IN THE MATTER OF A COMPLAINT UNDER RULE W.24 AND AN APPEAL FROM A COMMISSION OF THE PREMIER LEAGUE DISCIPLINARY PANEL UNDER RULE W.66 OF THE PREMIER LEAGUE RULES

BEFORE AN APPEAL BOARD (THE RT HON LORD DYSON, THE RT HON SIR GARY HICKINBOTTOM AND DANIEL ALEXANDER KC)

B E T W E E N:

THE BOARD OF THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED (trading as THE PREMIER LEAGUE)

Complainant

-and-

LEICESTER CITY FOOTBALL CLUB LIMITED

Respondent to the Complaint

DECISION

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Introduction

1. The Appeal Board has before it two appeals brought respectively pursuant to Rule W.66.1.2 and W.66.2.1 of the Premier League Rules ("PL Rules") against the decision dated 3 February 2026 (the "Decision") by a Premier League Disciplinary Commission comprised of James Drake KC (chair), Mark Hovell and Nick Igoe (the "Commission").

2. The Decision arose out of a complaint brought by the Board of the Premier League (the "PL") on 16 May 2025 (the "Complaint") against Leicester City Football Club ("LCFC"). The PL alleged that LCFC had breached the English Football League's ("EFL") profitability and sustainability rules ("P&S Rules") for a period ending with the financial year ending on 30 June 2024 ("FY24"). Following LCFC's promotion back to the PL at the end of the 2023/24 season, the responsibility for the investigation and prosecution of these alleged breaches was transferred to the PL pursuant to Rule E.77 of the PL Rules. It also alleged a breach by LCFC of duties of disclosure under the PL Rules due to failing to disclose upon request the audited annual accounts for FY24.

3. LCFC failed to take action which it needed to take to ensure compliance with the P&S Rules across the three-year assessment period ending in FY24[1].

4. The P&S breach found by the Commission concerned LCFC's financial situation in a 36-month period ending with FY24 on 30 June 2024.

Summary of the Commission Decision

[1] See references in paragraph 10 of PL's skeleton argument dated 16 March 2026.

5. The Commission determined (among other things) that:

(i) LCFC had breached the P&S Rules in respect of the period ending with FY24, by exceeding the applicable upper loss threshold ("ULT") under the P&S Rules by approximately £20.8m (the "P&S Breach").

(ii) LCFC had breached Rules B.18, W.1 and W.16 of the PL Rules by not providing the FY24 Accounts upon request (the "Disclosure Breaches").

(iii) They had power under Rule W.52.10, alternatively under Rule W.52.7, alternatively under Rule W.52.11 to recommend that the EFL impose a sanction on LCFC of a points deduction in the EFL's Championship competition (the "Championship").

(iv) The appropriate course was to recommend that the EFL impose a sanction of six points to be applied in the Championship with immediate effect. That was based on a starting point of seven points based on a recalibrated form of the EFL's Sanctioning Guidelines, with no increase for aggravating factors, and a deduction of one point for mitigation for a positive trend in LCFC's relevant losses, and no further mitigation for cooperation, taking into account (among other things) the Disclosure Breaches.

(v) There should be no separate sanction for the Disclosure Breaches, which were instead taken into account in determining the overall adjustment to be made for aggravation and mitigation.

(vi) In the alternative, if the EFL did not give effect to the Commission's recommended points deduction, a fine in the sum of £9.6m would be imposed.

The Grounds of Appeal

6. There is no appeal by either party against the fact or quantum of the P&S Breach, or the fact of the Disclosure Breaches. The appeals relate solely to powers and the quantum of recommended deduction of points and the alternative fine.

7. LCFC's appeal, pursuant to a Form 22 duly filed on 18 February 2026 is concerned with the power to recommend a points deduction in the EFL, and the quantum of the recommended deduction and the alternative fine. It raises three grounds:

   Ground 1: The Commission did not have power to recommend a points deduction in the EFL. Their recommendation should therefore be overturned.

   Ground 2: Insofar as the Commission did not have such a power, the fine imposed as an alternative was excessive, and should have been no more than £2.6m (and in any event, a lower fine than the Commission decided to impose).

   Ground 3: Alternatively, insofar as the Commission had the power to impose a points deduction, it was wrong to impose a deduction of six points based on a starting point of seven points. The correct starting point should have been five points, or at most six points.

8. The PL's appeal is concerned with the Disclosure Breaches. It contends:

   Ground 1: The Commission erred by failing to treat the Disclosure Breaches as an aggravating factor meriting a greater points deduction.

   Ground 2: Alternatively, the Commission erred by failing to impose a *"separate sanction"* of some sort for the Disclosure Breaches.

Ground 3: The Commission failed to provide sufficient reasons for their decision.

9. The hearing of the appeals took place at the International Arbitration Centre, London on 25 March 2026. Nick De Marco KC and David Lowe KC instructed by Centrefield LLP appeared for LCFC. James Segan KC and Hugo Murphy of Counsel instructed by Linklaters LLP appeared for the PL.

Ground 1 of LCFC's Appeal

10. The Commission held that they had the power to make such a recommendation under Rule W.52.10 and/or Rule W.52.7 and/or Rule W.52.11[2]. The PL says that the Commission was right in all three respects. LCFC disputes this and says that (i) on their true construction neither Rule W.52.7 nor Rule W.52.11 gave the Commission the power to recommend a points deduction; (ii) on its true construction, Rule W.52.10 did not give the Commission the power to recommend a points deduction retrospectively (i.e. for breaches committed before the meeting of the PL shareholders on 27 March 2025 when the new W.51.10, which became Rule W.52.10, was agreed); and (iii) if there were such a power under Rule W.52.10, it would be wrong for the Commission to exercise it in view of the representations made by the PL to LCFC before and at the 27 March 2025 meeting: in this regard, LCFC relies on the principle of estoppel and/or the doctrine of legitimate expectation.

11. We set out below the provisions of W.52 of the PL Rules 2024/25 adopted on 27 March 2025 which it is common ground are the rules which are applicable to

[2] Decision paragraphs 367 and 370.

these appeals and which set out the powers available to a Commission following a finding that a complaint has been proved:

> *Para 82: "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."

12. We shall start with the question of whether the Commission were right to hold that they had the power to recommend a deduction of points under Rule W.52.7 and/or W.52.11. That is because, if the Commission had this power, no issue of retrospectivity arises and LCFC's Ground 1 must be dismissed.

(a) Rule W.52.7 and Rule 52.11

13. The Commission said[3] that the powers given by these rules *"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"*. Mr De Marco disputes this.

14. As regards Rule W.52.7, he advances two submissions[4]. First, he says that a recommendation to the EFL is not a penalty, it is a recommendation to the EFL that it impose a penalty, which is materially different. We accept that there are differences. In particular, the EFL might not accept the recommendation. But it does not follow that the recommendation is not also a penalty. In our view, as a matter of ordinary language, a recommendation by A to B that it should impose a penalty on C is itself a penalty on C by A. This is also reflected in the wording

[3] Paragraph 370.
[4] Transcript 37/1-38/4.

of Rule W.52.7 viz: *"any combination of the foregoing or such other penalty"*. The *"foregoing"* includes recommendations by the Commission.

15. We note in passing:

    (i) the recommendation made by the Commission in this case has been implemented by the EFL (at least insofar as the points deduction is shown in the current Championship table) and the EFL has made no suggestion that it would not comply with a recommendation made by a PL Commission under these provisions;

    (ii) given that LCFC is now in the EFL Championship over which the PL has no direct control, a recommendation to the EFL for a points deduction is the closest parallel to a points deduction in the PL which LCFC would undoubtedly have received if it was currently in that league; and

    (iii) LCFC's initial position in these proceedings was that the only appropriate sanction would be a points deduction (albeit postponed until LCFC was in the PL).

16. Second, Mr De Marco relies on the *eiusdem generis* principle. He submits that a *"penalty"* within the meaning of Rule W.52.7 must be one that is of the same general type as the other penalties listed in Rule W.52. These are all penalties that may only be imposed on a Premier League club with respect to its participation in a Premier League competition and not, for example, to a club participating in the EFL at the time of the breach.

17. In our view, the *eiusdem generis* canon of construction does not assist LCFC. As Mr Segan points out, canons of construction *"have a valuable part to play in*

interpretation, provided that they are treated as guidelines rather than railway lines, as servants rather than masters"[5]. They are no more than pointers to ascertaining the meaning of a written contract. They are not slavishly to be applied. In construing a contract, it is trite law that the question is *"what a reasonable person having all the background knowledge that would have been available to the parties would have understood them to be using the language in the contract to mean"*[6].

18. The relevant background included that (i) all of the disciplinary cases decided since 2019 in both the EFL and the PL have decided that a points deduction is the only effective remedy for a breach of the P&S Rules and the equivalent PL Rules and (ii) Rule E.77 (the so-called *"jurisdictional bridge"*) had been incorporated into the PL Rules in 2021 to enable a Commission to impose a penalty on a club participating in the EFL at the time of the breach. It was, therefore, inherent in the scheme that a Commission might have to discipline a breach of the P&S Rules for which it had been established that the only effective sanction was a points deduction.

19. Against that background, the *eiusdem generis* canon of construction does not provide a sound basis for failing to give the words in Rule W.52.7 their plain and natural meaning. To interpret it as restricted to imposing penalties on clubs participating in the PL at the time of the breach is to apply the canon slavishly and to give it more weight than it can bear.

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[5] Cusack v Harrow [2013] UKSC 40; [2013] 1 WLR 2022 at [57], per Lord Neuberger.
[6] Arnold v Britton [2015] UKSC 36; [2015] AC 1619 at [15], per Lord Neuberger.

20. LCFC also advances a *lex specialis* argument[7] (mischaracterised as an *eiusdem generis* argument) on which it relies in relation to the PL's reliance on both Rule W.52.7 and Rule W. 52.11. This is based on the existence of the express power in Rule W.52.4.2 to deduct points scored or to be scored in Premier League Matches or other specified competitions.

21. We reject this argument for the reasons given by Mr Segan. The *lex specialis* argument amounts to saying that, because Rule W.52.4 gives a power to impose a deduction of points in certain specific kinds of matches, it impliedly excludes a power to recommend the deduction of points in other kinds of matches under the general power. But the *lex specialis* principle only applies where there is a conflict between the specific and the general provision. In that situation, the specific provision prevails[8].

22. The principle does not apply here because there is no conflict between the power to recommend a deduction under the general powers in W.52.7 and W.52.11 and the specific power to deduct points under W.52.4.2. In any event, since the language of W.52.7 and W.52.11 is clear, to interpret these rules in a narrow sense by applying the *lex specialis* principle would be impermissibly to treat the principle as a master rather than a servant.

23. As regards Rule W.52.11, Mr De Marco submits that a recommendation is not an order. He accepted in argument that, if Rule W.52.10 gives the Commission a specific power to make a recommendation, then that is a power to make an

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[7] LCFC's skeleton argument dated 16 March 2026 ("LCFC's Skeleton Argument") paragraph 26.2.
[8] Cases cited in Lewison, *The Interpretation of Contracts*, 8th edition at paragraphs 7-46-7-50 including, for example, The Petroleum Oil and Gas Corporation of South Africa (Pty) Limited v FR8 Singapore PTE ("The Eternity") [2008] EWHC 2480 Comm; [2009] 1 Lloyd's Rep 107 at [20(a)] per David Steel J.

"order"[9] within the meaning of Rule W.52.11. But he also submitted that an order is conceptually different from a recommendation: *"an order is an instruction that a Commission can make to a person or a Court can make to do something"*[10]. Examples of *"orders"* are to be found in Rule W.52.4.3, 52.5 and 52.9.

24. We accept that an *"order"* in Rule W.52.5 and W.52.9 is an instruction to the respondent to do something and in some contexts that is what the word *"order"* means and that it is different from a recommendation that someone else do something. Indeed, this is a distinction which is recognised in Rule W.52 itself as demonstrated by comparing Rule W.52.5 and W.52.9 with Rule W.52.4.3. and W.52.4.4.

25. But context is everything. The context here is the powers given to a decision-making body to determine a complaint. The heading of Section W of the PL Rules is *"Disciplinary and Dispute Resolution"*. Rules W.23 to W.50 contain detailed provisions setting out the Commission's Procedures as to how a complaint should be dealt with. In this context, the word *"order"* denotes the outcome, i.e. the disposal that the Commission can make once it has found that a complaint has been proved. It does not have to be an instruction that the Respondent do or refrain from doing anything. This is recognised by Rule W.52 itself. For example, the power in Rule W.52.1 is the power to *"reprimand the Respondent"*.

26. In litigation, a court *"order"* commonly denotes the outcome of proceedings (or, e.g., an application in proceedings), i.e. the court's formal decision or disposal.

[9] Transcript 40/5-41/3.
[10] *Ibid*.

Sometimes a court order directs a party to do or refrain from doing something. But it does not have to do so. For example, a declaration as to the meaning of a contract may be reflected in a court *"order"*. The declaration does not order a party to do anything. But it is the decision of the court which is embodied in a court *"order"*.

27. It is to be noted that Section XV of the Decision is headed *"ORDERS"*. At paragraph 419, the Commission said: *"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 [LCFC]…"*. In the context of dispute resolution, it was entirely apt for the Commission to describe its recommendation as the *"order"* that it made.

28. We therefore hold that the Commission was correct in deciding that it had the power to make a recommendation under Rules W.52.7 and 11. It follows that it was not necessary for it to rely on Rule W.52.10 as the basis for its power to make the recommendation that it made. But in deference to the detailed submissions that we have heard and the careful reasoning of the Commission, we shall also deal with the question of whether the Commission correctly decided that it also had the power to make the recommendation under Rule W.52.10.

(b) Rule W.52.10

(i) Some Background

29. It is necessary to start by referring to some of the background to the decision to introduce what is now Rule W.52.10 into the PL Rules. That is because LCFC relies on representations made on behalf of the PL (i) as being relevant to the

construction of the rule and/or (ii) as giving rise to an estoppel or legitimate expectation[11].

30. In September 2024, the PL informed LCFC that it anticipated bringing a complaint against LCFC for the period ending with FY24. As explained by Jamie Herbert, the PL's Senior Director of Governance and Regulation, in his witness statement dated 26 September 2025, for these proceedings, in late February 2025 the PL's regulatory team began work on proposed amendments to the PL Rules[12]. He said:

> *"The principal objectives were to put beyond doubt, as had always been intended, that promoted and relegated clubs must comply with profitability and sustainability rules, and to ensure that breaches of these rules could be enforced"*.

31. The PL proposed to introduce these changes, which required a requisite majority at a PL shareholders' meeting of the Clubs. As well as proposals to change the PL's profitability and sustainability rules ("PSRs") to address issues arising from promotion and relegation, the PL also proposed to amend the powers of Disciplinary Commissions by adding new Rule W.51.10, which became W.52.10 in the version considered by the Commission.

32. On 10 March 2025, LCFC (via its solicitors Centrefield LLP) wrote to the PL to seek clarification of its proposals. Among other things, LCFC asked at paragraphs 2.6 and 2.7 when "*the amendments would take effect if adopted*" and if the PL would make clear that they *"will only take effect in relation to assessment periods ending with Accounting Reference Periods that have not already ended, and so only in following seasons"*, particularly given *"that penalties are involved"*;

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[11] Paragraph 31 of LCFC's Skeleton Argument.
[12] Second Statement of Jamie Herbert dated 26 September 2025 paragraph 5.13.

and what consideration had been given to the propriety of the amendments in the light of the *"well-established legal principle against retrospectivity, particularly in a penal context"*.

33. In its response on 13 March 2025, the PL (via its solicitors Linklaters LLP) confirmed that the *"the PL does not intend for the proposed amendments to apply in respect of PSR assessment periods that have already finished"*, and that the *"PL does not intend the proposed amendments to have retrospective effect"*.

34. On 18 March 2025, LCFC sent an email from its then general counsel Matthew Phillips to the PL's general counsel Kevin Plumb. Mr Phillips stated: *"It is our understanding that the proposed amendments are not intended to have any retrospective effect, that they would not apply to any PSR assessment periods ending with Accounting Reference Periods that have already finished, and that they would only apply prospectively. Please can you confirm if this is correct?"*. In his response on 20 March 2025, Mr Plumb replied: *"Confirmed"*.

35. Mr Phillips also asked: *"On the assumption that the understanding in 1 is correct, we think it is appropriate that all Clubs are informed of this position. We assume that you intend to make this clear at next week's shareholders meeting, either in the terms of the Resolution related to the proposed amendments (as per Rule B.19), in accompanying guidance, or otherwise. However, we would, again, be grateful if you could please confirm this"*. Mr Plumb replied: *"Yes, we are happy to do this. We would not usually include guidance for something like this but we would be happy to make this clear in the meeting and then ensure that it is subsequently reflected in the Minutes"*.

36. The papers circulated for the shareholders meeting on 27 March 2025 included a section headed *"Proposed amendments to the Premier League Rules"* and a Summary which stated:

> *"Following a recent Appeal Board decision highlighting issues in relation to jurisdiction for PSR compliance where a Club is relegated/promoted between the Championship and Premier League, this schedule sets out a number of amendment proposals intended to address these issues. These amendments are proposed notwithstanding the League's ongoing view in respect of the case that is the subject of the Appeal Board's decision that the Rules as currently drafted provide the League with the relevant jurisdiction. They are intended as clarifications, to put the meaning of the relevant Rules and the responsibilities and obligations of Clubs (including those promoted and relegated) beyond doubt…"*.

37. The proposed amendments are shown marked in red, with a column against many of them headed *"Reason"* in which the reason for the proposed amendment is given. The reason given for the amendment proposed by the addition of W.51.10 (subsequently Rule W.52.10) states:

> *"This proposal clarifies that a Commission has the power to issue recommendations as to the sanction that, in its view, should be imposed on a club where the relevant club is no longer a member of the League".*

38. The slides shown to clubs at the meeting stated that *"Proposed changes are entirely prospective – no impact on financial years already concluded"*. The Minutes record that in relation to the proposed amendments (copy 12 of the agenda papers):

> *"Jamie Herbert referred to the proposed amendments (copy 12 of the agenda papers). He confirmed that the question of how PSRs apply to promoted and relegated Clubs had been the subject of dispute, with differing views expressed by a Commission and then an Appeal Board. The purpose of the proposed amendments was therefore to put the matter beyond any argument or doubt that the PSR system applies to clubs irrespective of promotion and relegation. He confirmed the proposed amendments were entirely prospective and that it was important the position was addressed in advance of the AGM, to*

ensure promoted and relegated Clubs were clear on their respective responsibilities and obligations."

(ii) The meaning of Rule W.52.10 without reference to the representations

39. We shall start by considering the meaning of Rule W.52.10 without reference to the background to which we have just referred. The Commission dealt with this in the following way[13]. They recorded that it was common ground (as it has been on this appeal) that the PL Rules are a contract between the parties and are to be construed as such. There is no rule of English law that a contract cannot have retrospective effect[14]. Whether it has such effect is a question of construction of the words of the contract. The Commission said:

> *"[Rule W.52.10] contains no express temporal limitation. Nothing on its face confines its operation to breaches occurring after its introduction. Its language is neutral, conferring a power of general application".*

40. They addressed LCFC's submission that *"the presumption against retrospectivity prevents the rule from applying to breaches predating the amendment"*. They said that they found assistance in McTier v Secretary of State for Education[15] and R v Field[16]. In both cases, regulatory sanctions *("disqualification orders")* were imposed for conduct which predated the enactment of the sanctioning power. It was held in both cases that the statutory provisions were *"temporarily general"* (Field at [60]) and the form of retroactivity involved was of a *"weak form"*.

41. The Commission then said[17]:

> *"There is therefore a substantial difference between (a) what is called a strong form of retroactivity where vested rights are retrospectively*

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13 Decision paragraphs 352-372.
14 Trollope & Colls Ltd v Atomic Power Constructions Ltd [1963] 1 WLR 333, 339-340.
15 [2017] EWHC 212 (Admin); [2017] PTSR 815 at [71]-[75].
16 [2002] EWCA Crim 2913; [2003] 1 WLR 882 at [58].
17 Paragraph 359.

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".

42. They continued[18]:

> *"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…".*

43. LCFC challenges this part of the Decision. It submits that it is a well-established principle of sports law that there is a strong presumption against retroactivity[19]. The presumption is that sanctions applicable for an offence are those that were in place at the time the offence was committed, not any more stringent sanctions that were introduced subsequently. These are principles well-established in English law in the context of statutory interpretation. They should be applied by analogy to contract law which recognises that the more unreasonable a result, the less likely the parties can have intended it.

44. The presumption against legislative non-retroactivity is rooted in considerations of fairness. As Lord Rodger said in Wilson v First County Trust Ltd (No 2)[20]: *"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?"*

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[18] Paragraph 360.
[19] Lewis & Taylor, Sport: Law and Practice 4th ed.
[20] [2003] UKHL 340; [2004] 1 AC 816 at [202].

45. Mr De Marco contends that this approach should be applied in the present case. Rule W.52.10 does not clearly state that it applies to breaches that occurred before it came into force. It is a matter of obvious unfairness that LCFC should be subject to what amounts to a new form of punishment that has a harsher effect than what was available at the time of the breaches.

46. He submits that the Commission rightly accepted that the presumption against retrospectivity applied, but was wrong to hold that it did so in only a *"weak"* form in relation to the construction of Rule W.52.10. It should not have relied on cases involving a regulatory sanction (such as a disqualification order) which is imposed for the purpose of preventing sexual offences against children. Unlike those cases, the present case does not involve a regulatory regime for public protection (still less of vulnerable persons).

47. We reject LCFC's submissions largely for the reasons given by Mr Segan. The Commission were right to classify Rule W.52.10 as providing a *"weak"* form of retrospectivity. They were right (or at least entitled) to rely on cases such as <u>McTier</u> by analogy for the reasons they gave at paragraph 360 of the Decision. When LCFC was competing in the Championship in 2023/24, it knew that, if it failed to comply with the P&S Rules, it was likely to be subject to a points deduction. It is not in dispute that a sporting sanction is the most effective and therefore the most likely form of sanction to be imposed on a club for a breach of the P&S Rules. We agree with the Commission's reasoning in paragraphs 359 and 360.

48. As Mr Segan says, far from being so unfair that it could not have been intended, the imposition by the EFL of a sporting sanction by deduction of points for breach

of the P&S Rules is precisely what LCFC would have expected before Rule W.52 was amended. Leaving the representations out of account, we conclude that (i) there is no reason to think that LCFC would not have expected the Commission to recommend the EFL to make a deduction in this case; and (ii) there is no basis for doing other than giving the words of Rule W.52.10 their plain meaning. The power to recommend is not subject to any temporal qualification and, leaving aside the representations, there is no basis for introducing one.

(iii) Do the representations affect the construction of Rule W.52.10?

49. The Commission said[21] that the representations were not admissible as an aid to the construction of Rule W.52.10. They relied on the passage at 16-062 of Chitty on Contracts (36th edition): 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"*.

50. Mr De Marco responds by pointing out that this passage also says: *"This does not exclude the use of such evidence to support a claim for rectification, or estoppel or to establish that a fact that may be relevant as background was known to the parties"*. He says that it is permissible to look at the relevant background material (including the representations) to identify what was known to the parties and to see that the genesis and objective aim of the amendments was to alter the PL Rules prospectively. He refers to Merthyr (South Wales) Ltd v Merthyr Tydfil County Borough Council[22].

[21] Decision paragraph 365.
[22] [2019] EWCA Civ 526 at [41] ff.

51. We reject Mr De Marco's submissions on this point. First, we note that LCFC has not sought rectification of Rule W.52.10 on the basis that, by mistake, it failed to reflect the parties' agreed position that the power to recommend would not be available in respect of breaches that had been committed before the rule was agreed on 27 March 2025. Mr De Marco's declared position is that he seeks to rely on what the PL said during the negotiations as evidence that the genesis and objective aim of the amendments (including the new Rule W.52.10) was to alter the PL Rules prospectively and not retrospectively. But in reality he is seeking to rely on what was said during the negotiations as an aid to the true construction of Rule W.52.10 and not in order to establish some background fact as to the aim of the rule. To rely on what was said during the negotiations as an aid to the construction is impermissible.

(iv) <u>Estoppel and legitimate expectation</u>

52. Mr De Marco says that, even if the Commission had a power to recommend a points deduction retrospectively, it was not open to it to make such a recommendation because the PL made it unequivocally clear both to LCFC and all clubs at the shareholders' meeting that the rule would not apply retrospectively[23]. As to what was said at the meeting, the Commission said[24]:

> *"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*

[23] LCFC's Skeleton Argument paragraph 28.
[24] Decision paragraph 366.

> *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."*

53. Mr De Marco submits that this finding was not reasonably open to the Commission. He says that Mr Herbert's evidence as to what he meant was irrelevant and should not have been taken into account by the Commission. The correct question is what a reasonable person would have taken Mr Herbert's statement to mean. Mr De Marco says that the answer to that question is that Mr Herbert's comments on prospectivity would have been understood to apply to all the proposed amendments, including what became the new Rule W.52.10. Mr De Marco places particular emphasis on Mr Herbert's confirmation that *"the proposed amendments were entirely prospective"* (see paragraph 38 above).

54. We disagree. First, it is necessary to look at what was said at the meeting of 27 March 2025 in the light of the papers that were circulated before the meeting. These papers focused on the amendments to clubs' substantive responsibilities to comply with the PSR and described Rule W.52.10 as putting existing powers *"beyond doubt"*. Secondly, as LCFC points out[25], the PL's email to LCFC dated 20 March 2025, which confirmed the prospectivity of amendments in general terms, made no specific reference to Rule W.52.10. Thirdly, Mr Herbert's statements at the 27 March 2025 meeting, which focused on clubs' substantive obligations, did not specifically refer to Rule W.52.10.

55. In our view, the Commission's assessment of the evidence at paragraph 366 of the Decision was correct. This conclusion is not affected by our qualification that it was incorrect to refer to Mr Herbert's *"evidence"* that his comments on

[25] LCFC's Skeleton Argument paragraph 29.

prospectivity were reasonably to be understood as limited to other amendments dealing with the substantive PSR obligations. Whether they were reasonably so to be understood was not a matter of evidence. It was a matter of assessment or evaluation. But it is clear that the Commission agreed with what Mr Herbert had said. In our view, the Commission were entitled to make this assessment of how Mr Herbert's comments on prospectivity would have reasonably been understood.

56. We remind ourselves that this appeal is by way of a review of the Commission's Decision rather than a re-hearing. The principles that we must apply are set out in detail in Nottingham Forest FC v Football Association Premier League Limited[26]. We accept that on a pure question of law, an Appeal Board should rarely give much deference to the decision of a Commission. But in our view it will often be appropriate to give some deference to (i) findings of what was said during pre-contract negotiations and (ii) assessments of how what was said would have reasonably been understood.

57. In our view, the conclusion that Mr Herbert's comments on prospectivity were reasonably to be understood as limited to amendments other than Rule W.52.10 was a reasonable conclusion to reach on the facts. It was not a conclusion that was perverse or outside the bounds within which reasonable disagreement was possible. For that reason alone, the estoppel argument must be rejected.

58. There is a further reason. In order to establish (i) that the PL was estopped from relying on Rule W.52.10 retrospectively and/or (ii) that LCFC had a legitimate expectation that Rule W.52.10 could only be interpreted prospectively, LCFC

[26] Nottingham Forest FC v Football Association Premier League Limited (6 May 2024).

would have to show that the PL (through Mr Herbert) had clearly and unequivocally represented to LCFC and the clubs that the power could not be used retrospectively. In our view, following the meeting of 27 March 2025, insofar as Rule W.52.10 is ambiguous, then there remained doubt as to whether the Rule W.52.10 power (as opposed to the other amendments dealing with the substantive PSR obligations) could be exercised retrospectively. This doubt is sufficient to undermine the LCFC's estoppel and legitimate expectation arguments.

59. For all these reasons, we dismiss all elements of Ground 1 of LCFC's Appeal.

<u>Ground 3 of LCFC's Appeal</u>

60. It is convenient to deal with Ground 3 before Ground 2. That is because, however difficult it may be to assess, there should be a relationship between the number of points that are recommended to be deducted and the fine that is imposed in substitution. That is how the Commission approached the matter. It first dealt with the issue of points deduction at paragraphs 373 to 398 of the Decision, concluding with the recommendation of a deduction of six points. It then went on at paragraphs 399 to 413 to consider what fine should be imposed in substitution for the points deduction and arrived at the figure of £9.6 million.

61. The Commission set the starting point for a points deduction at seven points and then reduced that figure by one point for mitigation. LCFC says that the correct starting point should have been five, or at most six points.

62. The Commission's analysis started with the EFL Sanctioning Guidelines which are based on an assumption of the standard ULT of £39 million under the P&S

Rules. They then recalibrated the Guidelines from absolute to relative percentage numbers and said[27]:

> *"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"*.

63. They reached this conclusion by taking into account the factors set out in paragraph 388 of the Decision. These included prior EFL decisions.

64. LCFC says that the Commission were wrong to accept the PL's argument that it should apply the EFL Sanctioning Guidelines subject only to an adjustment in percentage terms to reflect the higher ULT. The right approach would have been to adopt the precedents of past Premier League Disciplinary Commissions. That is because, at the time when it was charged, LCFC was a PL club which was being prosecuted by the PL under the PL Rules (albeit by reference to the P&S Rules).

65. We do not accept that, when it came to sanction, LCFC should have been treated in the same way as any club which has remained in the PL at relevant times. It was highly material that LCFC was being sanctioned for a breach of the EFL's P&S Rules to which it was bound when it was competing in the EFL Championship.

66. Furthermore, the Commission enjoyed a wide margin of appreciation in determining the appropriate starting point for a deduction of points by reference to the totality of the evidence before them and the available guidance (namely, the EFL Sentencing Guidelines and past decisions under the P&S Rules). In

[27] Decision paragraph 387.

particular, it was reasonably open to them to rely (as they did) on the starting point of a seven points deduction that was applied in the Birmingham City case[28] and the Sheffield Wednesday case[29].

67. The decision to recommend a deduction of six points (based on a starting figure of seven points) fell within the margin of appreciation that the Commission enjoyed. We therefore dismiss Ground 3 of LCFC's appeal.

Ground 2 of LCFC's Appeal

68. At one stage of the hearing, it was LCFC's position that, if we were to dismiss Ground 1 of LCFC's appeal, it would not be necessary for us to deal with Ground 2[30]. But ultimately, Mr De Marco told us that it would be *"more prudent"* for us to determine the fine issue and that we should deal with it[31]. This we now do.

69. The Commission summarised the rival submissions of the parties at paragraph 401 of the Decision. The PL contended that the fine should be equivalent to the *"financial value"* to LCFC of the points that were recommended to be deducted, this value being assessed by reference inter alia to the value of LCFC's prospects of promotion. LCFC 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".*

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[28] EFL v Birmingham City Football Club (22 March 2019).
[29] Sheffield Wednesday Football Club v EFL (4 November 2020).
[30] Transcript 60/24 to 61/22.
[31] *Ibid* 167/23 to 168/10.

70. The Commission said that there were a number of ways that the amount of the fine could be quantified, but the sum imposed had to serve the four purposes of sanctioning which they listed as *"(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 go no further than is reasonably necessary to achieve those aims, that being the relevant measure of proportionality"*.

71. The Commission rejected LCFC's submission. It said that the financial impact of a points deduction was unrelated to the level of breach. Moreover, it was not obvious how a fine assessed in this way would be consistent with the four objectives of sanctioning mentioned at paragraph 70 above.

72. The Commission also rejected the PL's submission because it did not consider that the evidence provided a sound basis on which they could assess the value of LCFC's prospects of promotion.

73. Having rejected both parties' suggested approaches, the Commission said that this left two benchmarks, namely: (i) a fine assessed according to the value of the points that would otherwise fall to be deducted and (ii) a fine assessed according to the earlier Championship Football Fair Play ("FFP") regime.

74. As regards the first benchmark, at paragraph 407, the Commission calculated that in the 2023/24 season LCFC had spent an average of £1.6 million on players (wages and amortisation of the cost of purchase) per point achieved. Accordingly, with a deduction of six points, a fine assessed according to the value of these points would be in the order of £9.6 million.

75. As for the second benchmark, the Commission examined the Championship FFP case of QPR[32] in which a fine of £41.965 million was imposed. It acknowledged that the assessment set out in the Championship FFP was of no direct application, but it did provide some 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 an application of the Championship FFP stepped formula, recalibrated to reflect a ULT of £39 million over three years, the Commission arrived at a figure of approximately £14.6 million.

76. The Commission continued:

> *"The two viable benchmarks thus provide a range 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 the scale in the sum of £9.6 million. That ensures that the fine is proportionate".*

77. Neither party seeks to challenge the Commission's rejection of the approach advocated by the PL, namely the financial value to LCFC of the points recommended to be deducted. On this appeal, the PL seeks to uphold the Commission's decision.

78. LCFC appeals on a number of grounds. First, it says that the Commission's approach was procedurally unfair, because it was not pleaded by the PL and LCFC did not have an opportunity to deal with it. Secondly, it makes several criticisms of the detail of the Commission's reasoning.

79. As regards procedural unfairness, Mr De Marco submits that the PL's case as developed at the hearing was not pleaded. Moreover, the Commission adopted

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[32] Queens Park Rangers Football & Athletic Club Limited v Football League Limited (19 October 2017).

their own approach without giving the parties a proper opportunity to address it. But we accept the submissions of Mr Segan that there was no unfairness here. The procedural history is important. LCFC's initial position on sanction in these proceedings was that the only appropriate sanction for breach of the P&S Rules would be a points deduction on its return to the Premier League and that a fine would be *"unfair and unreasonable"*. It maintained this position until the night before closing submissions and did not amend its pleading even then. Nevertheless, it was permitted to argue that a fine was appropriate and both parties were permitted by the Commission to make submissions as to how the fine should be calculated. Because the aptness of a fine only became an issue at such a late stage of the proceedings, it was hardly surprising that the proceedings continued on the basis of the pleadings as they then stood. Understandably, neither side asked for permission to amend its pleading.

80. In these circumstances, the Commission's decision to invite supplemental closing submissions on the quantum of the fine was appropriate and procedurally entirely fair.

81. We also reject the submission that the Commission acted in a procedurally unfair manner by having regard to the estimated cost of a point by reference to LCFC's FY24 financial figures. The PL had proposed the cost of a point and LCFC had addressed this as a relevant benchmark in sequential submissions. Paragraph 29 of LCFC's Supplemental Closing Submissions referred to LCFC's FY24 financial figures in the context of this benchmark. LCFC does not dispute the accuracy of these figures.

82. As regards the detailed points of criticism made by Mr De Marco, as Mr Segan put it *"what we have in essence is a kind of collection of points of disagreement with the detail of how the Commission arrived at 9.6 million"*[33]. It is not necessary to examine these points *seriatim*. The determination of the fine in substitution for the deduction of points was an inherently difficult exercise. It was harder than the evaluation of the points deduction because of the wide range of possible starting points and calculations. But the Commission had to do its best to make a reasonable judgment or assessment on which opinions may reasonably differ. It suffices to say that we accept Mr Segan's response[34]:

> *"But these are all judgments which lay well within the margin of appreciation of the Commission, in circumstances where Leicester's approach was clearly unacceptable and clearly would not meet the objectives of sanctioning"*.

83. On the assumption that the appropriate sporting penalty was a recommendation of a deduction of six points, it cannot reasonably be said that the alternative fine of £9.6 million was too high. That fine was considerably lower than the figure proposed by the PL ("*around £20 million"*) and at the lower end of the benchmark calculations. We therefore dismiss Ground 2 of LCFC's appeal.

<u>Overall Conclusion on LCFC's Appeal</u>

84. For the reasons we have given, we reject all three of LCFC's grounds of appeal and dismiss its appeal in its entirety.

<u>The PL's Appeal</u>

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33 Transcript 158/10-12.

34 *Ibid* 163/4-8.

85. As we have stated at paragraph 8 above, the PL's ground of appeal is that, having found LCFC guilty of refusing promptly to provide its FY24 Annual Accounts in breach of Rules W.1, W.16 and B.18 of the PL Rules, when addressing sanction, the Commission erred in not taking that conduct into account by either increasing the penalty for the breach of P&S Rules by one point (Ground 1) or by imposing a separate one point sanction (Ground 2), and in failing to give adequate reasons for those failures (Ground 3).

86. Under Rule W.1, the PL Board has the power to require a Club to produce documents for the purposes of an inquiry into any suspected breach of the PL Rules, and Rule W.16 requires any Club requested to provide such assistance to *"provide full, complete and prompt assistance to the Board…"*. Without prejudice to those powers in relation to an inquiry, Rule B.18 requires a Club generally to "*comply promptly and in full with any request for information and/or documents made by the League…"*. For the sake of completeness, we should add that Rule E.50 also required LCFC to submit its FY24 Accounts by 31 December 2024 (although no complaint in respect of a breach of that rule was made).

87. The facts behind these charges can be simply put. The PL, having commenced an inquiry into possible P&S Rules breaches by LCFC for FY24, asked the Club to provide its FY24 Annual Accounts (which were available to it in December 2024) in emails on 2, 7, 8 and 13 January 2025 and by application in the separate Section X proceedings, but LCFC refused and those Accounts were not provided until 31 March 2025. The Accounts confirmed that LCFC had committed breaches of the P&S Rules.

88. Before the Commission, LCFC denied any breach on the basis that (amongst other things) the requests were not made in pursuit of a legitimate regulatory purpose; but the Commission held that LCFC's refusal to provide the Accounts in response to the PL's requests breached Rules W.1, W.16 and B.18 *("the non-disclosure breach"*) (paragraph 304 of the Decision).

89. As regards a sanction for that breach, they said (paragraph 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)."*

90. In these paragraphs they said:

> *"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'."*
>
> *"396. We do not consider LCFC's conduct to meet, or indeed come close to, that benchmark [for 'exceptional cooperation', i.e. 'conduct going materially beyond what is ordinarily expected of a club faced with an investigation into financial breaches'].*
>
> *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 … 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 [LCFC] to refuse disclosure on the basis that, in its own assessment, the PL had no genuine need for the accounts. Instead, [LCFC] was expected to provide its accounts as and when required by the PL pursuant to the PL Rules…".*

91. It is clear that, in paragraphs 396.1-396.3, the Commission set out the matters which led them to conclude that LCFCs conduct did not amount to *"exceptional cooperation"* warranting a discount on the points deduction.

92. As we have described, the Commission proceeded to impose a six-point penalty for the P&S Rule breaches.

93. Mr Segan submitted that this was a serious breach of the disclosure obligation. We agree. As the Commission put it, it involved LCFC's *"repeated refusal to provide information reasonably sought by the PL [which was] capable of prejudicing the effective and timely operation of the disciplinary process"*[35], a process which concerned *"a serious breach by [the Club] of the P&S Rules"*[36] which warranted *"an immediate points deduction in the current season"*[37]. When refusing to disclose the Accounts, LCFC must have known that disclosure would confirm the P&S Rules breach; such a refusal to disclose Accounts is egregious misconduct by a Club; and the Club advanced no positive reason for the refusal *"other than its deference to its [undisclosed] legal advice"*[38].

94. It was further said on behalf of the PL that the failure to disclose the Accounts was effectively part of the same misconduct which led to the P&S Rule charges;

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[35] Decision paragraph 308.
[36] Paragraph 376.
[37] Paragraph 377.
[38] Paragraph 396.3.

and, as it wilfully obstructed the investigation of the P&S Rule breaches and marked a higher level of culpability or greater degree of harm than is inherent in those breaches, in terms of sanction, it was an aggravating factor. Again, we agree.

95. However, Mr Segan submitted that LCFC's misconduct involved in the non-disclosure breach was not taken into account as an aggravating factor in the sanction imposed. Whilst he accepted that the weight of a consideration was for the Commission, it was an error of law not to take a seriously aggravating factor into account at all. It should have been reflected in at least an additional point deduction, either as an aggravating factor in the sanction for the P&S Rule breaches or as a separate sanction.

96. We agree with Mr Segan that the Commission would have erred if they had not taken the non-disclosure breach into account in relation to sanction; but, in our view, if the Decision on sanction is looked at fairly and as a whole, it was taken into account.

97. We consider that the Commission were entitled to treat the non-disclosure breach as aggravating the P&S Rule breaches, rather than imposing a separate sanction for it. Indeed, we consider that was the better course, given that the failure to disclose appears to have been associated with the P&S Rule breaches, and effectively part of the same (mis)conduct.

98. In paragraph 309 of their Decision, the Commission said that they would take the non-disclosure breach into account when considering aggravating (and mitigating) factors for the purpose of determining the appropriate sanction for the P&S Rules breaches; as they did again in paragraph 391. In that paragraph, the

Commission did not say that they did not consider the non-disclosure breaches to be an aggravating factor, but rather that they *"[did] not consider those breaches to be an aggravating factor* ***meriting an increase in points deduction****"* (emphasis added), and that they would weigh the breach in the balance with the Club's conduct relied on in mitigation for its *"exceptional cooperation"*.

99. Mr Segan submitted that, when they carried out that balancing exercise, they concluded (rightly, he said) that there had been no *"exceptional cooperation"*; so that there was nothing to weigh against the non-disclosure breaches. The result was (he submitted) that the non-disclosure breach was not taken into account at all in the sanction exercise and LCFC received no punishment for its refusal to disclose its Accounts. This undermined the purpose of the disciplinary rules. Not only was LCFC not punished for the breach, but Clubs would not be deterred from breaching the disclosure obligation in the future. The lack of any sanction undermined the integrity of the scheme as a whole because it indicated that Clubs might prejudice the PL disciplinary process with impunity.

100. However, the premise on which this submission is founded is false because, in concluding in paragraph 396 that LCFC's conduct did not amount to *"exceptional cooperation"*, it is clear from paragraph 396.3 that the Commission did take into account the non-disclosure breach as an aggravating factor. It was one of the three factors to which they expressly referred, which led them to the conclusion that there should be no reduction in the points deducted to reflect any *"exceptional cooperation"* by LCFC. But for the aggravating factor of the non-disclosure breach, the Commission indicated that they would (or, at least, might)

have found LCFC to have engaged in *"exceptional cooperation"* with a consequential reduction in the number of points deducted.

101. Therefore, as they said they would, the Commission did take the non-disclosure breach into account in balancing the aggravating and mitigating factors. They concluded that there should be a one point reduction in the points deduction on account of positive trend, but that there should not be a further one or two point deduction on account of cooperation because, when the whole conduct of LCFC (including its refusal to produce its Accounts) was taken into account, there was no exceptional cooperation but neither was there sufficient net aggravation to warrant a further one point deduction. That was an appropriate analysis for the Commission to adopt. As Mr Segan rightly accepted, the weight given to these various factors was essentially a matter for the Commission. They did not err in law in not taking the non-disclosure breach into account as an aggravating factor, or in the weight they gave to it.

102. Turning to the three grounds of appeal, therefore, we conclude that the Commission (i) did treat the non-disclosure breach as an aggravating factor (Ground 1); (ii) did not err by failing to impose a separate penalty (Ground 2); and (iii) provided sufficient reasons for their decision (Ground 3).

<u>Overall Conclusion on the PL's Appeal</u>

103. For the reasons we have given, we dismiss the PL's appeal.

<u>Conclusion and Disposal</u>

104. For those reasons, both LCFC's appeal and the PL's appeal are dismissed.

105. Under Rule W.83.6, we have the power to order a party to pay or contribute to the costs of the appeal. We shall give directions to allow the parties to make submissions on costs, which we will deal with separately.

106. Subject to the provisions of Section X of the PL Rules, this Decision is final and binding on the parties (Rule W.84).

Dated 6 April 2026

The Rt Hon Lord Dyson
For the Appeal Board