

**Football Association Independent Regulatory Commission**

**(the 'Commission')**

**in the matter of an Aggravated FA Rule E3 (1) charge for  
Misconduct brought by The FA against Jack Simpson ('JS').**

**Regulatory Commission Decision**

1. These are the written reasons for a decision made by an Independent Regulatory Commission which sat on 1<sup>st</sup> November 2023.
2. The Commission members were Mr. Stuart Ripley (Chairman), Mr. Brian Talbot and Mr. Tony Agana, all of whom are Independent Football Panel Members.
3. Mr. Paddy McCormack of the FA Judicial Services Department acted as Secretary to the Regulatory Commission.
4. The following is a summary of the principal submissions provided to the Commission. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or submission, should not imply that the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.

## Background to the Charge

5. FA Rule E3.1 sets out various obligations regarding a Participant's behaviour. A breach of Rule E3.1 is considered "*Misconduct*". Acts of discrimination are considered to be amongst the most serious type of Misconduct which a Participant can commit. For this reason, any act of discrimination is considered to be an "*Aggravated Breach*" of E3.1. An "*Aggravated Breach*" is defined as a breach of Rule E3.1, where it includes a reference, whether express or implied, to any one or more of the following: ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation, or disability.
6. During July 2023 Jack Simpson ('JS') and Rohan Luthra ('RL') were contracted players at Cardiff City FC ('CCFC'). JS is white. In his statement to the Commission RL describes his ethnicity as British/Asian.
7. CCFC undertook a 6-day pre-season tour to Portugal from 17<sup>th</sup> July -23<sup>rd</sup> July 2023.
8. Following a fixture against Porto FC that took place on Saturday 22nd July 2023, the players of CCFC were given permission to have a night out and "*enjoy a few drinks*". The majority of the squad went out into Vilamoura immediately after the game. CCFC were due to fly home the following day on Sunday 23<sup>rd</sup> July 2023.

9. Having consumed high levels of alcohol, JS had returned to his room around 3:00am-4:00am. He got up and went down for breakfast around 6:00am - 6:30am.
  
10. JS was sat with CCFC teammates Keiron Evans ('KE') and Rubin Colwill ('RC') when RL approached the table and sat down with his breakfast.
  
11. At that moment, according to RL, JS said to him – *"Oh Yeah, and you, you're a dirty Paki"*. The use of the words *'dirty Paki'* was corroborated by KE and RC. The comment appeared to be inexplicable as there had been no conflict or animosity between the two during or prior to the trip.
  
12. RL, hurt and angered by the comment, got up and sat at another table after having told JS not to speak to him and that he was *"out of order"*.
  
13. KE and RC expressed their shock at the remark and said to JS, *"you can't say that"*. JS acknowledged this and said, *"yeah, I shouldn't have said that"*.
  
14. The Team headed to the airport shortly after. KE reported that when at the airport he was stood behind JS in a queue at a coffee shop and they spoke about the incident. JS said words to the effect of, *"I'm so stupid. I don't know why I said that. My girlfriend is from that country as well."* According to KE, JS was clearly disappointed with himself and said he was going to speak with RL and apologise.

15. When JS attempted to engage with RL at the airport, RL told JS that he was a “racist” and refused to talk to him.
16. RL did not report the incident until after The FA had delivered a presentation at CCFC on Thursday 27th July 2023. The FA spoke about the FA Rules and Regulations, including those that cover discrimination and the need to report it. This prompted RL to report the incident that had occurred between himself and JS.
17. On Friday 11th August 2023, RL informed the CCFC Club Secretary, Michelle McDonald, that he had been subjected to a discriminatory comment by his teammate JS.
18. JS attended a fact-finding meeting at the CCFC Stadium on Tuesday 15<sup>th</sup> August 2023. The meeting was conducted by CCFC Head of Human Resources, Dawn Williamson and Michelle McDonald. Lee Mansell of the PFA was in attendance with JS. JS stated that he could not recall making the comment attributed to him due to his intoxication from the alcohol he had consumed the night before but accepted that he must have made the comment. The matter was then reported by CCFC to The FA.
19. JS’s contract with CCFC was terminated by ‘mutual agreement’ on 31<sup>st</sup> August 2023.

20. The FA arranged an interview with JS that took place on Friday 15<sup>th</sup> September 2023 at the Cumberland Hotel, Bournemouth. JS reiterated during the FA's interview that he could not recall making the comment attributed to him but again accepted saying it.

21. RL agreed to provide a statement to The FA and subsequently, KE and RC were spoken to by members of The FA's Investigations team. KE provided a statement detailing what he had heard.

22. On 2<sup>nd</sup> October 2023 The FA Charged JS. The Charge letter read as follows:  
*"You are hereby charged with misconduct in breach of FA Rule E3 in relation to your conduct during a pre-season tour with Cardiff City FC in Portugal. It is alleged that your language towards Rohan Luthra, Cardiff City FC during breakfast on 23 July 2023 was abusive and/or insulting and/or improper contrary to Rule E3.1. It is further alleged that this breach of FA Rule E3.1 is an "Aggravated breach" as defined in Rule E3.2, as it included a reference, whether express or implied, to race and/or colour. Please note that should a Regulatory Commission find that an "Aggravated Breach" of Rule E3.1 is proven, then it shall consider the imposition of a sanction in accordance with Regulation 47 at p.155 of The FA Handbook 2021-2022."*

23. JS admitted the Charge by way of the FA's Reply Form and requested a Personal Hearing. Attached to the Reply Form was a letter from Centrefield LLP on behalf of Mr Simpson that contained the following:

- a. A witness statement from JS with accompanying exhibits JS1(WhatsApp message of apology JS to RL), JS2 (Image of handwritten letter of apology JS to RL) and JS3 (WhatsApp message from JS to MM enquiring if RL had received the letter of apology);
- b. a witness statement from JS's girlfriend; and
- c. a supporting letter from Mr Neil Roach (Sport and Exercise Psychologist).

24. The Letter from Centrefield LLP stated that although JS maintained that he had no recollection of making the comment he "*makes no excuses for his actions on that basis, or at all.*" However, the Regulatory Commission was requested to take into consideration a number of factors when considering the level of any sanction to be imposed upon JS:

- (i) JS's admission of the Charge and his cooperation;
- (ii) JS's apologies and his genuine remorse;
- (iii) JS does not harbour racist beliefs;
- (iv) JS has sought professional support;
- (v) JS's previous disciplinary record and his good character;
- (vi) JS's request for a personal hearing;
- (vii) The termination of JS's Playing Contract at CCFC.

#### The Personal Hearing

25. With JS having admitted the Charge a Personal Hearing was arranged for Wednesday 1<sup>st</sup> November 2023 in order to determine sanction.

26. The FA was represented by Regulatory Advocate, Ms Rebecca Turner.
27. JS was represented by Barrister, Mr. Craig Harris of Furnival Chambers and Deidre McCarthy, Senior Associate at Centrefield LLP.
28. Mr. Paddy McCormack, FA Judicial Services Manager, acted as Secretary to the Hearing.
29. The Commission was informed that JS had no previous record of E3(2) charges in respect to the use of discriminatory language and had a clean disciplinary record.
30. At the Hearing the Commission heard submissions from both parties and heard oral testimony from JS who expressed his remorse for having insulted RL in the manner that he had and his ongoing desire to apologise to RL.
31. The Commission was reminded of the applicable FA Regulations by both parties. The FA's Regulations/Guidelines dealing with sanction for discriminatory comments are set out below.

### Applicable FA Regulations

#### *Aggravated Breaches (Rule E3.2)*

*47. Where an Aggravated Breach is found proven, a Regulatory Commission shall apply The Association's sanction guidelines for Aggravated Breaches set out at Appendix 1 to Part A: Section One: General Provisions.*

*APPENDIX 1 - STANDARD SANCTIONS AND GUIDELINES FOR AGGRAVATED BREACHES PLAYERS, MANAGERS AND TECHNICAL AREA OCCUPANTS*

*Exceptions to the Standard Minimum Sanction Range*

*A finding of an Aggravated Breach against a Player, Manager or Technical Area Occupant will attract an immediate suspension of between 6 Matches and 12 Matches ("Sanction Range").*

*A Regulatory Commission shall take all aggravating and mitigating factors into account, including but not limited to those listed in these guidelines when determining the level of sanction within the Sanction Range.*

*The lowest end of the Sanction Range (i.e. 6 Matches) shall operate as a standard minimum punishment (the "Standard Minimum").*

*A Regulatory Commission may impose an immediate suspension in excess of 12 Matches in circumstances where aggravating factors of significant number or weight are present. This is in relation to first offences.*

*A Regulatory Commission may only consider imposing a suspension below the Standard Minimum where the following specific (and exhaustive) circumstances arise such that the Regulatory Commission determines that the Standard Minimum would be excessive:*

*Where the offence was committed in writing only or via the use of any communication device and: Where the Regulatory Commission is satisfied that there was no genuine intent on the part of the*



*Participant Charged to be discriminatory or offensive in any way and could not reasonably have known that any such offence would be caused; or*

*The age of the Participant at time of the offence (e.g. where the Participant was a minor at the time the offence was committed); or*

*The age of the offence (e.g. a social media post made a considerable time ago).*

*For the avoidance of doubt, the existence of the circumstances above will not necessarily result in a departure from the Standard Minimum. A Regulatory Commission must be satisfied that the unique circumstances and facts of a particular case are of such significance that a departure from the Standard Minimum is justified to avoid an unjust outcome for the Participant Charged.*

*In reaching a decision, the Regulatory Commission must also consider whether or not it is in the best interests of the game in tackling all forms of discrimination to depart from the Standard Minimum. In any event, a Regulatory Commission shall impose a suspension of no less than 3 Matches.*

*A Regulatory Commission will have due regard to the circumstances and seriousness of the incident when determining the appropriate sanction and whether (and to what extent) to depart from the Sanction Range.*

*In so doing, the Regulatory Commission shall give consideration to any aggravating and mitigating factors, to include but not limited to:*

*Aggravating factors*

*Repeated use of discriminatory language or conduct during commission of the offence.*

*The public nature of the offence (e.g. the commission of the offence in a public place, via broadcast media or a social media platform (particularly via an account on a social media platform with a high number of followers in relative terms)).*

*The profile of the Participant, including where they hold a position of responsibility within their Club or organisation (e.g. Club captain, Chairman, member of senior management).*

*The relative ages of the Participant and the victim(s) at the time of the offence, particularly where the victim was a minor and the Participant was not.*

*Failure to co-operate with The Association.*

*Previous disciplinary record of the Participant.*

*Any attempt to conceal the breach.*

*The extent of any premeditation.*

### *Mitigating Factors*

*Admission at the earliest opportunity where the factual conduct forming the basis for the charge would be capable of being disputed. Demonstration of genuine remorse.*

*Co-operation with The Association. Where it is accepted that the Participant had a legitimate expectation of privacy.*

*Inexperience of the Participant by reference to their age or background at the time of the offence.*

*In respect of social media posts, the age of the post and the Participant's age at the time of the post. For example, depending on the other circumstances and characteristics of the offence, it may be considered a mitigating factor where the post was made a*

*considerable time ago and/or where it was made at a time when the Participant was a minor.*

32. In coming to its decision on sanction, the Commission took into consideration all that had been submitted by the parties and applied the facts of the case to the applicable regulations/guidelines as set out above.
33. The Commission felt that the words used by JS towards RL were extremely insulting and discriminatory and must have been very hurtful to RL, particularly as they were said 'out of the blue' for no apparent reason, that is to say there had been no animosity or conflict between the two prior to, or leading up to the incident.
34. The unambiguously discriminatory and insulting weight that those words carry and the lack of any provocation were to the mind of the Commission aggravating factors and led the Commission to conclude that an eight (8) match suspension and a £10,000 fine would be an appropriate starting point within the sanction range.
35. However, the Commission agreed with the written submissions put forward by Centrefield LLP and the oral submissions made by Mr Harris at the Personal Hearing that there were mitigating factors that ought to be considered and applied so as to come to a proportionate sanction given all the circumstances.
36. The Commission noted that JS had admitted that he had spoken the alleged words at the CCFC interview and had gone on to admit the FA Charge at the earliest opportunity. Credit was applied for his admittance

to the Charge and for his full cooperation with the FA's investigation of the incident.

37. JS had sought to apologise to RL on the day of the incident and on a number of occasions after by various methods of communication (verbal, WhatsApp, text, handwritten letter, through CCFC). Of course, RL did not and does not have to accept JS's apologies but the Commission accepted that JS was apologetic. Equally, from the documentation provided and his oral testimony at the Hearing the Commission was convinced that JS was genuinely remorseful for having offended RL; In his statement JS wrote *"Regardless of what is going to happen after, once we get to the disciplinary, I would still like the opportunity to apologise just because it is the right thing to do. I am definitely not a racist, but I still said it and I know how much hurt that must have caused him and is causing him."*

38. On whether JS harbours racist beliefs, the Commission makes no comment but notes that he is in a relationship with his girlfriend who is of Indian heritage and JS is clearly embarrassed and perturbed by having used the words he did in the knowledge that such insults have been used towards his girlfriend's family in the past. In his statement he wrote: *"I was so embarrassed and ashamed by what Rubin told me I had said to Rohan. I am not a racist person so I couldn't believe I had said something like that"*

39. The Commission took into consideration JS's clean previous disciplinary record and good character. In respect to the latter, the Commission was informed that since 2019, JS has been an ambassador for *'The Lantern Trust'* a homeless charity in Weymouth and since 2020, he also volunteers

from time to time with a youth action project called 'The Chatterboxes' which is run by YMCA Bournemouth and helps disabled children.

40. The Commission noted that JS had suffered financial consequences prior to the Hearing due to the termination of JS's Playing Contract at CCFC. Whilst the Commission noted that the contract was '*terminated by mutual consent*' the Commission have no doubt that had he not spoken the offending words he would still be at CCFC earning a salary of £[REDACTED] (gross) per week. (This figure was disclosed to the Commission by JS during the Personal Hearing). In the written submissions on behalf of JS it was stated: "*Whilst Mr Simpson left CCFC by mutual agreement on 31 August 2023, his departure was undoubtedly precipitated by the incident with Mr Luthra. As explained by Mr Simpson in his witness statement, prior to the incident, he was happy at CCFC and intended to stay there for the remainder of his contract until 30 June 2024 and he may have considered remaining at CCFC after that date if the opportunity arose for him to do so.*"

41. Equally, the Commission also noted and took into consideration, that the words had been used once and had not been repeated, the relatively private nature of the incident (although two others had been present), the profile of JS (position at CCFC, age and experience vis-a-vis that of RL) and the fact that JS had sought professional help.

42. Having considered all the written and oral submissions, the FA's Regulations and Guidelines and the aggravating and mitigating factors within the circumstances of the case, the Commission decided that the sanction ought to be reduced from the initial starting point (see para 33) and that the following final sanction should be imposed:

- a. JS shall pay Costs of £900.00.
- b. JS shall pay the Hearing Fee of £100.00.
- c. JS shall pay a Fine of £8,000.00. (The total financial obligation arising from these proceedings (£9,000) must be remitted to the Association within 35 days of this decision i.e. by 6 December 2023. Failure to do so will result in an automatic increase of 25% of the amount due; failure to then pay within a further 35 days will result in your automatic indefinite suspension from all football and football-related activity until paid in full).
- d. An Education order is to be completed before 01/03/24. The terms are as follows:- JS must undergo and complete to The FA's satisfaction, within four (4) months of notification of this decision, a face-to-face FA education programme, the details of which will be provided to JS by The FA. Failure to do so within the relevant timeframe, before 1 March 2024, shall result in his immediate indefinite suspension from all football and football-related activity, until such time as the course is completed to The FA's satisfaction.
- e. JS shall be subject to a six (6) match suspension starting on 01/11/2023. This applies to All domestic club football, to be served at Category 1. Prohibited from Playing. The terms are as follows:- JS is suspended from all domestic club football, with immediate effect, until such time as he completes six (6) Category 1 First Team Competitive Matches in approved competitions, JS having become eligible to play in a Category 1 domestic club football match.

43. This decision on sanction is subject to appeal in accordance with the Rules and Regulations of The FA.

Stuart Ripley

Regulatory Commission Chairman

6<sup>th</sup> November 2023