

**‘PARTICIPANTS’ (AS
DEFINED IN THE FA’S
RULES) ARE PROHIBITED
FROM BETTING, EITHER
DIRECTLY OR INDIRECTLY,
ON ANY FOOTBALL MATCH
OR COMPETITION THAT
TAKES PLACE ANYWHERE
IN THE WORLD**

ACCORDING TO THE LATEST DATA FROM THE UK GAMBLING COMMISSION, IN THE YEAR TO DECEMBER 2020, 4.8% OF THE UK ADULT POPULATION HAD PLACED A BET ON FOOTBALL DURING THE PAST FOUR WEEKS – OVER A MILLION PEOPLE¹



In light of the number of people betting on football, the money involved, and with gambling companies and their adverts being so closely associated with professional football, it is no wonder that The FA continues to have to deal with significant numbers of betting offences.

However, despite increasing case numbers and a significant shift towards online and mobile betting in recent years, The FA's guidance on how such offences should be sanctioned has not been updated since the 2014/15 season. What is more, it is clear that, despite the guidance, the outcome in a betting case can vary significantly depending on the type of bets placed and the individual circumstances at play. Even within one distinct category of bets, the recommended sanction can vary from a ban of six months to a full life ban – a range which is too broad to be of any real assistance to Participants (or even the Regulatory Commissions imposing the ban).

In order to address these uncertainties and provide a little more clarity for Participants and other stakeholders, we have conducted an empirical analysis of 101 betting cases which were publicly available on The FA's website as of 19 March 2021.² In order to be of most practical use to Participants and other stakeholders, this analysis focuses on outcomes, average sporting sanctions and the effect of some of the more common aggravating and mitigating factors.

Although the circumstances surrounding all betting cases are different, like all good regulators The FA strives for consistency and transparency in its decision-making. It is hoped that our analysis will help create a more detailed picture of potential outcomes in betting cases, and that this will provide useful information for Participants and their advisers, as well as The FA itself.

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<https://beta.gamblingcommission.gov.uk/statistics-and-research/publication/year-to-december-2020>
A more detailed methodology is available online.

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01

THE FA'S BETTING SANCTIONS GUIDELINES

IN THE 2014/15 SEASON, THE FA INTRODUCED AN UPDATED SET OF BETTING SANCTIONS GUIDELINES WHICH SET OUT RECOMMENDED SANCTIONS FOR VARIOUS TYPES OF BETTING CASES

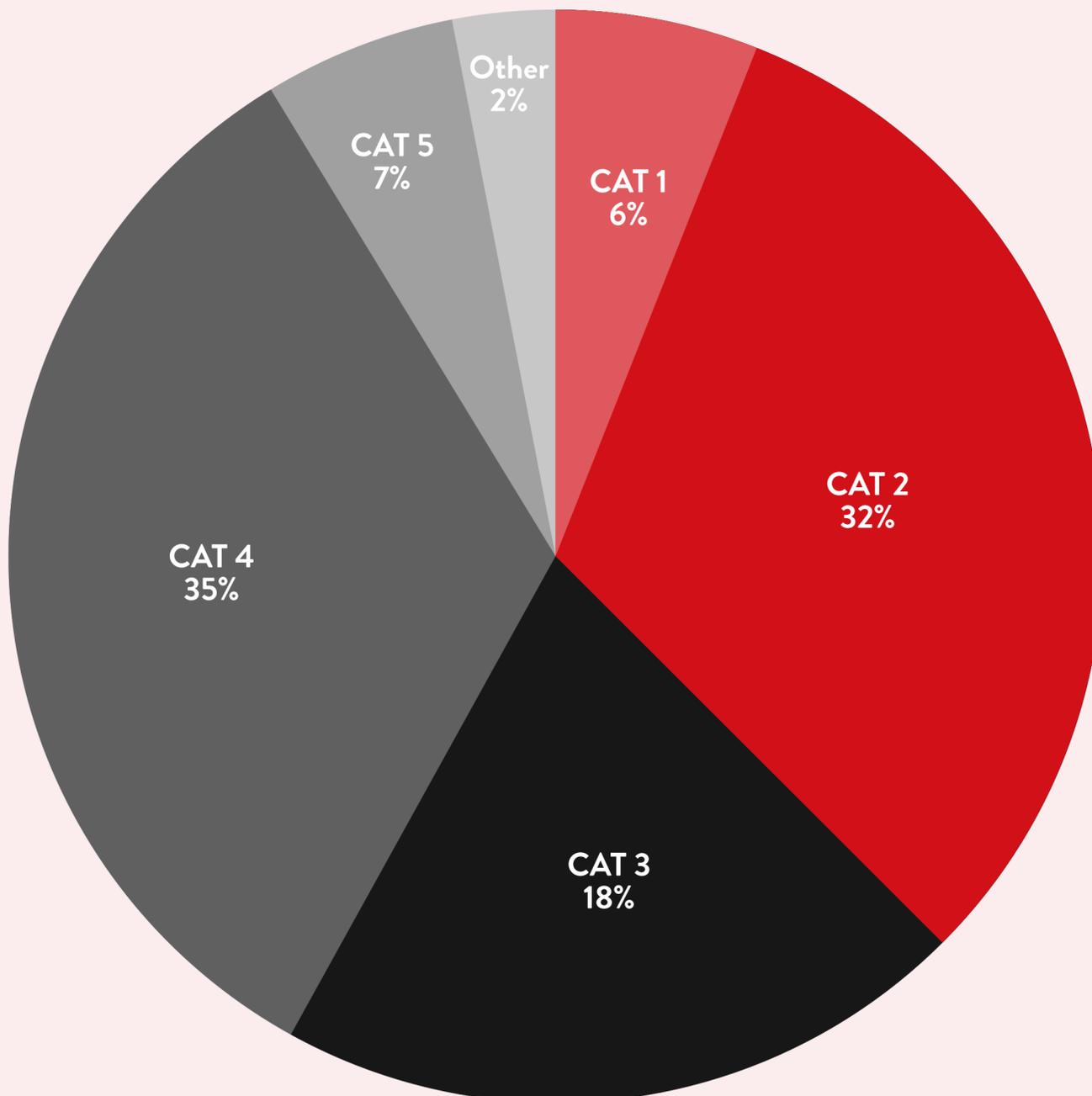
For “direct” betting offences (i.e. offences where the Participant places bets themselves), these Betting Sanctions Guidelines (the “Guidelines”) set out six categories of betting on football, increasing in seriousness from a “Category 1” case (betting on football which does not involve own-team competitions) to a “Category 4” case (which involves betting on one’s own team to lose). Categories 5 and 6 relate to spot bets and do not sit on this spectrum.

Whilst the Guidelines themselves are clear that they are non-binding and “*are not intended to override the discretion of Regulatory Commissions*”, FA Regulatory Commissions have almost unanimously used these six Categories as their starting points for sanction before considering the applicable aggravating and mitigating factors. This approach of “categorising” a case in terms of seriousness, followed by identifying a range of potential sanctions applicable to that category, then applying aggravating and mitigating factors is consistent with the approach taken to sentencing guidelines in other regulatory contexts, as well as the approach in court.

02

NUMBER AND TYPE OF CASES





As can be seen from this chart, the vast majority (85%) of betting cases available on The FA's website fall into Category 2 (bet placed on Participant's competition but not involving his or her club), Category 3 (bet placed on own team to win) and Category 4 (bet placed on own team to lose). Category 1 (betting which does not involve own-team competitions) and Category 5 (spot bet not involving the Participant) cases were much rarer. There were no Category 6 cases.³

3.

Although *Djassi Sambu* involved a Category 6 bet, the player bet on himself to score (which the Commission felt was the ultimate aim of every footballer), so the Commission treated the case as Category 3, with the single spot bet being a significant aggravating factor.

The two “other” cases were the high-profile cases of *Trippier* and *Sturridge*. These cases did not involve a “direct” bet and therefore did not fall to be dealt with in accordance with the six Categories of offence set out above.

Rather, they involved the Participants being found guilty of the “indirect” betting offences of (a) instructing, permitting, causing or enabling another to bet on football (the “IPCE Offence”), and/or (b) disclosing inside information in the knowledge that that information would be used by another to bet on football (the “Inside Information Offence”). These are the only two cases of this nature available on The FA’s website.⁴

However, The FA might be concerned that, if the number of serious cases is this high, a significant number of less serious cases may be escaping detection. The FA might also be concerned that the number of betting cases appears to be increasing year by year, as set out in the next chart.⁵

It is concerning that Category 4 cases, which are the most serious and involve a Participant betting on his or her own team to lose, were the most common, making up over a third of all cases. This may, however, represent selection bias on the part of The FA’s integrity team – it is to be expected that the most serious cases are given the highest priority.

85% OF CASES INVOLVED A PARTICIPANT BETTING ON THEIR OWN COMPETITION OR THEIR OWN TEAM

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Technically, *Pilkington* also involved a disclosure of inside information, but the issue is not given any significant consideration in the written reasons in that case because of the “direct” betting issues at play.

Although there are well-known betting cases which are not available on The FA's website, either because written reasons were not produced or because they pre-date The FA's publication policy, the trend revealed by the data that is available is clear.⁶

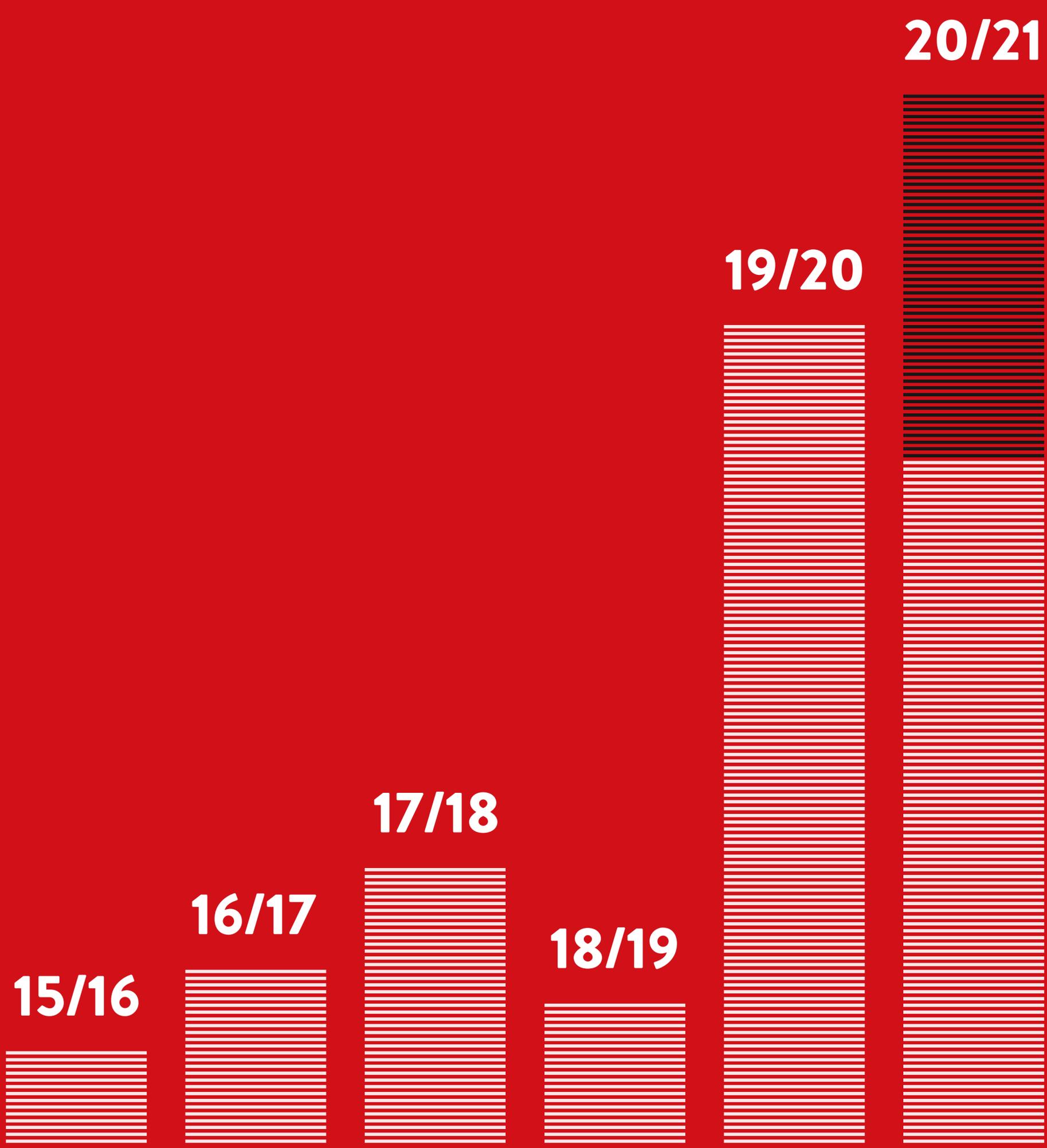
60

45

30

15

0



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For the purposes of this analysis, each year commences on 1 July (including the Covid-19 disrupted 19/20 season).

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In the interests of transparency and accessibility, this survey includes data only from cases which are publicly available via The FA's website.

WITH THE EXCEPTION OF THE 18/19 SEASON, CASES HAVE INCREASED DRAMATICALLY YEAR-ON-YEAR

As of 19 March 2021, there had been 35 cases in the 20/21 season so far. If cases continue at this rate, they will surpass the high of 40 seen in the 19/20 season by the end of the year. Again, though, this may reflect an increase in the capacity of The FA's integrity team rather than an increase in the number of Participants breaking the rules.

However, with the role of betting companies in football – and advertising in particular – coming under more scrutiny than ever before, this pattern is likely to add fuel to the fire of those calling for stricter regulation of the relationship between gambling and professional football.



03

AVERAGE SANCTIONS

AVERAGE SPORTING SANCTIONS

Across all 99 available cases (the “indirect” cases of *Sturridge* and *Trippier* are excluded), the average suspension for a breach of The FA’s betting regulations was 17.4 weeks (four months).

However, as a number of Commissions have pointed out, betting cases are highly fact specific and non-binding, meaning previous decisions have little precedential value. Accordingly, an average of this nature does not shed any light on likely sanction in any given set of circumstances: indeed, 42% of cases resulted in no suspension at all. It is, therefore, necessary to particularise the nature of betting cases further in order to produce useful information. The six Categories of offence set out in the Guidelines present a convenient way of doing so and, once each case is categorised in this way, a clear pattern of sanctioning begins to emerge:

CATEGORY	1	2	3	4	5	6
Number of Cases	6	32	18	36	7	0
Guidelines Sanction Range (Weeks)	N/A	N/A	0-26	26-Life	0-52	26-Life
Average Sporting Sanction (Weeks)	0.7	0.3	6.7	41.3	13.8	N/A

Thus, at the lower end of the scale, betting activity falling into Categories 1 and 2 will usually escape any sporting sanction, including where large numbers of bets have been placed.⁷ The only exceptions to this pattern are the cases of *Sherratt* and *Sandy*. In *Sherratt*, the Commission was only able to fix a sanction by reference to the Participant’s “evasive” answers during his FA interview. It therefore imposed a one-month suspension. In *Sandy*, the Participant had already been found guilty of a breach of the betting regulations once before. This was a significant aggravating factor and the Commission imposed a 10-week suspension.

Whilst it is understandable that the Commission in *Sandy* felt that a sporting sanction was appropriate, the decision in *Sherratt* seems harsh when one considers that his offence did not involve any bets on his own team or competitions in which his team participated.⁸

Category 3 cases, in which a Participant has bet on their own team to win, give rise to a perception that may be adverse to the integrity of the game.⁹ Whilst not as serious as betting against one’s own team, there may still be a suspicion of wrongdoing (as well as potential use of inside information). Therefore, Category 3 cases do tend to attract a sporting sanction, with the most severe being six months in *Allan*, which involved certain unique aggravating factors.¹⁰ If the *Allan* case is excluded from the dataset, the average sanction falls to 5.5 weeks, with a relatively small standard deviation of 5.9 weeks. 28% of Category 3 cases attracted no sporting sanction at all.

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See, for example, *Clarke*, in which 2,687 bets were placed across six seasons.

Notably, *Sherratt* is the oldest case available on The FA’s website and was decided shortly after the Guidelines were introduced.

See *Barnes*, in which the Appeal Board “profoundly disagreed” with the Regulatory Commission’s finding to the contrary.

In *Allan*, the clear aggravating factors included the Participant’s failure to disclose all of his betting accounts to The FA and the fact that he continued to place prohibited bets during The FA’s investigation of his activity.

THE FA V. BARTON

Possibly the most well-known case in Category 4(b) is *Barton*, in which the Participant was ultimately suspended for a total of 57.2 weeks (just over 13 months) following his appeal. This is the longest suspension for a Category 4(b) offence and is over two standard deviations more than the average. It therefore warrants closer inspection.

In reaching its decision on sanction, the Commission in *Barton* placed particular emphasis on the fact that the Participant had bet against his own club not once, but 15 times.¹³ It is clear from the Commission's decision that it considered the number of Category 4(b) bets to be a serious aggravating factor, warranting a significant departure from the lower end of the recommended sanction.

However, the facts of *Barton* are certainly not unique: there are four other publicly available cases in which a player has bet against their own team between 10 and 15 times but did not play in any of the relevant fixtures.¹⁴ In those cases, the average sporting sanction was 21.5 weeks. In the three further cases where the number of "own team to lose" bets was larger than *Barton*,¹⁵ the average suspension was 33.2 weeks.

Therefore, if number of bets against a Participant's own team is to be treated as the most important aggravating factor (as appears to have been the case in *Barton*), *Barton* does seem to be out of kilter with similar cases. It could be argued that there were other aggravating factors such as bets on his own team to win and the overall large number of prohibited bets but, again, *Barton* is not unique in this regard.¹⁶

One element of *Barton* which does appear to be unique is a series of Twitter messages in which the Participant was "publicly dismissive" of the FA and the FA Rules concerning gambling. Naturally, this was considered to be an aggravating factor,¹⁷ but it is not clear why this factor should lead to such a significant increase in sanction compared to other apparently similar cases. Previous criticism of the sanction in *Barton*, even after its reduction on appeal, therefore appears to have some force.¹⁸

13. *The FA v. Joseph Barton*, paras 136 and 140-141.

14. *Kashket, Butterworth, Hirst, and Frost*.

15. *Hill and Bath*.

16. See, for example, *Butterworth*.

17. *The FA v. Joseph Barton*, para. 165.

18. <https://www.lawinsport.com/topics/item/betting-and-football-s-ticking-time-bomb-joe-barton-v-the-fa?tmpl=component&print=1>

AVERAGE FINANCIAL SANCTIONS

Given the vast disparity in the earnings potential of Participants in professional and non-league football (and Commissions' understandable reluctance, in general, to make such matters public), there is little value in calculating an average fine or conducting any sort of comparative analysis on financial sanctions.

However, it is notable that the vast majority of Commissions have impliedly considered the ability to impose a sporting sanction to be the most significant element of their sanctioning powers. Whilst a financial penalty is almost always imposed, it often appears to be little more than an afterthought and there are no discernible trends save that, for obvious reasons, fines in the Premier League and Championship tend to be orders of magnitude greater than fines lower down the National League System.

Given that the Guidelines do not offer any actual guidance on the level of fine to be applied to each Category of offence (they simply state, in each Category, that a "Fine" is appropriate), this approach is not surprising.

FINES IN THE PREMIER LEAGUE AND CHAMPIONSHIP TEND TO BE ORDERS OF MAGNITUDE GREATER

04

AGGRAVATING & MITIGATING FACTORS

AGGRAVATING FACTORS

THE GUIDELINES ARE CLEAR THAT, WHEN CONSIDERING AGGRAVATING FACTORS, A “KEY ASPECT IS WHETHER THE OFFENCE CREATES THE PERCEPTION THAT THE RESULT OR ANY OTHER ELEMENT OF THE MATCH MAY HAVE BEEN AFFECTED BY THE BET”

As an example, the Guidelines state that, where the Participant has bet against themselves or their club, such conduct “*will be a serious aggravating factor in all cases*”. This passage has been expressly relied upon by a large number of Commissions.¹⁹

However, in the author’s view, this approach risks counting such aggravating conduct twice: once at the “categorisation” stage, and again when considering aggravating and mitigating features. In other words, a bet against one’s own team is aggravating in the sense that it elevates an offence from Category 2 to Category 3. When a Commission considers where a case falls within the recommended sanction range for that Category, it should not then count the own-team bet(s) for a second time.

The FA should therefore be clearer about the stage of a Commission’s reasoning at which the Commission may take into account specific factors. Factors which go to categorisation, such as whether bets were placed on the Participant’s own team, should be relevant only at that stage.

Other aggravating factors commonly considered by FA Regulatory Commissions included the number and size of the bets placed, the experience of the Participant, and their position within the footballing organisation (for example, manager). However, the factor which had by far the most impact on sanction was whether or not the Participant played in matches on which they placed a bet or bets. This makes logical sense, as this factor is most likely to have a negative impact on the perception of the game: when a Participant plays in a match on which he or she has placed a bet, he or she can affect the result of that bet.

As set out above, in Category 4 cases, the presence of this factor changed the average sanction from 28.1 weeks if the player did not play to 87.4 weeks if they did – more than tripling the sporting sanction. Similarly, in Category 3 (including *Allan*), the average sanction went from 4.8 weeks to 10.4 weeks, and in Category 5, the average went from 3.4 if the player did not play to 21.6 weeks if they did. Notably, Category 5 and 6 cases in which the Participant played could be categorised as match fixing offences as well as betting offences.²⁰

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See, for example, *Walker*.See, for example, *Wood*, which is excluded from this analysis for this reason.

Other commonly considered aggravating features had a less dramatic but still discernible impact in Categories where a suspension is usually appropriate (i.e. Categories 3, 4 and 5).

Thus, the number of bets placed was considered an aggravating feature in 23 cases, in which the average sporting sanction was 32.4 weeks (a small increase over the average of 28 weeks for cases where this was not a factor). Similarly, the size of the bets placed was considered to be an aggravating feature in 13 cases, in which there was an average sanction of 47.1 weeks.

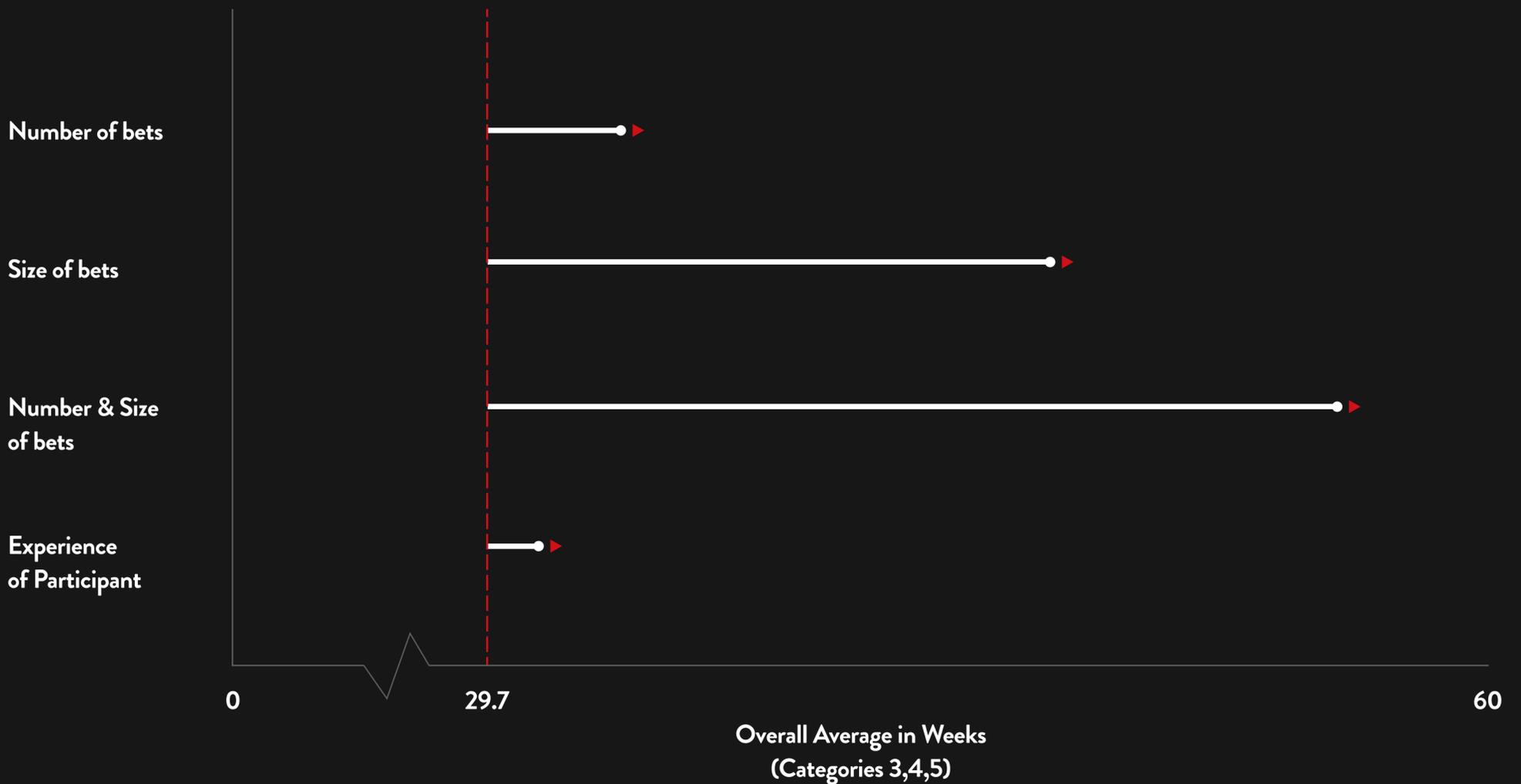
In cases where both the number and size of the bets were considered to be aggravating features, the average sanction was 55.6 weeks. Finally, cases in which a Participant's level of experience was considered to be an aggravating factor produced an average sanction of 30.2 weeks compared to 26.9 weeks where it was not.

The effect of these aggravating features when compared to the overall average sanction in Categories 3, 4 and 5 is set out in the graphic on the next page.

**IN CATEGORIES 3, 4
AND 5 THE AVERAGE
SPORTING SANCTION
WAS 29.7 WEEKS**



THE EFFECT OF AGGRAVATING FACTORS



MITIGATING FACTORS

Factors commonly cited as mitigating betting offences include the number of bets and size of the stakes being low, a Participant's remorse and previous clean record, an admission of the charge and co-operation with the process, and the inexperience of the Participant.

Interestingly, if the "indirect" cases of *Trippier* and *Sturridge* are excluded, the charges in "direct" cases were denied in only two instances. Both Participants were nevertheless found to have breached the rules. Such a high number of admissions suggests that The FA is able to produce evidence of extremely high quality in cases of this nature.

The number and size of bets had a noticeable mitigating effect in Categories 3, 4 and 5 (where a suspension is the norm). Thus, where the number of bets was considered to be a mitigating factor, the average sanction was 9.8 weeks (versus 32.4 weeks without such mitigation). Similarly, when the size of the bets was considered to be a mitigating factor, the average suspension was 18.4 weeks (versus 36 weeks without). When both the number and size of the bets were considered a mitigating factor, the average sanction was just 7.1 weeks.

In the same Categories of cases, Participants given credit for their youth or inexperience were handed an average suspension of 17.7 weeks, while those not given such credit received longer suspensions of 30 weeks. In cases where the Participant's cooperation with the process was seen as a mitigating factor, the average suspension was 21.3 weeks (and 41.5 weeks where it was not a mitigating factor). Finally, the good disciplinary record of the Participant had a lesser effect, with an average sanction of 25.5 weeks versus 33.7 weeks where there was no such good record.²¹

Three other commonly cited mitigating factors warrant further comment. First, a number of Commissions considered the fact that the Participant in question had not sought to conceal his or her identity was a mitigating factor.²² However, this had very little effect when compared with cases in which it was not considered a mitigating factor (and none of the cases reviewed for this study involved a Participant seeking to conceal their identity).

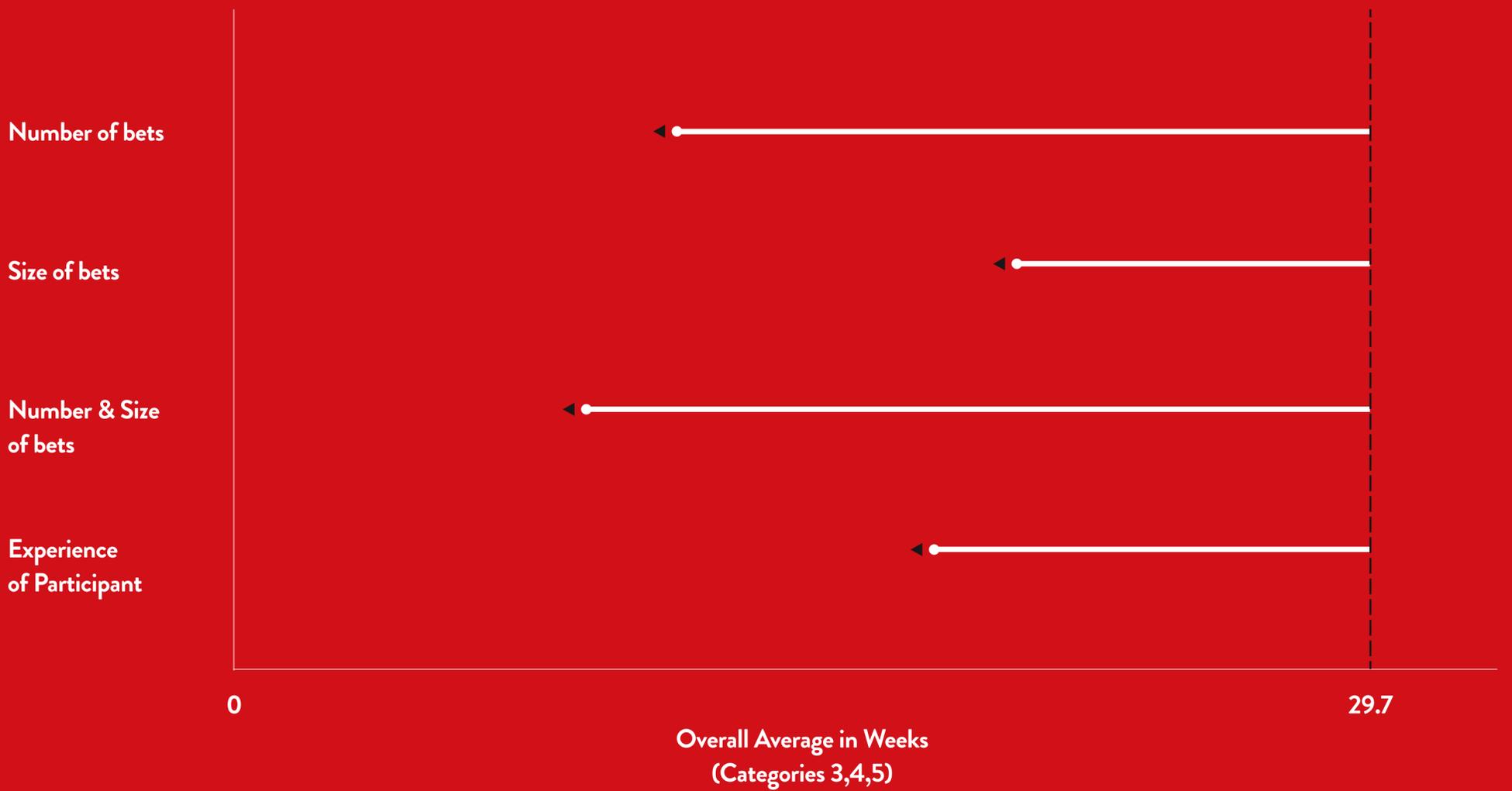
Secondly, certain Commissions considered that the placing of bets as part of an accumulator, rather than as single bets, was a mitigating factor and cases in which this was cited as a mitigating factor had an average sanction of 18.6 weeks versus 30.4 weeks when it was not. One can see the logic in this: the Participant in question can only affect one aspect of a bet in which many other elements must go his or her way. Yet, arguably, the integrity of a match is still in question – and that is the case whether the offending bet is part of an accumulator or not.

21.

Albeit noting that there were only two cases, *Solkhon* and *Sandy*, where the Participant had a previous misconduct finding against him relating to betting.

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See, for example, *Butterworth*.



THE EFFECT OF MITIGATING FACTORS

IGNORANCE IS NO EXCUSE - BUT COULD IT BE MITIGATION?

Many Participants, particularly in the lower steps of the National League System (where The FA's education initiatives may be less ubiquitous), pleaded that they were ignorant of the rules and thought that they were only prevented from betting on their own teams or leagues. However, The FA's regulations on betting create strict liability, meaning that ignorance of the rules is not a defence.

There is a question mark, however, over whether ignorance of the rules will be treated as a mitigating factor.²⁵ For example, in *Acheampong*, the Commission considered that a lack of direct training from The FA was a valid mitigating factor. Similarly, in *Hickey*, the Commission felt that the player's lack of knowledge and training was a mitigating factor.²⁶

Other Commissions have chosen not to treat a lack of knowledge as a mitigating factor. For example, in *Kashket*, the Commission stated that “[i]gnorance of the relevant Rule is... not really a mitigating factor; rather, awareness of a Rule... would be an aggravating feature”.²⁷ In other cases where ignorance was pleaded, Commissions have chosen not to consider expressly whether it is a mitigating factor, and have instead focused on other matters.²⁸

Even if knowledge is not considered to be a mitigating factor, Commissions tend to draw certain inferences about a Participant's knowledge of the Rules from their level of experience. Thus, in *Roddy*, whilst the player argued that he was not aware of the FA Rules concerning betting, the Commission considered the player's age and his professional playing experience before concluding that “it was more likely than not that [the player] was aware that he ought not to be placing bets on football in England”.²⁹

For this reason, ignorance of the rules is unlikely to provide any mitigation at the fully professional level. At this level, clubs and The FA provide comprehensive betting education programmes and it is unlikely that a Participant would be able to convince a Regulatory Commission of their ignorance. Perhaps the sole exception to this would be where there is a language barrier and the club fails to pass on translated versions of the FA's education materials to the player.³⁰

THE FA'S REGULATIONS ON BETTING CREATE STRICT LIABILITY, MEANING THAT IGNORANCE OF THE RULES IS NOT A DEFENCE

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Acheampong, para. 21(f).

Hickey, para. 26.

Kashket, para. 34(a).

For example, *T Jordan*.

Roddy, para. 21.

See *Demichelis*, para. 20.

THE ISSUE OF ADDICTION

Worryingly, 26% of Regulatory Commissions cited addiction or “problem gambling” as a mitigating factor when considering sanction. More worrying still, this number does not include cases in which gambling addiction was raised as an issue but, ultimately, did not contribute to the mitigating factors in the case.³¹ It is therefore likely that addiction is a factor in around a third of cases.

This raises the question: should Commissions be more consistent in their treatment of gambling addiction as a mitigating factor? As the expert testimony in *Barton* made clear, addiction impairs a Participant’s ability to make informed choices.³² Whilst the degree to which an individual’s decision-making is affected will be a question of fact which will vary in each case, the discretion accorded to Regulatory Commissions is sufficiently broad to allow them to take this into account, and addiction should be treated as a mitigating factor in all but the rarest of cases.

The high number of cases in which addiction is a feature will also contribute to ongoing conversations surrounding the uneasy relationship between football and gambling. Indeed, a number of the cases referred to a perception that gambling is very much part of the culture of the game.³³ If that culture is leading to addiction problems for Participants who are specifically prohibited from betting, it is possible that the effect of football’s “gambling culture” in the wider population may be even more severe.

ADDICTION WAS A FACTOR IN AROUND A THIRD OF CASES

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For example, in *Lalmalani*, the Participant’s failure to acknowledge a clear gambling problem was seen as an aggravating factor.

The FA v. Joseph Barton, para. 87.

For example, *Chambers*, para. 12(7), *John*, para. 11.

05

COMMENTS ON THE GUIDELINES

THE GUIDELINES ARE CRITICAL IN ESTABLISHING THE DIFFERENT CATEGORIES OF BETTING OFFENCE AND ACTING AS THE STARTING POINT FOR THE CONSIDERATION OF SPORTING SANCTION

HOWEVER, THE VERSION OF THE GUIDELINES CURRENTLY IN USE WAS FIRST ADOPTED DURING THE 2014/15 SEASON AND HAS REMAINED LARGELY UNCHANGED SINCE

The direct cases have highlighted a number of ways in which the Guidelines could be improved – both to assist Regulatory Commissions in their decision-making process and to increase transparency and predictability for Participants.

The principal way in which the Guidelines could be improved for direct betting offences would be to include additional detail on how certain common scenarios should be treated. For example, whilst the Guidelines create separate Categories for an “own-team to win” bet and an “own-team to lose” bet, there is no guidance as to how an “own-team to draw” bet should be treated.

The recent Commission in *Hoenes* described this lacuna as a “flaw”, but apparently chose to treat the bet in question as a Category 4 offence, imposing a nine-month suspension on the basis that the Participant played in the fixture concerned.³⁴

Bearing in mind that the perception of the integrity of the game is paramount, an “own-team to draw” bet could potentially attract a broad range of sanctions. For example, a bet placed by player who is not a first team player will not involve the same level of culpability as one placed by a player who then plays in the fixture concerned. It may also be relevant to consider whether the bet in question was on a score draw or a no-score draw. However the offences are to be defined, additional guidance on this issue would benefit both Commissions and Participants.

Additional detail would also be welcome in Categories 4 and 6, where the potential sanctions range from a six-month suspension to a life ban. The range of sanctions available within a single Category is therefore vast, and can mean the difference between a spell on the sidelines and the end of a career.

One way of adding additional layers of guidance would be to create distinct sub-categories for bets on matches in which the Participant in question played or otherwise took an active part. As set out above, this is already by far the most significant aggravating factor for any offence, and creating separate sub-categories with smaller ranges of potential sanctions would reduce the uncertainty faced by Participants.

DIRECT OFFENCES

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Hoenes, para. 25.

In addition to guidance on the six Categories of direct betting offences, the Guidelines also offer some guidance on the indirect offences committed by Daniel Sturridge and Kieran Trippier. However, perhaps because cases in which these offences are prosecuted are much rarer than direct cases, the Guidelines are much more limited.

Interestingly, it may be that the indirect offences are not much rarer in practice than the direct offences – the evidence required to prove them is simply much more extensive and difficult to uncover, meaning the threshold for bringing charges is met in fewer cases.

In any event, the Guidelines for indirect offences could also be improved.

First, there is no express guidance for Commissions dealing with the IPCE Offence, which was at issue in *Sturridge*. Whilst the Appeal Board in *Sturridge* held that assistance on relevant sanction can be found in another section of the Guidelines,³⁵ the need to reason by analogy in this way would be removed by creating express guidance for the IPCE Offence.

Secondly, as regards the Inside Information Offence which was at issue in *Trippier*, the Guidelines again specify a range of sanctions which is so broad as to be meaningless: the more serious offences are punishable by a ban of three months to life or six months to life. A more detailed breakdown of this broad discretion would go a long way to providing meaningful guidance to Commissions and Participants, and would promote the Guidelines' goal of consistency in decision-making.

Thirdly, even the Guidelines which relate to the Inside Information Offence are clearly designed with an emphasis on betting in relation to specific matches. However, both the *Sturridge* and *Trippier* offences related to player transfers, and the Commission in *Trippier* was forced to...“wonder... about the efficacy of guidelines in which there is no differentiation whatsoever between the subject matter of the betting activity and where the range of suggested suspensions for the more serious misconduct cases involving betting is extremely wide”.³⁶ With the myriad of betting markets now on offer, The FA might also consider updating the Guidelines to include some differentiation between the subject matter of the betting activity.

INDIRECT OFFENCES

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Sturridge Appeal, para. 190.
Trippier, para. 114.

THE CASES HAVE BEEN CLEAR THAT FA REGULATORY COMMISSIONS IN BETTING CASES ARE NOT BOUND BY PREVIOUS DECISIONS

However consistency in decision-making is both a hallmark of good governance and one of the express goals of the Guidelines. Consistency between similar cases has also been expressly taken into account by Commissions when considering the appropriate sanction.³⁷

However, the range of sanctions available under Guidelines is extremely broad and the sheer number of ways in which the regulations can be breached means there are a number of “gaps” where it is not possible to predict a likely sanction based on the Guidelines alone. It is hoped that the data revealed by this article will go some way to reducing this uncertainty and that it will provide Participants with a more accurate idea of their likely sanction.

However, Participants should be wary that every betting case is different and it is very difficult to predict the counterbalancing effects of the limitless combinations of potential mitigating and aggravating factors.

For example, whilst placing only a few small bets can be a significant mitigating factor, other aggravating features (such as a playing in the relevant matches) may nullify this mitigation entirely. In addition, although Commissions do tend to have a consistent approach to sanctioning within different Categories of case, there are always cases which appear to be outliers but which, on further inspection, involve unique or particularly strong mitigating or aggravating factors.



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