

IN THE MATTER OF A REGULATORY COMMISSION
OF THE FOOTBALL ASSOCIATION

BETWEEN:

THE FOOTBALL ASSOCIATION

The Association

- and -

KARL ROBINSON

Participant

WRITTEN REASONS FOR THE DECISION OF
THE REGULATORY COMMISSION
FOLLOWING THE HEARING ON
21ST/22ND JANUARY 2015

1. BACKGROUND

- 1.1 On 16th September 2014, Milton Keynes Dons FC played Bradford City FC in a Football League Division 1 fixture at the MK Dons Stadium. The match took place during the early part of the season. Both clubs were in the upper reaches of the league table.
- 1.2 The match was officiated by Andre Marriner (Match Referee), assisted by Scott Ledger and Darren Cann (Assistant Referees), and Dean Whitestone (Fourth Official).
- 1.3 An incident occurred in the 61st minute of the game when Bradford City were leading 2-1. A short distance outside the MK Dons' penalty area, one of its players, George Baldock, was tackled by a Bradford City player. Mr. Baldock went to ground and the game stopped. Mr. Marriner cautioned the Bradford player responsible. The MK Dons coach, Karl Robinson, has described the tackle as "*disgusting*".

- 1.4 As the game was delayed by the injury to Mr. Baldock, another Bradford City player, Christopher Routis, who was in the other half of the pitch and some considerable distance from the incident, started to walk towards Mr. Ledger who was running the touchline on the bench side of the pitch. Mr. Routis began gesturing to Mr. Ledger in such a way as to suggest that Mr. Baldock had 'dived' and that he should be cautioned (by raising his arm and waving an imaginary card). Mr. Ledger was concentrating on the aftermath of the challenge on Mr. Baldock and did not notice Mr. Routis at this juncture.
- 1.5 However, Mr. Robinson had seen what Mr. Routis was doing. He stepped away from the MK Dons bench where he had been standing and strode towards the edge of his team's technical area, in very close proximity to Mr. Ledger. By this point in the sequence of events, Mr. Robinson was shouting loudly at Mr. Routis. By his own admission, he was "*incensed*" and "*enraged*" by the conduct of Mr. Routis, believing that the latter was attempting to influence the Officials to caution Mr. Baldock. Mr. Robinson wanted to "*get to*" Mr. Routis.
- 1.6 Now aware of Mr. Robinson's presence, and concerned that he might enter the pitch, Mr. Ledger placed his arm in front of Mr. Robinson to prevent him from doing so. The words that Mr. Robinson then shouted at Mr. Routis lie at the heart of this case and will be analysed shortly. Before the game re-commenced, Mr. Ledger advised Mr. Marriner over the Officials' audio-communications system that he wished to speak to him. Mr. Marriner approached the touchline and spoke directly with Mr. Ledger who advised him that he had heard Mr. Robinson, shout the following words:

"Its nothing to do with you. You fucking French cunt."

1.7 Mr. Routis is a French national. He played professional football in Switzerland for a time before moving to England to play for Bradford City. Before he signed for Bradford City, he had a trial at MK Dons, but was not taken on. Mr. Robinson had therefore met Mr. Routis prior to the game in question and knew or believed him to be French.

1.8 Following his exchange with Mr. Ledger, Mr. Marriner walked a short distance over to Mr. Robinson and dismissed him from the touchline. Mr. Robinson protested, but eventually went down the tunnel.

1.9 Mr. Marriner then asked Mr. Ledger to repeat the words that he attributed to Mr. Robinson to Mr. Whitestone, which he did over the communications system. The note that Mr. Whitestone made will be referred to in due course. Mr. Ledger also personally recorded the words spoken by Mr. Robinson in a notebook that he carries with him when officiating:

"61 min Karl Rob

It (sic) nothing to do with you, you fucking French cunt."

1.10 Some 15 minutes or so later, during a lull in the game, Mr. Ledger contacted Mr. Marriner again via the communications system to advise him that the Bradford City full-back, James Meredith, had said the following to Mr. Ledger:

"I can't believe he said that. That's like someone calling me a nigger."

There is an issue as to who initiated that exchange, but not the fact of the statement that Mr. Meredith made.

1.11 At the conclusion of the game, Mr. Robinson was waiting outside the Match Officials' changing-room. Although the requisite 30-minute 'cooling off' period had not elapsed, Mr. Robinson's demeanour was calmer and he was invited into the changing-room. All four Officials were present. Mr. Robinson said that he wanted to clarify the reason for his dismissal and the comments that he had made.

1.12 Mr. Whitestone made a further note of certain words that Mr. Robinson claimed that he had used towards Mr. Routis:

"You should be on the bench you cunt". I did say: "Fuck off back to France".

1.13 Mr. Robinson was subsequently interviewed by The FA (on 8th October 2014). A written transcript of it was prepared. Mr. Meredith was also interviewed. Mr. Robinson's case as to the words that he used will be referred to shortly.

1.14 By letter dated 14th November 2014, Mr. Robinson was charged with misconduct for an alleged breach of FA Rule E3(1) arising out of the incident set out above. The charge letter further alleged that the breach was 'Aggravated' within the definition of Rule E3(2) as it included a reference to nationality. The two statements that Mr. Robinson is alleged to have made and that formed the basis of the charge are:

"You fucking French cunt"; and

"Fuck off back to France" (or words to that effect).

1.15 It is not The FA's case that the comments were racist.

1.16 Mr. Robinson denied the charge - or at least the Aggravated element - and requested a personal hearing.

2. THE HEARING BEFORE THE REGULATORY COMMISSION

2.1 The Commission heard oral evidence from the following witnesses:

For The FA

Andre Marriner;

Scott Ledger;

Darren Cann;

Dean Whitestone (via video link);

Christopher Routis; and

James Meredith

For Mr. Robinson

Karl Robinson;

Ben Reeves; and

Damien Doyle.

A written statement of Simon Edwards had also been served on behalf of Mr. Robinson, but Mr. Edwards was unable to attend the hearing and his statement was tendered in writing. The fact that he was not subjected to cross-examination inevitably affects the weight to be attached to his evidence.

2.2 The burden of proving the charge rests with The FA and the standard of proof to be applied is the civil standard, namely the balance of probabilities.

2.3 Mr. Robinson claims in his witness statement that he remembers "*clearly*" that he shouted the following words at Mr. Routis:

(i) "*You fucking stay out of it*" and "*Its got nothing to do with you*".

He also remembers "*clearly*" saying:

(ii) *"You should be on the fucking **bench** you cunt"* (emphasis added).

He also recalls saying:

(iii) *"If you want to do all that bollocks why don't you fuck off, **play back in** France"* (emphasis added); and

(iv) *"That's not accepted in this country."*

2.4 There is no dispute that by way of preamble to his more offensive remarks, Mr. Robinson shouted to Mr. Routis: *"Its got nothing to do with you"*, or words to that effect. According to Mr. Meredith, those words were preceded by *"Oi, oi ..."* which is what first attracted him to Mr. Robinson's loud shouting. It follows that the first element of Mr. Ledger's recollections, as recorded in his contemporaneous note, together with Mr. Meredith's recollection of what was said, and the version of it recorded by Mr. Whitestone in the 61st minute of the game, is agreed as accurate.

2.5 Turning then, to the controversial words that followed, the Commission is satisfied on the balance of probabilities that Mr. Robinson did shout out to Mr. Routis *"You fucking French cunt"* and *"Fuck off back to France"*. Our reasons for making those two factual findings are as follows:

(a) It is important, firstly, to consider the context in which the alleged words were spoken by Mr. Robinson. MK Dons were losing at the time of the incident and 'chasing the game'. It would prove to be their first home defeat of the season. It placed Bradford City level with them on 13 points as an early season promotion rival.

- (b) In addition to the frustration of losing, the fact that he described the challenge on his player as *"disgusting"* no doubt fed Mr. Robinson's sense of outrage and indignation at what he perceived to be the unjustified and unprofessional conduct of Mr. Routis. All of those factors contributed towards Mr. Robinson's highly agitated state. It is reasonable to conclude that his condition informed the language that he used, the care - or lack of care - with which he chose his words, and his directness of speech.
- (c) When the offending words were spoken, Mr. Ledger was standing very close to Mr. Robinson. The latter was shouting loudly. Whether he had said anything in the brief time that it took him to reach the edge of the technical area is not really material. If he said: *"You fucking stay out of it"* or words to that effect, they were not heard by Mr. Ledger (or Mr. Meredith). Up until the point that Mr. Robinson came alongside Mr. Ledger and appeared to be making his way towards the pitch, the latter was focussing his attention on the foul that had been committed and subsequent caution. As has already been noted, the first thing that both Mr. Ledger and Mr. Meredith recollect hearing Mr. Robinson say to Mr. Routis are consistent with one another and not disputed by him (*i.e. "Its got nothing to do with you"*). According to Mr. Robinson, that was the second statement he said in the sequence of things he said.
- (d) Mr. Ledger's evidence is that Mr. Robinson then said: *"You fucking French cunt"*. There is a discrepancy in Mr. Ledger's first witness statement at paragraph 12 where he says he is *"100% sure"* that Mr. Robinson said: *"Its nothing to do with you, you French cunt"* (*i.e. omitting the word "fucking"*). We accept that this was simply a drafting oversight. At paragraph 3 of the same statement, and paragraph 3 of his supplemental statement, Mr. Ledger attributes the words: *"you fucking French cunt"* to Mr. Robinson. There is also his contemporaneous note, made at the time. Moreover, the words: *"you fucking French cunt"* are corroborated by, Mr. Meredith.

- (e) Tellingly, Mr. Meredith says that he was “shocked” and was “shaking his head” at what Mr. Robinson said. In examination-in-chief, Mr. Meredith said that he was “100% sure” that the latter had said: “What’s it got to do with you? You fucking French cunt” and that Mr. Robinson had also said: “Fuck off back to France”. During cross-examination of him, Mr. Meredith described it as a “profound” thing to hear on a football pitch. When challenged, he said that he did not believe that Mr. Robinson had used the word “bench” or that he (Mr. Meredith) could have mistaken it for “French”. On this issue, it is significant in our judgment that Mr. Robinson knew, or believed, Mr. Routis to be French.
- (f) Mr. Meredith was an independent witness with ‘no axe to grind’. He gave his evidence in an intelligent, thoughtful, and considered way. We found him to be an impressive and reliable witness. We were particularly struck that he had reflected on the analogy he made earlier between what Mr. Robinson said and someone calling him (Mr. Meredith) a “nigger”. Having regard to the sensitivity surrounding that highly emotive word, he now thought that it was more serious than the insult he had heard Mr. Robinson direct at Mr. Routis. By doing so, Mr. Meredith was drawing a distinction between an insult relating to nationality on the one hand, and a racial insult on the other. That he was prepared to take a point against himself underlined his reasonableness.
- (g) It was prudent and reasonable for Mr. Ledger to briefly re-play in his mind what he heard Mr. Robinson shout before alerting it to the attention of Mr. Marriner. Mr. Ledger told us that that is what officials are trained to do in such situations. What he was about to report was undoubtedly a very serious matter, with potentially significant ramifications. In the event, he communicated it to Mr. Marriner before the game had even re-started. We reject the contention that a slight pause on his part must have meant that there was doubt in Mr. Ledger’s mind as to what he had heard.

- (h) Mr. Robinson contended that both Mr. Ledger and Mr. Meredith misheard him say “French” when he in fact said “bench”. However, for that to be right, any mistaken recollection on their part cannot have been limited to one word, because the sentence in which the word in question appears makes no sense if one simply substitutes “bench” for “French”:

“You fucking [bench] cunt.”

- (i) Allied to the preceding point, the Commission regarded it as an improbable thing for Mr. Robinson - or any manager/coach for that matter - to tell an opposing player during the course of an angry tirade that he should be “on the bench”, even if the player in question had spent most of the season as an unused substitute. On Mr. Robinson’s case, such a mild rebuke was immediately preceded and followed by very clear and obvious insults (i.e. “fucking” and “cunt” respectively). The foul language is entirely consistent with a highly charged situation. The claimed reference to “bench” is clearly not. The fact that he knew or believed Mr. Routis to be French renders his use of the word “French” explicable and likely.
- (j) After he had reported to Mr. Marriner what he had heard Mr. Robinson say, Mr. Ledger made a contemporaneous note of the words spoken. Mr. Marriner confirmed what he was told by Mr. Ledger and we accept his evidence. The note made by Mr. Ledger is consistent with the record made by Mr. Whitestone, based on what Mr. Ledger told him, albeit that Mr. Whitestone’s note is self-supporting of Mr. Ledger on this particular aspect of what Mr. Robinson is alleged to have said. In the 61st minute, Mr. Whitestone wrote: “Its nothing to do with you”. The game then re-started and required his attention, but he completed the note shortly afterwards in the 63rd minute by adding: “You fucking French cunt.” Again, though, the note coincides with the recollections of both Mr. Ledger and Mr. Meredith.

- (k) An Extraordinary Report was prepared by Mr. Whitestone the day after the match, and approved by Mr. Marriner. The contents of the Report are also consistent with both Mr. Ledger's own note and that of Mr. Whitestone. Their timing significantly increases the likelihood of their accuracy, coming so soon after the alleged words were spoken. The contemporaneous nature of all of this evidence is in contrast with the recollections of witnesses called on behalf of Mr. Robinson whose statements were not obtained for over two months following the incident.
- (l) On balance, we find that it was Mr. Ledger who instigated the dialogue that he had with Mr. Meredith during a subsequent lull the game rather than the other way around. Although it follows that we find Mr. Ledger to have been mistaken in his evidence on this one point, it is not capable of undermining either his recollection or his record of what Mr. Robinson said, in view of the corroboration for it that is provided by Mr. Meredith. Whoever may have been responsible for initiating the exchange, the more important point is the statement that it elicited from Mr. Meredith. Likewise, the criticism levelled at the propriety of a match official inviting comment from a player in such circumstances. When Mr. Ledger said to him: *"You heard that didn't you?"* Mr. Meredith immediately knew what *"that"* meant, despite 15 or 16 minutes having elapsed since the incident in question took place. When Mr. Robinson shouted at Mr. Routis, Mr. Meredith was sufficiently shocked at what he heard to draw the parallel that he did - albeit that he has subsequently altered his perception of it.
- (m) Attempts were made to further undermine the reliability of Mr. Meredith's evidence by questioning why he did not report what he had allegedly heard Mr. Robinson say to either Mr. Marriner or one of the other Officials, before he spoke to Mr. Ledger some 15 minutes later. The simple and plausible explanation for this is that Mr. Meredith was concentrating more on winning the match.

- (n) Question-marks were raised by Mr. Afeeva on behalf of Mr. Robinson during the evidence and in submissions about what was, or was not, heard by the Officials over their communications system. The foundation for The FA's case is the evidence of Mr. Ledger and Mr. Meredith. If we accept their evidence as to what they heard Mr. Robinson say, which we do, whatever may or may not have been said and/or heard by the Officials through their communications system is not materially relevant to our findings or the outcome.
- (o) In a similar vein, the principal evidence upon which The FA's case relies precedes the dismissal of Mr. Robinson from the touchline by Mr. Marriner. By then, both Mr. Ledger and Mr. Meredith had heard Mr. Robinson shout to Mr. Routis: "*You Fucking French cunt*" and Mr. Meredith had heard him add: "*Fuck off back to France.*" After the game, Mr. Robinson himself confirmed that he had made the latter statement. Its relevance is therefore marginal, but we prefer the evidence of Mr. Marriner that he did tell Mr. Robinson what he is alleged to have said when dismissing him.
- (p) Finally, we have no difficulty preferring the evidence presented by The FA to that of the two witnesses who were called to give oral evidence on behalf of Mr. Robinson. Their statements were not made until over two months after the incident in question. Mr. Reeves fairly accepted that he was not focussing "100%" on what was going on in the technical area as he had gone to the touchline to get an energy gel. He heard shouting but, not the content or the context. He accepted that he did not pay much attention to what was going on. Mr. Doyle claimed that he heard Mr. Robinson use the word "*bench*" but, in the light of other evidence to which greater weight should be attached, we find that he is mistaken in his recollection. We are able to attach very little weight to the statement of Mr. Edwards and the cumulative evidence called by Mr. Robinson is not capable of displacing that relied upon by The FA.

- (q) Turning to the words that are attributed to Mr. Robinson in the Officials' changing-room following the match, all four Officials have attested to the fact that he admitted that he had directed the following words at Mr. Routis:

"Fuck off back to France."

Mr. Whitestone recorded that statement in his note, but Mr. Robinson claims that what he in fact said was:

"If you want to do all of that bollocks [i.e. waving imaginary cards]... Fuck off and play back in France"

There is no dispute that Mr. Whitestone did accurately record Mr. Robinson's claim that he had said to Mr. Routis:

"You should be on the bench you cunt."

It follows that Mr. Robinson accepts the accuracy of one aspect of the note made by Mr. Whitestone in the changing-room, but not the other. We accept that the exchange that took place after the game is likely to have included more words than Mr. Whitestone noted. However, we are satisfied that he has accurately recorded both statements that are attributed to Mr. Robinson. The accuracy of the note is corroborated by Mr. Marriner, Mr. Ledger and Mr. Cann, whose evidence we accept. Yet further confirmation is provided by the evidence of Mr. Meredith as to what he heard Mr. Robinson say on the pitch itself, namely *"Fuck off back to France"*. Mr. Whitestone has thought better of a comment that he made in a subsequent e-mail, but pre-empting a personal hearing does not in itself indicate anything untoward. Indeed, it proved to be accurate.

- (r) For the sake of completeness, the Commission also considers that the words *"play back in France "* contended for by Mr. Robinson are, in the context in which he claims he said them, somewhat artificial. In the heat of the moment, and having regard to his incensed and enraged state, the briefer and more direct insult: *"Fuck off back to France"* is more plausible and likely.
- (s) We therefore have no difficulty in preferring the large body of evidence in support of The FA's case that Mr. Robinson also told Mr. Routis to *"Fuck off back to France"*. With the benefit of time, hindsight and calm reflection, Mr. Robinson may well have wished that he had articulated himself in a more nuanced and careful manner. A way that expressly stated, or conveyed the sense, that players who try to influence officials by branding imaginary cards should have no place in English football. Apart from those who engage in such conduct, there are few who would disagree with that view. It is one that Mr. Robinson clearly feels very strongly about, but on this occasion was expressed by him in abusive and insulting terms, and by reference to the nationality of Mr. Routis.

2.6 A point was taken during submissions that even if the Commission found that Mr. Robinson had said: *"fuck off back to France"*, it was not capable of amounting to an Aggravated Breach because FA Rule E3(2) refers to *"nationality"*, not *"nation"*. We reject this submission. If someone is a French national, then telling them to *"go back to France"* by clear implication links their nationality with their nation. The position would be different if, for example, an English national who had played in France, was told *"go back to France."* Ultimately, though, as we have found that Mr. Robinson did call Mr. Routis a *"fucking French cunt"* this technical argument cannot apply to that particular insult and the Aggravated Breach would still be established.

2.7 The Commission therefore finds the charge of Misconduct contrary to FA Rule E3(1) to be proved. Further, that the breach of Rule E3(1) is an Aggravated Breach as defined in Rule E3(2) on the ground that it included a reference to nationality. For the avoidance of doubt, we find that there was an Aggravated Breach in relation to both statements made by Mr. Robinson and upon which the charge is founded.

3. SANCTIONS

3.1 As has already been alluded to, Mr. Robinson feels passionately that the sort of unsporting behaviour that he believed Mr. Routis to be guilty of should not be tolerated. We stress that we have not been required to make any finding regarding the conduct of Mr. Routis. Nevertheless, we accept that it was something that he did that motivated Mr. Robinson to react and to provide the context for the abusive and insulting words that were directed at Mr. Routis.

3.2 Mr. Robinson candidly describes his own language as "*industrial*". On any objective interpretation it was wholly unacceptable. The aggravating feature of reference to nationality is further aggravated by the fact that it was used on two occasions, albeit in quick succession.

3.3 The Commission was referred to Mr. Robinson's disciplinary record. At the age of 29, he was the youngest first-team coach of a club in top-flight English football. During the 5 years or so since then, he has earned himself a good and growing reputation as a successful coach. Regrettably, his disciplinary record during the same timescale has followed a similar upward trajectory. A clear and perplexing pattern of misconduct is discernible and we were told that steps were being taken internally at club level to address this. The Commission must take Mr. Robinson's previous disciplinary record into account when determining the appropriate sanction to impose.

- 3.4 Under FA Rule E3(4)(iii), a Regulatory Commission is not bound to impose an immediate suspension of at least 5 matches where an Aggravated Breach by reference to nationality is committed for the first time. Instead, a Regulatory Commission may impose any sanction that it considers appropriate, taking into account any aggravating or mitigating features present.
- 3.5 The Guidance as to disciplinary penalties that is provided to Clubs by The FA prior to the start of the current football season indicates that a sporting sanction of a 2-match touchline ban for non-players, together with a fine, will follow where a charge of using abusive and/or insulting words or behaviour (but not involving any reference to nationality) is found proved by a Regulatory Commission following a denial.
- 3.6 In the view of this Commission, the presence of the aggravating feature of reference to nationality means that a higher starting point than a 2-match sporting sanction is indicated. Taking into account the aggravating features referred to above, but making some allowance for the motivation and context in which Mr. Robinson said what he did, the Commission concludes that the appropriate sporting sanction in this case is the imposition of a touchline ban until MK Dons First Team have completed 4 matches in competitive competitions. We impose additional sanctions, including a fine of £3,000, and make the following order:
- (i) With immediate effect, Karl Robinson is suspended from the touchline until MK Dons First team have completed 4 matches in approved competitions.
 - (ii) Mr. Robinson will pay a fine of £3,000.
 - (iii) Mr. Robinson is ordered to attend an Approved Educational Programme relating to nationality as directed by The FA.

(iv) Mr. Robinson will make a contribution of £3,500 towards the costs of the Regulatory Commission.

(v) Mr. Robinson is warned as to his future conduct.

Craig Moore

Chairman to the Regulatory Commission

23rd January 2015

Appearances

For the FA:

Mr. Dario Giovannelli, Counsel.

For Mr. Robinson

Mr. Mark Afeeva, Counsel

The Regulatory Commission

Mr. Craig Moore, Barrister

Mr. Stuart Ripley, FA Football Panel Member

Mr. Mick Buxton, FA Football Panel Member

Assistance to the Commission

Mr. Robert Marsh, FA Judicial Services Manager