belongs*'). We reject that argument. As above
   i) The distinction between 'good' and 'bad' is not as clear cut as the Club sought to make out
   ii) But more significantly, we were not satisfied that suspending the entirety of the Partial Stadium Closure that we determined should be imposed would in fact have the deterrent effect sought by the FA. In particular, it would not have the 'direct' impact that we believe is now necessary to punish and deter appropriately.

129)We therefore rejected the Club's case that clear and compelling reasons exist for suspending the whole of the Partial Stadium Closure. No such reasons exist.

c) Clear and compelling reasons to suspend part of the two-match Partial Stadium Closure ?

130)However, we reached a different conclusion as regards what would (absent suspension) be the second match for which the Stadium would be partially closed pursuant to our Partial Stadium Closure Order. In our view there is a clear and compelling reason for suspending the partial closure of the Stadium for that second match, namely to give the Club – and its supporters – an opportunity to demonstrate that, having suffered the unprecedented sanction of the Stadium being partially closed for 1 match and felt the direct impact of the same,

a) The combination of an enhanced and extended Action Plan, the fine and a Partial Stadium Closure for one match has worked to prevent a recurrence of discriminatory chanting,
b) Discriminatory chanting has become a thing of the past at the Club, and
c) The Club can rely on its supporters as a whole to support its efforts to make the Club non-discriminatory and truly inclusive.

131)If indeed that is the effect of the Stadium being partially closed for 1 match (coupled with the amended/extended Action Plan fine that we have imposed), then (1) that package of sanctions will have achieved its purpose, and (2) the Club and its supporters will avoid the Stadium being partially closed for a second match. If however

a) The Club's supporters engage in further acts of discriminatory chanting in the future, and
b) The Club is found to have committed yet another breach of FA Rule E.21

then the Stadium will be partially closed for a second match, and the supporters – good and bad – will be directly impacted yet again. Whether the Sword of Damocles falls as regards the second match is entirely in the hands of the Club and the Club's supporters.

132)Accordingly, we suspend the second day of the Partial Stadium Closure. The removal of that suspension will be triggered (meaning that the Blocks 19, 20, 47 and 48 of the Dockers Stand would then be closed for a second match) if any time between (1) the date when this Decision and Written Reasons is communicated to the parties in finalised form, and (2) 12

midnight on the day of the Club's last game of the 2027/2028 season, the Club's supporters engage in discriminatory chanting which subsequently results in the Club admitting a breach of, or being found in breach of, FA Rule E.21 (or any analogous FA Rule that might at that time be in force) ('***a Future Breach***').[26]

133) If the second day of the partial closure of the Stadium was to be triggered then

a) The second day of the Partial Stadium Closure should take effect on the date of the first Club EFL home League match that is not less than 14 days following the date on which a Future Breach has been admitted by the Club or found by a Regulatory Commission, unless a Regulatory Commission varies that period on application of the Club so as to enable the second day of the Partial Stadium Closure to be effected safely

b) That second day of the Partial Stadium Closure will be in addition to any sanction that the Regulatory Commission might impose on the Club in respect of the Future Breach.

(4) Warning as to future conduct

134) We concluded that it was once again appropriate to warn the Club – and in particular, its supporters – as to the future conduct of the Club. While it barely needs saying, the Club should be in no doubt that a Further Breach of FA Rule E.21 in the future will likely result in the Regulatory Commission that sanctions the Club for that Further Breach having to consider

a) Whether a longer/more extensive Partial Stadium Closure is merited by that further breach, or even
b) Whether a Full Stadium Closure is merited by that further breach.

(5) The package of sanctions as a whole

135) Although we have already referenced the same above, we end this section by confirming two matters:

[26] For the avoidance of any doubt, the fact that the admission or finding of breach might occur after 12 midnight on the day of the Club's last game of the 2027/2028 season would be irrelevant; what matters for the date of determining whether the Partial Stadium Closure is triggered for a second match is the date of the conduct that underlies any future FA Rule E.21 charge that results in an admission or finding of a Further Breach.

a) First, that having identified the sanction elements that we considered to be appropriate in this case, we stood back and asked ourselves whether the sanction package as a whole – revised/extended Action Plan, fine, Partial Stadium Closure and warning as to future conduct – is appropriate and proportionate to the facts of this case. We were satisfied that it is

b) Secondly, given that we included a significant deterrent element in that sanction package, that we also considered carefully whether doing so rendered the overall sanction package that we imposed disproportionate to the offending of the Club under scrutiny in this case. We were satisfied that it did not.

(G) Order

136)Having considered the Charges, the evidence and the submissions

a) We accepted the Club's guilty plea to the Charges; each of the Charges was in the RC's view made out on the evidence before it, and

b) We imposed the following sanction:

i) The Action Plan that is presently in place
   (1) is amended to add the requirements set out in the Annex to this Decision, and
   (2) is extended until 12 midnight on the day of the Club's last game of the 2027/2028 season

ii) The Club is fined £70,000

iii) The Club is warned as to its future conduct

iv) Blocks 19, 20, 47 and 48 of the Dockers Stand shall be closed (and spectators shall be prevented from occupying those Blocks) for two (2) matches ('***the 2-match Partial Stadium Closure***'):
   (1) The first (1st) match of the 2-match Partial Stadium Closure will be the Club's first home EFL League match once 14 days have elapsed from the date on which this Decision and Written Reasons is communicated to the parties in finalised form. Should that 14 day period be insufficient to enable the Partial Stadium Closure to be effected safely for that match, the Club has permission to apply to the RC to extend that period.
   (2) The second (2nd) match of the 2-match Partial Stadium Closure is suspended until 12 midnight on the day of the Club's last game of the 2027/2028 season. If (A) the Club's supporters engage in discriminatory chanting at the Stadium at any time before then and (B) a breach of FA Rule E.21 is admitted by the Club or found against the Club in respect of that conduct, the suspension will be lifted and the second (2nd) match of the 2-match Partial Stadium Closure will be the Club's first home EFL League match once 14 days have elapsed from the

date on which the relevant breach of FA Rule E.21 has been admitted by the Club or found by a Regulatory Commission unless that 14 day period is extended by that Regulatory Commission.

137) By agreement we direct that

a) Each party shall bear its own costs of these proceedings, and

b) The costs of the RC shall be split equally between the parties.

138) This decision, which is the unanimous decision of the Regulatory Commission, is subject to the Appeal Regulations.

Graeme McPherson KC (Chairperson)

Alan Hardy

Andrew Adie

20 November 2026

Annex to Decision and Written Reasons

Additions to be made to 2026 Action Plan

1) For each home match the Club shall document
   a. How, when and by whom (1) each stewarding supervisor to be deployed at the match, and (2) each of the stewards to be deployed at the match, have been briefed (whether individually or in groups), and
   b. A summary of the briefing given to those stewards as to how they should each respond in the event of an individual or individuals in their earshot engaging in discriminatory chanting before, during or after a match.

   That document should be signed for each match by each and every individual(s) who in fact gave a briefing(s) to supervisory stewards and to the stewards

2) The Club
   a. Shall evaluate what steps can reasonably be taken to prevent or minimise the migration of supporters between Blocks at the Stadium before and during matches. That should be done by Friday 18 December 2026, and
   b. Shall put such steps into practice. Those steps should be in place by Friday 29 January 2027.