IN THE MATTER OF A PREMIER LEAGUE COMMISSION

B E T W E E N:-

THE PREMIER LEAGUE BOARD

Complainant

– and –

LEICESTER CITY FOOTBALL CLUB

Respondent

DECISION

DELIVERED BY THE COMMISSION

sitting in the following composition:

Chair:	Mr James Drake K.C.
Members:	Mr Mark Hovell Mr Nick Igoe
Secretary:	Mr Aradhya Sethia

Hearing dates: 24 November – 1 December 2025

3 February 2026

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I. THE PARTIES

1. The Complainant is the Board of Directors of The Football Association Premier League Limited (the "**PL**"). The Football Association Premier League Limited is a private company limited by shares. Its shareholders are Football Association (the "**FA**"), which is the national governing body for the sport of football in England, together with the 20 member clubs that form part of the English Premier League (the "**Premier League**") at any given moment in time.[1]

2. The PL is the organising body responsible for (amongst other things) compliance by the member clubs with the Premier League Rules (the relevant version of the rules being that for 2024/25 (the "**2024/25 PL Rules**")). As was noted in the decision of the Appeal Board in *Everton Football Club v. Premier League* (26 February 2024) ("***Everton I***") at [4], "*The PL was … properly described … as a 'joint venture' governed by the detailed rules agreed by the member clubs. The joint venture has both a sporting purpose and a financial (profit-sharing/revenue-generating) purpose, which are linked.*"

3. As part of its functions, the PL is responsible for the prosecution of disciplinary proceedings for any member club's (alleged or admitted) breach of the PL Rules. The Premier League Rules form part of the contract between the PL, the clubs, and one another. The Premier League Rules (and any changes thereto) are approved every year at the PL's Annual General Meeting.

4. The Respondent, Leicester City Football Club Limited ("**LCFC**" or the "**Club**"), is a professional football club based in Leicester. LCFC was a member of the Premier League for nine consecutive seasons up to and including the 2022/23 season. At the conclusion of that season, on 13 June 2023, the Club was relegated to The English Football League Limited's (the "**EFL**") Championship (the "**Championship**"). At the end of the 2023/24 season, on 6 June 2024, the Club was promoted back to the Premier League, where it played for the 2024/25 season. It was again relegated to the Championship at the conclusion of the 2024/25 season and in the current 2025/26 season, LCFC is a member of the Championship and not of the Premier League.

II. THE FACTUAL BACKGROUND

5. On 1 March 2024, when LCFC was competing in the Championship, the EFL's Club Financial Reporting Unit (the "**CFRU**"), acting under delegated authority from the EFL Board, received LCFC's forecast 'P&S Calculation' for the financial year

[1] Note that we have defined The Board of Directors of the Football Association Premier League Limited as "PL" and the Premier League competition as the "Premier League". Similarly, we have defined The English Football League Limited as the "EFL" and its championship competition as the "Championship". It also pays to bear in mind that the two sets of profitability and sustainability rules are referred to (by us and generally) as the "PSR" for those in the PL and the "P&S Rules" for the EFL.

ending in 2024 ("**FY24**"). References to earlier financial years ("**FY23**", "**FY22**" and "**FY21**") are to be construed accordingly.

6. Following receipt of that forecast calculation, the CFRU indicated that it intended to investigate potential breaches of the EFL's 2023/24 Profitability and Sustainability Rules (the "**P&S Rules**"). While that investigation was ongoing, LCFC was promoted to the Premier League on 6 June 2024, and responsibility for the investigation was transferred to the PL. The PL accordingly has jurisdiction to investigate and prosecute the alleged breaches which are the subject of these proceedings.

III. THE FY23 DISPUTE

7. A part of the background to these proceedings is that LCFC was the subject of similar proceedings brought by the PL for FY23. By a complaint dated 21 March 2024 (and amended on 17 July 2024) (the "**FY23 Complaint**"), the PL alleged that LCFC was in breach of the PL's Profitability and Sustainability Rules (the "**PSR**") for the assessment period ending with LCFC's FY23 (the "**FY23 Proceedings**").

8. A commission was appointed pursuant to Section W of the 2023/24 PL Rules. LCFC challenged the jurisdiction of the commission to consider the FY23 Complaint and on 13 June 2024, the commission determined that it had jurisdiction. On 27 June 2024, LCFC appealed the decision and on 30 August 2024 the Appeal Board reversed the commission's decision on jurisdiction, concluding that, upon relegation, the PL no longer enjoyed jurisdiction over the Club.

9. The PL sought a review of the Appeal Board's decision by arbitration under Section X of the 2024/25 PL Rules (the "**Section X Arbitration**"). On 9 May 2025, the tribunal in the Section X Arbitration (comprised of Lords Mance and Neuberger and Michael Crane KC) (the "**Section X Tribunal**") decided that "*the Appeal Board was wrong in concluding that the Commission had no jurisdiction to investigate a breach of the PSR by LCFC in FY2022/23*" but did not consider that the wrong decision was as a result of "*a perverse interpretation of the law*" (that being the relevant test under Rule X.4) and thus declined to set aside the Appeal Board's decision. The relevance of the Section X Arbitration to some of the issues in this case is addressed below.

IV. THE PROCEEDINGS BEFORE THE COMMISSION

10. On 16 May 2025, the PL commenced these disciplinary proceedings by a Complaint against LCFC pursuant to Rule W.24 of the 27 March 2025 Edition of the 2024/25 PL Rules (the "**Complaint**").

11. Following receipt of the Complaint, the Chair of the Judicial Panel appointed the Commission, comprising Nick Igoe, Mark Hovell and James Drake K.C., with the

latter as the Chair of the Commission. With the permission of the parties, Aradhya Sethia was appointed as the Secretary to the Commission.

12. On 9 June 2025, LCFC served its written answer to the Complaint under Rule W.30 of the 2024/25 PL Rules (the "**Answer**"). On 7 July 2025, the PL filed its "**Reply**" to LCFC's Answer, and LCFC served an amended Answer on 7 July 2025 (the "**Amended Answer**"), which replaced the Answer.

13. On 11 July 2025, the Commission refused LCFC's application to stay the determination of the competition law issues raised in the Amended Answer.

14. In response to the PL's Reply, LCFC filed its "**Rejoinder**" on 8 August 2025.

15. On 12 August 2025, the PL made a Request for Further Information (the "**RFI**") in respect of LCFC's Amended Answer and Rejoinder. LCFC responded to the RFI on 22 August 2025.

16. On 29 August 2025, the Commission refused LCFC's request to preclude the PL from sharing the statements of case with the EFL for the purposes of potentially obtaining and adducing evidence from the EFL in these proceedings, but agreed that the PL should (a) identify with whom at the EFL it intends to consult; (b) identify exactly what it intends to share; and (c) obtain from any proposed recipient an express, written undertaking of confidentiality.

17. On 8 October 2025, LCFC filed its "**Re-Amended Answer**", which replaced the Amended Answer. The PL subsequently filed its "**Amended Reply**" on 17 October 2025 that replaced its Reply. On 7 November 2025, LCFC filed its "**Amended Rejoinder**". The PL filed its "**Surrejoinder**" on 12 November 2025.

18. A (remote) case management conference was conducted on 11 November 2025. Subsequently, on 19 November 2025, LCFC filed its "**Re-Re-Amended Answer**" which replaced the Re-Amended Answer.

19. The Commission held a hearing over six days, 24–28 November and 1 December 2025. The PL was represented by James Segan KC and Hugo Murphy instructed by Linklaters LLP. LCFC was represented by Nick De Marco KC, David Lowe, and Ravi Mehta, instructed by Centrefield LLP. The Commission is grateful to the representatives of both parties for the quality and clarity of their legal submissions and for the courteous and professional manner in which these proceedings have been conducted.

20. The PL's Complaint alleged two categories of breach on the part of LCFC:

    20.1. LCFC breached the P&S Rules for the assessment period ending in FY24, in that LCFC's loss for the three-year assessment period ending in FY24 exceeded the applicable Upper Loss Threshold ("**ULT**") under the P&S Rules, i.e., £83 million. The PL alleged that LCFC's losses exceeded the

ULT by £42.1 million (assessed over a 37-month period), or alternatively, £23.6 million (assessed over a 36-month period).

20.2. LCFC breached its disclosure obligations pursuant to Rules B.18, W.1 and W.16 of the 2024/25 PL Rules because LCFC did not provide its FY24 Annual Accounts when requested by the PL (the "**Disclosure Breaches**").

21. For the alleged breaches, the PL sought a sporting sanction in the form of a recommendation to the EFL to impose a points deduction against LCFC in the Championship or, alternatively in the event that the EFL was unable or unwilling to act on such a recommendation, a fine. The sporting penalty, according to the PL, should be applied in the Championship, where LCFC is currently competing. The PL's position was that the Commission should determine the appropriate sanction by reference to the EFL Sanctioning Guidelines "*as well as previous cases decided under the P&S Rules and PSR.*"

22. LCFC's position, in summary, was as follows:

22.1. Upon transfer of an investigation from the EFL to the PL under Rule E.77 of the 2024/25 PL Rules, the PL must, "*in substance*", apply the PSR as at the date of transfer, not the P&S Rules. If so, the appropriate ULT applicable to LCFC is £105 million, not £83 million.

22.2. LCFC's losses should be assessed over a 36-month period, not a 37-month period as contended by the PL.

22.3. LCFC sought a deduction of £2.79 million or £3.04 million (depending on whether a 36 or 37 month-period is applied) in light of a change in the accounting treatment of contingent fees for player transfers adopted by LCFC in FY24 (the so-called "**New Treatment**").

22.4. The application by the Commission of the EFL Sanctioning Guidelines would be unfair and disproportionate and/or an unjustifiable infringement of Chapter I and Chapter II of UK the Competition Act 1998 (the "**Competition Act 1998**"). This was Ground 1 of the Club's competition law challenge.

22.5. If the effect of the PL Rules and/or "*PL's practice*" is the application of an £83 million ULT, then the 2024/25 PL Rules and/or the PL's application of the variable Upper Loss Threshold (the "**Variable ULT**"), leading to this outcome, would constitute unjustified infringements of Chapter I and Chapter II of the Competition Act 1998. This was Ground 2 of the Club's competition law challenge.

22.6. As to the alleged Disclosure Breaches, LCFC contended that the PL had no power to request such accounts and that, in any event, LCFC had acted reasonably in not providing the accounts when requested and the PL suffered no prejudice.

23. LCFC objected to the PL's approach to sanctions. In brief, LCFC's position on sanctioning came to be (that is, by the end of proceedings) as follows:

23.1. Under the PL Rules, the Commission does not have power to recommend any points deduction in the Championship or to impose a delayed points deduction in the Premier League. Instead, the Commission's sanctioning power is limited to imposing a fine on LCFC. If the Commission does have power to recommend a sanction to be imposed in the Championship, the rule giving such power or the application of such rule would be an infringement of Chapter I and Chapter II of the Competition Act 1998.

23.2. The fine should reflect the financial value to LCFC of the points deduction that would otherwise have been imposed, had that sanction been available for the Commission to impose.

23.3. In the event the Commission does have power to impose a sporting sanction, the application of the EFL Sanctioning Guidelines for determining sanctions by the Commission would be unfair and disproportionate and/or an unjustifiable infringement of Chapter I and Chapter II of the Competition Act 1998. Instead, LCFC suggested, the Commission should determine sanctions by reference to "*a substantial body of case-law*" on the PL Commissions' sanctioning powers.

24. There are other discrete issues between the parties that are not contained in this overview. We will address them in more detail below.

V. THE RELEVANT RULES

A. The History of Financial Fair Play Regulation

25. The development of financial fair play ("**FFP**") rules in the Championship and the Premier League is examined in detail in *Queens Park Rangers Football & Athletic Club Ltd v The Football League Ltd* (19 October 2017), at [19]–[48], and was also addressed, in part, in the evidence of Mr Nicholas Craig and Mr Jamie Herbert as summarised below. It is helpful to set out a brief summary of that history (drawn from these two sources), as it provides important context for the structure and purpose of the current regulatory framework.

26. Prior to 2011, the Championship clubs operated with limited constraints on club spending. In the period before 2011, clubs were largely free to incur substantial losses in pursuit of sporting success. This environment resulted in widespread financial instability. A significant number of clubs entered administration and were able to emerge debt-free within a short period. The practical effect was that insolvency became a commercial risk that some owners were prepared to take in order to secure promotion or avoid relegation.

27. By 2011, the financial position of Championship clubs had deteriorated significantly. Annual net losses across the division were approximately £189 million, with an average net loss per club of around £8 million. Total net indebtedness stood at approximately £875 million. The evidence in *QPR* showed that gambling on promotion to the Premier League, with its substantial financial rewards, had become a major driver of excessive spending and financial failure. Indeed, between 1992 and 2013, Championship clubs experienced more than 50 insolvency events, including 18 between 2004 and 2012.

28. The EFL introduced a series of early measures to address these problems. These included points deductions for insolvency events, a fit and proper person test for owners, and salary cost management protocols. However, the EFL concluded that these measures were insufficient to address the underlying incentives driving overspending.

29. Against that background, the EFL began developing a more comprehensive system of financial regulation in 2011. The Championship clubs approved the introduction of the Championship Financial Fair Play Rules (the "**Championship FFP**") in 2012 – the precursor to the P&S Rules. The Championship FFP applied a one-year assessment period and permitted losses up to £8 million. The primary sanction was a financial penalty imposed on the clubs that had overspent in excess of the applicable loss limit.

30. In 2013, the Premier League adopted the PSR, which came fully into force in the 2015/16 season. The PSR introduced a three-year monitoring period and a £105 million threshold for aggregated adjusted losses, with non-compliance exposing clubs to sanctions including transfer embargoes, unlimited fines, and points deductions.

31. The EFL subsequently replaced the former single-year Championship FFP regime with its own P&S Rules from the 2016/17 season. One of the drivers of that change was the desire to bring the EFL's financial regulation into closer alignment with the Premier League's PSR, reflecting the regular movement of clubs between the two competitions. Like the PSR, the P&S Rules adopted a three-year assessment period, permitted higher aggregate losses subject to specified add-backs, and expanded the range of available sanctions to include discretionary sporting sanctions, such as points deductions.

32. Against that historical background, we now set out the relevant provisions of the EFL Regulations (including those of the P&S Rules) and the PL Rules (including those of the PSR).

B. The EFL Regulations

33. It is common ground between the parties that the applicable version of the EFL Regulations is the 2023-24 EFL Regulations as in force on 5 June 2024 (the "**EFL**

Regulations").

34. Regulation 87.4 of the EFL Regulations provides as follows:

"*Where a Promoted Championship Club, or any Official or Director of that Promoted Championship Club, at the point at which it becomes a member of the Premier League, is subject to an investigation by The League for alleged breaches of any aligned provisions within the Premier League Rules, the responsibility for that investigation will pass to the Premier League and the provisions of that Premier League Rule will apply.*"

35. It also appeared to be common ground that the reference therein to the "*Premier League Rules*" should have been to the EFL's P&S Rules, for otherwise the language makes no sense.

36. The EFL's P&S Rules are set out in Part 1 of the Financial Fair Play Rules in Appendix 5 of Section 6 of the EFL Regulations. The relevant rules are set forth in the following paragraphs.

37. Under the heading "*Profitability and Sustainability*", Rules 2.1, 2.5 and 2.10 provide as follows:

"*2.1. Each Club shall by 1 March in each Season submit to The League:*

2.1.1 copies of its Annual Accounts for T-1 (and T-2 if these have not previously been submitted to The League) ...;

2.1.2 a Player Registration Schedule;

2.1.3 its estimated profit and loss account and balance sheet for T..."

2.5. If the aggregation of a Club's Earnings Before Tax for T-1 and T-2 results in a loss, any consideration from Associated Party Transactions having been adjusted (if appropriate) pursuant to Rule 2.3, then the Club must submit to the Secretary its P&S Calculation.

2.10. If the P&S Calculation results in a loss that exceeds the Upper Loss Threshold (calculated in accordance with Rule 3) then:

2.10.1. the Club shall be subject to a Player registration embargo such that The League shall have the right to refuse any application made by that Club to register any Player or any new contract of an existing Player with that Club; and

2.10.2. the League may exercise its powers set out in Regulation 16.21; and

2.10.3. the Club shall be treated as being in breach of these Rules and accordingly the CFRU shall refer the breach to the CFRP in accordance with Appendix 6 of the Regulations."

38. Under the heading "*Clubs Ceasing to be Members of the Championship*", Rule 5.1 of the P&S Rules provides as follows:

> "*If a Club is promoted or relegated out of the Championship Division that Club shall, notwithstanding promotion or relegation, remain bound by these as if it were still a Championship Club, until such time as it has complied with all of its obligations relating to its last Season as a Championship Club.*"

39. Rule 3 provides Loss Thresholds for the purposes of the EFL's P&S Rules:

> "*3.1. The Lower Loss Threshold and Upper Loss Threshold for each Club shall be calculated based on the aggregation of the Annual Lower Loss Thresholds and Annual Upper Loss Thresholds set out in the following table, by reference to the league of which the Club was a member in the Season covered by the applicable Accounting Reference Period:*

	Annual Lower Loss Threshold	***Annual Upper Loss Threshold***
Premier League	*Subject to Rule 3.2, £5 million*	*Subject to Rule 3.2, £35 million*
The League	*Subject to Rule 3.3, £5 million*	*Subject to Rule 3.3, £13 million*

> *3.2. The Loss Thresholds for any Accounting Reference Periods relating to Seasons when Clubs were members of the Premier League shall be calculated on the basis of the three year aggregated figures set out in Premier League Rules E.57 and E.59 respectively (as amended, extended or replaced from time to time in accordance with the Rules of the Premier League) divided into three equal annual instalments.*

> *3.3. Where there is an adjustment to the Premier League's Annual Lower Loss Threshold and/or Annual Upper Loss Threshold, as described in Rule 3.2, then The League's Annual Lower Loss Threshold and/or Annual Upper Loss Threshold for the equivalent period shall be adjusted by a percentage equal to the percentage change applied by the Premier League.*"

> [Guidance omitted]

40. Rule 1 sets out the following relevant definitions:

40.1. Rule 1.1:

> "*Accounting Reference Period means the period in respect of which Annual*

Accounts are prepared."

40.2. Rule 1.1.4:

"*Adjusted Earnings Before Tax means Earnings Before Tax adjusted to exclude:*

(a) costs (or estimated costs as the case may be) in respect of the following:
- *(i) depreciation and/or impairment of tangible fixed assets (net of any capital grants);*
- *(ii) amortisation or impairment of goodwill and other intangible assets (but excluding amortisation and/or impairment of the costs of players' registrations);*
- *(iii) Women's Football Expenditure;*
- *(iv) Youth Development Expenditure;*
- *(v) Community Development Expenditure; and*
- *(vi) in respect of Season 2021/22 only COVID-19 Costs; and*

(b) with effect from, and including the Accounting Reference Period covering Season 2021/22, profit/loss on disposal of any tangible fixed asset. With effect from Season 2023/24, this includes any profit/ loss that may be derived directly or indirectly or for the disposal of any intangible asset (directly or indirectly) where its value derives materially from the ownership of a tangible asset."

40.3. Rule 1.1.5:

"Annual Accounts means:

(a) the accounts which each Club's Directors are required to prepare pursuant to section 394 of the 2006 Act; or

(b) if the Club considers it appropriate or The League so requests, the group accounts of the Group of which the Club is a member and which it is required to prepare pursuant to section 399 of the 2006 Act, or which it is required to deliver to the Registrar of Companies pursuant to section 400(2)(e) or section 401(2)(f) of the 2006 Act,

provided that in either case the accounts are prepared to an accounting reference date (as defined in section 391 of the 2006 Act) which falls between 31 May and 31 July inclusive. If the accounting reference date falls at any other time, separate accounts for the Club or the Group as appropriate must be prepared for a period of twelve months ending on a date between 31 May and 31 July inclusive, and in such a case "Annual Accounts" means those accounts.

Annual Accounts must be prepared and audited in accordance with all legal and regulatory requirements applicable to accounts prepared pursuant to Section 394 of the 2006 Act and the provisions of Annex 3 (Reporting Requirements in relation to Player registrations)."

40.4. Rule 1.1.12:

"*Earnings Before Tax means profit or loss before tax, as shown in the Annual Accounts.*"

40.5. Rule 1.1.15:

"*P&S Calculation means, save as indicated below, the aggregation of a Club's Adjusted Earnings Before Tax for T, T-1 and T-2.*"

40.6. Rule 1.1.20:

"*T means the Club's Accounting Reference Period ending in the year in which assessment pursuant to Rules 2.2 to 2.9 takes place, and:*

(a) T-1 means the Club's Accounting Reference Period immediately preceding T;

(b) T-2 means the Club's Accounting Reference Period immediately preceding T-1;

(c) T+1 means the Club's Accounting Reference Period immediately following T; and

(d) T+2 means the Club's Accounting Reference Period immediately following T+1."

41. In the 2023/24 season, LCFC was a member of the EFL. It was previously a member of the PL for the 2021/22 and 2022/23 Seasons. Therefore, as per the P&S Rules, LCFC's ULT for FY23/24 was £83 million.

42. It is well to note at this juncture that in 2018 the EFL promulgated "*Profitability and Sustainability ('P&S') Sanctioning Guidelines*" (the "**EFL Sanctioning Guidelines**"). The guidelines were issued by the then EFL CEO (Mr Shaun Harvey) along with a covering memorandum. The memorandum and the guidelines provide as follows:

"*PROFITABILITY AND SUSTAINABILITY ('P&S') – SANCTIONING GUIDELINES*

Background

Any breach of the P&S Rules are [sic] *to be determined by an Independent Disciplinary Commission. As it has been explained previously, the*

Commission have the fullest possible range of sanctions available to them, from a warning to expulsion.

Sanctioning Guidelines

The Board at their meeting on the 4th September agreed that for any breach, a sporting sanction in the form of a points deduction, should be sought.

It was also felt that the points deduction must take into account both the quantum of the breach and also the 'behaviour' of the Club over the 3 season reporting period.

On this basis, the attached sanctioning guidelines will be applied in all cases of a breach, with the Board considering in each individual case, what, if any points deduction should be added for 'aggravating factors'.

In addition to the Sporting Sanction the Board would have the ability to ask for a financial penalty.

The Sanctioning Guidelines are in Appendix 1, along with a summary of the Championship Table in each of the last 5 seasons.

Independent Disciplinary Commission

The Commission will be presented with the case by the Executive and the suggested sanction from the Board.

The Club will have the opportunity to make its case to include any mitigation that they want to be considered.

Any sanction will be immediately applied.

Sanctioning Guidelines

The penalty for breach of the 3 season P&S reporting rules is a deduction of 12 points to commence in the season following the breach i.e. 2018/19 for the 3 season period ending in 2018.

The following number of points shall be deducted from the 12 points.

Quantum of the Breach

- *9 points if less than £2.0m*
- *8 points if between £2.0m - £4.0m*
- *7 points if between £4.0m - £6.0m*

- *6 points if between £6.0m - £8.0m*
- *5 points if between £8.0m - £10.0m*
- *4 points if between £10.0m - £12.5m*
- *3 points if between £12.5m - £15.0m*
- *No deduction if breach is greater than £15.0m*

Then the balance shall be further reduced if the loss in the final season is less than the season(s) before.

Trend

- 2 points if T <T-1 <T-2

- 1 point if T <T-1

In addition, the Board can request up to an additional 9 points penalty for any aggravating factors and any other penalty it feels appropriate.

For each breach, the Board will instruct the Executive to seek a sporting sanction of a points deduction based on the above formula, adjusted to include any aggravating factor.

Additional Notes

It is important that there is a recognition that the quantum of the breach is reflected and that it isn't appropriate to apply a one size fits all basis (see quantum).

It is important that if the trajectory is favourable i.e. the losses reduce season by season, this is recognised, as it shows an intent to comply, even if they have fallen short. If that trajectory is achieved over the 3 season period, this should get greater credit than if only over 2 and no intent should see the full penalty (see trend).

The aggravated breach principle is to ensure that all factors can be taken into account.

In the event that a Club receives a sanction, after the Disciplinary Committee have determined the outcome, the loss for each season within the relevant period will be capped at £13.0m (£35.0m for a PL season) for future calculations.

C. The 2024/25 PL Rules

(1) Various Editions of the 2024/25 PL Rules

43. There were three editions of the 2024/25 PL Rules:

    43.1. The first edition was adopted and came into force on 6 June 2024.

    43.2. The second edition was adopted and came into force on 22 November 2024.

    43.3. The third edition was adopted and came into force on 27 March 2025.

44. There was much debate about which rules were to be applied to the conduct in question. In the end, however, that resolved itself by an acceptance by both parties that the only material difference in the editions of the rules was the addition, in March 2025, of a new Rule W52.10. It came to be accepted by LCFC (in closing) that the rules to be applied by the Commission are those set forth in the 27 March 2025 edition, save that LCFC argued that it was impermissible for the Commission to apply Rule W52.10 retroactively to the conduct of the Club in the period ending FY24. All that being so, all references to the "**2024/25 PL Rules**" herein will be to the edition issued on 27 March 2025.

(2) Relevant 2024/25 PL Rules

45. Rule A.1.205 defines a "*Promoted Club*" as a "*Club which became a member of the* [PL] *at the end of the previous Season pursuant to Rule B.4*". Rule B.4 provides that a Promoted Club will become a member of the Premier League upon a relevant share transfer being registered in accordance with the Premier League's Articles of Association.

46. Rule B.18 provides:

> "*Without prejudice to the League's powers of inquiry under Rule W.1, each Club shall comply promptly and in full with any request for information and/or documents made by the League (including, for the avoidance of doubt, any such request made pursuant to a demand from a statutory or regulatory authority).*"

47. Section E of the 2024/25 PL Rules is headed "*Clubs: Finance and Governance*". Rules E.77 and E.78 of the 2024/25 PL Rules provide as follows:

> "*Disciplinary Powers*
>
> *E.77 Where a Promoted Club or any Official or Director of that Promoted Club, at the point at which it becomes a member of the League pursuant to*

Rule B.4, is the subject of an investigation by the EFL for alleged breaches of any aligned provisions within the EFL Regulations, responsibility for that investigation will pass to the Board. In such a case:

E.77.1. the Board's powers of inquiry set out at Rule W.1 will apply in full in respect of the investigation (with the reference to 'these Rules' in Rule W.1 deemed to include the relevant aligned EFL Regulations); and

E.77.2. the Board's disciplinary powers set out in Section W (Disciplinary) of these Rules will apply in full in respect of the matter (with the reference to 'these Rules' in Rule W.3 and W.7, deemed to include the relevant aligned EFL Regulations).

E.78. Where a Relegated Club… at the point at which it ceases to be a member of the League pursuant to Rule C.14, is the subject of an investigation by the League for alleged breaches of Rules E.49 to E.70, responsibility for that investigation will pass to the EFL and the provisions of the relevant EFL Regulations will apply. …"

48. Section W of the 2024/25 PL Rules is headed "*Disciplinary*". The salient provisions are set forth below.

49. Rules W.1 and W.2 are headed "*Power of Inquiry*" and provide as follows:

"W.1 The Board shall have power to inquire into any suspected or alleged breach of these Rules and for that purpose may require:

W.1.1 any Manager, Match Official, Official or Player to appear before it to answer questions and/or provide information; and

W.1.2 any such Person or any Club to produce documents.

W.2 Any Manager [or] Official … who fails to appear before or to produce documents to the Board when required to do so under Rule W.1 shall be in breach of these Rules."

50. Rule W.3 under the heading "*Board's Disciplinary Powers*" provides as follows:

"*W.3. The Board shall have power to deal with any suspected or alleged breach of these Rules (and in the case of Rule W.3.8, to deal with any breach of any EFL Regulation) by doing any of the following:*

W.3.1. issuing a reprimand;

W.3.2. imposing a fixed penalty or other sanction where such provision is made in these Rules;

W.3.3. exercising its summary jurisdiction;

W.3.4. referring the matter to a Commission appointed under Rule W.20;

W.3.5. seeking interim measures in accordance with Rules W.59 to W.62;

W.3.6. referring the matter to The Football Association for determination under The Football Association Rules;

W.3.7. concluding an agreement in writing with that Person in which it accepts a sanction (which may include any of the sanctions referred to at Rule W.52) proposed by the Board, provided that agreement has been ratified in accordance with Rule W.14 (a "Sanction Agreement"); and/or

W.3.8. if any Club is found to have been in breach of any EFL Regulation by a Football League Club Financial Review Panel, Football League Arbitration Panel or any Disciplinary Commission constituted in accordance with the EFL Regulations, and any such panel or commission imposes, or recommends the imposition, of any penalty on the Club (including where the breach and/or the decision of the panel or commission occurs at a time when the Club is not a member of the League), the Board shall have the power to impose any penalty on that Club, where the Board, acting reasonably, considers the imposition of such penalty:

W.3.8.1. is necessary in order to ensure the breach is appropriately punished;

W.3.8.2. is equivalent to the penalty imposed, or recommended to be imposed, by the relevant panel or commission; and

W.3.8.3. would not lead to the Club being unfairly punished more than once in respect of the same breach."

51. Rule W.16 under the heading "*Provision of Information*" provides as follows:

"*It shall be no answer to a request from the Board to disclose documents or information pursuant to Rule W.1 that such documents or information requested are confidential. All Clubs and Persons subject to these Rules must ensure that any other obligations of confidentiality assumed are made expressly subject to the League's right of inquiry under these Rules. No Club or Person shall be under an obligation to disclose any documents rendered confidential by either the order of a court of competent jurisdiction or by statute or statutory instrument.*"

52. Rules W.51, W.52, W.56 and W.57 under the heading "*Commission's Powers*" provide as follows:

"*W.51. Upon finding a complaint to have been proved the Commission shall invite the Board and the Respondent to place any mitigating and/or aggravating factors before the Commission.*

W.52. Having heard and considered such mitigating factors (if any) the Commission may:

W.52.1. reprimand the Respondent;

W.52.2. impose upon the Respondent a fine unlimited in amount and suspend any part thereof;

W.52.3. in the case of a Respondent who is a Manager, Match Official, Official or Player, suspend them from operating as such for such period as it shall think fit;

W.52.4. in the case of a Respondent which is a Club:

W.52.4.1. suspend it from playing in League Matches or any matches in competitions which form part of the Games Programmes or Professional Development Leagues (as those terms are defined in the Youth Development Rules) for such period as it thinks fit;
W.52.4.2. deduct points scored or to be scored in League Matches or such other matches as are referred to in Rule W.52.4.1;
W.52.4.3. recommend that the Board orders that a League Match or such other match as is referred to in Rule W.52.4.1 be replayed; and/or
W.52.4.4. recommend that the League expels the Respondent from membership in accordance with the provisions of Rule B.6;

W.52.5. order the Respondent to pay compensation unlimited in amount to any Person or to any Club (or club);

W.52.6. cancel or refuse the registration of a Player registered or attempted to be registered in contravention of these Rules;

W.52.7. impose upon the Respondent any combination of the foregoing or such other penalty as it shall think fit;

W.52.8. make any such penalty conditional, including imposing the penalty unless a defined action is taken by the Respondent within a defined period of time;

W.52.9. order the Respondent to pay such sum by way of costs as it shall think fit which may include the fees and expenses of members of the Commission;

W.52.10. in the case of a Respondent which is no longer a member of the League at the point at which any sanction is to be imposed, make a recommendation to the Football League, or any Football League Club Financial Review Panel, Football League Arbitration Panel or Disciplinary Commission constituted in accordance with the EFL Regulations (as applicable), as to the sanction that

should be imposed on the club; and/or

W.52.11. make such other order as it thinks fit.

...

W.56. Where a Respondent Club is suspended from playing in League Matches or any matches in competitions which form part of the Games Programme or Professional Development Leagues (as those terms are defined in the Youth Development Rules) under the provisions of Rule W.52.4.1, its opponents in such matches which should have been played during the period of suspension, unless a Commission otherwise orders, shall be deemed to have won them.

W.57. Fines and costs shall be recoverable by the Board as a civil debt; compensation shall likewise be recoverable by the Person or Club entitled to receive it."

VI. THE EVIDENCE

53. The parties adduced both fact and expert evidence by way of written statements or expert reports and by the oral testimony of such witnesses and experts at the hearing before the Commission. We summarise that evidence below.

A. Witnesses of Fact

(1) The PL

54. The PL relied on evidence from five witnesses of fact:

54.1. Mr Nathan Richards, Director of Financial Reporting at the PL since 1 August 2025, and previously Head of Finance – Reporting from August 2021.

54.2. Mr Nicholas Craig, Chief Operating Officer at the EFL since February 2022.

54.3. Mr Ross Christie, Chief Financial Officer of the PL since 2019.

54.4. Mr John Potterill-Tilney, the Director of Club Financial Reporting at the EFL since 2022.

54.5. Mr Jamie Herbert, Senior Director of Governance and Regulation since August 2025 (and previously Director of Governance and Regulation) at the PL.

Mr Richards – Director of Financial Reporting at the PL

55. Mr Richards' evidence addressed three principal matters: (i) LCFC's change of financial year-end for FY23; (ii) his communications with LCFC concerning its FY23 PSR calculation; and (iii) the New Treatment (i.e., LCFC's revised accounting treatment in relation to contingent fees).

56. On the first matter, Mr Richards explained that "*quite a few*" clubs had previously changed their financial year-ends, including, in some instances, "*for PSR reasons*". He stated that assessment periods longer or shorter than 36 months are permissible under the PSR. In such scenarios, he explained, the PL generally accepted the period "*that the club has proposed*", following an investigation into the specific month that is sought to be adjusted in each case. He further confirmed that there have been occasions ("*at least two*") on which the PL adopted an assessment period other than 36 months.

57. On the second matter, Mr Richards' evidence was that he had a number of telephone and email communications between March and May 2023 with Mr Simon Capper (who was, at that time, LCFC's Finance Director) and Mr Kevin Davies (who had, during this period, taken over as LCFC's Finance Director) concerning LCFC's change of year-end for FY23. Among other things, he explained to them the process the PL had previously used with "*another club that had changed its year-end to include an additional month*". That process involved "*omitting one month from the start of the relevant period to ensure the calculation to cover 36 months*". He stated that he did not discuss "*the implications of LCFC's potential relegation to the Championship for any future P&S Calculations*". Instead, he said that these communications addressed "*the effect of the year-end change on certain figures making up LCFC's PSR Calculation*" for FY23. He further denied discussing "*EFL's rules*" or "*any future years*" with Mr Capper.

58. In relation to contingent fees, Mr Richards stated that, for the purposes of LCFC's P&S Calculation for FY22, he and his team relied on LCFC's FY22 audited accounts, which did not reflect the New Treatment. He said that this approach of relying on audited accounts was consistent with the practice the PL applies to the "*PSR Calculations of all clubs*". While he accepted that the relevant restatement in LCFC's accounts was clearly identifiable and subject to audit, he explained that, where a club intends retrospectively to restate figures in its audited accounts for "*PSR purposes*", the PL "*would require written confirmation from a club's auditors that any such restatement of annual accounts has been approved*."

Mr Craig – Chief Operating Officer of the EFL

59. Mr Craig gave evidence principally on five matters: (i) the introduction of the P&S Rules; (ii) the ULT under those rules; (iii) the so-called "*jurisdictional bridge*"; (iv) the EFL's approach to sanctioning; and (v) the EFL Sanctioning Guidelines.

60. By way of background, Mr Craig referred to the Championship FFP implemented in April 2012 as the precursor to the P&S Rules. He explained that, in adopting the

Championship FFP, clubs "*chose in favour of financial stability*" over "*the rights of individual club benefactors to spend their money as they pleased*".

61. In September 2014, the PL made a revised proposal concerning "*solidarity payments*" and requested that the EFL bring the Championship FFP "*more into line with the PL's PSR*". Mr Craig also referred to a "*written agreement*" between the PL and the EFL covering "*a broad range of rules*", "*designed to try and smooth the transition of clubs*" between the leagues and to achieve "*a broader regulatory alignment*". While Mr Craig accepted that the PL's insistence on alignment, together with the conditions attached to solidarity and parachute payments, was "*a significant factor*" in the change to the EFL's Rules, he denied that it was "*the sole factor*". The P&S Rules were approved on 6 November 2014 and came into force in the 2016/17 season.

62. Turning to the Variable ULT under the P&S Rules, Mr Craig explained that it was set "*against the backdrop*" of the PL's decision to adopt an ULT of £105 million over three years. The EFL did not mirror that approach because Championship revenues were lower, and adoption of the PL ULT "*would have reduced the prospect of Championship Clubs operating on a financially sustainable basis.*" The ULT of £13 million per season, or £39 million over three years, "*sought to balance the interests of those who wanted to curtail losses with those that wanted the freedom to incur greater losses*". He added that the higher ULT applicable to the recently relegated Premier League clubs reflected the fact that those clubs had previously been subject to the PSR, under which higher losses were permitted.

63. On the jurisdictional bridge, Mr Craig said that amendments providing for "*an aligned enforcement*" were discussed in February 2020 and approved by clubs in May 2022. Premier League clubs preferred a model whereby "*the case 'file' would be passed from the EFL to the PL*" where a club under EFL investigation was promoted. He said EFL clubs were concerned that "*a club might try and gain promotion in breach of the regulations and then be untouchable in the future*", and denied that such concerns were "*purely hypothetical.*" The amendments were intended to ensure that clubs "*could be appropriately investigated, prosecuted and sanctioned for breaches committed in a promotion or relegation season.*"

64. In cross-examination, Mr Craig stated that the jurisdictional bridge addressed only the transfer of jurisdiction and did not alter "*in any way, shape or form*" the substantive loss thresholds. He explained that amendments to the P&S Rules require approval by two-thirds of Championship clubs, whereas procedural changes, including jurisdiction, require the approval of the majority of all clubs in a general meeting and a simple majority of the Championship clubs.

65. As to sanctions, Mr Craig said that sanctions must deter breaches of the P&S Rules and ensure that compliant clubs are not placed at a "*substantial disadvantage by reason of their compliance.*" When asked what constituted "*appropriate sanctions*", he said that an appropriate sanction was one imposed in accordance with the EFL Sanctioning Guidelines and which "*has to be effective*".

66. Finally, Mr Craig explained that the EFL Sanctioning Guidelines emerged from club requests in mid-2017 for greater clarity on sanctioning. They were approved at an EFL Board meeting in September 2018 and presented to Championship clubs on 20 September 2018. He accepted that they are "*only guidelines*" and that a commission "*may find reasons to depart from guidelines*". In response to a question as to whether any consideration had been given to breaches of higher ULTs, for example of £61m or £83m, he said that the guidelines were designed to operate by reference to quantum rather than percentage, although he accepted "*with the benefit of hindsight*" that "*percentages might be an alternative way of doing it*".

Mr Christie – Chief Financial Officer of the PL

67. Mr Christie gave evidence on three matters: (i) his role; (ii) his communications with LCFC concerning its change of year-end for FY23; and (iii) the New Treatment.

68. Mr Christie explained that, consistent with Mr Richards' evidence, his role does not involve investigating or prosecuting breaches. Rather, his responsibility is confined to calculating a club's profit and loss figures for the purposes of assessing compliance with PSR. He accepted, however, that his team also advises clubs on "*how the PL interprets and applies its own PSR Rules*".

69. As to his communications with LCFC, Mr Christie said that, in discussions with Mr Capper between March and May 2023, he referred to another club which had extended its accounting reference period and had applied a 37-month period for PSR calculations, an approach he considered consistent with the PSR. He confirmed that the PL had been comfortable with both 36-month and 37-month assessment periods. He stated that all of his discussions with LCFC "*concerned the appropriate application of the PSR, and not the EFL's P&S Rules*". He also emphasised that those discussions related only to FY23 and did not concern future PSR calculations.

70. Finally, in relation to the New Treatment, Mr Christie stated that the PL would ordinarily require any retrospective adjustment to annual accounts to be "*approved in writing by a club's auditors*" in order to be taken into account "*for PSR purposes*". He accepted, in principle, that he would be comfortable with the new accounting treatment subject to confirmation that the FY22 adjustment proposed by LCFC "*was the right figure*".

Mr Potterill-Tilney – Director of Club Financial Reporting at the EFL

71. Mr Potterill-Tilney explained that the CFRU has independent delegated authority from the EFL Board to take enforcement and disciplinary decisions in relation to the financial regulations. His evidence was principally concerned with the following matters: (i) assessment periods; (ii) LCFC's FY24 P&S calculation; and (iii) sanctioning in the Championship.

72. As to assessment periods, Mr Potterill-Tilney stated that "*the current and historic practice of the CFRU is to conduct its P&S calculation in line with the relevant Accounting Reference Periods*". He said that the CFRU does not adapt calculations

to "*shorten or lengthen the period of assessment*". Clubs typically adopt a 30 June year-end, although a small number use 31 May or 31 July. Where a change in accounting reference period gives rise to a breach of the ULT, the CFRU considers "*the circumstances and any provided reasons*" for that change. If there is a "*good reason for the change unconnected to P&S compliance*", he said, the CFRU would treat it as a mitigating factor. He also referred to a letter he sent to LCFC on 31 May 2024 (when LCFC was still a member of the EFL) reiterating that the CFRU did not accept LCFC's adoption of a 36-month assessment period for FY24 P&S purposes.

73. Turning to LCFC's FY24 P&S calculation, Mr Potterill-Tilney referred to various communications with LCFC about the CFRU's concerns about LCFC's compliance with the ULT, including communications that took place before LCFC submitted its FY24 P&S Calculation. He said that, during this period, the CFRU sought to move the Club towards P&S compliance for FY24. On 23 November 2023, the CFRU communicated its decision to LCFC, including a request that LCFC "*submit, agree and adhere to a business plan*". On 16 January 2024, LCFC challenged that decision before the Club Financial Reporting Panel (the "**CFRP**"), which determined that the CFRU lacked power to make such a request at that juncture. Following receipt of LCFC's forecast FY24 P&S calculation on 1 March 2024, the CFRU expressed, among other things, an intention to investigate potential further breaches of the EFL Regulations. On 6 June 2024, LCFC was promoted to the Premier League, and the investigation was accordingly transferred to the PL.

74. On sanctioning, Mr Potterill-Tilney addressed the approach the CFRU would have taken "*in the event LCFC was not promoted*" at the end of the 2023/24 season. He said that he would have made a sanction recommendation by reference to the EFL Sanctioning Guidelines which, he explained, are based on the quantum of overspend rather than the percentage by which the ULT is exceeded.

Mr Herbert – Senior Director of Governance and Regulation at the PL

75. Mr Herbert addressed a broad range of matters, principally: (i) the context and objectives of the PSR; (ii) the Variable ULT; (iii) the aligned enforcement regime; (iv) the FY23 Proceedings; (v) the development of Rule W.52.10 in the 2024/25 PL Rules (March 2025 edition); (vi) the PL's requests for disclosure of LCFC's FY24 accounts; and (vii) the effectiveness of sanctions.

76. Mr Herbert outlined that the PSR were adopted by Premier League clubs on 11 April 2013 and came fully into force in the 2015/16 season. The PSR establish a ULT, with losses assessed over three accounting periods. Where the ULT is exceeded, the PL must refer the matter to a commission under Section W. The overarching aim, he said, is to promote financial sustainability while maintaining "*competitive balance*" and the commercial attractiveness of the competition.

77. On the Variable ULT, Mr Herbert said the Premier League clubs unanimously approved the introduction of the Variable ULT on 4 June 2015. He further explained that, in 2014, the Premier League clubs expressed concern that the Championship

FFP were "*overly restrictive*". This led to the alignment of the P&S Rules with the PSR, principally through adoption of the Variable ULT and a three-year assessment period to "*soften the immediate impact*" on relegated clubs. He emphasised that the EFL has "*an ongoing obligation*" to maintain alignment between the P&S Rules and the PSR as a condition of Premier League funding, reflecting an intention that both regimes operate as a coherent and consistent system.

78. Turning to aligned enforcement, Mr Herbert explained that in the 2019/20 season the PL considered establishing a jurisdictional bridge with the EFL, developed through the Legal Advisory Group, comprising in-house counsel nominated by clubs. Following further consultation, a revised proposal was presented on 11 November 2021 under which breaches committed by an EFL club during a promotion season would transfer to the PL for investigation and prosecution before an independent commission. On 14 December 2021, 18 clubs, including LCFC, approved the amendment, which later became Rule E.77 of the 2024/25 PL Rules without substantive change.

79. Mr Herbert then addressed the FY23 Proceedings. He said that on 6 February 2024 he requested LCFC's FY23 accounts, which LCFC declined to provide despite repeated follow-up requests. On 15 March 2024, LCFC sought assurance that no FY23 proceedings would be commenced while it remained an EFL club; the PL refused. On the basis of estimates, the PL considered LCFC to have exceeded the ULT by £24.4 million and issued a complaint on 21 March 2024. LCFC disclosed its FY23 accounts on 2 April 2024, confirming indications of breach.

80. Mr Herbert said that the PL sought to coordinate the FY23 and FY24 matters and commenced the Section X Arbitration on 3 October 2024 to challenge the FY23 Appeal Board decision and to confirm jurisdiction over the Club for FY24, which he described as another unprecedented step. Although the Section X Tribunal disagreed with the Appeal Board's reasoning, it did not consider the decision sufficiently perverse to overturn its decision. Mr Herbert maintained that LCFC's legal stance enabled it to avoid sanction for FY23 overspending.

81. Mr Herbert then explained the development of what became Rule W.52.10. He noted that, in the FY23 Complaint, the PL sought a recommendation for sanction in the EFL, and although no such recommendation had been pursued in the preceding decade, he denied that this reflected any lack of a PL commission's power. He denied that the amendment was targeted at LCFC, while accepting that the LCFC dispute was one factor prompting reform.

82. Meeting papers circulated in advance of the 27 March 2025 shareholder meeting stated that the purpose of the amendments was to place Premier League clubs' responsibilities to comply with PSR "*beyond doubt*", including for promoted and relegated clubs. Rule W.52.10 was described therein as clarifying that a commission may recommend sanctions in respect of a former Premier League club, which the PL regarded as confirmation of existing powers. At the 27 March 2025 meeting, Mr Herbert said that the amendments were entirely prospective and intended to resolve

differing interpretations of the PSR's application to promoted and relegated clubs, although he did not specifically highlight Rule W.52.10. He acknowledged that Rule W.3.8 introduced a genuinely new power and accepted that advice set out in earlier correspondence from the PL's legal advisers stating that the amendments were not intended to be retrospective had not been withdrawn.

83. Mr Herbert also addressed the letter from Mr Trevor Birch (CEO of the EFL) to the PL dated 20 March 2024, in which the EFL indicated that it would seek to respect any decision of a PL commission imposing a sanction on an EFL club, which position the EFL changed on 25 March 2024 saying that "*having since considered the matter further with its legal advisors … the EFL considers that it has no express power under its Regulations to impose in the Championship a points deduction ordered by a PL commission in respect of a breach of the PL's PSR*". He said that the EFL's reversal, together with LCFC's change in league status, were key factors behind the PL's subsequent withdrawal of its request for expedition. He nonetheless maintained that Rule W.52.10 codified or clarified powers that a commission already possessed.

84. As to disclosure, Mr Herbert said that the PL repeatedly requested LCFC's FY24 accounts in January 2025, explaining the legal basis for the request and its importance for investigating suspected breaches. LCFC delayed disclosure and proposed waiting until after the preliminary objections hearing in the Section X Arbitration. Even after those objections were dismissed on 28 January 2025, Mr Herbert said, LCFC continued to withhold the accounts and opposed expedition. The Section X Tribunal fixed a hearing for 4–5 April 2025 and declined to order disclosure in light of LCFC's assurance that the accounts would be provided by 31 March 2025. He stated that the delayed disclosure, notwithstanding the accounts having been finalised on 19 December 2024, caused "*a wider prejudice*" to the PL's regulatory functions.

85. Mr Herbert said that LCFC's conduct imposed conditions on disclosure and affected the timing of the Complaint. While the PL could have proceeded on estimated figures from the Club, he accepted that a commission would likely have stayed proceedings pending the decision in the Section X Arbitration. He noted that, although disciplinary action has previously been taken for disclosure failures, no prior case involved a refusal to provide completed annual accounts, a points deduction for the Disclosure Breaches, or a fine exceeding £1 million.

86. Finally, on sanctions, Mr Herbert expressed the view that a points deduction in the Premier League may be ineffective where a club is already certain to be relegated. Where relegation is a *fait accompli*, a points penalty in the Premier League would have limited practical impact, although he accepted that such a sanction could still affect the level of merit payments to which a club would otherwise be entitled. He further acknowledged that the PL has not previously sought a points deduction in a subsequent season and that the sporting and financial value of a point differs materially between the Premier League and the Championship.

(2) LCFC

87. LCFC adduced factual evidence from one witness, Mr Kevin Davies, its Finance Director.

Mr Davies

88. Mr Davies' evidence addressed: (i) LCFC's business plan and loss-mitigation measures for the FY23 assessment period; (ii) LCFC's financial actions in FY24; (iii) the applicable assessment period; (iv) the FY22 restatement or the New Treatment; and (v) LCFC's corrective financial actions in FY23 and FY24.

89. Mr Davies explained that LCFC recorded a £92.5 million loss in FY22, driven by high employment costs, significant player amortisation, and the absence of material player-sale profits. He said that the FY23 budget was expressly designed to ensure PSR compliance and was approved by the Club's Chairman. It assumed a stable squad, realistic player trading, and an 8th-place Premier League finish, based on finishes of 5th, 5th, and 8th in the preceding three seasons. He emphasised the material impact of league position on merit revenue (approximately £3.1 million per place in FY23) and its importance when budgeting against the £105 million ULT.

90. The FY23 budget, he said, assumed a level of player trading that was realistic and achievable. However, the summer 2022 transfer window ultimately generated £5.1 million less profit from player sales than projected. Following the close of that window, it became apparent that LCFC would need to revise its financial plan in order to comply with the PSR.

91. Mr Davies stated that LCFC's poor first-half performance left the Club 14th by January 2023, prompting attempts to sell or offload players while managing PSR compliance. No player sales were completed in January, although three players were loaned out. LCFC purchased two players and signed a further player on loan. He accepted that these acquisitions worsened the projected PSR position.

92. On the change of year-end, Mr Davies explained that LCFC extended its year-end to June 2023 to take advantage of the opportunity to capture additional player-sale income early in the summer transfer window and thereby comply with the PSR. He said that LCFC sought confirmation from the PL that the assessment period would remain 36 months and that Mr Capper received verbal confirmation from the PL officials to that effect. No discussions were held with the EFL.

93. Mr Davies said that he understood from discussions with the PL that assessments would remain aligned and conducted on a 36-month basis. He regarded a 37-month assessment as "*conceptually unreasonable*" and inconsistent with the objective of alignment between the PL and the EFL. He stated that LCFC would not have extended its year-end had a different assessment methodology been anticipated.

94. Following a further deterioration in results and entry into the relegation places in

early April 2023, LCFC dismissed its manager, Brendan Rodgers (and his coaching staff), at a cost of approximately £[redacted]. Mr Davies said this decision was taken in the hope that improved performance, retention of Premier League status, increased merit payments, and player sales in June would ensure PSR compliance. He accepted that the termination had financial consequences and acknowledged that the Club's PSR and P&S position at the time was "*very serious*", exacerbated by carrying "*unused players*" for "*several seasons*".

95. Mr Davies said that LCFC engaged with the PL regarding the PSR implications of the dismissal and submitted a revised PSR submission in April 2023. Subsequent projections indicated that LCFC would need to generate over £59 million in player-sale profits before 30 June to avoid breaching the ULT. He accepted that the shortfall in player-sale profits in summer 2022 and January 2023, together with declining sporting performance, placed the Club at heightened risk of breach.

96. After relegation on 28 May 2023, Mr Davies stated that player sales became the Club's principal financial priority. He explained that James Maddison was sold for [redacted] on 28 June 2023 so that the profit would fall within FY23. He also referred to the subsequent sale of Harvey Barnes for £[redacted] three weeks later, noting that, had that transaction occurred before 30 June, it would likely have brought LCFC within the ULT, albeit at the expense of reducing FY24 profits by the same amount.

97. Turning to FY24, Mr Davies stated that LCFC understood the applicable ULT in the EFL to be £83 million. He accepted that the Club signed players for significant fees during the FY24 summer window but did not achieve the level of player-sale profits he had identified as necessary for compliance. Although LCFC's internal forecast submitted to the EFL in September 2023 projected compliance, he said that the Club's financial position deteriorated to the point that the imposition of a business-plan by the CFRU in November 2023 "*would not have helped*".

98. Mr Davies explained that he prepared financial scenarios and advised LCFC's owners that substantial player sales would be required in January and June 2024 to comply with the ULT. No transfers occurred in the January 2024 window, leaving LCFC reliant on the June 2024 window to avoid breach "*by a very large amount*". He accepted that he repeatedly advised management that LCFC would breach the ULT absent significant player-sale profits. He also accepted that the EFL had indicated it would apply a 37-month assessment period for the FY24 assessment, notwithstanding that LCFC submitted its forecast on a 36-month basis.

99. Mr Davies stated that LCFC moved from a £63.8 million adjusted loss in FY23 to a £6.1 million adjusted profit in FY24. He attributed this to corrective action following relegation, including substantial salary reductions, the £[redacted] Barnes sale, non-renewal of high-earning contracts, player loans, and wage-reduction clauses. He accepted, however, that LCFC did not complete sufficient player sales during the final two weeks of the 2024 transfer window, despite his advice. He also accepted that, if LCFC "*had made significant sales at undervalues*" to comply with the ULT,

"*it could have been at the bottom end of the Championship*" in the 2023/24 season.

100. Mr Davies described further corrective measures in FY24, including refraining from certain signings, projecting additional player sales in summer 2024, releasing the manager Enzo Maresca (generating a benefit exceeding [redacted], settling a [redacted] for £[redacted], and selling Kiernan Dewsbury-Hall for £[redacted] on 30 June 2024. His evidence was that FY24 compliance reflected genuine corrective action, and that any ULT breach arose from losses originating in FY22 and FY23 rather than FY24 trading.

101. In relation to the New Treatment, Mr Davies explained the *"New Contingent Transfer Fee Treatment"*, which resulted in a reserves adjustment (approved by PwC) of £9.718 million across prior years, reducing FY22 losses by £3.04 million. He said that this treatment was accepted for FY23 and FY24, but accepted that it was never reflected in the FY22 audited accounts. He stated that LCFC engaged PwC, at cost, to produce a report, which he had reviewed and which confirmed the adjustment for FY22 to be £3.04 million.

102. Finally, Mr Davies confirmed that LCFC's FY24 accounts were signed off on 19 December 2024 and that based on those accounts the Club was in breach of the P&S Rules. He stated that LCFC did not provide those accounts to the PL when requested because he acted on legal advice. He accepted that no other reason was given and confirmed that he had consistently budgeted on the basis that LCFC was required to comply with a £105 million ULT while in the Premier League and an £83 million ULT while in the Championship.

B. Experts

103. Each party instructed an expert economist to address the economic issues relevant to the competition law questions arising in these proceedings.

103.1. The PL instructed Dr Andrea Coscelli CBE of Keystone Strategy who provided a report dated 17 October 2025 and a reply report dated 4 November 2025.

103.2. LCFC instructed Mr Derek Holt of Alix Partners who provided a report dated 17 October 2025 and a reply report dated 4 November 2025.

104. On 11 November 2025, the experts produced a Joint Expert Report, which recorded agreement on the following matters:

104.1. The PL is dominant in the market for the organisation, promotion and commercialisation of Premier League football (the "**PL Market**").

104.2. The EFL is dominant in the market for Championship football (the "**EFL Market**"). The EFL Market is a separate, but related, market to the PL

Market.

104.3. In assessing the objective justification of the PL's conduct, the relevant inquiry is whether the specific conduct: (i) advances legitimate objectives; and is (ii) necessary and (iii) proportionate to achieving those objectives.

104.4. The overarching objectives of the PSR and the P&S Rules – including financial sustainability, safeguarding the integrity of the competition, and fair competition – are legitimate objectives.

104.5. Likewise, the overarching objectives of sanctioning clubs for breaches of profitability and sustainability rules – namely restoring public confidence in the integrity of the competitions, vindicating compliant clubs and encouraging future compliance, deterrence, and punishment of the infringing club – are legitimate objectives.

104.6. The application of the Variable ULT by the PL may, *ceteris paribus*, constrain the spending capacity of certain Premier League clubs relative to a counterfactual in which a higher, standard ULT is applied to clubs promoted from the Championship.

104.7. Higher squad spending by clubs increases the likelihood of sporting success, which in turn is associated with stronger commercial and financial outcomes.

104.8. Premier League and Championship clubs typically operate at materially different scales of revenue and cost, with squad costs and revenues of the Premier League clubs generally substantially higher than those of Championship clubs.

105. The experts differed on a number of key issues addressed below.

(1) Mr Holt

106. Mr Holt accepted that the EFL and the PL operate within a football pyramid ultimately regulated by the FA, with clubs moving between leagues through promotion and relegation. He did not challenge the pyramid structure itself, nor the system of promotion and relegation. He accepted that, within this structure, the EFL and the PL are interdependent for the movement of clubs and talent. He also did not dispute the standard ULTs of £39 million for clubs that have spent the previous three seasons in the Championship and £105 million for clubs that have spent the previous three seasons in the Premier League. He further accepted that a mechanism is required to address how differing loss thresholds operate for promoted and relegated clubs.

107. Mr Holt also accepted that football clubs are not conventional profit-maximising businesses and that clubs have historically overspent in the short term to improve

sporting performance. As a result, he accepted that the risk of long-term financial instability is higher than in conventional businesses. He further accepted that, because revenues of the EFL clubs are typically lower than those of the Premier League clubs, the risk of financial instability is correspondingly higher for the EFL clubs.

Ground 1

108. In relation to Ground 1, Mr Holt analysed the competitive impact of the PL's proposed application of the EFL Sanctioning Guidelines to promoted clubs. He accepted that allowing a club to escape any sanction simply by achieving promotion would create a moral hazard. He did not challenge the jurisdictional bridge, the PL's power to investigate, or the Commission's power to impose sanctions.

109. His concern, however, was that a recommendation by the PL to apply the EFL Sanctioning Guidelines would itself have a distortive effect. Although he did not analyse a scenario in which the Commission independently decided to apply the EFL Sanctioning Guidelines, he said that the anti-competitive effects would be the same even if the Commission exercised its discretion to do so.

110. The counterfactual he proposed for this aspect of Ground 1 was that the PL Commission apply sanctions in accordance with "*PL Commission precedents*". In his view, this would remove the anti-competitive effect because, unlike those precedents – including *Everton I*, *Premier League v Everton Football Club* (8 April 2024) ("***Everton II***"), and *Premier League v Nottingham Forest* (18 March 2024) – the EFL Sanctioning Guidelines adopt a materially higher starting point. He said it was "*not clear*" how applying the EFL Sanctioning Guidelines served any legitimate objective and considered that such application was neither necessary nor proportionate, given that the Commission could apply its own precedents with less severe sanctions.

111. A further aspect of Ground 1 was Mr Holt's view that recommending a points deduction in the Championship would infringe Chapter I and Chapter II of the Competition Act 1998. His counterfactual was that the Commission should impose any points deduction only once LCFC had returned to the Premier League. He considered that a points deduction in the EFL could raise entry barriers to LCFC's return to the Premier League in the following season. Although he accepted that such a sanction may advance legitimate sanctioning objectives, he did not consider it necessary or proportionate where points could instead be deducted in the Premier League upon LCFC's return.

Ground 2

112. As to Ground 2 of LCFC's competition law case, Mr Holt's evidence was that the relevant "*conduct*" giving rise to competition concerns is the application of the Variable ULT by the PL. He accepted, however, that if the PL lacks discretion to disregard the Variable ULT under the P&S Rules, the relevant conduct may instead be the P&S Rules themselves. In his opinion, the only element of the PSR framework giving rise to competition concerns for the purposes of Ground 2 is the Variable ULT

as applied to clubs recently promoted from the Championship to the Premier League.

113. Mr Holt advanced two counterfactuals to demonstrate the alleged anti-competitive effects of the Variable ULT. His first counterfactual assumed that all clubs promoted to the Premier League would benefit from a ULT of £105 million, regardless of the league in which they competed in seasons T-2, T-1, and T. Under this counterfactual, the increase in the ULT would occur immediately upon promotion, including for the assessment period ending in year T, which would encompass accounting periods already closed (T-1 and T-2). This was his "**Fixed ULT Counterfactual**". Under that counterfactual, the EFL would continue to apply the existing P&S loss thresholds, but the PL would apply a fixed ULT of £105 million once promotion is secured.

114. In Mr Holt's opinion, the Fixed ULT Counterfactual would allow recently promoted clubs, including LCFC, to compete with established Premier League clubs on a level playing field by permitting "*a similar amount of investment flexibility*". He accepted that this counterfactual would not directly enhance short-term financial stability and that there "*could be*" an increased incentive for Championship clubs to overspend in the short term to secure promotion. However, he considered that clubs would rarely exhaust their additional financial headroom because they would be constrained by other factors, including their own incentives to ensure long-term financial stability.

115. Mr Holt's analysis focused on competitive distortions arising in the PL Market, which he regarded as the principal locus of harm. He did not assess competitive effects in the EFL Market, confining his analysis of the Championship to issues of objective justification. In his view, the Variable ULT is not objectively justified because the Fixed ULT Counterfactual would not cause material distortions in the Championship. He relied on the EFL's regulatory powers, including requiring financial information, imposing transfer embargoes and business plans, and influencing sales and wage structures. He accepted that he had undertaken no empirical analysis to assess the effectiveness of those constraints and further accepted that his counterfactual did not address the position of a club promoted in year T and relegated again in year T+1, or indeed a club that stayed up in T+1.

116. Mr Holt's second counterfactual under Ground 2 was a system based on a Squad Cost Ratio, under which spending limits would be calculated as a percentage of revenue rather than fixed loss thresholds (the "**SCR Counterfactual**"). He did not propose a specific ratio or detailed design but stated that the "*structure*" of the SCR Counterfactual would preserve financial stability while removing the discriminatory effects of the Variable ULT based on a club's historical league status. He considered this to be a realistic counterfactual because it "*could conceivably and reasonably be adopted*".

(2) Dr Coscelli

Ground 1

117. In relation to Ground 1, Dr Coscelli accepted that the quantum of sanctions may, in theory, have restrictive effects. However, he considered that reliance on the EFL Sanctioning Guidelines is unlikely to produce material competitive distortions in the relevant market. In his view, the PL's approach does not materially alter established sanctioning practice and is both fair and competition-neutral, as it sanctions clubs by reference to the rules they actually breached. By contrast, the counterfactual advanced by LCFC would create dual sanctioning regimes contingent on subsequent promotion, enabling inconsistent outcomes and strategic arbitrage. He also rejected arguments that the PL's approach raises entry barriers, noting the routine nature of promotion and relegation based on sporting merit.

118. Dr Coscelli further considered reliance on the EFL Sanctioning Guidelines to be objectively justified. In his view, the PL's approach is consistent with historical practice and is not more severe. Even if it were, applying lighter sanctions to promoted clubs would distort incentives, encourage strategic overspending, and undermine fairness and integrity across the league system.

119. Dr Coscelli's evidence was that recommending a sanction in the Championship by the Commission (or PL's submissions to that effect) does not materially distort competition. He regarded this as reflecting a logical and accepted regulatory principle, akin to the approach a unified regulator would adopt, and consistent with existing EFL practice. In a system characterised by regular promotion and relegation, he said, claims of increased entry barriers are misplaced. Applying sanctions by reference to the competition in which the breach occurred ensures equal treatment, whereas varying sanctioning frameworks following promotion would itself risk distortion.

120. Finally, Dr Coscelli considered the PL's approach to be objectively justified because sanctions should be applied in the competition in which a club is currently competing, in accordance with a coherent, pyramid-wide enforcement principle. Applying different sanctioning regimes based on subsequent promotion or relegation would undermine equal treatment and fairness, as clubs competing in the same league must face the same sanctioning expectations for identical conduct, irrespective of recent league transitions.

Ground 2

121. Dr Coscelli's analysis focused primarily on competitive effects in the Championship. He accepted that the Variable ULT, like any rule including a fixed ULT, may "*restrict*" competition in a strict sense. However, he considered that Mr Holt's Fixed ULT Counterfactual would itself generate a distortion within the Championship. Under that counterfactual, a club promoted after three seasons in the Championship would see its permitted losses retrospectively increase from £39 million to £105 million – an increase of more than 2.5 times – whereas an otherwise identical club narrowly failing to secure promotion would remain constrained at £39 million. In his view, such a "*cliff-edge discontinuity*" would effectively turn promotion into a "*lottery ticket*", undermining deterrence and financial discipline by incentivising

aggressive overspending.

122. Dr Coscelli rejected the SCR Counterfactual as inapt. In his view, it eliminates the concept of a loss threshold altogether and substitutes an entirely different, ratio-based regulatory system. The SCR Counterfactual does not engage with the specific conduct under challenge – the application of Variable ULTs – and therefore fails the legal requirements of comparability and realism. He described the SCR Counterfactual as "*far removed*" from the conduct at issue and said that its implications remained unclear absent further specification of how it would operate across both leagues.

123. Dr Coscelli concluded that the Variable ULT is a necessary and proportionate measure to achieve the objectives of the P&S Rules and the PSR. In the absence of the Variable ULT, promotion would reset the loss limit to £105 million, permitting a club to overspend in pursuit of promotion while reducing the likelihood or scale of any subsequent breach once promoted. He further considered that the EFL's regulatory tools – such as requiring financial information, imposing transfer embargoes and business plans, and influencing sales and wage structures – would not provide effective constraints against the distortions that would arise under the Fixed ULT Counterfactual.

VII. THE ISSUES TO BE DETERMINED

124. Upon the direction of the Commission, the parties agreed that the following issues arise in these proceedings, each of which the Commission addresses in turn below.

A. Competition Law

125. Is Rule E.77 of the 2024/25 PL Rules and/or the PL's exercise of it in breach of the Chapter I and/or Chapter II prohibition and void insofar as it empowers the PL to seek sanctions upon LCFC that are (a) based on the EFL Sanctioning Guidelines and/or (b) imposed in the EFL? As to this:

    125.1. Does Rule E.77 and/or the PL's exercise of it distort or restrict competition by object and/or effect and/or give rise to an abuse of dominance on this basis?

    125.2. If so, is Rule E.77 and/or the PL's exercise of it nevertheless outwith the Chapter I and II prohibitions and/or objectively justified on the basis of the ancillary restraint/*Meca-Medina* doctrine (as established in C-519/04 P *Meca-Medina v Commission of the European Communities* (EU:C;2006:492) [2006] 5 CMLR 18)?

126. Is Rule E.77 of the 2024/25 PL Rules and/or the PL's exercise of it in breach of the Chapter I and/or Chapter II prohibition and void insofar as it empowers the PL to

investigate breaches of the P&S Rules by reference to the Variable ULT applicable under the P&S Rules? As to this:

126.1. Does Rule E.77 and/or PL's exercise of it distort or restrict competition by object and/or effect and/or give rise to an abuse of dominance on this basis?

126.2. If so, is Rule E.77 and/or the PL's exercise of it nevertheless outwith the Chapter I and II prohibitions and/or objectively justified on the basis of the ancillary restraint/*Meca-Medina* doctrine?

B. P&S Breach

Content of applicable rules for determining breach

127. On the true construction of PL Rule E.77, are the rules which fall to be applied by the Commission when determining LCFC's alleged breach of the P&S Rules modified to reflect the content of the PSR at the time when jurisdiction transferred to the PL under Rule E.77? In particular:

127.1. Is it open to LCFC so to contend or is this precluded by the Section X Tribunal's decision on grounds of *res judicata* (specifically issue estoppel as to the meaning of Rule E.77, or abuse of process pursuant to *Henderson v Henderson* [1843-60] All ER Rep 378)?

127.2. If this argument is open to LCFC, what is the proper construction of Rule E.77? In particular, what substantive rules fall to be applied by the Commission when determining LCFC's alleged breach of the 2023/24 P&S Rules?

C. Quantum of Breach

Period of Assessment

128. Does LCFC's P&S Calculation for the period ending in FY24 fall to be assessed over a 36- or 37-month period?

Deductions based on the New Treatment

129. By what amount (if any) should LCFC's FY24 P&S Calculation be reduced to reflect the New Treatment in relation to FY22?

D. Disclosure Breaches

130. Did LCFC breach Rules B.18, W.1 and/or W.16 of the 2024/25 PL Rules by not providing its FY24 Annual Accounts to the PL when requested?

E. Sanction

The appropriate starting point

131. If breach is proven, in considering the starting point, is it appropriate for the Commission to refer to the EFL Sanctioning Guidelines? Specifically, is it appropriate for the Commission to set a starting point as alleged by the PL:

131.1. by reference to the EFL Sanctioning Guidelines without any adjustment;

131.2. primarily by reference to the EFL Sanctioning Guidelines, but adjusted to percentage overspend on a relative scale; or

131.3. in the manner allegedly endorsed in Everton II?

Aggravating and Mitigating factors

132. By what amount (if any) should the points deduction be increased to reflect the following alleged aggravating factors contended for by the PL, specifically:

132.1. the fact that LCFC exceeded the allegedly applicable ULT in FY23 (if the PL is not barred from arguing this on grounds of *res judicata*); and/or

132.2. the alleged Disclosure Breaches (if proven)?

133. By what amount (if any) should the points deduction be reduced to reflect the alleged mitigating factors contended for by LCFC, specifically:

133.1. the positive trend in LCFC's finances; and

133.2. the alleged exceptional cooperation demonstrated by LCFC?

Treatment of Disclosure Breaches

134. Should the Disclosure Breaches (if proven) be addressed by way of separate sanction rather than treated as an aggravating factor, and if so what sanction (if any) do they warrant? Insofar as it is relevant, what prejudice, if any, did the alleged Disclosure Breaches cause the PL?

Place of Sanction

135. Can and should the Commission make a recommendation that sanction(s) should be imposed on LCFC in the EFL?

Non-sporting sanction

136. Should the Commission recommend a non-sporting sanction, including fine?

VIII. COMPETITION LAW

137. The first issue, or rather cluster of issues, relates to competition law and arises upon LCFC's challenge that, in certain respects, the conduct of the PL here is anti-competitive.

A. Legal Framework

138. Although the alleged competition law infringements are pleaded as breaches of Chapters I and/or II of the Competition Act 1998, the majority of the authorities relied upon by the parties are EU competition law decisions, drawn from both the pre- and post-Brexit jurisprudence. Pursuant to section 6(1)-(2) of the European Union (Withdrawal) Act 2018, the Commission "*may have regard*" to EU case law, including decisions delivered after Brexit.

139. Applying EU authorities is also consistent with section 60A of the Competition Act 1998, which approach was recently adopted by the tribunal in *Manchester City FC v Premier League (APT Challenge)*, First Award (25 September 2024) ("***APT I***"), at [153]–[155].

140. Furthermore, neither party contended that the Commission should disregard EU authorities. On the contrary, both parties positively invited the Commission to rely on them. Accordingly, the Commission will apply Chapters I and II of the Competition Act 1998 by reference to the EU authorities discussed below.

(1) Chapter I

141. Chapter I of Part I of the Competition Act 1998 is headed "*Agreements*" and outlines the "*prohibition*" (that is, the circumstances in which anti-competitive agreements will be prohibited and rendered void).

142. Section 2 of the Competition Act 1998 provides as follows:

> *"**2 Agreements etc. preventing, restricting or distorting competition**.*
>
> *(1) Subject to section 3, agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom and which—*
>
> *(a) in the case of agreements, decisions or practices implemented, or intended to be implemented in the United Kingdom, may affect trade in the United Kingdom, or*
>
> *(b) in any other case, are likely to have an immediate, substantial and foreseeable effect on trade within the United Kingdom,*

are prohibited unless they are exempt in accordance with the provisions of this Part.

(2) Subsection (1) applies, in particular, to agreements, decisions or practices which—

(a) directly or indirectly fix purchase or selling prices or any other trading conditions;

(b) limit or control production, markets, technical development or investment;

(c) share markets or sources of supply;

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

…

(4) Any agreement or decision which is prohibited by subsection (1) is void."

143. The analytical approach under Chapter I differs depending on whether the impugned conduct is characterised as a restriction by object or by effect as each category attracts distinct legal criteria and evidential requirements (Case C-124/21P *International Skating Union v Commission* (ECLI:EU:C:2023:1012) [2024] 4 C.M.L.R. 17 at [100]).

144. The concept of restriction by object must be construed strictly. As held in *ISU* at [102]:

> "*Thus, that concept must be interpreted as referring solely to certain types of coordination between undertakings which reveal a sufficient degree of harm to competition for the view to be taken that it is not necessary to assess their effects. Indeed, certain types of coordination between undertakings can be regarded, by their very nature, as being injurious to the proper functioning of normal competition*."

145. As explained in *ISU* at [103]-[104], certain forms of collusive conduct – such as horizontal cartels involving price-fixing, output limits or customer allocation – are restrictions by object because of their inherent harm to competition and their tendency to raise prices, reduce production, and distort resource allocation. Beyond these core examples, other horizontal arrangements or decisions of associations may, in specific circumstances, also constitute object restrictions, such as agreements excluding competitors from the market or coordinated pricing decisions by trade associations, where their nature reveals a sufficient degree of competitive harm.

146. Whether conduct reveals a sufficient degree of harm to constitute a restriction by object requires examination of: "*first, the content of the agreement, decision or practice in question; second, the economic and legal context of which it forms a part; and third, its objectives.*" (*ISU* at [105]; *APT I* at [160]). These factors must disclose "*the precise reasons*" why the conduct is inherently harmful to competition (*ISU* at [108]).

147. In assessing the economic and legal context, regard must be had to "*the nature of the products or services concerned as well as the real conditions of the structure and functioning of the sectors or markets in question*". As to objectives, the relevant inquiry concerns the "*objective aims*" of the conduct, not the "*subjective intention*" of the undertakings involved (*ISU* at [106]– [107]).

148. By contrast, conduct is anti-competitive by effect where "*it is demonstrated that that conduct has as its actual or potential effect the prevention, restriction or distortion of competition, which must be appreciable*." This requires analysis of how competition would operate "*within the actual context*" absent the impugned conduct. This analysis includes identifying the relevant market(s) and the conduct's real or potential effects, and taking into account all relevant factual circumstances (*ISU* at [109], [110]).

149. In *APT I*, the test for restrictions by effect was summarised at [294] as follows:

> "*Thus, for an effect analysis, one needs to identify:*
> *a) the way competition would operate in the absence of the agreement. This is called the counter-factual,*
> *b) the affected markets. These are known as the relevant markets,*
> *c) the actual or potential likely effects on competition, and*
> *d) that the effects on competition are appreciable.*"

150. Certain types of conduct of a sporting association that otherwise have the effect of restricting freedom of action may not fall within the Chapter I prohibition (Case C-519/04 P *Meca-Medina v Commission* EU:C:2006:492). As further explained in *ISU* at [111], the measures by a sporting association would fall outside the scope of the Chapter I prohibition if the analysis of their economic and legal context leads to a conclusion that:

> "*[F]irst, that they are justified by the pursuit of one or more legitimate objectives in the public interest which are not per se anticompetitive in nature; second, that the specific means used to pursue those objectives are genuinely necessary for that purpose; and, third, that, even if those means prove to have an inherent effect of, at the very least potentially, restricting or distorting competition, that inherent effect does not go beyond what is necessary, in particular by eliminating all competition.*"

151. Section 9 of the Competition Act 1998 exempts an otherwise anti-competitive agreement subject to certain conditions. It provides as follows:

"*(1) An agreement is exempt from the Chapter I prohibition if it—*

(a) contributes to—

(i) improving production or distribution, or

(ii) promoting technical or economic progress,

while allowing consumers a fair share of the resulting benefit; and

(b) does not—

(i) impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives; or

(ii) afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the products in question.

(2) In any proceedings in which it is alleged that the Chapter I prohibition is being or has been infringed by an agreement, any undertaking or association of undertakings claiming the benefit of subsection (1) shall bear the burden of proving that the conditions of that subsection are satisfied."

(2) Chapter II

152. Chapter II of Part I of the Competition Act 1998 is headed "*Abuse of Dominant Position*". Section 18 (the Chapter II prohibition) prohibits conduct by one or more undertakings that amounts to the abuse of a dominant position. It provides as follows:

"***18. Abuse of dominant position***

(1) Subject to section 19, any conduct on the part of one or more undertakings which amounts to the abuse of a dominant position in a market is prohibited if it may affect trade within the United Kingdom.

(2) Conduct may, in particular, constitute such an abuse if it consists in—

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

(b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of the contracts."

153. Chapter II does not prohibit dominance as such, nor competition on the merits. It

targets only "*abusive exploitation*" of dominance. As observed in Case C-333/21 *European Superleague Company SL v Fédération internationale de football association (FIFA) and Anor* (ECLI:EU:C:2023:1011) [2024] 4 CMLR 16 at [129]:

> *"In order to find, in a given case, that conduct must be categorised as 'abuse of a dominant position', it is necessary, as a rule, to demonstrate, through the use of methods other than those which are part of competition on the merits between undertakings, that that conduct has the actual or potential effect of restricting that competition by excluding equally efficient competing undertakings from the market(s) concerned…or by hindering their growth on those markets, although the latter may be either the dominated markets or related or neighbouring markets, where that conduct is liable to produce its actual or potential effects."*

154. That assessment must be undertaken "*in the light of all the relevant factual circumstances*" of the conduct, the relevant market(s), and the functioning of competition in the market(s) (*ESL* at [130]).

155. Further, as stated in *ESL* at [131], a conduct may also constitute abuse where:

> "*[I]t has been proven to have the actual or potential effect—or even the object—of impeding potentially competing undertakings at an earlier stage, through the placing of obstacles to entry or the use of other blocking measures or other means different from those which govern competition on the merits, from even entering that or those market(s) and, in so doing, preventing the growth of competition therein to the detriment of consumers, by limiting production, product or alternative service development or innovation*."

156. Where a dominant undertaking "*places itself in a situation where it is able to deny potentially competing undertakings access to a given market*", that power must be exercised in accordance with criteria that are transparent, clear, precise and non-discriminatory (*ESL* at [135]). Conduct that falls within such prohibition may be justified if the dominant undertaking demonstrates either that the conduct is "*objectively necessary*" or that the "*exclusionary effect*" may be "*counterbalanced or outweighed by advantages in terms of efficiency which also benefit the consumer*." (*ESL* at [202]).

B. The Grounds

157. For the purposes of these proceedings, there was common ground that: (a) each of the PL and the EFL is an economic undertaking and/or association of undertakings which carries on economic activity in the organisation of football competitions; (b) the 2024/25 PL Rules constitute a decision of such an association or an agreement of its members; (c) the PL is dominant in the PL Market; and (d) the EFL is likewise dominant in a separate, though related, market, the EFL Market.

158. LCFC advanced two grounds of challenge under competition law. The first ground concerns two distinct but related categories of conduct:

158.1. **Ground 1**: The PL's proposed imposition of a sanction by reference to the EFL Sanctioning Guidelines on LCFC (or clubs in LCFC's position), together with the proposal to apply that sanction in the current season while the Club is competing in the Championship (rather than if and when LCFC returns to the Premier League), is anti-competitive and contrary to Chapter I and/or Chapter II of the Competition Act 1998.

158.2. **Ground 2**: The application of the Variable ULT depending on whether the relevant club has been a member of the EFL or the PL is anti-competitive and contrary to Chapter I and/or Chapter II of the Competition Act 1998.

159. We propose to take them out of order.

C. Ground 2: Variable ULT

160. Ground 2 of LCFC's competition law challenge is concerned with the Variable ULT. The Variable ULT operates as follows. The standard ULT for clubs in the Premier League for all three years of the assessment is fixed at £105 million over the three-season rolling period, at a per-season rate of £35 million. However, the ULT of £105 million is reduced by £22 million for each season covered by the PSR assessment period during which the relevant club was a member of the EFL. Under the P&S Rules, the ULT is calculated on a per season basis, as £13 million for each season played in the EFL and £35 million for each season played in the Premier League during the three-year rolling period. For example, therefore, a club that had spent two years in the Premier League and one year in the Championship will have a ULT under the P&S Rules equal to £83 million.

(1) LCFC's Submissions

161. LCFC submitted that Rule E.77 of the 2024/25 PL Rules, insofar as it imports the Variable ULT under the P&S Rules, constitutes a restriction by object contrary to Chapter I of the Competition Act 1998, principally because it restricts investment by newly promoted clubs. In particular:

161.1. LCFC argued that the Variable ULT is "*exclusionary in nature*" because it creates a barrier to entry into the PL Market by preventing potential entrants from incurring expenditure to the same extent as clubs that have competed in the Premier League throughout the three-year assessment period.

161.2. LCFC submitted that the Variable ULT is discriminatory, in that it imposes "*tangible and additional restrictions*" on recently promoted clubs, favours historically established Premier League members, and creates "*a two-tier*

system" that "*ossifies existing structures within the market*".

161.3. LCFC contended that the Variable ULT increases the likelihood of investigation and potential sanction for affected clubs, which "*further entrenches*" competitive imbalance.

162. In the alternative, if the Variable ULT were not characterised as a restriction by object, LCFC submitted that it nonetheless constitutes a restriction by effect under Chapter I. LCFC argued that the Variable ULT imposes materially lower loss limits on newly promoted clubs, constraining their ability to invest in playing squads during the summer transfer window following promotion and thereby hindering their competitiveness in the subsequent Premier League season. LCFC further submitted that clubs promoted from the Championship have "*less flexibility to determine their spending over time*". According to LCFC, these expenditure constraints "*lead to statistically significant reductions in sporting performance*", which in turn "*directly translates to the clubs receiving reduced revenues*".

163. For the purposes of its effects case, LCFC advanced two counterfactuals:

163.1. The Fixed ULT Counterfactual: A counterfactual in which all Premier League clubs, irrespective of the number of seasons spent in the Championship during the three-year assessment period, are subject to a uniform ULT of £105 million from the moment the club is promoted.

163.2. The SCR Counterfactual: A counterfactual in which the PL adopts a Squad Cost Ratio system, under which clubs' spending limits are calculated as a percentage of revenue rather than by reference to a fixed loss threshold.

164. Relying on *ISU*, LCFC submitted that the Variable ULT rules are "*economic*" in nature and do not concern "*questions of interest solely to sport per se*". On that basis, LCFC argued that the PL cannot rely on the ancillary restraints doctrine, the scope of which is narrow in the sporting context following ISU. LCFC further submitted that the *Meca-Medina* principle does not alter the analysis because the Variable ULT and the proposed approach to sanctions are "*not strictly limited to what is necessary and proportionate to protect the integrity of the sport*".

(2) The PL's Submissions

165. The PL submitted that the import of the Variable ULT by Rule E.77 of the 2024/25 PL Rules does not constitute a restriction by object. It argued that the PL's investigation ensures the consistent application of the P&S Rules to clubs subject to them, so that clubs "*cannot evade investigation or sanction by their promotion*."

166. The PL further submitted that the two counterfactuals advanced by LCFC to establish anti-competitive effects under Ground 2 are inapt:

166.1. As to the Fixed ULT Counterfactual, under which all Premier League clubs would be subject to the same ULT irrespective of prior participation in the Championship, the PL argued that this would incentivise Championship clubs to breach the P&S Rules. If overspending succeeded in achieving promotion and the investigation were then transferred to the PL, breaches of the P&S Rules would be retrospectively reduced or excused, thereby undermining financial regulation in the Championship.

166.2. As to the SCR Counterfactual, the PL submitted that it does not isolate the impugned feature of the regulatory framework, namely the Variable ULT, and therefore does not permit a meaningful assessment of its market effects. In an SCR regime, "*the question of variable or fixed ULTs simply does not arise*". The PL argued that the SCR Counterfactual therefore fails the requirements of comparability and realism.

167. The PL further contended that the import of the Variable ULT does not amount to an abuse of dominance:

167.1. The PL's investigation by reference to the Variable ULT is non-discriminatory because it ensures that the similarly placed clubs (Championship clubs subject to the P&S Rules in year T) are governed by reference to the same rules.

167.2. By contrast, LCFC's counterfactual would retrospectively exempt those Championship clubs that secure promotion to the Premier League from the application of the P&S Rules.

168. Finally, the PL submitted that its investigation of LCFC's alleged breach of the Variable ULT is objectively justified as a necessary and proportionate means of achieving "*the legitimate objectives of financial sustainability, integrity and fair competition*."

(3) The Commission's Decision

169. In our view, the Variable ULT, whether considered in and of itself or in its application by the PL, does not restrict competition by object or by effect. In any event, even if it were characterised as a restriction by effect, it would be necessary and proportionate to achieve the legitimate objectives of the P&S Rules and the PSR.

170. LCFC did not challenge the fundamental organisation of professional football in England. That system operates as a pyramid comprising multiple leagues, including the Championship and the Premier League, with three clubs promoted from the Championship to the Premier League and three clubs relegated from the Premier League to the Championship at the conclusion of each season.

171. Nor did LCFC challenge the overall scheme or legitimacy of the PSR and the P&S

Rules. It is common ground that those rules pursue legitimate objectives. It is also undisputed that the standard ULT applicable to clubs that have spent all three seasons in the Championship (£39 million) is materially lower than that applicable to clubs that have spent all three seasons in the Premier League (£105 million). Those differing thresholds reflect the markedly different economic realities of the two competitions, in particular the substantially higher revenues and costs typically associated with Premier League clubs.

172. The specific measure under challenge is therefore the Variable ULT (or its import by Rule E.77 of the 2024/25 PL Rules). In assessing whether the Variable ULT, or its application, is anti-competitive, it is necessary to consider it within its proper context. That context includes the structure of the English football pyramid, the respective and relative economic realities of the Championship and the Premier League, and the operation of the PSR and P&S Rules as a coherent regulatory scheme. Both sets of rules were adopted by the member clubs in accordance with the respective constitutional arrangements of the EFL and the Premier League.

173. While the Variable ULT must be identified and examined, it cannot properly be assessed in isolation from that context. We do not accept LCFC's submission that the analysis should be confined to the PL Market alone. The experts agree that, although the PL and the EFL operate in distinct markets, they are nonetheless linked. Given that the Variable ULT is expressly concerned with transition between the two leagues, isolating the PL Market would be highly artificial. This is particularly so in circumstances where we are dealing with clubs that have spent part of the previous seasons assessed in both markets.

Restriction by object

174. The Variable ULT necessarily limits the level of losses, and therefore investment, that a newly promoted club may incur. In other economic sectors, a concerted limitation on investment may, in certain circumstances, amount to a restriction by object (see COMP/C.37750/B2 – *Brasseries Kronenbourg, Brasseries Heineken 2005*/503/EC at [8]– [9]). However, the category of object restrictions is a narrow one. As held in *ISU* at [102], it is confined to conduct which, by its very nature, reveals a "*sufficient degree of harm to competition*" such that there is no need to examine effects. Such conduct is not closed but will inevitably be comparable to classic forms of anti-competitive coordination, including horizontal price-fixing, output limitation, or customer allocation. A measure that limits investment does not, without more, fall within that category. It must be assessed by reference to its content, its economic and legal context, and its objective aims (*ISU* at [105], [108]; *APT I* at [160]).

175. The economic context of English professional football differs materially from that of the brewery sector considered in *Kronenbourg*. The PL and the EFL are not markets in which undertakings operate as conventional profit-maximising firms. Financial instability is a recognised systemic risk within the football pyramid, and clubs are particularly prone to overspending in pursuit of sporting success (see *QPR* at [19]–

[22]). It is therefore an accepted regulatory objective that owners should be "*discouraged from injecting as much cash as they like into a club, for spending on wages…*" (*QPR* at [322]).

176. It is common ground that ULTs, which necessarily constrain investment, serve the legitimate objective of maintaining financial sustainability. In that legal and economic context, the mere fact that a measure limits investment cannot, without more, justify its characterisation as a restriction by object.

177. In our view, the Variable ULT does not disclose any inherent competitive harm. It operates as a transitional mechanism for clubs moving between leagues within a pyramid structure in which the Championship and the Premier League clubs face markedly different revenue prospects and cost bases (as both experts accepted). Those differences are reflected in the undisputed divergence between the standard ULTs of £39 million and £105 million, respectively. We agree with Dr Coscelli that there is a "*structural problem*" arising from the substantially lower revenues and costs of Championship clubs competing for promotion to the Premier League. It would, in our view, be wholly artificial to ignore those structural features when assessing the Variable ULT.

178. We therefore agree with the PL that, given the pyramid structure of English football, the materially different economic realities of the two competitions, and the unchallenged standard ULTs applicable in each, newly promoted clubs are not in an equivalent position to clubs that have competed in the Premier League for the entirety of the three-year assessment period.

179. On the contrary, permitting newly promoted clubs immediately to increase their ULT from £39 million to £105 million would incentivise aggressive expenditure in pursuit of promotion. As observed in *QPR* at [19], albeit in the context of the Championship FFP, "[t]*he evidence was that gambling by clubs to stay in or get into the Premier League, with its enormous financial rewards, became the main (but not the only) cause of financial failures of football clubs in England*".

180. The objective of the Variable ULT is to manage the transition between the two leagues and to constrain overspending risks in the Championship (and of course to reflect the different economic realities in each competition). It does so by preventing an immediate jump from a £39 million to a £105 million loss limit, which could encourage excessive expenditure and undermine the financial sustainability objectives of the PSR. The graduated structure of the Variable ULT allows newly promoted clubs to adjust progressively to the cost structures in the Premier League. In practice, newly promoted clubs are not prevented from strengthening their squads towards the end of season T. Expenditure incurred at that stage has only a limited impact on P&S compliance for season T and earlier seasons, since amortisation and the substantial majority of wage costs arising from new player recruitment are borne in season T+1 and thereafter.

181. Accordingly, when assessed by reference to its content, its economic and legal

context, and its objective, the Variable ULT does not reveal a sufficiently harmful degree of coordination to fall within the narrow category of restrictions by object. The parties disagreed as to the applicability of the *Meca-Medina* framework to object analysis in the context of sports governing bodies. In light of our conclusion that the Variable ULT does not constitute a restriction by object in any event, it is unnecessary to resolve that issue.

Restriction by effect

182. To establish an infringement by effect, LCFC had the burden of demonstrating, as clarified in *ISU* at [109]–[110], that the impugned conduct "*has as its actual or potential effect the prevention, restriction or distortion of competition, which must be appreciable*". This requires an assessment of how competition would operate "*within the actual context*" in the absence of the challenged measure. It is common ground that this exercise necessitates the identification of a realistic counterfactual that would be less distortive of competition than the Variable ULT.

183. Under LCFC's primary counterfactual, the Fixed ULT Counterfactual, all Premier League clubs, irrespective of their league status during the three-year assessment period, would be subject to a uniform ULT of £105 million. Under this counterfactual, an EFL club's permitted losses would increase immediately upon promotion.

184. We accept that the Fixed ULT Counterfactual is realistic in the limited sense that it isolates the specific measure under challenge, namely the Variable ULT, without dismantling the PSR or the P&S Rules as a whole. It preserves the pyramid structure of English football, the distinct standard ULTs applicable to the Premier League and the Championship clubs, the promotion and relegation mechanism, and the use of ULTs as a tool for promoting financial sustainability. In that sense, it represents a targeted modification rather than a wholesale regulatory redesign.

185. However, on the evidence before us, we conclude that the Fixed ULT Counterfactual would generate greater, not lesser, distortions of competition in both the Championship and the Premier League. Its operation would retrospectively expand the permissible losses of EFL clubs that secure promotion at the end of season T for seasons T, T-1 and T-2. We accept Dr Coscelli's evidence that the prospect of such retrospective uplift would incentivise at least some EFL clubs with realistic promotion prospects to incur significantly higher losses in pursuit of promotion, notwithstanding that only three clubs in any season would ultimately benefit from that retrospective uplift.

186. Even if not all clubs would spend up to the full £105 million threshold, the Fixed ULT Counterfactual would, as Dr Coscelli explained and as we accept, effectively transform promotion into a "*lottery ticket*". Mr Holt's evidence was that EFL clubs would have neither the incentive nor the capacity to engage in excessive "*gambling*" because of countervailing constraints, including clubs' own incentives to ensure long-term financial stability, the EFL's powers to restrict spending in-season, impose

transfer embargoes and business plans, and require adjustments to wage structures. But while such constraints may provide some discipline, we have not seen evidence that they are sufficiently robust to neutralise the risks of excessive spending. As Dr Coscelli observed, these constraints are typically engaged only after overspending has occurred. He further noted that measures such as business plans risk the EFL "*second-guessing the clubs on pretty granular measures*". Mr Holt accepted that he had not empirically tested the effectiveness of these constraints. In those circumstances, we are not persuaded that these theoretical constraints would, in practice, materially mitigate the distortive incentives created by the Fixed ULT Counterfactual.

187. A further difficulty with the Fixed ULT Counterfactual is that it differentiates between EFL clubs based on a contingent outcome – promotion. Successful clubs would benefit from a retrospective increase in their ULT, while unsuccessful clubs would remain constrained by the standard EFL limit. As Mr Segan KC put it, this would generate "*a short-term bonanza*" of precisely the kind the financial sustainability regime is designed to prevent.

188. The Fixed ULT Counterfactual may also distort competition between newly promoted and established Premier League clubs. Established Premier League clubs (that have spent the previous three seasons in the Premier League) have been required to operate within the £105 million ULT while maintaining Premier League-level squads throughout the assessment period. A newly promoted club, by contrast, did not have to maintain a Premier League-level squad while competing in the Championship. Unencumbered by the costs of maintaining a Premier League squad in prior seasons, the Fixed ULT Counterfactual allows newly promoted clubs to incur significantly greater losses to improve their performance in season T+1. That asymmetry would enable promoted clubs to enter the Premier League with an expenditure advantage unrelated to market efficiency or revenue generation.

189. LCFC's alternative counterfactual was the SCR Counterfactual. An effects analysis must, however, assess competition in the absence of the impugned measure while remaining "*within the actual context*" (*ISU* at [109]– [110]). LCFC did not challenge the use of ULTs as a mechanism for regulating financial sustainability in either the Championship or the Premier League. The only measure under challenge is the Variable ULT. A realistic counterfactual in this context would therefore replace the Variable ULT (as the Fixed ULT Counterfactual seeks to do), rather than displace the entirety of the PSR and the P&S Rules.

190. The SCR Counterfactual would replace loss-based regulation with a revenue-indexed spending cap, fundamentally altering both the structure and regulatory logic of the PSR and the P&S Rules. It would not merely remove the Variable ULT, but would entail a wholesale departure from the existing framework, including elements that LCFC does not challenge. In any event, the SCR Counterfactual was advanced at a highly general level, without sufficient detail as to its precise operation. In our view, therefore, such an abstracted counterfactual does not satisfy the requirement of analysis "*within the actual context*".

191. Accordingly, when assessed under the framework for effects restrictions articulated in *ISU*, *ESL* and *APT I*, neither the Fixed ULT Counterfactual nor the SCR Counterfactual demonstrates an appreciable restriction of competition by effect. The Fixed ULT Counterfactual would introduce greater distortions than the Variable ULT, while the SCR Counterfactual is neither realistic nor comparable. LCFC has therefore failed to establish that the Variable ULT produces anti-competitive effects.

Objective justification

192. Even if (contrary to our findings above) the Variable ULT were regarded as restrictive in some sense, we would in any event conclude that it is objectively justified and both necessary and proportionate to achieve the legitimate objectives pursued by the PSR and the P&S Rules. It is well established that a *prima facie* anti-competitive measure is compatible with competition law where it pursues a legitimate objective, the means employed are genuinely necessary to achieve that objective, and any inherent anti-competitive effects do not go beyond what is necessary, including by avoiding the elimination of competition (*ISU* at [111]).

193. The Variable ULT forms part of the wider framework of the PSR and the P&S Rules aimed at promoting financial sustainability in professional football. Its purpose is to mitigate the recognised instability that can arise when clubs are promoted from the Championship to the Premier League, particularly given the substantial differences in revenue and cost structures between the two competitions. Those structural features are not disputed, and neither party suggested that safeguarding financial sustainability is anything other than a legitimate objective. The Variable ULT operates by providing a graduated transition of a Championship club to the higher loss threshold applicable in the Premier League and *vice versa*.

194. In assessing necessity, we attach weight to the fact that the Variable ULT is narrowly targeted to that specific purpose. Less restrictive alternatives would not achieve the same outcome. A uniform increase in the ULT (the Fixed ULT Counterfactual), as we have said, risks incentivising speculative spending and destabilising both the Championship and the Premier League. Conversely, maintaining the lower EFL ULT for newly promoted clubs throughout the assessment period would unduly constrain legitimate competitive investment and permanently disadvantage promoted clubs. The Variable ULT strikes a middle course between those extremes.

195. Further, as we have already determined, the principal alternative advanced by LCFC – the Fixed ULT Counterfactual – would materially increase financial risk within the Championship and distort competition in both markets. Nor do we consider the existing constraints relied upon by Mr Holt, such as the EFL's powers to impose business plans, the general incentive of clubs to maintain long-term financial stability, or the availability of transfer embargoes, to be sufficient safeguards against excessive expenditure by clubs seeking promotion. In those circumstances, the Variable ULT is necessary to achieve the legitimate objectives of the PSR and the P&S Rules.

196. We also consider the Variable ULT to be proportionate. It does not prevent promoted clubs from increasing expenditure to compete in the Premier League; rather, it regulates the extent and timing of that increase by reference to the economic realities of the Championship and the Premier League. The ULT is calibrated to the number of seasons a club has competed in the Premier League, increasing progressively from the Championship level of £39 million to £61 million, £83 million and ultimately £105 million. That progression reflects both increasing access to PL revenues and gradual exposure to Premier League cost structures. The rule operates by reference to objective, transparent and non-discriminatory criteria and neither eliminates competition nor prevents clubs from competing effectively.

197. We add that, even had it been necessary to engage more fully with Mr Holt's modelling of the relationship between spending and sporting performance, we would not have regarded it as providing a reliable basis for undermining the objective justification of the Variable ULT. Mr Holt's analysis proceeded on the assumption that promoted clubs would, as a matter of course, spend up to the applicable ULT and would thereby achieve materially improved sporting performance in season T+1. However, in cross-examination he accepted that he had not undertaken any analysis of the actual spending behaviour of promoted clubs, nor of incumbent Premier League clubs, and was unable to explain why a number of recently promoted clubs had not in fact spent up to the relevant loss limits. His conclusions were instead drawn from generalised academic literature rather than from league-specific financial data.

198. In the round, given the pyramid structure of English football and the materially different revenue and cost bases across its tiers, as Dr Coscelli stated, "*there is a problem to solve, and this is solved by having this variable ULT*". Accordingly, and if, contrary to our view the rule is to be regarded as restrictive, we conclude in any event that the Variable ULT is objectively justified as a necessary and proportionate means of addressing the transitional financial risks associated with promotion and relegation.

Abuse of dominance

199. It is not in dispute that the PL is dominant in the PL Market. The issue is whether the Variable ULT amounts to an "*abusive exploitation*" of that position.

200. As *ESL* explains, abuse entails the use of "*methods other than those which are part of competition on the merits*" that have the actual or potential effect of restricting competition by excluding or hindering equally efficient undertakings (at [129]–[130]), or by erecting obstacles to entry through "*blocking measures… different from those which govern competition on the merits*" (at [152]).

201. The Variable ULT does not exclude access to the PL Market. Promotion continues to be determined by sporting performance in the Championship. Clubs that are promoted are admitted to the Premier League subject to the same regulatory framework as other clubs and benefit from a higher ULT for each season they compete in the Premier League than applied while they were in the Championship.

Newly promoted clubs are therefore able to increase expenditure relative to their pre-promotion position. The Variable ULT moderates the pace of that increase, but does not prevent promoted clubs from building competitive squads over successive assessment periods.

202. Nor does the Variable ULT operate as a blocking device of the kind described in *ESL* at [152]. It does not prevent clubs from "*even entering*" the PL Market, nor does it constrain investment to a level unrelated to revenues or risk appetite. As we found in rejecting the Fixed ULT Counterfactual, the Variable ULT reduces incentives for speculative overspending, but does not narrow or obstruct the route to promotion.

203. *ESL* recognises that a dominant undertaking may infringe Chapter II where it "*places itself in a situation where it is able to deny potentially competing undertakings access to a given market*", unless that power is exercised in accordance with criteria that are transparent, clear, precise and non-discriminatory (at [135]). In our view, the Variable ULT applies automatically by reference to objective criteria linked to a club's league status during the assessment period. As stated above, all clubs clearly understood and approved the variable ULT and the actual thresholds. The scheme applies to these clubs equally. Therefore, the scheme is sufficiently clear, precise and non-discriminatory.

204. Taken together, these considerations lead us to conclude that the Variable ULT does not involve the use of "*methods other than those which are part of competition on the merits*" so as to restrict or distort competition within the meaning of *ESL* at [129]–[130]. It applies uniformly by reference to objective criteria and does not exclude, foreclose, or impede access to the PL Market. It therefore does not amount to an abuse of dominance.

205. Even if the mechanism were capable of producing some exclusionary effect, *ESL* confirms that such conduct may nevertheless be lawful where it is "*objectively necessary*" or where any exclusionary effects are "*counterbalanced or outweighed by advantages in terms of efficiency which also benefit the consumer*" (at [202]). For the reasons set out above in relation to financial sustainability and proportionality, those conditions would in any event be satisfied.

D. Ground 1: Sanctioning Approach

(1) LCFC's submissions

206. LCFC submitted that the PL's proposed sanctioning approach – namely, a recommendation of a points deduction to be imposed in the Championship by reference to the EFL Sanctioning Guidelines – constitutes a restriction by object for the following reasons.

206.1. It envisages the PL applying the EFL Sanctioning Guidelines, which

ordinarily apply to a different competition organised by a different undertaking. LCFC contended that this is inconsistent with the established sanctions approach "*in relation to PL Clubs for similar conduct*".

206.2. It purports to extend the "*direct application of any sanctions*" to a club competing in a separate competition, i.e., the Championship. LCFC contended that this amounts to the PL projecting its market power and dominance in the PL Market into a connected or ancillary market, to the detriment of competition in both markets.

206.3. It is discriminatory, because the proposed approach would apply "*only to those clubs which have been involved in the EFL competition(s)*" during the relevant three-year assessment period.

206.4. The allegedly "*retrospective*" application of sanctioning powers, together with the introduction of the Commission's power to recommend sanctions under Rule W.52.10, was said to have been directed specifically at LCFC rather than adopted in pursuit of broader legitimate regulatory objectives.

207. In the alternative, LCFC contended that, even if the proposed approach does not amount to a restriction by object, it nevertheless constitutes a restriction by effect contrary to Chapter I. LCFC submitted that the proposed sanctioning approach has anti-competitive effects for the following reasons.

207.1. The application of the "*materially harsher*" EFL Sanctioning Guidelines to recently promoted clubs would "*systematically disadvantage*" clubs moving between the Championship and the Premier League when compared with established PL clubs that have committed breaches of a comparable scale.

207.2. The imposition of sanctions while LCFC is competing in the Championship, rather than upon any future return to the Premier League, is said to erect barriers to entry into the PL Market by making promotion more difficult for affected clubs that might otherwise have achieved it "*on sporting merit*".

208. LCFC further argued that the PL's proposed sanctioning approach is not necessary to achieve the legitimate objectives of sanctions. It advanced two counterfactuals which, it submitted, would meet those objectives in a more proportionate manner and without the alleged anti-competitive effects:

208.1. First, the application of sanctions in line with prior PL commission precedents, including *Everton I*; *Nottingham Forest*; and *Everton II*.

208.2. Second, the imposition of a sanction only upon LCFC's return to the Premier League, such that the sanction would take effect in a future Premier League season rather than during the Club's participation in the Championship.

209. LCFC did not dispute that the Premier League sanctioning regime pursues legitimate

objectives. Its case was that the approach advanced by the PL in this case is neither necessary nor proportionate to achieve those objectives.

210. LCFC further contended that the PL's proposed sanctioning approach constitutes abusive conduct contrary to Chapter II of the Competition Act 1998.

(2) The PL's Submissions

211. The PL submitted that the 2024/25 PL Rules did not empower it to impose sanctions based on the EFL Sanctioning Guidelines or to impose sanctions in the EFL. Sanctioning was instead a matter for determination by the Commission in the exercise of its discretion and was "*not pre-determined by any prescriptive provision*" of the 2024/25 PL Rules.

212. In any event, the PL contended that a recommendation of a sanction to be imposed in the Championship by reference to the EFL Sanctioning Guidelines did not constitute a restriction by object. Rather, it ensured "*the consistent and predictable application of the same sanctioning approach to clubs competing in the same league (the EFL Championship) under the same rules (the 2023/24 P&S Rules)*".

213. The PL further submitted that recommending a points deduction to be imposed in the Championship by reference to the EFL Sanctioning Guidelines is not a restriction by effect.

213.1. First, it argued that declining to have regard to the EFL Sanctioning Guidelines when sanctioning a breach of the P&S Rules would create what it described as "*a promotion escape hatch*", whereby identical conduct would attract different sanctions "*depending on post-fact outcomes*".

213.2. Second, it said that the proposed approach mirrored what a single regulator overseeing both leagues would do where a club was found to have breached the applicable rules in a promotion or relegation season.

214. The PL also submitted that recommending such a sanction would not amount to an abuse of dominance. It emphasised that it was "*not targeting*" LCFC in investigating the alleged breach or pursuing the present Complaint, and relied on the fact that Rule E.77 of the 2024/25 PL Rules had been introduced "*two and a half years*" before the alleged breach by way of an amendment that LCFC had "*positively supported*".

215. Finally, even if a recommendation of sanctions in the Championship by reference to the EFL Sanctioning Guidelines were *prima facie* restrictive or distortive, the PL submitted that it would in any event be objectively justified under the *Meca-Medina* principle. Sanctioning LCFC in the Championship by reference to the EFL Sanctioning Guidelines would, it said, be a necessary and proportionate means of achieving the legitimate objectives of financial sustainability, integrity, and fair competition.

(3) The Commission's Decision

216. LCFC's challenge was directed at the outcome that would follow from the PL's proposed approach to sanction. LCFC submitted that it was immaterial whether that outcome resulted from the PL's submissions to the Commission or from the Commission's independent exercise of its powers; what mattered, in its view, was whether the sanction would be imposed while LCFC was competing in the Championship and by reference to the EFL Sanctioning Guidelines.

217. The Commission's power of sanctioning is governed by Rule W.52 of the 2024/25 PL Rules, which has been set out above in full. Under that rule, the Commission has a discretion to determine an appropriate sanction. It is common ground that any sanction determined or recommended must be no more than reasonably necessary and proportionate to pursue the legitimate objectives of sporting sanctions, namely: upholding the integrity of competition, maintaining public confidence in regulatory compliance, vindicating compliant clubs, encouraging future adherence to the rules, and deterring and penalising breaches. These objectives are well established in the context of breaches of the PSR and the P&S Rules (see, for example, *Everton II* at [165]; *Everton I* at [194]–[200]; *EFL v Derby County Football Club Ltd* (30 June 2021) at [20]–[23]).

Restriction by object

218. We do not consider the PL's proposed approach – namely, that any sanction be imposed while LCFC competes in the Championship and that the EFL Sanctioning Guidelines may be taken into account – to constitute a restriction of competition by object. As set out earlier, a restriction by object is confined to conduct which, by its nature, discloses a sufficient degree of harm to competition such that its effects need not be examined. It is a narrow category.

219. As Dr Coscelli accepted, in a general sense any sporting sanction recommended or imposed by a commission will affect a club's sporting performance. Although sanctions may, in principle, fall within the category of object restrictions where they are disproportionate or not governed by objective criteria (*ISU* at [139]), the present circumstances are not of that character.

220. The EFL Sanctioning Guidelines do not mandate a particular sanction, nor do they bind the Commission. Merely taking those guidelines into account, alongside other relevant factors including prior disciplinary decisions of the PL and/or the EFL, and the applicable ULT, does not of itself result in a disproportionate sanction. Whether a sanction is disproportionate necessarily depends on its precise nature and quantum.

221. The Commission's sanctioning approach is addressed in more detail below (see section XII.C. In summary, the Commission does not accept the PL's submission that the EFL Sanctioning Guidelines should be applied without adjustment. (Indeed, whilst this may have been the pleaded position this strict approach did not feature in the PL's closing submissions.) Instead, the Commission applies the EFL Sanctioning

Guidelines, adjusted to percentage overspend on a relative scale. In circumstances where both parties accept that a sanction must be necessary and proportionate to achieve the stated objectives, we do not consider that the Commission applying the EFL Sanctioning Guidelines with appropriate adjustments taking into account the applicable ULT and the percentage overspend by the Club amounts to a restriction by object.

222. Similarly, a recommendation of sanction to be imposed in the Championship does not, in our view, amount to a restriction by object. The relevant breach occurred when LCFC was competing in the Championship and LCFC is in the Championship as at the date of this decision. A recommendation that any sanction take effect in the league where the breach occurred, and in which LCFC currently competes (subject to the EFL's decision to impose that sanction), does not, by its nature, reveal an inherent degree of competitive harm. Its purpose is to ensure that any sanction is effective and contextual, and not to disadvantage LCFC competitively. That conclusion is reinforced by the inherent uncertainty surrounding any future return by LCFC to the Premier League.

223. Accordingly, a sanctioning approach by which the Commission takes into account the EFL Sanctioning Guidelines and/or recommends to the EFL that a sanction be imposed in the Championship does not constitute a restriction of competition by object.

Restriction by effect

224. As noted above in relation to Ground 2, a restriction by effect is assessed by reference to a realistic counterfactual. Because Ground 1 concerns two distinct aspects of the proposed sanctioning approach, LCFC advanced two counterfactuals, which we address in turn.

225. The first counterfactual is that sanctions should be determined solely by reference to previous PL commission decisions, without any regard to the EFL Sanctioning Guidelines. The immediate difficulty with that submission is that those very decisions have themselves had regard to the EFL Sanctioning Guidelines. In *Everton I*, the Appeal Board described them at [189]– [190] as "*the most obvious and compelling benchmarks*" and "*sufficiently analogous to be relevant and potentially helpful*" (see also *Everton II* and *Nottingham Forest*). A counterfactual in which the EFL Sanctioning Guidelines are entirely disregarded therefore does not remove the alleged source of distortion. This is particularly so where both parties accept that any sanction must ultimately be proportionate and directed to achieving the legitimate objectives of sanctions.

226. The second counterfactual proffered by LCFC is that any sanction should be imposed only upon LCFC's return to the Premier League. LCFC accepted that a sanction must be sufficiently effective to achieve its objectives. LCFC is charged with a breach of the P&S Rules. Had the investigation concluded before LCFC's promotion, or had LCFC failed to secure promotion at the end of the 2023/24 season, any sanction

would have been imposed in the Championship. Other clubs that breached the same rules while competing in the Championship would likewise have faced sanctions in that competition. This counterfactual therefore requires differential treatment of LCFC solely by reason of its subsequent promotion following the breach.

227. Any sporting sanction is capable of affecting a club's competitive performance (as Dr Coscelli noted). The fact that a sanction imposed in the Championship may make it more difficult for LCFC to secure promotion to the Premier League does not, without more, render that sanction anti-competitive. Had LCFC not secured promotion at the end of the 2023/24 season, it would have been sanctioned in the Championship in any event. A sanction of that nature, if proportionate, cannot be said to distort competition merely because it affects sporting prospects. This is particularly so where promotion from the Championship is inherently uncertain, and where a points deduction imposed only upon a possible future return to the Premier League may fail to operate as an effective sanction.

228. For these reasons, we do not consider that either the recommendation of a sanction to be imposed in the Championship, or the Commission taking into account the EFL Sanctioning Guidelines, constitutes a restriction of competition by effect.

Objectively justified

229. Even if it were *prima facie* anti-competitive for the PL to submit to the Commission, or for the Commission to recommend to the EFL, that a sporting sanction be imposed in the Championship by reference to the EFL Sanctioning Guidelines, we would in any event regard the proposed sanctioning approach as objectively justified.

230. The PL's approach does not mandate the application of the EFL Sanctioning Guidelines. Rather, those guidelines constitute one factor that the Commission may take into account in the exercise of its discretionary powers. They provide guidance to the decision-maker but do not constrain the outcome. The approach therefore remains within what is necessary to pursue the accepted objectives of sporting sanctions.

231. Likewise, a recommendation that any sanction take effect in the Championship neither predetermines the nature nor the quantum of the sanction, nor does it require the imposition of a disproportionate penalty. The approach is confined to breaches committed while a club is competing in the Championship and is directed to the competition in which the consequences of the breach arose. It does not eliminate competition or restrict LCFC's ability to compete on sporting merit; rather, it ensures that any sanction is imposed in a forum where it is capable of being effective.

Abuse of dominance

232. In this context, the question is whether the PL's proposed sanctioning approach constitutes an abuse of its dominance, in particular whether it restricts competition by excluding or disadvantaging equally efficient undertakings, or operates as a blocking measure or obstacle to entry through means that are not part of competition

on the merits.

233. In our view, the PL's approach does not exclude LCFC or any other club from the Premier League, nor does it hinder competition. The relevance of the EFL Sanctioning Guidelines is triggered by a breach of the P&S Rules committed while competing in the Championship. Those guidelines apply generally to all clubs that breach the P&S Rules and satisfy the requirements of transparency, clarity and non-discrimination identified in *ESL* at [135]. In any event, the sanction is determined by an independent PL commission exercising its discretion by reference to a range of relevant factors.

234. Nor does the sanctioning approach introduce an additional access requirement to the Premier League. It addresses the regulatory consequences of non-compliance with rules applicable to all clubs competing in the Championship. Although sanctions imposed in the Championship may affect sporting outcomes, that is not the kind of exclusionary effect described in *ESL* at [129]– [130]. The approach does not prevent an "*equally efficient*" club from competing for promotion. It applies to all clubs that breach the P&S Rules while competing in the EFL, by reference to clear, transparent and objective criteria and by an independent commission. Nor does it operate as a "*blocking measure*" within the meaning of *ESL* at [152], or create a barrier preventing EFL clubs from "*even entering*" the PL Market.

235. Even if the PL's submission to the Commission, or the Commission's recommendation to the EFL, that a sporting sanction should be imposed in the Championship having regard to the EFL Sanctioning Guidelines were capable of producing some *prima facie* exclusionary effect, *ESL* recognises that such conduct may nevertheless be compatible with competition law where it is "*objectively necessary*" or where any exclusionary effects are counterbalanced by efficiencies benefiting consumers (at [202]). For reasons set out in our analysis of objective justification, we consider that the impugned sanctioning approach pursues legitimate objectives of sanctioning clubs in breach of the P&S Rules and is both necessary and proportionate to those aims.

IX. P&S BREACH

A. The Applicable ULT

(1) LCFC's Submissions

Construction

236. LCFC's case was that the applicable ULT for the assessment period ending in FY24 is £105 million. That case was founded on the construction of the EFL Regulations and the 2024/25 PL Rules. LCFC submitted that, pursuant to EFL Regulation 87.4

and Rule E.77 of the 2024/25 PL Rules, once an investigation for an alleged breach of the P&S Rules was transferred from the EFL to the PL, the PL was required to apply the ULT under the PSR, namely £105 million.

237. In support of that construction, LCFC advanced the following points.

237.1. The opening paragraph of Rule E.77 of the 2024/25 PL Rules provides simply that responsibility for an investigation into "*alleged breaches of any aligned provisions within the EFL Regulations*" shall pass to the PL. It does not set out the "*basis upon which that investigation will then continue*".

237.2. The reference of "*the relevant aligned EFL Regulations*" in E.77.1 and E.77.2 is a deliberate reference to "*all*" relevant aligned EFL Regulations, not just to those regulations "*of which breach was alleged in the investigation*". The "*aligned EFL Regulations*" include EFL Regulation 87.4.

237.3. EFL Regulation 87.4, in turn, provides that, upon transfer, "*the Provisions of that Premier League Rule will apply*". The effect is that upon transfer, the P&S Rules are to be modified to reflect the content of the PSR in relation the transferred investigation.

237.4. This construction makes practical sense because this will ensure that clubs are treated in the same way as other clubs in the competition they have joined, rather than the competition from which they have been promoted.

237.5. The practical effect of this construction is to increase a promoted club's ULT. LCFC submitted that the increased ULT is not realistically going to alter a club's behaviour in a manner that will cause reckless spending. Instead, an increased ULT in the event of promotion allows promoted clubs to compete better with their Premier League competitors ahead of the upcoming Premier League season.

238. LCFC submitted that two practical consequences would follow from applying the "*substance of the PSR*":

238.1. LCFC's ULT for FY2024 is £105 million (*per* Rule E.53 of the PL Rules), not £83 million (per the P&S Rules); and

238.2. The PL is obliged to adopt a 36-month assessment period when applying the PSR, regardless of changes in financial year ends in LCFC's accounts for account years T, T-1, and T-2.

Res judicata and abuse of process

239. LCFC submitted that it is not estopped from advancing its arguments on construction in these proceedings. LCFC said as follows:

239.1. This argument was not addressed by, or raised by any party before, the

Section X Tribunal, and that Tribunal did not refer to EFL Regulation 87.4. The Section X Tribunal's decision was concerned with "*jurisdiction*" of the PL.

239.2. Instead, LCFC's construction in these proceedings deals with "*what form the investigation and any prosecution must take, and the content of the rules to be applied*." The issue raised in these proceedings, it contended, is not one that the Section X Tribunal "*has actually addressed and determined*" and was not "*essential to the disposition of the cause in question*".

240. LCFC further argued that the PL is not being "*vexed twice*" by LCFC's arguments and that this issue was not one which "*LCFC should have raised before the Section X Tribunal*". Moreover, it "*fits naturally*" with the determination of the Complaint in these proceedings and there is "*no good reason*" to preclude LCFC from raising this argument. As such, LCFC contended that advancing the construction it has advanced is not an abuse of process.

(2) The PL's Submissions

Construction

241. The PL's position was that the appropriate ULT for the assessment period ending in FY24 was £83 million. The PL said that the reference to "*aligned provisions*" in Rule E.77 was a reference to the P&S Rules. It advanced the following arguments in support.

241.1. The main body of Rule E.77 refers to alleged breaches of the "*aligned provisions*". Accordingly, it was implicit that the "*aligned provisions*" must be capable of breach. The same meaning should be attributed to the phrase "*aligned provisions*" in Rules E.77.1 and E.77.2. However, EFL Regulation 87.4 is not capable of breach; rather, it provides for the transfer of responsibility to investigate breaches of other provisions within the EFL Regulations.

241.2. Rule E.77 follows a series of provisions in the earlier parts of Section E which together comprise the PSR. Thus, the PL contended that "*aligned provisions*" refer to the provisions in the EFL Regulations that are aligned to the "*substantive PSR*".

241.3. The PL argued that this interpretation was consistent with commercial common sense because Rule E.77 was introduced as a "*jurisdictional bridge*" to ensure that clubs in the EFL Championship would not be able to avoid investigation for suspected breaches of the P&S Rules by securing promotion to the Premier League. The PL further contended that LCFC's construction would defeat the purpose of the rule, because it would retrospectively increase the applicable ULT of such clubs and incentivise EFL clubs to breach the P&S Rules in the hope of securing promotion.

Res judicata and abuse of process

242. The PL further contended that LCFC's construction was precluded by *res judicata* or constituted an abuse of process. The PL said as follows:

242.1. The meaning and effect of Rule E.77 was *res judicata* because the award of the Section X Tribunal dated 9 May 2025 (at [103]) made clear that the PL had jurisdiction under Rule E.77 to apply "*the EFL's P&S Rules*" in respect of LCFC's FY24 assessment. In particular, the Tribunal decided that the reference to "*aligned provisions*" in Rule E.77 was a reference to the P&S Rules. As such, the PL contended that LCFC was estopped from re-opening that issue in these proceedings.

242.2. The PL further contended that LCFC's attempt to advance its new construction in these proceedings constituted an abuse of process because it "*risks substantially prejudicing the parties and the proper conduct of the proceedings*". Even if the substance of the applicable rules was not an essential issue decided by the Section X Tribunal, the PL submitted that "*it should have been obvious to LCFC, acting with reasonable diligence, that the construction now advanced is one it could and should have raised in the Section X Arbitration*."

(3) The Commission's Decision

Res judicata and abuse of process

243. The applicable principles were authoritatively summarised by Lord Sumption JSC in *Virgin Atlantic Airways Ltd v Zodiac Seats UK Ltd* [2014] AC 160 at [17]– [26]. As he explained, the doctrine of *res judicata* encompasses a number of related principles, including issue estoppel (which precludes the re-litigation of an issue which has been necessarily decided between the same parties) and the rule in *Henderson v Henderson* (which bars a party from raising in subsequent proceedings matters which were not, but could and should, have been raised earlier). These principles are underpinned by a broader procedural policy against abusive litigation and the re-opening of matters which have already been conclusively determined.

244. Our reading of the award of the Section X Tribunal dated 9 May 2025 is that it gives rise to issue estoppel. In that award, the Section X Tribunal held at [103] that the PL had "*jurisdiction under Rule E.77 of the 2024/25 Premier League Rules to investigate an alleged breach by LCFC of the EFL's P&S Rules in force for the 2023/24 Season*". That conclusion proceeded expressly on the basis that the reference to "*aligned provisions*" in Rule E.77 was a reference to the EFL's P&S Rules (at [92]).

245. Although the Section X Tribunal was primarily concerned with the issue of jurisdiction, its reasoning necessarily addressed the scope and meaning of Rule E.77 for the purpose of identifying the regulatory framework governing the alleged breach. As we understand it, the determination of the meaning of "*aligned provisions*" was,

therefore, "*essential to the disposition*" of the jurisdictional issue in the Section X Arbitration (see *Zuckerman on Civil Procedure*, 4th ed., at 26.96).

246. In these proceedings, LCFC seeks to advance a construction of the same rule – Rule E.77 – read together with EFL Regulation 87.4, to contend that the PL must now apply the substance of the PSR to the assessment. That proposition is inconsistent with what was already decided in the Section X Arbitration and would, if accepted, undermine the earlier determination. We therefore conclude that the requirements of issue estoppel are satisfied and that LCFC is precluded from advancing before the Commission its contention that the applicable rules are the 2024/25 PL Rules and not the EFL's P&S Rules.

247. Even if the technical requirements of issue estoppel were not fully met, we would regard LCFC's renewed construction argument as an abuse of process. The argument concerns the same alleged breach, the same contractual provision, and goes directly to matters that were central to the Section X proceedings. It was plainly foreseeable that the construction of Rule E.77 would have implications beyond jurisdiction, including for the applicable ULT. In accordance with the rule in *Henderson v Henderson*, the argument could and should have been raised before the Section X Tribunal, but was not. No sufficient justification has been advanced for that omission.

248. In these circumstances, we accept the PL's submission that LCFC is precluded from advancing its proposed construction of Rule E.77 in these proceedings, on grounds of *res judicata* and, in the alternative, abuse of process.

Construction

249. In any event, should we be wrong on the issues of *res judicata* and/or abuse of process, we do not accept LCFC's submissions as to the proper construction of Rule E.77.

250. The principles of construction of contract are well-established and have been set down in any number of places. The parties cited a number of them but, in our view, it is difficult to improve on what was said by Lord Neuberger in *Arnold v Britton* [2015] AC 1619 at [15]:

> "*When interpreting a written contract, the court is concerned to identify the intention of the parties by reference to "what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the contract to mean", to quote Lord Hoffmann in Chartbrook Ltd v Persimmon Homes Ltd [2009] AC 1101, para 14. And it does so by focussing on the meaning of the relevant words, in this case clause 3(2) of each of the 25 leases, in their documentary, factual and commercial context. That meaning has to be assessed in the light of (i) the natural and ordinary meaning of the clause, (ii) any other relevant provisions of the lease, (iii) the overall purpose of the clause and the lease, (iv) the facts and circumstances known or assumed by*

the parties at the time that the document was executed, and (v) commercial common sense, but (vi) disregarding subjective evidence of any party's intentions."

251. The approach therefore is clear. Adopting that approach, we accept the PL's submission that the phrase "*aligned provisions*" in the main body of Rule E.77 refers to those EFL Regulations that are capable of being breached. There is no reason to attribute different meanings to the same phrase within a single rule. In a carefully drafted contract of this kind, it is generally to be expected that "*words and phrases will have been used in a consistent manner, in the absence of an identified reason for giving the same word a different meaning*" (*Chitty on Contracts*, 36th ed., at 16-077).

252. The same meaning therefore attaches to the phrase "*relevant aligned EFL Regulations*" in Rules E.77.1 and E.77.2. EFL Regulation 87.4 is not capable of breach; it operates as a procedural gateway for the transfer of jurisdiction. Its function is different in kind from the P&S provisions the alleged breach of which gives rise to the investigation. It would be linguistically strained to characterise a provision that is not capable of breach as one being "*investigated*" under Rule E.77. Accordingly, "*relevant aligned EFL Regulations*" refer to the P&S Rules, not to EFL Regulation 87.4.

253. This interpretation accords with the commercial and regulatory purpose of Rule E.77. The rule operates as a jurisdictional bridge (indeed, that is what the parties called the rule), ensuring that an alleged breach committed while a club was competing in the Championship remains capable of investigation and sanction notwithstanding the club's promotion to the Premier League. It does not operate to rewrite the applicable financial limit by reference to the rules of the league to which the club has subsequently moved. Had that been the parties' intention then no doubt they would have said so.

254. Further, LCFC's construction is undermined by its commercial consequences.

254.1. If, as LCFC suggested, the applicable ULT were automatically converted to the Premier League limit of £105 million upon promotion, a Championship club on the cusp of promotion could overspend beyond the EFL threshold in the expectation that any breach would later be assessed against a materially higher limit. That construction would risk incentivising precisely the type of "*gambling*" behaviour that the regulatory regime is designed to deter. In that context, LCFC's submission that fairness requires equal treatment with established Premier League clubs reverses the logic of the rule: the point of Rule E.77 is continuity of enforcement, not uniform substantive treatment following transition.

254.2. LCFC's construction would also lead to inconsistent treatment between a Championship club that is promoted and one that remains in the Championship after a comparable breach, notwithstanding that the conduct occurred under the same regulatory framework and economic conditions.

255. We do not consider those outcomes to be either coherent or consistent with the purpose of Rule E.77. By contrast, the PL's interpretation ensures that a club is assessed by reference to the substantive regulatory rules that it is alleged to have breached at the time of the transfer.

256. Accordingly, on a proper construction of the rules, the applicable ULT is £83 million.

X. QUANTUM OF BREACH

257. There are two issues between parties concerning the extent to which LCFC has exceeded its applicable ULT, namely:

257.1. whether LCFC's FY24 P&S breach falls to be assessed by reference to a 36-month period or a 37-month period; and

257.2. whether LCFC's loss should be reduced to reflect a revised accounting treatment adopted in its FY24 audited accounts in relation to contingent transfer fees (this is the "**New Treatment**").

A. The period of assessment

258. During the 2023/24 season, when LCFC was competing in the Premier League, the Club extended its financial year-end from 31 May to 30 June 2023. The effect of that extension was to bring an additional portion of the summer transfer window within the relevant accounting period. As Mr Davies explained, the purpose of the change was to allow any profit on player sales generated early in the summer window to be recognised within the same assessment period, thereby offsetting losses and improving the Club's PSR position for the period ending in FY23. The extension also had the effect, of course, of capturing an additional month of operating costs.

259. Both the PSR and the P&S Rules permit changes to a club's financial year-end and, as Mr Richards explained, there are a number of examples of clubs doing so for PSR-related reasons. Prior to implementing the change, LCFC sought – and obtained – confirmation from the PL that the PSR assessment for FY23 would continue to be conducted on a 36-month basis, notwithstanding that the relevant financial accounts would cover a total period of 37 months.

260. The consequence of the applicable assessment period on the quantum of breach is significant. Assessment on a 37-month basis would increase LCFC's losses for P&S purposes by approximately £18 million.

(1) The PL's Submissions

261. The PL's position was that a 37-month assessment period was supported by the

proper interpretation of the P&S Rules and by relevant investigatory practice, and that LCFC did not have a legitimate expectation of assessment on a 36-month basis.

262. On construction, the PL submitted as follows:

262.1. A club's financial performance under the P&S Rules is measured by reference to its "*P&S Calculation*", defined as "*the aggregation of a Club's Adjusted Earnings Before Tax for T, T-1 and T-2*" (Rule 1.1.15). "*Adjusted Earnings Before Tax*" means "*profit or loss before tax, as shown in the Annual Accounts*" (Rule 1.1.12). "*Annual Accounts*" are the accounts which a club's directors are required to prepare pursuant to section 394 of the Companies Act 2006 (Rule 1.1.5). Given that LCFC extended its accounting year-end in FY23 by one month, the audited accounts for FY22, FY23 and FY24 together covered a total period of 37 months.

262.2. LCFC's reliance on Annex 1 to the P&S Rules, previously headed "*Reporting period: 36 months ending on __ 20XX*", was misplaced. The heading to Annex 1 was not an operative part of the P&S Rules and could not displace their substantive provisions and definitions.

263. The PL further contended that a 37-month period was consistent with relevant practice under the P&S Rules. It emphasised that practice under the P&S Rules, not the PSR, was determinative. Even if the PL had previously accepted 36-month assessment periods in some cases involving accounting year-end changes under the PSR, the consistent practice under the P&S Rules was said to be to apply extended assessment periods where accounting periods were extended. In support, the PL relied on the EFL disciplinary commission decision (16 July 2020) and the EFL League Arbitration decision (4 November 2020) in *Sheffield Wednesday v EFL*, where the club was assessed on a 38-month basis following two extensions of its accounting period. The PL further contended that the EFL's practice of applying extended assessment periods in accordance with the P&S Rules was "*repeatedly communicated*" by the CFRU to LCFC during FY24.

264. The PL also submitted that LCFC had no legitimate expectation of assessment on a 36-month basis:

264.1. As a matter of law, the PL relied on *R (Jackley) v Secretary of State for Justice* [2015] EWHC 342 (Admin) at [42]–[43], submitting that just as the doctrine of legitimate expectation cannot require a public authority to act contrary to statute, LCFC could have no legitimate expectation that the P&S Rules "*would be applied in a manner contrary to their true and clear meaning*."

264.2. On the facts, the PL submitted that although Mr Christie and Mr Richards had discussions with Mr Capper of LCFC, those discussions did not address the effect of LCFC's accounting year-end change on the relevant assessment period "*for future compliance with the EFL's P&S Rules*." Nor, the PL

contended, did anyone involved in those discussions understand that "*representations were even impliedly made in relation to future P&S Calculations.*"

(2) LCFC's Submissions

265. LCFC submitted that the rules governing the assessment period were not the P&S Rules but the PSR as in force at the date of transfer of the FY24 investigation. In that regard, it repeated its submissions on the applicable ULT. On that footing, LCFC submitted that the PL's established practice under the PSR – namely assessing compliance by reference to a 36-month period notwithstanding an extension of a club's accounting year-end – should apply equally in these proceedings.

266. In the alternative, LCFC submitted that, even if the P&S Rules applied (and not the PSR), their proper construction nonetheless required a 36-month assessment period irrespective of any extension of the accounting year. LCFC advanced the following reasons.

266.1. The PSR and the P&S Rules were materially identical, and the P&S Rules should therefore be interpreted in the same manner as the PSR.

266.2. LCFC relied on Annex 1 of the P&S Rules, headed in materially identical terms to Form 3A of the PSR as "*Reporting Period: 36 months ending on…20…*". Annex 1 and Form 3A were said to be "*integral parts of the relevant rules*" and therefore demonstrated that a 36-month period was always intended to apply under both regimes.

266.3. That construction was said to be fair and to make practical sense, as it ensured that all clubs were assessed by reference to the same 36-month period, irrespective of changes in accounting year-end or the competition in which they competed.

266.4. The EFL disciplinary commission decision (16 July 2020) and the EFL League Arbitration decision (4 November 2020) in *Sheffield Wednesday v EFL* were said not to be binding, and in any event did not record argument that the approach adopted there was incorrect.

267. As to practice, LCFC submitted as follows.

267.1. The PL was required to adopt a consistent approach to assessment periods under both the PSR and the P&S Rules.

267.2. There was no justification for the PL to apply the EFL's approach where that approach was inconsistent with the PSR. Since the PL was the prosecuting body in these proceedings, it was the PL's own practice that mattered.

267.3. Because the PL assessed PSR breaches over a 36-month period in cases

where the accounting year-end had been extended, it was required to adopt the same approach when assessing alleged breaches of the P&S Rules.

268. LCFC further submitted that even if, on their face, the P&S Rules required a 37-month assessment period, the PL's prior assurances gave rise to a legitimate expectation that LCFC would be assessed over a 36-month period.

268.1. The Club contended that the doctrine of legitimate expectation applies in the context of sports disciplinary decisions, relying on *Football Association v Mourinho* (13 December 2018). In that regard, LCFC submitted that the doctrine involves:

> "*a clear and unambiguous representation or promise by a sports body on which a club relies from which it is unfair for the body to depart, but can also be generated by a policy or practice. Reliance is not a necessary element, but only a factor to take into account in assessing whether it would be proper for the party making the representation to depart from it*."

268.2. LCFC contended that the PL assured it that a 36-month period would be applied to its FY23 PSR assessment in the context of LCFC's decision to change its financial year-end, following which LCFC proceeded to make that change. That assurance was said to be "*implicitly being of general application to future assessments*" under both the PSR and the P&S Rules, because it would be unreasonable to adopt inconsistent approaches, a different approach would create compliance difficulties for clubs, and no suggestion was made to LCFC that any alternative approach might be adopted in the future.

(3) The Commission's Decision

269. Under the P&S Rules, a club's financial performance is measured by reference to its "*Annual Accounts*" as defined in Rule 1.1.5. Where a club extends its accounting year-end, the audited accounts for the relevant years will, taken together, cover a correspondingly extended period. In LCFC's case, the audited accounts for FY22, FY23 and FY24 together covered a total period of 37 months. Absent any other consideration, that would point towards a 37-month assessment period for the purposes of the P&S calculation for the assessment period ending in FY24. We therefore accept the PL's submission that, on a literal application of the P&S Rules, a 37-month period applies.

270. The question is therefore whether, notwithstanding that starting point, it would be unfair for the PL to assess LCFC on a 37-month basis in the particular circumstances of this case. We accept LCFC's submission that this question falls to be analysed through the doctrine of legitimate expectation. The doctrine originated in the context of administrative law. A detailed exposition of the doctrine was offered by Laws LJ

in *R (Niazi) v Secretary of State for the Home Department* [2008] EWCA Civ 755 at [27] – [51]. A broad summary at [50] is as follows:

> "*A very broad summary of the place of legitimate expectations in public law might be expressed as follows. The power of public authorities to change policy is constrained by the legal duty to be fair (and other constraints which the law imposes). A change of policy which would otherwise be legally unexceptionable may be held unfair by reason of prior action, or inaction, by the authority. If it has distinctly promised to consult those affected or potentially affected, then ordinarily it must consult (the paradigm case of procedural expectation). If it has distinctly promised to preserve existing policy for a specific person or group who would be substantially affected by the change, then ordinarily it must keep its promise (substantive expectation). If, without any promise, it has established a policy distinctly and substantially affecting a specific person or group who in the circumstances was in reason entitled to rely on its continuance and did so, then ordinarily it must consult before effecting any change (the secondary case of procedural expectation). To do otherwise, in any of these instances, would be to act so unfairly as to perpetrate an abuse of power.*"

271. The essence of the doctrine was more recently summarised in *R* (*Alliance of Turkish Businesspeople Ltd*) *v Secretary of State for Home Department* [2019] EWHC 603 (Admin) at [32]:

> "*In order to rely on the doctrine of legitimate expectation there must be a promise or representation, which representation may arise from habitual practice, which is clear and unambiguous and on which it is reasonable for the applicant to rely. This may require a detailed examination of the precise terms of the promise or representation made, the circumstances in which the promise or representation was made, and the nature of the statutory or other discretion to be exercised by the policy maker*."

272. It is now well established that the doctrine is capable of application in the context of sports governing bodies (*Lewis & Taylor, Sport: Law and Practice*, Bloomsbury Publishing (2021), 4th edn, at B3.132); *Mourinho* at [33]-[44]. Although no "*comprehensive exposition*" of the doctrine was offered in *Mourinho*, two important propositions should be noted:

    272.1. A legitimate expectation may arise not only from an "*express promise*" (at [50]) or an "*unequivocal representation*" (at [36]), but also from a previous practice from which the sports regulator has significantly departed for no good reason.

    272.2. A party's "*actual reliance*" is not a strict legal requirement, but a factor relevant to the overall assessment of fairness (at [36]; [58]).

273. In the present case, the question of the appropriate assessment period arises from

LCFC's decision to extend its financial year-end in FY23 by one month, from 31 May to 30 June 2023. That decision was taken at a time when LCFC was a member of the Premier League. There was no change to LCFC's accounting year-end in FY22 or FY24.

274. There is no dispute that the PL assessed LCFC's compliance with the PSR for the assessment period ending in FY23 on the basis of a 36-month period, notwithstanding the fact that LCFC's audited accounts for that period covered 37 months. There is also no dispute that, between March and May 2023, the PL, acting through Mr Richards and Mr Christie, communicated clearly to LCFC that its PSR assessment for FY23 would be conducted on that basis.

275. The investigation into the alleged breach of the P&S Rules for the assessment period ending in FY24 was commenced when LCFC was competing in the Championship. Mr Potterill-Tilney gave evidence that the CFRU's "*current and historic practice*" was to assess P&S Calculations by reference to the relevant accounting reference periods, without adapting the calculation so as to shorten or lengthen the period of assessment.

276. That evidence explains why the CFRU, had it remained responsible for the investigation or prosecution of LCFC's alleged breaches, might have proceeded on a 37-month basis for FY24. It does not, however, resolve the position of the PL as investigator and prosecutor in these proceedings. We accept that the PL made no express representation as to the application of the P&S Rules. However, as recognised in *Mourinho* at [36], an express promise or unambiguous assurance is not a necessary precondition to the existence of a legitimate expectation.

277. Mr Richards and Mr Christie both confirmed in evidence that the PL considered a 36-month assessment period to be consistent with the PSR, notwithstanding the extension of LCFC's accounting period in FY23. On balance, and having regard to the context in which those indications were given, we consider that communicated position to be capable of amounting to an established practice as between the PL and LCFC in relation to the treatment of FY23, including for the purposes of subsequent assessments in which that financial year would be carried forward.

278. In that context, it was reasonable for LCFC to have understood the PL's indications as meaning that, notwithstanding the permitted change of year-end, the PL would continue to assess compliance over a 36-month period for future assessments. The reasonableness of that expectation is reinforced by the fact that the PSR and the P&S Rules are materially identical, and that, for the purposes of this case, both regimes are being enforced by the same body – the PL.

279. Consistent with authority, we do not consider it necessary for LCFC to establish "*actual reliance*" on the PL's communications in 2023. It is sufficient that the PL's assurances influenced the Club's decision-making. Mr Davies' evidence was that LCFC would have seriously considered not extending its year-end if there had been a real prospect that FY23 or subsequent years would be assessed on a 37-month basis.

As he explained, the year-end change only made financial sense for LCFC if a 36-month assessment period was applied consistently, not merely for the FY23 PSR assessment, but also for future assessment periods incorporating FY23. As such, the PL's communicated position in 2023 influenced the Club's decision to change year-end with the knowledge that the change of FY23 year-end would affect its future PSR and/or P&S Rules compliance.

280. The PL accepted a 36-month assessment period when prosecuting LCFC's PSR compliance in FY23, even though the underlying accounts covered a 37-month period. The PL now seeks, when prosecuting LCFC for an alleged breach of the P&S Rules for FY24 (where FY23 is year T-1), to adopt a different treatment of that same financial year. In these circumstances, and viewed in the round, the PL's decision to assess LCFC FY23 on a 36-month basis for PSR purposes, but on a 37-month basis when FY23 is incorporated into the P&S assessment for FY24, amounts, in substance, to a departure from the position previously communicated to LCFC in March-May 2023.

281. The PL submitted that the principle articulated in *Jackley* precludes the application of the doctrine of legitimate expectation in the present case. We accept the general proposition, reflected in *Jackley* at [42] and the authorities cited there, that a legitimate expectation cannot require a public authority to act contrary to the requirements of primary legislation or in breach of a statutory duty. That principle does not, however, determine the present issue. The P&S Rules are not primary legislation, nor do they impose a statutory duty of the kind considered in *Jackley* and related authorities.

282. Furthermore, even if the P&S Rules were approached by analogy with a statute, they do not prescribe, in mandatory terms, how the consequences of a permitted change in accounting year-end must be treated in circumstances where the prosecuting body has previously adopted and communicated a different approach. The PL itself accepted that a 36-month assessment period was consistent with the PSR (which are materially identical to the P&S Rules) when prosecuting LCFC's PSR compliance for FY23. Similarly, the relevant P&S Rules do not expressly compel the PL to prosecute the Complaint on a 37-month basis.

283. Accordingly, LCFC is relying upon the doctrine of legitimate expectation not to override or contradict the P&S Rules. Rather, it is being invoked to assess whether it would be fair for the PL, as prosecutor of the Complaint, to depart from the position it previously adopted and communicated to LCFC when applying materially identical rules in a subsequent and closely connected assessment. Properly understood, therefore, the limitation on legitimate expectation identified in *Jackley* does not arise in this case.

284. Ultimately, fairness is the central tenet of the doctrine of legitimate expectation (*Mourinho* at [38]). This is not a case in which the answer is obvious or free from difficulty. However, weighing the competing factors, we consider that it would be unfair for the PL, having clearly indicated that FY23 would be assessed on a 36-

month basis, to resile from that position when prosecuting LCFC for a breach of the P&S Rules for the assessment period ending in FY24.

285. On balance, therefore, we conclude that LCFC's compliance with the P&S Rules for that assessment period falls to be assessed on a 36-month basis. It follows that the amount of overspend (subject to the adjustments under "*The New Treatment*" below) is £23.6 million.

B. The New Treatment

286. As noted, this issue concerns whether LCFC's FY22 loss figure should be reduced to reflect a revised accounting treatment adopted in its FY24 (and applied in FY23 and FY22) audited accounts in relation to contingent transfer fees.

287. LCFC submitted that the New Treatment was required by its auditors during the FY24 audit and was subsequently applied retrospectively to prior financial periods for the purpose of restating comparative balance-sheet values. The resulting adjustment has already been reflected in the FY24 accounts for P&S/PSR purposes. LCFC contended that, in order to maintain consistency, an equivalent adjustment should now be reflected against FY22 for the purposes of the loss calculation under the financial rules.

288. As explained by Mr Davies, prior to FY24, LCFC capitalised the contingent elements of transfer fees on the basis of expectations over the duration of a player's contract. During the FY24 audit, LCFC's auditors determined that, as a matter of accounting principles, only contingent fees reasonably expected to crystallise within the current financial year should be recognised in the club's annual accounts each year. That revised approach was implemented and approved by the auditors in the FY24 accounts, which included a restatement of the comparative figures for FY23.

289. LCFC submitted that the application of the New Treatment would result in a reduction to its FY22 losses of approximately £2.79 million to £3.04 million, depending on whether a 36- or 37-month assessment period is used. The PL accepted figures derived from the New Treatment when assessing FY23 and FY24 for the purposes of the alleged breach of the P&S Rules but its assessment of FY22 is nevertheless based on the original accounting treatment in LCFC's FY22 statutory accounts.

290. The P&S Rules define a club's Earnings Before Tax, the starting point of its P&S calculation, as the "*profit or loss before tax, as shown in the Annual Accounts*" and stipulate that the "*Annual Accounts must be prepared and audited in accordance with all legal and regulatory requirements applicable to accounts…*". The PL argued that, in the absence of re-stated audited accounts for FY22, it cannot accept LCFC's proposed reduction to the FY22 loss.

291. We accept the PL's concern that, as a general matter, adherence to statutory accounts

promotes certainty and predictability in the application of the financial rules. The PL would ordinarily depart from statutory accounts only where it has been provided with confirmed written assurance from the club's auditors. That said, although the P&S Rules require that permitted addbacks in the P&S Calculation "*shall only be excluded from the calculation of Adjusted Earnings Before Tax if separately disclosed (i) by way of notes to the Annual Accounts; or (ii) by way of supplementary information which ... has been subject to independent audit*", in practice both the EFL and the PL, in respect of PSR returns by its member clubs, are understood to have accepted, for many years, addbacks which have not been subject to independent audit.

292. Moreover, there may be exceptional circumstances in which departure from statutory accounts is justified. As held in *Sheffield Wednesday v EFL* (4 November 2020) at [63], the requirement of strict adherence to statutory accounts under the P&S Rules must be understood purposively, so that the P&S Calculation is not conducted on a "*false basis*".

293. Such cases are indeed exceptional, and departure from statutory accounts should not be undertaken lightly. In the present case, the PL does not challenge the substantive correctness of the figures produced under the New Treatment. Its concern is limited to the absence of written confirmation from LCFC's auditors. Mr Davies, whom Mr Segan KC accepted to be an honest witness, confirmed in his evidence that he had reviewed an auditors' report reflecting the figures relied upon by the Club under the New Treatment. This report could not be provided to the PL because the auditors and the parties were unable to reach agreement on suitable terms for disclosure. The Commission has also satisfied itself that the New Treatment figures are reasonable and do not give rise to double counting.

294. Mr Davies also explained that, on a 36-month basis, the amount of expenditure eligible for the Youth Development add-back was increased by £95,000. We accept that the Youth Development add-back may marginally decrease the level of LCFC's adjusted loss. However, given the limited quantum involved, we do not consider that adjustment to be material for the purposes of determining sanction, and we do not take it further into account.

C. Conclusion on Quantum

295. In these circumstances, we conclude that, for the purposes of assessing the quantum of LCFC's breach of the P&S Rules, an amount of £2.79 million (on a 36-month basis), falls to be deducted from LCFC's FY22 loss figure. On a 36-month basis, LCFC's overspend is £23.6 million. Applying the New Treatment reduces that figure by £2.79 million. The resulting overspend is therefore approximately **£20.8 million**.

XI. DISCLOSURE BREACHES

A. The PL's Submissions

296. The PL's case was that LCFC's refusal to provide its FY24 Annual Accounts, despite requests made by the PL by emails dated 2 January 2025, 7 January 2025, 8 January 2025 and 13 January 2025, and by application to the Section X Tribunal, amounted to breaches of Rules B.18, W.1 and/or W.16 of the 2024/25 PL Rules. The PL's primary position was that these alleged Disclosure Breaches should be treated as aggravating factors when determining the appropriate sanction for LCFC's breach of the P&S Rules. Its secondary position was that the Disclosure Breaches should be sanctioned separately.

297. The PL submitted that Rule B.18, as a general provision, was complementary to the more specific provisions in Rules W.1 and W.16. Since there was, in its submission, no inconsistency or contradiction between the specific and general provisions, there was no basis for requiring Rules W.1 and W.16 to prevail over Rule B.18. The PL accepted the general principle of contractual interpretation that specific provisions are ordinarily given greater weight than general provisions, but submitted that this principle applies "*for the purposes of resolving inconsistencies or contradictions*", relying on *The Eternity* [2009] 1 All ER (Comm) 556 at [20(a)].

298. The PL further accepted that any discretionary powers under Rules B.18, W.1 and W.16 must be exercised rationally, in good faith and consistently with their contractual purpose. However, it did not accept that it was required to "*have (and state) grounds that are viewed in hindsight as objectively valid*" in order to exercise those powers. It submitted that it had good reasons to seek LCFC's FY24 Annual Accounts:

298.1. At the time the requests were made, the PL was entitled to investigate LCFC's anticipated breach of the P&S Rules. Alternatively, LCFC was subject to the PSR, which required it to submit its FY24 Annual Accounts by 31 December 2024.

298.2. The PL was actively seeking to expedite the Section X Arbitration with a view to resolving any potential Section W complaint. It was not until 20 February 2025 that it became apparent that the final award of the Section X Tribunal was unlikely to be issued before 15 April 2025.

298.3. Had LCFC provided the FY24 Annual Accounts when requested, Mr Herbert would have recommended that the PL commence Section W proceedings immediately and in parallel with the Section X Arbitration, with the aim of resolving any Section W proceedings by the end of the 2024/25 season.

299. The PL also submitted that LCFC was wrong to contend that the Section X Tribunal had concluded that the disclosure was not sought for, or reasonably required for, case

management purposes in the Section X Arbitration. The PL further contended that "*actual prejudice*" was not a precondition to the valid exercise of its discretionary powers; and that, in any event, LCFC's repeated refusal to provide the FY24 Annual Accounts had in fact been prejudicial.

B. LCFC's Submissions

300. LCFC denied breaching Rules B.18, W.1 or W.16. Its submissions on the rules were as follows.

300.1. LCFC submitted that Rule B.18 had no application because the PL possessed specific Section W powers in the disciplinary context. Applying orthodox principles of contractual interpretation, where a contract contains both general and specific provisions, the specific provisions prevail where the facts fall within their scope. LCFC relied on Lewison, *The Interpretation of Contracts*, 8th edn., at [7.46]–[7.52], including the principle that "*where a contract contains general provisions and specific provisions, the specific provisions will be given greater weight than the general provisions where the facts to which the contract is to be applied fall within the scope of the specific provisions*."

300.2. LCFC further submitted that any power to request documents under Rules W.1 and W.16 was subject to an implied limitation requiring the power to be exercised *"in good faith and not arbitrarily, capriciously or irrationally or for an improper purpose"*. It relied on *Tesco Stores Ltd v Union of Shop, Distributive and Allied Workers* [2025] UKSC 28, per Lord Leggatt JSC at [127], and *Braganza v BP Shipping* [2015] UKSC 17. In that context, LCFC submitted that "*PL must have, and act in the belief it has, a good reason for any request it makes.*"

301. LCFC submitted that the PL had no good reason to request the FY24 Annual Accounts in advance of 31 March 2025, particularly where LCFC had confirmed its intention to provide those accounts by that date. LCFC argued that the PL's January 2025 requests were *"based on the false premise"* that disclosure had been due on 31 December 2024 under Rule E.50 of the PL Rules. It further submitted that any delay in issuing the Complaint arose from the procedural timetable dictated by the Section X Arbitration, rather than from LCFC's timing in providing the accounts. LCFC relied on Mr Herbert's evidence that the PL could have brought charges without the final FY24 accounts.

302. LCFC contended that the PL acted unreasonably in seeking information it did not require, and that LCFC acted reasonably in withholding disclosure for a short period while the Section X Arbitration was ongoing, given that those proceedings concerned the threshold issue of whether the PL had jurisdiction to pursue disciplinary action at all. LCFC further contended that the PL suffered no prejudice as a result of the timing of disclosure. Again relying on Mr Herbert's evidence, LCFC submitted that even

had the PL commenced proceedings earlier, the Commission would likely have stayed them pending the Section X Tribunal's decision.

303. Finally, LCFC submitted that, even if a disclosure breach were established, any sanction should be financial only. Such a breach, it argued, was not of a *"severity that warrants sporting sanction"*, relying on *Football Association v Paquetá (Sanction and Costs)* (28 October 2025). For the same reason, LCFC objected to any disclosure breach being treated as an aggravating factor in determining the sanction for the substantive breach of the P&S Rules.

C. The Commission's Decision

304. We take the view that LCFC's refusal to provide its FY24 Annual Accounts in response to the PL's requests constituted a breach of the 2024/25 PL Rules, in particular Rules B.18, W.1 and W.16 therein.

305. We reject LCFC's submission that Rule B.18 was displaced by the existence of Section W disciplinary powers. While it is correct that, as a matter of contractual construction, specific provisions may prevail over general provisions where there is inconsistency, that principle has no application where provisions operate in a complementary manner, as they do here. We accept the PL's submission that Rules B.18, W.1 and W.16 address distinct aspects of the PL's regulatory framework and are neither inconsistent nor contradictory. There is therefore no basis for treating Rule B.18 as inapplicable.

306. We also reject LCFC's contention that the PL acted arbitrarily, capriciously, or for an improper purpose in requesting the FY24 Annual Accounts. We accept that the exercise of contractual discretion under Rules B.18, W.1 and W.16 is subject to implied constraints of rationality and good faith. However, we do not accept that the PL was required to demonstrate, with the benefit of hindsight, that the information sought was objectively indispensable before making the request. The relevant question is whether the requests were made for a legitimate regulatory purpose.

307. On the evidence before us, we are satisfied that the PL had reasonable and proper grounds for seeking the Club's FY24 Annual Accounts when it did. At the time of the requests in January 2025, the PL was actively considering LCFC's financial position, including potential breaches of the P&S Rules, and was seeking to manage and, if possible, expedite disciplinary proceedings against the Club. The fact that LCFC had indicated an intention to submit its accounts by 31 March 2025 does not negate the PL's entitlement to seek earlier disclosure in pursuit of its regulatory functions. This was the date on which the accounts would have been submitted to the Companies House anyway and become a public document.

308. Furthermore, neither the FY23 Proceedings nor the Section X Arbitration suspended LCFC's ongoing obligations to provide information under the PL Rules. In these circumstances, repeated refusal to provide information reasonably sought by the PL

is capable of prejudicing the effective and timely operation of the disciplinary process. We therefore find that LCFC's failure to provide the FY24 Annual Accounts upon request amounted to a breach of its disclosure obligations under the 2024/25 PL Rules.

309. However, we accept that it is neither necessary nor proportionate to impose a separate sanction in respect of that breach. Instead, we will take LCFC's conduct in this respect into account when considering aggravating (and mitigating) factors for the purposes of determining the appropriate sanction for the breach of the P&S Rules (*see* paragraphs 391 and 396 below).

XII. THE SANCTION

A. The PL's Submissions

(1) The Commission's Sanctioning Powers

310. The PL's position was that the Commission has powers under Rule W.52.10 in the 27 March 2025 edition of the PL Rules to recommend sanctions in the EFL. It submitted that these proceedings were commenced under Rule W.24 of the 27 March 2025 edition of the PL Rules. Therefore, it said that "*these proceedings exist under, and fall to be conducted in accordance with, those rules.*"

311. The PL's contention was that while LCFC's substantive breach falls to be assessed by the rules in place at the time of the breach, the Commission's powers fall to be exercised as they exist under "*the applicable edition of the rules*" as those are "*the (only) powers at its disposal*". The Commission's power to make a recommendation under Rule W.52.10 was said to be a "*prospective, not retrospective, power*". In this regard, it relied on *Wilson v First County Trust Ltd* (No. 2) [2004] 1 AC 816 at [199]–[202].

312. The PL further submitted that, even if reliance on Rule W.52.10 were retrospective, that would not prevent the Commission from relying on it. The intention of parties to a contract to make agreements having retrospective effect, PL said, "*will be more readily seen where the parties have a pre-existing contractual relationship*", relying on *Pentecost v John* [2015] EWHC 1970 at [27]– [28].

313. The PL contended that the presumption of non-retroactivity, which applies to legislation and criminal legislation in particular, is not applicable in the context of the PL Rules. It further submitted that, even in a statutory context, regulatory (as opposed to criminal) powers can be exercised "*to sanction historical misconduct predating the existence of such powers*", relying on *McTier v Secretary of State for Education* [2017] EWHC 212 (Admin) at [71]–[75].

314. The PL submitted that it "*never represented that Rule W.52.10*" would not be exercisable "*in respect of concluded financial years*." Relying on Mr Herbert's evidence, the PL argued that the PL's representations confirmed the prospective application of amendments affecting clubs' substantive obligations under the PSR, not amendments affecting sanctioning powers of a Section W commission.

315. The PL's position was that, in any event, the Commission has powers to impose "*such other penalty as it shall think fit*" (Rule W.52.7) and to make "*such other order as it thinks fit*" (Rule W.52.11), which powers existed (numbered differently) at the time of the breach. The introduction of Rule W.52.10, it said, was only to "*clarify*" the powers that the Commission already had, relying on the Minutes of the PL's General Meeting of Shareholders on 27 March 2025 which recorded the adoption of the amendment.

(2) Approach to Sanctions

316. The PL's primary position was that the appropriate sanction is a points deduction in the Championship, which should be determined by reference to the EFL Sanctioning Guidelines "*as well as previous cases decided under the P&S Rules and PSR*." Given that these proceedings relate to a breach of the P&S Rules, the PL submitted that LCFC should be sanctioned by reference to the guidelines applicable to breaches of the P&S Rules. It said that the EFL would have applied the same guidelines had it retained responsibility for the investigation. Further, the PL argued that the guidelines have been referred to repeatedly by disciplinary tribunals and appeal boards in the context of both the P&S Rules and the PSR, including in *EFL v Birmingham City* (22 March 2019) at [31]–[33], *Sheffield Wednesday* at [89]–[95], *Everton I* at [43]–[46], [183], [187]–[190], [206], [209]–[214], and *Everton II* at [197].

(3) Starting Point

317. The PL advanced three cases in relation to the appropriate starting point.

317.1. Its primary case was that the EFL Sanctioning Guidelines should be "*applied as normal*" in this case, notwithstanding the fact that LCFC's ULT for FY24 was £83 million. On that basis, the PL submitted that the appropriate starting point under the EFL Sanctioning Guidelines for LCFC's overspend (being in excess of £15 million) was a 12-point deduction, irrespective of whether the assessment was conducted on a 36-month or a 37-month basis.

317.2. The PL's first alternative was an adjusted methodology for identifying a starting point. That approach involved applying the EFL Sanctioning Guidelines by reference to the percentage overspend, rather than the absolute value of the overspend, on a relative scale. On that basis, the PL submitted that the starting point would be a 12-point deduction on a 37-month basis or an eight-point deduction on a 36-month basis.

317.3. The PL's second alternative was to apply the approach adopted in *Everton II*. That would, the PL submitted, result in a starting point of a 10-point deduction on a 37-month basis or a seven-point deduction on a 36-month basis.

(4) Aggravating Factors

318. The PL relied on two aggravating factors: (a) LCFC's overspend for the assessment period ending in FY23; and (b) the Disclosure Breaches.

319. As to the first factor, the PL submitted that the present complaint concerned a second successive assessment period in which LCFC had exceeded the applicable ULT. While LCFC had "*avoided sanction*" for FY23 by advancing a jurisdictional objection that had "*since been found to be wrong in law*" by the Section X Tribunal, the PL argued that LCFC's PSR calculation for the FY23 assessment period showed an overspend of £19.5 million above the £105 million ULT. In those circumstances, the PL contended that LCFC knew, for a sustained period, that it was likely to breach the P&S Rules for the FY24 assessment period.

320. The PL emphasised that it was not seeking to reopen the FY23 complaint. Rather, it relied on the fact that LCFC had exceeded its ULT in two successive assessment periods and had faced "*no sanction at all*" in respect of FY23. The PL submitted that the relevant aggravating feature was "*not LCFC's assertion of jurisdictional objections*", but the fact of the FY23 overspend itself. The Commission could, the PL argued, take that overspend into account without determining whether LCFC was in breach in FY23. While accepting that there was a degree of overlap between the two assessment periods, the PL submitted that the FY23 overspend evidenced "*a longer-term failure to comply with profit and sustainability rules*."

321. The PL further relied on the Disclosure Breaches as a second aggravating factor. As determined above at paragraph 304, LCFC breached its disclosure obligations under the PL Rules. The PL's primary case was that those breaches should be treated as aggravating the P&S Breach. It submitted that the Disclosure Breaches were "*particularly culpable, and particularly prejudicial to the effective operation of*" the PL's disciplinary regime. The PL argued that LCFC had advanced no positive justification for refusing to provide its accounts despite the fact that the accounts had been prepared and were readily available. It invited the Commission to infer that LCFC withheld the accounts "*to delay the issuing of this Complaint*", avoid sanctions, and maximise its prospects of avoiding relegation.

322. The PL further submitted that, although the Disclosure Breaches constituted separate breaches of the PL Rules, they could properly be treated as aggravating the P&S Breach because they obstructed the investigation of that breach. In this regard, the PL also relied on the evidence of Mr Potterill-Tilney, who described similar instances in which LCFC had refused repeated requests for documents by the EFL.

(5) Mitigating Factors

323. The PL objected to the mitigating factors advanced by LCFC. In relation to "*exceptional cooperation*", it submitted that LCFC had "*disrupted and delayed*" the PL's investigation and these proceedings at multiple stages. In particular, the PL contended that LCFC had sought to frustrate progress by "*purporting to*" admit breach in its Answer while simultaneously advancing inconsistent positions, declining to particularise its competition law case, and seeking bifurcation of the proceedings at the directions hearing on 11 July 2025.

324. As to positive trend, the PL accepted that, "*if operating by analogy with the EFL Sanctioning Guidelines*", LCFC's improved financial trajectory could justify mitigation of one point. However, it contended that the positive trend did not warrant mitigation of "*greater than 1 point*", because the adverse circumstances surrounding LCFC's FY23 overspend should not themselves be treated as mitigating factors, (relying on *Everton I and Everton II*).

(6) Fine

325. The PL's alternative position was that, if an effective points deduction were not available, the Commission should impose a fine which is "*of equivalent financial value to the sporting sanction that might otherwise be appropriate*." The financial value, it submitted, should not involve a "*crude calculation*" of the literal price a club would pay for a points deduction, or the amount it might have paid in a season in which such a deduction would have had only a marginal sporting or financial impact. Instead, it submitted that this was a "*holistic question*" and it advanced three benchmarks for determining an appropriate level of fine.

325.1. As its primary benchmark, the PL submitted that the fine should be £20 million, reflecting the financial value of LCFC's promotion to the Premier League at the end of the 2023/24 season.

325.2. As an alternative benchmark, it suggested a fine of £0.8 million for each point that would have been deducted had the Commission imposed a points deduction.

325.3. As a further alternative, the PL referred to the scheme adopted in the context of the Championship FFP, summarised in *QPR* at [46]. Under that scheme, in the event of an overspend, a club would be subject to a fine calculated by reference to the amount of overspend, increasing in severity with the increase in overspend. On the basis of that scheme, the PL submitted that the resulting fine for LCFC would be between £16.7 million on a 36-month assessment and £38.7 million on a 37-month assessment.

326. In response to LCFC's submission that any fine should be excluded from future PSR and P&S calculations, the PL submitted that those calculations are governed by the

PSR and the P&S Rules, which contain an exhaustive list of permitted add-backs. Excluding a fine from future calculations would, it argued, be inconsistent with those rules.

327. As to the mechanism for imposing a fine, the PL submitted that the Commission should determine the appropriate amount but make its payment conditional upon a further order of the Commission. It proposed that the Commission grant the PL liberty to apply for such an order lifting the suspension, so that the Commission would be able to decide, at a later stage, whether and when the fine should be triggered.

B. LCFC's Submissions

(1) The Commission's Sanctioning Powers

328. LCFC's position on sanctioning powers changed significantly over the course of the hearing. While LCFC initially contended that the appropriate sanction was a delayed points deduction in the Premier League as and when the Club was promoted back to the Premier League, it ultimately advanced the position that the Commission did not have power to impose any sporting sanction in the form of a points deduction – whether immediately in the Championship (directly or by recommendation) or as a delayed deduction upon return to the Premier League – under Rule W.52 of the 2024/25 PL Rules.

329. LCFC contended that the Commission lacked power to impose a points deduction in the Premier League because the power under Rule W.52.4 is confined to a club that is currently a member of the Premier League and participating in "*League Matches*" (i.e., Premier League matches). As LCFC was a member of the Championship at the time of sanction, the Commission could not impose a points deduction upon any future return to the Premier League.

330. LCFC further contended that the Commission lacked power to recommend or impose a sanction in the Championship because that power was introduced only by the amendment creating what is now Rule W.52.10. That amendment was made on 27 March 2025, whereas the alleged breach concerned FY24 with a year-end of 30 June 2024. On that basis, LCFC argued that the amendment could not apply to its alleged breach.

331. LCFC submitted that there is "*a strong presumption*" in sports law that the determination of what sanctions can be imposed must be done in accordance with the law in effect at the time of the allegedly sanctionable conduct, relying on *Anderson v IOC* CAS 2008/A/1545 at [10] and *Lewis & Taylor* at B1.40. It further relied on the presumption against retroactivity in statutory interpretation (*Re Barretto* [1994] 1 All ER 447) and on the contractual principle that the more unreasonable a result, the less likely it is to have been intended and the clearer the language required.

332. LCFC further contended that the PL had made clear and unequivocal representations that the proposed amendment to the PL Rules "*would not apply to any PSR assessment periods ending with Accounting Reference Periods that have already finished*". LCFC argued that those assurances were general and unqualified, and that a reasonable reader would understand them to extend to the sanctioning powers of a Section W commission, rather than being confined solely to substantive obligations under the PSR.

333. LCFC also submitted that the Commission's general powers to make "*such other order as it thinks fit*" (Rule W.52.11) or "*to impose ... any combination of the foregoing or such other penalty as it shall think fit*" (Rule W.52.7) do not include a power to recommend sanctions to the EFL. In addition, LCFC contended that the EFL itself lacked power to impose any sanction recommended by the Commission, because Regulation 87.7 of the EFL Regulations conferring such power was introduced only in April 2025, after the date of the alleged breach.

334. LCFC's initial position was that a fine was not an appropriate sanction because it was unrealistic to set a financial metric that reflected a sporting sanction, relying on *Everton II* at [215]. By the end of the hearing, however, LCFC's position changed. Its final position was that the only sanction that the Commission has power to impose and/or recommend in the current proceedings is a fine. LCFC's submissions in relation to the appropriate approach to determine fine are summarised below.

(2) Approach to Sanctions

335. LCFC contended that, in the event that the Commission does have power to recommend and/or impose a sporting sanction, the Commission should not apply the EFL Sanctioning Guidelines. It said that there is no provision in the 2024/25 PL Rules which provides that the Commission can or should apply the EFL Sanctioning Guidelines. Instead, its position was that the Commission should apply "*a substantial body of case-law*" concerning the sanctioning powers of PL commissions, and should treat this case "*like any other case before*" the Commission when determining sanction, relying in particular on *Everton I* at [211]–[218].

336. LCFC further argued that, even if the Commission were to have regard to the EFL Sanctioning Guidelines, the sanctions that would result from their application would be disproportionate. LCFC did not contend that the EFL Sanctioning Guidelines should be disregarded entirely. Rather, it submitted that they should be applied only "*to the (very limited) extent that those have been taken into account*" in previous PL commission decisions, including *Everton II*.

(3) Starting point

337. LCFC submitted that the level of points contended for by the PL was disproportionate. Since an "*Event of Insolvency*" under the 2024/25 PL Rules attracts

an automatic deduction of nine points, LCFC argued that the starting point for its breach should be "*well below that level*". According to LCFC, given that the entry point for a significant breach is three points (relying on *Nottingham Forest* at [9.20]), the appropriate starting point in this case should be five points on a 36-month assessment period and six points on a 37-month assessment period, respectively. It submitted that such a starting point would be consistent with the sanctioning approach adopted in *Nottingham Forest*, *Everton I* and *Everton II*. In particular:

337.1. in *Nottingham Forest*, where the club exceeded the applicable ULT by 57%, the starting point was 6 points; and

337.2. in *Everton I*, where the club exceeded the applicable ULT by £20 million, the sanction imposed was 6 points after taking into account aggravating factors.

338. LCFC further submitted that, for the purposes of sanctioning (even if not for the purposes of determining breach), the Commission should adopt the 36-month loss figure rather than the 37-month figure.

(4) Aggravating Factors

339. LCFC objected to both aggravating factors advanced by the PL.

340. As to its spending in the FY23 assessment period, LCFC advanced three objections to it being treated as an aggravating factor.

340.1. First, LCFC submitted that the PL's argument depended on a "*normative allegation*" that LCFC's expenditure in the FY23 assessment period was "*wrong or excessive*". However, LCFC was not in breach in FY23, and the PL was precluded by the doctrine of *res judicata* from arguing otherwise. This was because, LCFC argued, the Appeal Board found that LCFC did not commit a breach of the PSR for the FY23 assessment period.

340.2. Secondly, LCFC submitted that it was not spending recklessly and had actively sought to comply with the PSR. A range of factors, many of which were "*outside LCFC's control*", nevertheless led to spending above the ULT for the FY23 assessment period. These factors included, LCFC said, "*a less successful summer 2022 transfer window than anticipated, difficulty selling certain players in the January 2023 transfer window, unexpectedly poor on-field results and the consequent need to sack the manager*".

340.3. Thirdly, LCFC submitted that the losses constituting any breach for FY23 would in any event form part of the P&S Calculation for FY24. Treating the overspend in FY23 as an aggravating factor therefore involved impermissible double-counting (relying on *Everton II* at [193]– [195]). Further, the only year not counted in the FY24 assessment period was FY21, in which LCFC's

losses were only £0.1 million, and, after factoring in the New Treatment, LCFC was in profit in FY21. LCFC also objected to reliance on FY20 as an aggravating factor for a breach in FY24.

341. LCFC also objected to treating the alleged Disclosure Breaches as an aggravating factor for three reasons: first, there were no breaches; secondly, any such breach (if established) was not of a kind of severity that merited a sporting sanction; and thirdly, any such breaches should not be treated as aggravating factors for sanctioning a P&S Rules breach but as a "*separate disciplinary matter*".

(5) Mitigating Factors

342. LCFC submitted that two to three points should be deducted from any sporting sanction by reason of two mitigating factors: (a) the "*positive trend*" in LCFC's finances in FY24; and (b) LCFC's "*exceptional cooperation*" with the PL in relation to this disciplinary process.

343. As to "*positive trend*", LCFC contended that it moved from an adjusted loss of £63.8 million in FY23 to an adjusted profit of £6.1 million in FY24. That improvement, it submitted, warranted a deduction of at least one point, irrespective of whether the EFL Sanctioning Guidelines were applied.

344. As to "*exceptional cooperation*", LCFC submitted that its preference had been to admit the alleged breach and to engage constructively with the PL on issues of sanction. However, it argued that the PL refused to take a reasonable approach by "*seeking to impose an unlawful and disproportionate penalty*". "*Only against that background*", LCFC said, did it advance arguments "*that entail a denial of breach*".

(6) Fine

345. LCFC's primary position came to be that the only permissible sanction was a fine. Any such fine, it submitted, should reflect the financial value to LCFC of the points deduction that would otherwise have been imposed, had that sanction been available for the Commission to impose. On that basis, LCFC advanced two alternative approaches to quantifying a fine.

345.1. First, LCFC submitted that the fine should be calculated by assuming that a points deduction would have been imposed in season T+1, namely the 2024/25 season. In that season, LCFC finished 18th on 25 points, Ipswich 19th on 22 points, and Southampton 20th on 12 points such that a deduction of anywhere between three and 13 points in that season would have resulted in LCFC finishing 19th (on goal difference), one place lower in the Premier League. The financial consequence of that outcome, it submitted, would have been a reduction in merit payments equal to one place on the league table in the sum of £2.6 million. That figure, LCFC argued, should in any event be

reduced by one-third to reflect mitigating factors, with the resultant fine being £1.75 million.

345.2. Alternatively, LCFC submitted that the fine should be calculated by assuming that a points deduction would have been imposed in the current 2025/26 season in the Championship. Since there are no merit payments in the Championship, LCFC contended that the financial impact of a points deduction in that season would have been £nil.

346. LCFC further submitted that it would be wrong in principle to take into account its promotion prospects or any alleged sporting advantage said to arise from overspending. It relies on *Sheffield Wednesday* at [100] and *Nottingham Forest* at [9.15] and [12.77]. LCFC also relies on *Everton I* and *Everton II* for the proposition that sanctions are not "*tethered to removing specific advantages*".

347. LCFC contended that the PL's approach of assessing a fine by reference to alleged promotion gains is erroneous. It submitted that there is no sufficient basis on which to infer any net financial benefit from promotion, or to assign a specific monetary value to it. In any event, LCFC argued that the Commission has not had the opportunity to test evidence as to the net effect of increased revenues and increased costs arising from promotion.

348. LCFC also submitted that the PL's proposed approach of measuring a fine by reference to what it "*might have cost LCFC to secure the points that otherwise fall to be deducted*" is wrong in principle. That approach, it argued, does not reflect the value of those points to LCFC in particular. Further, LCFC submitted that it had no opportunity to test that methodology or to adduce evidence in response.

349. LCFC additionally challenged the PL's reliance on fines imposed under the former Championship FFP regime, in particular the fine imposed on QPR, as an appropriate benchmark. It advanced four reasons. First, that regime was highly punitive and is no longer in force. Second, the PL had expressed an unwillingness to enforce such fines when that regime applied. Third, the *QPR* case was resolved by agreement. Fourth, the former regime operated with a much lower upper loss threshold of £8 million. On that basis, LCFC submitted that, even if the *QPR* benchmark were applied, it would need to be recalibrated by reference to the significantly higher applicable threshold in this case. LCFC contended that, on such a recalibrated basis, the resulting fine would be £1.84 million.

350. LCFC further submitted that any fine imposed should be excluded from future PSR and P&S calculations. Including the fine in future calculations would, it argued, make future compliance more difficult and would, in effect, impose a "*substantially greater punishment as a side effect*" of the ordinary workings of the P&S Rules.

351. As to the mechanism for imposing a fine, LCFC accepted that the Commission has the power, in principle, to impose conditional or suspended sanctions. However, it submitted that the PL's proposal to make any fine conditional upon a further order of

the Commission introduces unnecessary uncertainty. Instead, it contended that the Commission should order that "*a fine shall be imposed if and when the EFL seeks to impose a recommended penalty, but is unable under its rules to do so as confirmed by a final adjudication*".

C. The Commission's Decision

(1) Sanctioning Powers

352. As noted above, the investigation of LCFC's breaches of the P&S Rules was transferred to the PL pursuant to Rule E.77 of the 2024/25 PL Rules. Upon the completion by the PL of that investigation, the PL referred the matter to this Commission pursuant to Rule W.3.4 of the 2024/25 PL Rules, and this Commission was convened pursuant to Rule W.19 of the 2024/25 PL Rules.

353. All that being so, the Commission's sanctioning powers are those set forth at Rule W.50 and following of the 2024/25 PL Rules. Further, as noted above, it became common ground that the edition of the 2024/25 PL Rules governing this Commission's powers is the 27 March 2025 edition. It follows that the Commission's sanctioning powers are those contained in the provisions of Rule W.52 of that edition, which includes Rule W.52.10, all of which are set forth above.

354. It is an oddity of these proceedings that the Commission is to exercise those powers not only with respect to the alleged breach of the 2024/25 PL Rules but also the breach by LCFC of the P&S Rules while the Club was a member of the EFL. That of course is an intended feature (or an obvious consequence) of the jurisdictional bridge.

355. The first issue that arises is whether Rule W.52.10 applies to breaches of the PSR or the P&S Rules that occurred before the amendment introducing that provision. In this respect it is common ground that the PL Rules are a contract between the parties and are to be construed as such. This was not only accepted by LCFC but positively advanced upon reliance on *R (Mullins) v Appeal Board of the Jockey Club* [2005] EWHC 2197 (Admin) to that effect.

356. There is no rule of English law that a contract cannot have retrospective effect: see *Trollope & Colls Ltd v Atomic Power Constructions Ltd* [1963] 1 WLR 333 at 339–340, and that, rather, the question is one of construction: *Pentecost* at [28]. The starting point therefore is the language of the rule. It provides as follows:

> "*W.52. Having heard and considered such mitigating factors (if any) the Commission may: …*
>
> *W.52.10. in the case of a Respondent which is no longer a member of the League at the point at which any sanction is to be imposed, make a recommendation to the Football League, or any Football*

> *League Club Financial Review Panel, Football League Arbitration Panel or Disciplinary Commission constituted in accordance with the EFL Regulations (as applicable), as to the sanction that should be imposed on the club; ...*"

357. The rule contains no express temporal limitation. Nothing on its face confines its operation to breaches arising after its introduction. Its language is neutral, conferring a power of general application. LCFC nonetheless contended that the presumption against retrospectivity prevents the rule from applying to breaches predating the amendment.

358. Does this so-called presumption against retrospectivity operate so as to exclude the application of Rule W.52.10 in the present case? In this respect, we found assistance in *McTier* and *R v Field* [2002] EWCA Crim 2913. In both cases, regulatory sanctions ("disqualification orders") were imposed for conduct that predated the enactment of the sanctioning power. In both cases it was held that the statutory provisions were "*temporally general*" (*Field* at [60]) and the form of retroactivity involved was of a "*weak form*". As held in *McTier* at [75]:

> "*In this case, the form of retroactivity contended for is not the strong form where vested or accrued rights are retrospectively taken away; but a weak form involving only the application of an adjusted sanctions regime to conduct of the type which, in a broad sense, was already the subject of a similar though narrower sanctions regime at the time of the conduct complained of.*"

359. There is therefore a substantive difference between (a) what is called the strong form of retroactivity where vested rights are retrospectively abrogated and (b) a weak form of retroactivity which involves no vested rights but only the application of a different sanctions regime to conduct which was already the subject of a (narrower) sanction regime at the time of the conduct.

360. We adopt that approach here. In this case, LCFC may have vested rights in respect of the substantive financial rules governing its obligations, but it has no vested or accrued rights in a particular sanctioning regime. To the extent that Rule W.52.10 applies to past conduct, it engages only the "*weak form*" of retrospectivity described in *McTier*; the conduct complained of against LCFC was already the subject of sanctions regime, albeit one that was slightly narrower. The conduct complained of – i.e., breach of the EFL's P&S Rules by exceeding the permitted losses – was already the subject of a sanctions regime (including of course the imposition of a sporting sanction and/or a fine) and all that was expressly added was the power on the part of a commission to make a recommendation to the EFL as to the sanction that should be imposed on the club by the EFL.

361. Furthermore, the presumption against retrospectivity is rooted in considerations of fairness. As Lord Rodger observed in *Wilson* at [201]:

"[A]n appropriate test might be formulated along these lines: Would the consequences of applying the statutory provision retroactively, or so as to affect vested rights or pending proceedings, be 'so unfair' that Parliament could not have intended it to be applied in these ways."

362. Although that test was articulated in the context of statutory interpretation, we nevertheless consider it an informative guide when determining the presumptive intentions of parties to a contract with regulatory and quasi-public functions, such as the 2024/25 PL Rules.

363. In the present case, we do not regard the application of Rule W.52.10 of the 2024/25 PL Rules to LCFC's breach as so unfair that the parties could not reasonably have intended it. The substantive rules governing LCFC's financial obligations remain those in force at the time of the breach. The nature of the sanction – points deduction in the EFL – is neither novel nor unforeseeable. It is precisely the sanction that would have applied had LCFC not secured promotion at the end of the 2023/24 season. Even after promotion, a comparable sporting sanction – points deduction in the PL – would have been available had the proceedings concluded in the 2024/25 season.

364. In these circumstances, we do not consider that the existence of a procedural mechanism enabling this Commission to recommend a sanction to the EFL gives rise to any prejudice capable of invoking a "*strong*" presumption against retrospectivity, particularly where the sanction is regulatory and not criminal in nature (*Field* at [60]).

365. LCFC further relied on alleged representations by the PL that amendments introduced on 27 March 2025 would operate only prospectively. The Commission's sanctioning powers, however, derive from the rules themselves and are determined by construction of those rules. It is well established that a court cannot rely on "*what was said during the course of pre-contractual negotiations for the purpose of drawing inferences about what the contract should be understood to mean*" (Chitty on Contracts, 36th ed., at 16-062).

366. In any event, the evidence does not support the contention that the parties intended Rule W.52.10 to be purely prospective in the manner alleged by LCFC. We accept Mr Herbert's explanation that Rule W.52.10 clarified an existing power rather than introduced a wholly new one. While he did state at the shareholders' meeting that the amendments introduced in March 2025 were prospective, we accept his evidence that those comments on prospectivity were reasonably to be understood as limited to other amendments dealing with the substantive PSR obligations. This is particularly so where Rule W.52.10 was not the focus of those amendments and no specific attention was drawn to it in that meeting. Indeed, there was no evidence from anyone on behalf of LCFC that it understood what was said by Mr Herbert at the meeting in any different way.

367. We accordingly conclude that Rule W.52.10 is available to the Commission here with respect to LCFC's breach of the P&S Rules in FY24.

368. It remains for us to deal with the new contention advanced by LCFC for the first time in closing as to the proper construction of the powers set forth in Rule W.52. As noted above, LCFC's position on sanction substantially shifted ground throughout the course of these proceedings. It began with the position that the only appropriate sanction for any breach of the P&S Rules would be a points deduction upon the Club's return to the Premier League and that a fine would be "*unfair and unreasonable*" and "*contrary to standard practice*"; and it closed by contending that the Commission had, as a matter of construction of Rule W.52, no power to impose or recommend a points sanction (whether in the Premier League or the Championship) and that, accordingly, the *only* appropriate sanction was a fine.

369. In particular, it was said (as summarised above) that (a) the Commission lacked power to impose a points deduction in the Premier League because the power under Rule W.52.4 is confined to a club that is currently a member of the Premier League, which LCFC is not; (b) the Commission's general powers to make "*such other order as it thinks fit*" (Rule W.52.11) or "*to impose…any combination of the foregoing or such other penalty as it shall think fit*" (Rule W.52.7) do not include a power to recommend sanctions to the EFL.

370. It is sufficient to say that we disagree. We take the view that, even if we are wrong with respect to the applicability and ambit of Rule W.52.10, the Commission does in any event possess the power to recommend a sanction to the EFL by virtue of Rule W.52.7, which permits the Commission to impose "*such other penalty as it shall think fit*" and/or Rule W.52.11 which provides that the Commission has the power to make "*any other order as it thinks fit*". Those powers are broad and underscore that the Commission's jurisdiction to impose (or recommend the EFL to impose) points deduction is not confined to Rule W.52.4.

371. This conclusion is reinforced by the structure of the jurisdictional bridge under Rule E.77 of the 2024/25 PL Rules (which rule and bridge were in place at the time of the alleged conduct and prior to the introduction of the new Rule W.52.10). That rule provides for the automatic transfer of jurisdiction over P&S breaches from the EFL to the PL upon a club's promotion to the Premier League. Moreover, there is no provision for automatic re-transfer to the EFL where proceedings continue into a later season and the club is subsequently relegated, so that once promoted the investigation, and any later prosecution, remains with the PL.

372. In our view, it is obvious that Rules E.77 and W.52, when read together, anticipate that a commission may need to determine sanctions for a club that is competing in the EFL at the time of decision. Where a points deduction is an otherwise appropriate sanction, the general sanctioning powers in Rule W.52.7 and/or Rule W.52.11 enable the Commission to make a recommendation to the EFL as to what sanction should be imposed. Whether the EFL has power to act on such a recommendation is a separate matter governed by the EFL Regulations and is a matter for the EFL.

(2) Approach to Sanctions

373. The principles governing the exercise of the Commission's powers of sanction in the context of breaches of profitability and sustainability rules were most recently examined in *Everton II* by reference to the previous decisions under the auspices of both the PL and the EFL in: *Derby*, *Everton I*, and *Nottingham Forest*. These principles govern the approach to be taken with respect to any breach of profitability and sustainability rules, regardless of whether that breach takes place in the Premier League or the Championship.

374. Those decisions establish that any sanction must serve four well-recognised objectives:

374.1. to punish the club for the breach;

374.2. to vindicate other clubs which have not engaged in conduct breaching the rules;

374.3. to deter future breaches, whether by the relevant club or other clubs; and

374.4. to restore and preserve public confidence in the fairness of the relevant competition.

375. These decisions also establish the following things:

375.1. Every breach of the profitability and sustainability rules is a serious breach (*Everton II* at [172]; *Everton I* at [202]).

375.2. The appropriate sanction for such a serious breach is a sporting sanction (i.e., a deduction of points) and any lesser sanction – such as a fine – does not adequately fulfil the aims of the rules, is inconsistent with the scheme of the rules, and does not do justice to other clubs (*Everton II* at [169]; *Everton I* at [203]). In this respect, we agree with the position first taken by the Club that to impose a fine would be:

> "*… contrary to the PL's standard practice of imposing a sporting sanction for such breaches (with the financial consequences being those that flow from that sanction). Where the stated objective of the PSRs is to promote financial stability such a fine fundamentally undermines that objective and/or would also allow those owners with the deepest pockets to simply pay the fine as a tax. That is contrary to the entire purpose of the PSRs and to the case law on them, which have highlighted that any sanction must proportionately reflect the purpose of the PSRs.*"

375.3. Only a points deduction "*with immediate and overt effect*" will act as an effective disincentive for clubs to comply with the profitability and

sustainability rules and have the discipline to remain within the ULT (*Everton I* at [202]; *Everton II* at [174]).

376. Consistent with these principles, the Commission takes the view that we are here concerned with a serious breach by LCFC of the P&S Rules, that a sporting sanction by way of points deduction rather than a fine should follow, and that such points deduction should take place immediately, that is, be imposed on the Club in the current season in the Championship. In our view, a delayed points deduction in the Premier League would not have an "*immediate and overt effect*", given the inherent uncertainty of LCFC's future promotion to the Premier League. Indeed, if LCFC is not promoted in the near future, such a sanction would risk being rendered theoretical and ineffective. In any event, with LCFC's change of position in this respect, it is no longer suggested that there be a delayed points deduction, so it is no longer necessary to consider it.

377. In our view, therefore, the appropriate sanction is an immediate points deduction in the current season while LCFC is competing in the Championship. We now turn to the quantum of that sanction.

(3) The Appropriate Starting Point

378. We are, as we have noted, primarily concerned with the breach by LCFC of the EFL's P&S Rules for the three-year assessment period ending FY24. The breach has been referred to the PL by the EFL via the jurisdictional bridge provided for in Rule E.77 of the 2024/25 PL Rules upon the happenstance that LCFC was promoted at the end of that season and therefore came within the jurisdiction of the PL. The Club has, of course, since returned to the Championship for the 2025/26 season and, looking at the league standings as at the date of this decision, is likely (though nothing of course is certain) to remain there for the following season. It is important to bear all that in mind when it comes to the assessment of the sanction, so as to recognise that we are, in substance, dealing with the breach by an EFL club of the EFL's P&S Rules.

379. All that being so, it is sensible to start with the EFL Sanctioning Guidelines. We have distilled above the evidence of the EFL's Mr Craig with respect to these guidelines. As he told the Commission, the EFL Sanctioning Guidelines emerged from club requests in mid-2017 for greater clarity as to sanctions. The guidelines were approved at an EFL Board meeting in September 2018 and presented to Championship clubs on 20 September 2018. As Mr Craig readily accepted, the Sentencing Guidelines are just that, guidelines, and a commission may find reasons to depart from them. Mr Craig also accepted, fairly, that, with the benefit of hindsight, it may have been better to deploy relative percentage overspends rather than by absolute numbers.

380. The EFL Sanctioning Guidelines and the accompanied commentary (in full) are stated above at paragraph 42. There is no need to rehearse them here.

381. As can be seen, the EFL Sanctioning Guidelines provide for a baseline sanction for

any breach of the P&S Rules of a 12-point deduction, subject to reduction by reference to the amount of the overspend.

382. Critically, the EFL Sanctioning Guidelines are based on an assumption of the standard ULT of £39 million under the P&S Rules. They do not accommodate (at least not obviously so) the Variable ULT. In this case, the applicable ULT is £83 million, which is more than double the standard P&S ULT. An overspend of (for example) £10 million against a £39 million ULT may reasonably be regarded as materially more serious than an equivalent £10 million overspend where the applicable ULT is £83 million.

383. Applying the same baseline deduction in both scenarios, without regard to the applicable ULT, would, in our view, distort the proportionality of the sanction and significantly overstate the relative seriousness of a breach under the higher threshold. The PL advanced two ways in which to reflect the Variable ULT. The first was to apply the EFL Sanctioning Guidelines, adjusted to percentage overspend on a relative scale; and the second was to follow the approach taken in *Everton II*, where the commission imposed a three-point baseline sanction for the fact of the breach to which were added further points calculated by reference to the percentage overspend.

384. Given that we are here dealing with the breach by a Championship club of the Championship P&S Rules we consider that the former approach is to be preferred as it better reflects the particular context of the particular club's conduct. Put another way, to proceed in this way means that we are sanctioning breaches of the P&S Rules by reference to the guidelines devised for such breaches, with appropriate adjustments. In taking this approach, we recognise that, having been published by the EFL approximately seven years ago, the EFL Sentencing Guidelines promote transparency, consistency and predictability in that all clubs subject to the EFL's P&S Rules can expect that the EFL Sanctioning Guidelines will be, at the least, brought to account in some way, when breaches of the P&S Rules are sanctioned.

385. To this end, we note that this was the approach taken in the EFL cases that have been relied upon before us:

385.1. *Sheffield Wednesday* at [92]:

> *"It would have made no sense for the EFL to issue Sanctioning Guidelines to provide guidance as to the sanctions that the EFL should seek from the Disciplinary Commission, but to do so on the basis that the guidance would be irrelevant to the way in which the Disciplinary Commission exercised its powers. It would have made even less sense to do this in circumstances where the clubs had sought the guidance and had been consulted before it was issued. It would be of little use to the clubs to be told of the guidance as to what sanctions the EFL could or should seek from the Disciplinary Commission unless.*"

385.2. *Birmingham City* at [33]:

"*The sanctioning guidelines properly reflect the objectives of the P&S Rules, and should be taken into account as guidance in deciding what points deduction should be applied in the current season.*"

386. Accordingly, when one recalibrates the EFL Sentencing Guidelines from absolute to relative percentage numbers, the position becomes as follows (in round numbers):

Absolute Overspend	Relative Overspend (per £39m ULT)	Deduction from 12 points	Result
Less than £2m	Less than 5%	9	3
£2m to £4m	5% to 10%	8	4
£4m to £6m	10% to 15%	7	5
£6m to £8m	15% to 21%	6	6
£8m to £10m	21% to 26%	5	7
£10m to £12.5m	26% to 32%	4	8
£12.5 to £15m	32% to 38%	3	9
More than £15m	38% +	0	12

387. Applying this adjusted framework to LCFC's breach of the P&S Rules, an overspend of £20.8 million (being 25% in excess of the applicable ULT of £83 million), results, as can be seen, in a deduction of seven points.

388. We have reached this conclusion taking into account the following:

388.1. The breach in this case occurred when LCFC was in the Championship. LCFC breached the P&S Rules. The deduction of seven points is less than the automatic penalty for insolvency in the EFL, which is 12 points.

388.2. It is not necessary for a sporting sanction to be imposed to prove a "*measurable sporting advantage*" caused by overspending (*Birmingham City* at [28]). In circumstances where club breaches the ULT, "*a sporting advantage is to be inferred*" (*Sheffield Wednesday* at [97]) and a points deduction may be imposed upon the club in breach of P&S Rules "*regardless of whether any sporting advantage might have been obtained by such a club*" (*Derby* at [62]). In any event, there is no suggestion and certainly no evidence adduced by LCFC to show that they did not enjoy a sporting advantage. On the contrary, Mr Davies accepted that if LCFC had "*made significant sales*

at undervalues" in order to comply with the ULT, "*it could have been at the bottom end of the Championship*" in the 2023/24 season.

388.3. Measured against prior EFL decisions, the seven-point deduction is consistent with the established approach to calibration by reference to the scale of the overspend relative to the applicable ULT: *Birmingham City* (at [9])*:* an overspend of £9.787 million against a ULT of £39 million (approximately 25%) attracted a starting point of a seven point deduction; and *Sheffield Wednesday* at [77]: an overspend of £18.21 million against a ULT of £39 million (approximately 46.7%) resulted in a starting point of a 12-point deduction.

388.4. This approach also accords with *Everton II*, where the commission held that a PSR breach attracts an initial three-point deduction "*for the fact of breach*", irrespective of quantum (at [179]), with the quantum relevant only to any additional sanction (at [188]). Applying the commission's guidance of one point per c.6.67% overspend (at [186]), a 25% overspend in this case attracts four additional points. Accordingly, as per the *Everton II* approach the resulting starting point, before mitigation or aggravation, would therefore be seven points.

389. Accordingly, the Commission takes the view that the appropriate sanction to be imposed on LCFC, subject to any adjustment for aggravation and mitigation as discussed below, is **seven points**.

(4) Aggravating Factors

Overspend in LCFC's PSR Calculation ending in FY23

390. As noted above, the PL asks us to take into account as an aggravating factor LCFC's overspend in FY23. We are reluctant to do so. No breach in respect of the assessment period ending in FY23 was established in relation to PSR calculations for FY23. LCFC was successful before the Appeal Board in the FY23 Proceedings, which, despite the decision of the Section X Tribunal, stands. In any event, we are concerned as well that to consider the alleged overspending in FY23 would risk importing a measure of double counting in circumstances where the assessment period ending in FY24 includes the losses incurred in FY22 and FY23.

Disclosure Breaches

391. As we have already determined above at paragraph 304, we are of the opinion that LCFC breached its disclosure obligations by failing to provide its accounts upon the PL's requests. However, we do not consider those breaches to be an aggravating factor meriting an increase in points deduction. Rather, we weigh them in the balance with respect to LCFC's insistence upon mitigation for its "*exceptional cooperation*."

(5) Mitigating Factors

Positive trend

392. It is common ground that LCFC has demonstrated a positive trend in its finances, namely that LCFC moved from an adjusted loss of £63.8 million in FY23 to an adjusted profit of £6.1 million in FY24. In our view, this positive trend merits a reduction of **one point**. That too is consistent with the EFL Sanctioning Guidelines.

Exceptional cooperation

393. LCFC prays in aid what it said was exceptional cooperation with both the EFL and the PL with respect to this matter, and seeks a reduction of one to two points.

394. In this regard, the Commission is assisted by the approach articulated in *Nottingham Forest*. In that case, the PL asked the Commission to record all the factors that constituted "*exceptional cooperation*" so that clubs would be in a position to understand the circumstances in which meaningful mitigation may arise. The extensive guidance is set out in *Nottingham Forest* at [12.106]. It is respectfully adopted, and need not be rehearsed here.

395. We consider that this guidance sets a clear benchmark. It reflects a category of cooperation that not only complies with regulatory obligations but affirmatively facilitates the efficient disposal of proceedings. It also underscores that "*exceptional"* cooperation means just that and requires conduct going materially beyond what is ordinarily expected of a club faced with an investigation into financial breaches.

396. We do not consider LCFC's conduct to meet, or indeed come close to, that benchmark.

396.1. LCFC did not consistently adopt or maintain a position that assisted the expeditious resolution of these proceedings. Its protestations of admission of breach were qualified and accompanied by myriad arguments that, in material respects, denied liability. As in life and politics, one cannot have one's cake and eat it too.

396.2. LCFC did not provide early clarity as to the competition law issues upon which it relied.

396.3. As determined above at paragraph 304, LCFC breached its disclosure obligations. Quite apart from cooperation, LCFC manifestly refused to cooperate by not providing its accounts. As Mr Davies stated, LCFC had no positive reason for not disclosing its accounts upon the PL's requests other than deference to its legal advice. He also acknowledged that the accounts were signed off in December 2024. It was not for the Club to refuse disclosure on the basis that, in its own assessment, the PL had no genuine need for the accounts. Instead, the Club was expected to provide its accounts as and when required by the PL pursuant to the PL Rules. LCFC's approach

to the PL's requests for its final accounts was not comparable to the proactive, early, and facilitative disclosure described in *Nottingham Forest*.

397. We are also not persuaded by LCFC's contention that its stance resulted from the PL's alleged refusal to adopt a "*reasonable*" sanction. The issue is not whether a club agrees with the PL's submissions in these proceedings, but whether its conduct has objectively assisted the efficient resolution of the proceedings. In our view, therefore, LCFC has not shown exceptional cooperation so as to merit a reduction of the points sanctioned.

(6) Conclusion

398. In the result, the Commission takes the view that the appropriate sanction to be imposed on LCFC is, after adjustment for positive trend, **six points**. Pursuant to or Rule W.52.7 and/or Rule W.52.10 and/or Rule W.52.11 of the 2024/25 PL Rules, we therefore recommend to the EFL that such a sanction should be imposed on the Club and in the current season.

(7) Fine

399. We do not consider that any sanction other than the sporting sanction recommended above would be effective in achieving the objectives of sanctioning LCFC's breach of the P&S Rules. However, in the contingency that the EFL is unwilling or unable to give effect to the recommended points deduction, the Commission takes the view that a fine should be imposed on LCFC in substitution for the points deduction; i.e., the fine is only in substitution for, and not in addition to, the points deduction.

400. Rule W.52.2 provides that the Commission has power to impose a fine. It says: "*Having heard and considered such mitigating factors (if any)* [rather oddly omitting any reference to consideration of aggravating factors], *the Commission may: … impose upon the Respondent a fine unlimited in amount and suspend any part thereof*". There is however nothing in the 2024/25 PL Rules or the EFL's P&S Rules that provides any guidance to a commission with respect to the assessment of such a fine.

401. The parties made submissions as to the assessment of the amount of any fine, which have been distilled above. As may be seen:

401.1. The PL contended that the fine should be equivalent to the financial value to LCFC of the sporting sanction that we recommend, such value to be assessed by reference to three benchmarks: (a) the value of LCFC's prospects of promotion; (b) the cost of the points that would otherwise fall to be deducted; and (c) the method for calculating fines under the previous Championship FFP regime. The PL submitted that these benchmarks supported a fine of "*around £20 million*".

401.2. For LCFC, it was contended that any fine was to be assessed by: (a) an assessment of the financial impact on the Club of a points deduction of anywhere between 3 and 13 points in the 2024/25 season (in the Premier League), which the Club put at £2.6 million as the amount of a single merit payment reflecting going from 18th to 19th on the Premier League table, to then be reduced by a third for mitigating factors; or (b) the same exercise but in the current season in the Championship, where there are no merit payments so that the loss to the Club would be £nil.

402. In our view, there are a number of ways that the amount of a fine may be quantified but the sum imposed must, in the end, serve the four purposes of sanctioning, namely: (a) to punish LCFC for the breach; (b) to vindicate other Championship clubs which did not breach the rules; (c) to deter future breaches, whether by LCFC or other clubs; and (d) to restore and preserve public confidence in the fairness of the Championship. The fine must also go no further than is reasonably necessary to achieve those aims, that being the relevant measure of proportionality.

403. All that being so, we address the benchmarks for quantification of the fine put forward by the parties.

404. The Club contended, as just noted, that the fine was to be assessed by reference to the financial impact on the Club of a points deduction either last season or this season. The immediate difficulty with this approach is that it is altogether unrelated to the level of breach, such that there is no relation between breach and sanction. The consequence of this is that any fine imposed in the way suggested by the Club would ratchet up and down according to the particular circumstances of the particular club in the particular competition, therefore being entirely inconsistent and unpredictable. Nor is it obvious how a fine assessed in this way would be consistent with the four objectives of sanctioning, as just outlined. How is it being said, for example, how a fine of nil will act as a deterrent or restore and preserve public confidence? We therefore decline to proceed to assess the fine in this way.

405. For its part, the PL first argued that any fine should be assessed according to the value of LCFC's prospects of promotion. We can well understand the attraction of such an approach as a matter of principle in that it focuses directly upon the presumed sporting advantage obtained by dint of the breach of the rules. But we are unpersuaded that the evidence before us provides any sound basis on which this value can be assessed. This was implicit in the PL's submissions in this respect in that it appeared to be accepted that this approach is pregnant with difficult questions of causation (i.e., did the overspend cause promotion?) and also measurement (it is one thing to put a number on the increase in LCFC's revenue upon promotion, but quite another thing to measure the fine according to such number).

406. That leaves two benchmarks, a fine assessed according to the value of the points that would otherwise fall to be deducted, and a fine assessed according to the earlier Championship FFP financial penalties regime. We take each in turn.

407. According to the evidence, around £1.2 billion was spent on players in the Championship in the 2023/24 season (wages and amortisation) and, from a total of 1,656 available points on offer, the Championship clubs won 1,527. This means that, for each point won in the Championship in that season, the clubs spent an average of £0.8 million on players. This can be further refined with respect to the Club itself. According to the Club's FY24 accounts it spent £107.2 million on wages and £45.6 million on amortisation in winning 97 points to secure automatic promotion that season. It follows that, when one applies this formula to LCFC's own particular circumstances, it yields an average of £1.6 million per point. That being so, with a points deduction of six points, a fine assessed according to the value of those points would be in the order of £9.6 million.

408. Prior to the introduction of the P&S Rules, the governing rules in this respect were the Championship FFP. These rules provided in relevant part that clubs enjoyed an effective ULT of £8 million which, if breached, was subject to a fine (for promoted clubs only) calculated by reference to the amount of the overspend, in a sliding scale, equal to (approximately): 1% of the excess between £1 and £100,000; 20% of the excess between £100,000 and £500,000; 40% of the excess between £500,000 and £1 million; 60% of the excess between £1 million and £5 million; 80% of the excess between £5 million and £10 million; and 100% of the excess above £10 million.

409. In *QPR*, the club exceeded the applicable ULT by £45.284 million and was fined the sum of £41.965 million. QPR challenged the fine on various grounds, primarily that the imposition of a fixed fine according to a formula was unlawful because it was disproportionate. The commission (chaired by Lord Collins) held that a fine that was "*directly tied to the amount of the over-spend*" was proportionate, both generally and in the particular circumstances of that dispute, and it also advanced a "*legitimate need to deter clubs from breaching the scheme*". It is also notable that the calculation of the fine in this way was a serious attempt by the EFL and the Championship clubs to assess the weight of the financial penalties to be imposed for breach by clubs of the financial fair play obligations.

410. The Commission is well aware, of course, that no such formula appears in the P&S Rules or the 2024/25 PL Rules, but we agree with the approach taken in that case as a matter of principle that, because the fine was "*directly tied to the amount of the over-spend*", it was an inherently proportionate sanction, i.e., the greater the breach, the greater the sanction. In the Commission's view, whilst of no direct application at all, the assessment formula set forth in the Championship FFP, as endorsed by the commission in *QPR*, therefore provides some measure of guidance to the assessment of a fine to be imposed for a breach of the P&S Rules in lieu of a points deduction. On the application of the stepped formula as set forth in the Championship FFP Rules, recalibrated to reflect a ULT of £39 million over three years, the level of the fine to be imposed on LCFC in this case would be approximately £14.6 million. In this respect, LCFC argued that QPR settled prior to the determination of an appeal, and the club agreed to pay a much-reduced fine of £17 million. That much is true, but QPR had also agreed (a) to write off approximately £22 million, (b) to an

embargo, and (c) to pay the costs of the dispute, with the result that the financial consequences were of the same order as the original fine.

411. The two viable benchmarks thus provide a range of fine of between £9.6 million and £14.6 million. On the basis that a fine should go no further than is reasonably necessary to achieve the aims of sanctioning, the Commission decides to impose a fine at the lower end of that scale in the sum of £9.6 million. That ensures that the fine is proportionate. We also take the view that a fine at that level will act not only as a deterrent, but also as a vindication to those Championship clubs who, unlike LCFC, played within the rules, and that it will advance public confidence in the fairness of the Championship as a whole. It is, of course, an inexact science, but we take the view that a fine assessed in this way at this level therefore advances the aforesaid sanctioning objectives. It also better reflects the PL's pleaded position in relation to a fine, viz., that any fine should be equivalent to the financial value to LCFC of the sporting sanction that we recommend.

412. LCFC submitted that any fine imposed should be excluded from future FFP calculations on the basis that the inclusion of fine would make future FFP compliance harder and compound the sanction. We do not accept this submission. The PSR and the P&S Rules operate by reference to Clubs' Adjusted Earnings Before Tax, a defined concept derived from statutory accounts, subject to a list of specified add-backs. The specified add-backs are of an entirely different character. They are directed to encouraging particular categories of expenditure, such as investment in youth development, infrastructure, or women's football. They do not contemplate the exclusion of a regulatory fine. Excluding a fine from future calculations would therefore involve creating an additional add-back not provided for in, or agreed under, the Rules. We consider that we have no proper basis to do so. We also note that any given club will be subjected to any number of fines throughout a given season (for example, for dissent or a pitch incursion) and yet no such fine is excluded for FFP purposes, and in our view there is no reason in principle why the fine here should be treated any differently. While we recognise LCFC's concern that inclusion of a fine may have future compliance implications, that consequence flows from the structure of a regime designed to promote financial discipline over time. We therefore reject LCFC's submission on this issue.

413. We repeat, by way of abundant caution, that this fine is in substitution for the recommended deduction of points should the EFL find itself unwilling or unable to accept that recommendation.

XIII. CONCLUSION

414. For the reasons set out above, the Commission concludes that LCFC committed a breach of the P&S Rules for the season ending 2023/24. That breach resulted in an overspend of approximately £20.8 million when assessed on a 36-month basis and after application of the New Treatment.

415. By way of penalty, and exercising its powers as set forth in Rule W.52 of the 2024/25 PL Rules, the Commission recommends to the EFL that a sporting sanction of an immediate six-point deduction be applied to LCFC in the Championship in respect of LCFC's breach of the P&S Rules.

416. In the contingency that the EFL is unwilling or unable, for whatever reason, to give effect to the recommended points deduction, the Commission imposes a financial penalty of £9.6 million as an appropriate substitute sanction for the breach.

417. Such fine, if triggered, should be paid to the EFL within 30 days of the determination on the part of the EFL that it is unwilling or unable to impose the recommended sanction. The appropriate allocation of the sum paid by LCFC will of course be a matter for the EFL in its discretion.

XIV. COSTS

418. The Commission notes that it has powers in relation to costs pursuant to the 2024/25 PL Rules, and in particular Rule W.52.9. We invite the parties to liaise in relation to costs and to any other consequential matters which may arise, and we reserve to ourselves the question of costs (and any other consequential matters).

XV. ORDERS

419. For the reasons set forth above, and having carefully considered the submissions of the parties and the evidence, we, the Commission, hereby Order and Direct that:

(1) The Commission recommends to The English Football League that an immediate sporting sanction of a six point deduction be imposed on Leicester City Football Club in the Championship in respect of Leicester City Football Club's breach of the P&S Rules for the season 2023/24.

(2) In the event that the English Football League is unwilling or unable, for whatever reason, to give effect to the recommendation at (1) above, the Commission imposes a financial penalty on Leicester City Football Club in the amount of £9.6 million, which fine is in substitution for the recommended sporting sanction, such fine to be paid by Leicester City Football Club to The English Football League within 30 calendar days of the determination on the part of the English Football League that it is unwilling or unable to give effect to the aforesaid recommendation.

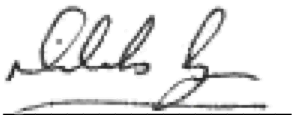
(3) The parties shall liaise in relation to costs and any other consequential matters, and the Commission reserves to itself any dispute or difference in this respect.

Dated: London 3 February 2026

THE COMMISSION

James Drake K.C. (Chair)

Mark Hovell



Nick Igoe