IN THE MATTER OF A REGULATORY COMMISSION

BETWEEN

THE FOOTBALL ASSOCIATION

and

BRIAN CURSON

WRITTEN REASONS OF THE REGULATORY COMMISSION

Regulatory Commission:	Sally Davenport (Chair) – Independent Legal Panel Member Sal Naseem – Independent EDI Panel Member Bradley Pritchard – Independent Football Panel Member
Secretary:	Nathan Greenslade, Judicial Services Officer
Date:	13 October 2026
Venue:	Held remotely via Microsoft Teams

Introduction

1. These are the written reasons of the Regulatory Commission ("the Commission") that considered the charge against Brian Curson ("BC"). All of the members of the Commission are members of The FA's Anti-Discrimination Panel.

2. At the material time, BC was a Professional Game Match Officials ("PGMO") Match Observer. On 15 November 2025, BC was the Match Observer for a League One match ("the Match") between Luton Town FC ("Luton") and Rotherham United FC ("Rotherham").

3. Following the Match an allegation was made that BC had made a discriminatory comment when meeting with [redacted].

Investigation

4. The FA initiated an investigation. Between 1 December and 15 December 2025, an Integrity Investigator from The FA took statements from [redacted] as detailed below.

5. On 16 January 2026, the Integrity Investigator interviewed BC via Microsoft Teams.

The Charge

6. By letter dated 30 April 2026 ("the Charge Letter"), The FA charged BC with Misconduct in breach of FA Rule E3 in relation to his conduct prior to the Match. It was alleged that he acted in an improper manner and/or used abusive and/or insulting words contrary to Rule E3.1. It was further alleged that this breach of Rule E3.1 was an aggravated breach, as defined in Rule E3.2, because it included a reference, whether express or implied, to ethnic origin and/or race and/or nationality ("the Charge").

7. BC was sent the following documents together with the Charge Letter:

- Witness statement of the Investigator dated 27 January 2026
- Interview transcript
- Witness statement from [redacted] dated 1 December 2025
- Email from [redacted]

- Witness statement from [redacted] dated 11 December 2025
- Picture of post-match notes taken by [redacted]
- Witness statement from [redacted] dated 11 December 2025
- Witness statement from [redacted] dated 15 December 2025

The Response

8. On 3 May 2026, BC submitted a Disciplinary Proceedings Reply Form to The FA denying the Charge and requesting that the case be dealt with at a paper hearing. He also submitted an undated document commenting on The FA's evidence and an undated statement from [redacted].

The Hearing

9. In advance of the hearing the Commission read the documents referred to in paragraphs 6 to 8 above.

10. The following paragraphs summarise the evidence and submissions provided to the Commission. They do not purport to cover all the points made. The absence of a point or submission in these reasons should not imply that the Commission did not take that point or submission into account when determining the case. For the avoidance of doubt, the Commission carefully considered all the material before it.

The FA's Evidence

11. In their statements, [redacted] confirmed that they had met with BC in the lounge at Luton's stadium [redacted]. All described how they sat on stools around a table and discussed various topics, including the fact that [redacted] had been involved [redacted] [redacted] in which [redacted] had been on an exchange from Japan. Each [redacted] then described how the

conversation had continued from there, including the fact that BC had said that all the fans looked the same ("the Alleged Comment").

[redacted] Evidence

12. [redacted], described the relevant part of the conversation in the following terms:

> [redacted] *Brian then mentioned that he had done some work in Japan for Professional Game Match Officials (**"PGMO"**) and confirmed that there is a difference between the two countries.* [redacted] *asked whether fans in Japan are segregated. Brian responded with the comment "There is no point in segregation because the only way you would tell the difference is by the different colour shirts because they all look the same". Brian then paused, before continuing "and they are all similar in height", before making a palm down gesture with his hand about a metre from the floor.*
>
> *There was no response to Brian's comment, only a bit of an awkward pause before the conversation moved on to another topic.*
>
> *When Brian said this, his tone of voice was a normal conversational tone. I think he was trying to make a joke, but there was no laughter, from Brian or anybody else, following the comment or the hand gesture. I am certain that I correctly heard what Brian had said."*

The Evidence of [redacted]

13. [redacted] described the relevant part of the conversation in the following terms:

> [redacted] *Brian mentioned that he had previously taken part in an exchange program where he went to work in China, and he was talking about the difference in culture between fans in the UK and fans in China. We then talked about how the atmosphere in the stadiums isn't as vociferous as it is in*

the UK, and I asked a question about whether they segregate the fans in China. Brian responded with something along the lines of them not needing to segregate the fans because they all look the same. I cannot remember the exact wording of what Brian said, but he definitely said the words "they all look the same". There was no response to this comment and Brian then added a further comment about only being able to tell the difference between them if they had different coloured scarves on. Nobody responded to this further comment from Brian and the conversation then moved on."

The Evidence of [redacted]

14. [redacted] described the relevant part of the conversation in the following terms:

[redacted]

[redacted] *then asked a question about what football was like in Japan, how likely they are to fight one another, and whether there is any segregation in the stands. Brian responded to this by making a comment that there would be no point in segregating them because they all look the same and you'd only tell the difference if they were wearing different tops. I cannot recall the exact wording used by Brian, but I definitely recall him saying "they all look the same" and making a comment about only being able to tell the difference by the different coloured tops. Then there was a pause, before Brian made another comment along the lines of "and they're all about yay high", whilst making a hand gesture with his arm out and palm down at a height lower than the table.*

Nobody responded to the comment from Brian or acknowledged it. There was just a brief silence before somebody changed the subject and the conversation moved on."

The Evidence of [redacted]

15. [redacted] described the relevant part of the conversation in the following terms:

[redacted] *Brian mentioned that he had previously been out to China to coach referees, so was aware of the different dynamic between English and Chinese football.*

[redacted] *asked* [redacted] *whether they needed to segregate fans, given that they are so respectful. Brian responded to this with words to the effect of "there would be no point segregating the fans because you'd only be able to tell them apart by the shirts they are wearing, because they all look the same and are all the same height". Brian then made a gesture with his hand, where he kind of cupped his hand below his chin. I cannot be certain that this is what Brian said verbatim, but I'm confident that this is almost exactly what he said."*

After Brian said this, there was a bit of an awkward pause and Brian sat with a straight face like nothing had been said out of turn. We just kind of looked at each other, before the conversation was moved on to a completely different topic."

BC's Evidence

BC's Interview

16. In his interview with the Investigator, BC provided background information on his career as a Referee and Referee Observer and answered questions about the conversation in the lounge prior to the Match.

17. In summary, BC's evidence was that he had been involved in football for 41 years, 21 years as a Match Official and 21 years as a Match Observer. He said that his record was excellent. He explained his role as a Match Observer. He said that it was hard to recall the conversation [redacted] as it had been 62 days ago. He recalled that the lounge had been busy and a match was being shown on three screens. He referred to a trip that he had made to China back in 2017, when he had been asked to carry out a coaching course. He thought that he had discussed that

trip with [redacted], but could not recall what had triggered the conversation. He confirmed that he had never attended a match in China.

18. BC thought that he may have said that supporters were not segregated, but he did not recall making any comment about all the supporters looking the same. He would never intentionally make such a comment. He had done courses on discrimination and part of his family was of [redacted] heritage. He had never had any issues in all the matches he had been involved in. When he had received the call from The FA, he had been distraught.

19. BC confirmed that he had no recollection of saying that all the supporters looked the same, or of commenting on their height. He would not have made either comment as a joke, he was not a jokey person. He could not recall ever having heard a comment to the effect that all Asians look the same.

Statement from [redacted]

20. [redacted] said that he had been present in the lounge with BC [redacted]. He said that he could "*state with certainty*" that while he was seated at the table with the group, he had not heard any mention of the word Chinese / Japan from anyone seated at the table. [redacted] said that he had known BC for over 15 years and had always found him to be a "*complete gentleman and absolute professional in his conduct*". He considered him a credit to his profession.

Submissions from BC

21. In his undated statement, BC pointed to a number of inaccuracies in the witness statements and submitted that they raised questions about the accuracy and reliability of the evidence. He highlighted the following points:

- [redacted] statement said the conversation was about working in Japan, whereas [redacted] said it was about working in China.
- [redacted] stated that PGMO had appointed him to a trip to Japan. He had never been to Japan.
- He had not attended a match in either China or Japan so would not be able to comment on spectators in stadiums.
- MS said that he could not recall the exact wording of the conversation.

22. BC said that he had done all the Kick It Out courses presented by The FA and PGMO and had observed 959 matches in his career as a Match Observer. He asked the Commission to consider the discrepancies and the fact that the Match had taken place 166 days ago (at the time of writing) and the first contact from The FA had been 62 days after the Match.

Submissions on behalf of the FA

23. In its written submissions dated 20 August 2026, having set out the Charge and the regulatory framework, The FA summarised the evidence and invited the Commission to find on the balance of probabilities that BC had made the comment about the fans all looking the same ("the Comment"). It pointed out that each of the [redacted] had independently described hearing the phrase "*they all look the same*". There was contemporaneous evidence in support, notably the email from the [redacted] to PGMO following the Match and the photograph of the notes made by [redacted]

24. The FA reminded the Commission that in interview BC had not positively denied making the Comment; rather, he had repeatedly said that he could not remember using the words in question. He had confirmed that if he had made the Comment, it would have been inappropriate.

25. The FA also reminded the Commission of the "well-established" approach to determining liability for an aggravated breach. The test was an objective one. It was not necessary that an offender subjectively intended the words or behaviour used to be abusive and/or insulting in order for liability to be established. Furthermore, it was a question of fact as to whether the breach included a reference to one or more protected characteristics.

26. The FA responded to BC's suggestion that the evidence was inconsistent, pointing out that all [redacted] agreed that the conversation had ranged across both Japan and China. It mattered not whether the Comment was a reference to Japanese or Chinese fans. A group of people of a particular ethnic origin, race and/or nationality had been described as all looking the same, which was plainly discriminatory, whatever their nationality. The Charge did not depend on whether or not BC had ever been to Japan. The fact that one individual in the room, [redacted] did not hear the Comment did not gainsay the consistent first-hand evidence of the [redacted] who did. Furthermore, BC's own evidence was that there had been a conversation about China, which undermined MB's evidence.

Relevant Rules

27. FA Rule E3.1 states:

"A Participant shall at all times act in the best interests of the game and shall not act in any manner which is improper or brings the game into disrepute or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour."

28. FA Rule E3.2 states:

"A breach of Rule E3.1 is an "Aggravated Breach" 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."

The Commission's Decision

29. The Commission reminded itself that the burden was on the FA to prove the case and that the applicable standard of proof was the balance of probabilities. It accepted The FA's submission that at the liability stage its focus was solely on whether, assessed objectively, each of the ingredients of FA Rule E3.2 were established to the requisite standard.

30. The Commission was satisfied on the balance of probabilities that BC had made the Alleged Comment. While [redacted] recollection of the conversation before the Match differed slightly, they all agreed that BC had made the Alleged Comment. They all agreed that he had then made a comment about the spectators' height ("the Second Comment" and, together with the Alleged Comment, "the Comments"). The Commission did not consider that the fact that [redacted] had referred to BC working in Japan rather than China undermined his evidence to any material extent. All of [redacted] had been sufficiently concerned about the Comments to discuss them [redacted] and to take steps to bring them to the attention of the appropriate authorities. On any objective analysis the Comments amounted to stereotyping and were clearly improper. Furthermore, as the stereotyping related to ethnic origin and/or nationality, the Comments clearly met the threshold for an aggravated breach.

Submissions on Sanction

31. BC did not make any submissions on sanction. In its submissions dated 20 August 2026, The FA drew the Commission's attention to Appendix 1 of Part A of the Regulations ("Appendix 1"), highlighting the applicable sanction range, the provisions regarding time-based suspensions and the factors to be considered when determining sanction. It set out the aggravating and mitigating factors which a Commission is required to consider.

32. The FA invited the Commission to impose a time-based sanction, given BC's role within football. It submitted that the following were aggravating factors:

- BC had used discriminatory words while acting in a professional capacity as the appointed PGMO Match Observer, a position of significant responsibility and trust.
- By his own account, BC had been involved in football for over 40 years and was therefore a senior and experienced figure within the officiating structure.
- BC had received Kick It Out training in relation to discrimination and should have been well aware of the unacceptable nature of the Comments.
- BC had made the Comments in the presence of [redacted] in a professional [redacted] setting.
- BC had demonstrated limited insight into his Misconduct. In maintaining that he could not recall the Comments, he had failed to engage with, and had failed to demonstrate any genuine appreciation of, the discriminatory nature and impact of what he had said.

33. The FA also identified the following mitigating factors:

- BC had cooperated in the investigation and had attended an interview.
- BC had no previous disciplinary history.
- BC had provided a positive character reference from [redacted].
- [redacted] had indicated that the Comments were made in a normal conversational tone and had been perceived by some as an ill-judged attempt at humour, without apparent malice.

34. The FA invited the Commission to impose a sporting sanction in the form of a time-based suspension, together with a financial penalty.

Sanction Guidelines

35. Appendix 1 states:

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").

The Commission further noted that BC's role within football did not fall squarely within the category of participants to whom the above sanctioning provisions are expressly directed. Nevertheless, the Commission considered the principles and factors set out in those provisions to be relevant and of assistance when determining the appropriate sanction in the circumstances of this case.

Decision on Sanction

36. The Commission noted that it was required to have due regard to the circumstances and seriousness of the offence when determining the appropriate sanction, and that in so doing it must give consideration to any aggravating and mitigating factors, including the aggravating and mitigating factors set out in Appendix 1. It agreed with The FA that a time-based suspension was appropriate.

37. The Commission took the view that The FA had correctly identified the applicable aggravating factors. It noted that this was not simply a case of a single comment. BC had made two discriminatory comments about spectators, each demonstrating stereotypical assumptions based on ethnic origin/nationality. That was an aggravating factor in itself. The Commission agreed with The FA that BC's clean disciplinary record over a lengthy period was a mitigating factor and noted the positive character reference provided. BC had also cooperated, albeit that he had maintained his denial of the Charge. However, the Commission did not think that the fact that [redacted] felt that the Comments were made in a normal conversational tone and were

perhaps an ill-judged attempt at humour should be afforded credit, as that could be perceived as reducing the seriousness with which it viewed the discriminatory behaviour.

38. There was no suggestion that the behaviour would be repeated. However, the Commission was concerned that BC had continued to deny the Charge, despite the consistent evidence of four witnesses who were sure about what he had said. The Commission observed that [redacted] evidence, while highlighting BC's good character, actually undermined BC's position, in that [redacted] said that he heard no mention of Japan or China, when clearly all the other parties around the table, including BC, were agreed that there had been a conversation around his trip to China.

39. Having considered all the aggravating factors, including the fact that there were two discriminatory comments, and taking particular account of BC's experience and role within football and his role on the day of the Match, the Commission concluded that a sanction in excess of the Standard Minimum was appropriate, albeit not right at the top end of the Sanction Range. The absence of any previous proven misconduct charges was clearly a mitigating factor, but BC could not be given any credit for admitting the Charge or for demonstrating remorse. In all the circumstances the Commission decided that a sanction of nine weeks was appropriate. The Commission noted that BC had declared the fee that he would normally receive for observing a match and was conscious that he would suffer a significant loss of income as a result of the sporting sanction. Nonetheless, it decided to impose a financial penalty as well in order to further emphasise the seriousness with which it viewed the breach.

40. The Commission made the following order:

- BC is suspended from all football and football-related activity with immediate effect for a period of nine weeks.

- BC must pay a fine of £200.

- BC must attend a mandatory education programme, the details of which will be provided to him by The FA.

- BC is warned as to his future conduct.

41. The decision of the Commission may be appealed in accordance with the Appeals – Non-Fast Track Regulations.

Sally Davenport
Sal Naseem
Bradley Pritchard
15 October 2026