

**Football Association Regulatory Commission (the ‘Commission’) in the  
matter of a Wrongful Dismissal / Excessive Punishment claim brought by  
Liverpool FC (the ‘Club’) on behalf of Curtis Jones (‘CJ’)**

**Regulatory Commission Decision**

1. These are the written reasons for a decision made by an Independent Regulatory Commission which sat on Tuesday 3rd October 2023 via Microsoft Teams video conference.
2. The Commission members were Mr. Marvin Robinson (Chair), Mr. Stuart Ripley and Mr. Tony Agana, all three of whom are Independent Football Panel Members of the FA Judicial Claims Panel.
3. Mr. Michael O’Connor of the FA Judicial Services Department acted as Secretary to the Regulatory Commission.
4. The Commission were advised on the Laws of the Game (LOTG) and their application by Mr. Steve Dunn of the Referee Advisory Panel. In particular, the Law relating to Serious Foul Play and the factors considered by a Match Official when determining such an incident. Mr. Steve Dunn of the Referee Advisory Panel remained available to answer questions with regard to the Laws of the Game, however, took no part in discussions concerning the actual specifics of the case or the Commission’s decision.
5. For a claim of Wrongful Dismissal to be successful the Player and/or his Club must establish by the evidence it submits that the Referee made a clear and obvious error in dismissing the Player. The burden rests on the Player and/or his Club to prove this. The role of the

Regulatory Commission is not to usurp the role of the Referee and to simply re-referee the incident.

6. The relevant incident took place in the Tottenham Hotspur FC v Liverpool FC Premier League match on Saturday 30<sup>th</sup> September 2023.
7. In the Official Report Form the Referee, Mr. Simon Hooper stated, *“I have to report that I, as the Referee sent off Jones, Curtis of Liverpool FC Under Law 12 section: S12.”*
8. The Club submitted in evidence:
  - a. 4 video clips of the incident from different angles and different speeds.
  - b. A written submission from the Club on behalf of the Player outlining the claim.
  - c. A statement from the Player outlining his actions.
  - d. 3 PGMOL guidance documents.
9. 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 of a point, or submission, in these reasons 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 carefully considered all written and video evidence in respect of this case.
10. The Clubs’ submission letter stated *“...The Player gains, partial control of the ball, by intercepting ahead of the THFC Number 29. The ball then bounces off the Player and falls between himself and THFC No.8.*

*The Player attempts to keep possession of the ball by knocking the ball into the path of his teammate positioned just in front of the Player, to his right hand side. The Player rolls across the top of the ball and down on to the other side of the ball where he connects with the foot and ankle of the THFC No.8.*

*As explained by the Player in his statement:*

*“My sole intention was to touch the ball away from my opponent and into the path of my team mate, Luis Diaz who I could see to my left hand side. I did not consider myself as challenging an opponent for the ball as I felt I had possession of the ball and was trying to move the ball to stop my opponent gaining control.”*

*The Player was clearly focused on the ball and did not use excessive force in the challenge with THFC No.8.*

*Whilst the Player was running towards the ball, it could not be considered that he was running at high speed and therefore reckless or out of control. The player takes approximately four steps from intercepting the ball from the THFC No.29 to the Incident.*

*Further, it can also be seen in the footage that the Player is only interested in playing the ball and ‘poking’ the ball away from his opponent.*

*The challenge was a genuine attempt by the Player to win the ball fairly from THFC No.8. Whilst the Club acknowledges that the Player made contact with THFC No.8, this contact was accidental and a result of the Player's foot rolling over the top of the ball as he sought to play a pass, the contact was not as a result of an act of serious foul play by the Player.*

*On any view, the Player did not “use excessive force or brutality” which is evidenced by the fact that THFC No8 was able to play a further 65 mins of the match without any further discomfort.*

*The Club submits that the Player’s attempt to win the ball did not have any of the elements of ‘Serious Foul Play’ and instead was, at most, “careless” as defined above under the Laws of the Game. Further, the Player’s actions when he collided with THFC No.8 were not deliberate or intentional.*

*Also, it is clear from the footage and the Player’s reaction that he acknowledges he has had contact with his opponent and sought to apologise immediately. Furthermore, when he is shown a red card by the Referee that the Player genuinely believed it was a fair challenge albeit there was some degree of contact.*

11. The IFAB Laws of the Game definition of Serious Foul Play is as follows: *A tackle or challenge that endangers the safety of an opponent or uses excessive force or brutality must be sanctioned as serious foul play. Any player who lunges at an opponent for the ball from the front, from the side or from behind using one or both legs, with excessive force or endangers the safety of an opponent is guilty of serious foul play.*

12. All three members of the commission viewed the match footage of the incident on numerous occasions to ascertain what happened. The following practical information which is given to Match Officials was also considered:

- a. Does the player have a chance of playing the ball in a fair manner?*
- b. Can the player legitimately play the ball without putting his opponent at undue risk?*

- c. What degree of speed or intensity is the player using when making the challenge?*
- d. What is the distance the player has travelled to challenge for the ball?*
- e. Is the player making the challenge off the ground/airborne and in control of his actions?*
- f. What was the position of the feet of the player making the challenge?*
- g. Did the player lead with his studs showing when making the tackle?*
- h. Does the player show clear malice or brutality when making the challenge?*
- i. Does the challenge clearly endanger the safety of the opponent?*

This list is not exhaustive nor is it a requirement that all elements are made out to satisfy the offence.

13. After careful consideration, the commission believed CJ placed the opposition player at undue risk due to the nature of the challenge. The challenge by CJ was deemed a bad tackle and whilst the Player gets a bit of the ball, his foot goes over the ball catching the opposition player with studs up and almost straight leg. The challenge was made with a degree of intensity, and in relation to the position of the feet, the panel rejected the claim that the Player intended to poke the ball to his teammate. The Panel noted that if they did accept the attempt to poke the ball to a teammate then the Player was clearly out of control and unable to fulfil the desired action, thus endangering the safety of the opponent.

14. After considering the guidance offered by the Referee Advisory Panel in relation to the Laws of the Game, the commission were unanimous in deciding the player clearly endangered the safety of his opponent whilst making the challenge and that the referee had not made a clear and obvious refereeing error.
15. The Club made a further submission in regards the VAR intervention:

*Following the Initial Decision, the VAR reviews the Incident and instructs the referee to review at the Referee Review Area. Under the PGMOL guidance of VAR implementation, Page 45 of the attached guidance document (page 45 is provided separately of the full document for ease of reference), VAR should apply a “‘Clear and Obvious Error’ test” and “is not intended to re-referee”.*

*In this case, and as demonstrated above, there is no ‘Clear and Obvious Error,’ as the challenge in itself meets the requirement of a yellow card offence but is without excess force, brutality, there is very little speed involved in the challenge. In addition, and as set out in the PGMOL decision making principles, amongst the mitigating factors to be considered when deciding on Serious Foul Play are ‘Low Speed,’ ‘High Degree of Control’ and ‘Limited or Partial Contact’ all of which factors, the Club would respectfully contend are evident in this instance. Given these factors the Club suggests that the intervention of VAR was not appropriate and has pushed the referee to arrive at a decision which he should not have.*

16. Whilst the Panel duly acknowledged this area of the submission, it was clear that the Panel was here to assess the final decision only. This final decision was a red card awarded to the Player.

17. Liverpool FC further submitted that if the Commission did not accept their submissions that the red card should be rescinded on the grounds that the Referee made an ‘obvious error’ they would submit that there were circumstances that a three-game ban is ‘clearly excessive.’ This provision can be found in the FA Handbook 2022-2023. Regulation 19.1 states:

*“A Player and their Club may seek to limit the disciplinary consequences of a sending-off offence by making a claim that the standard punishment would be clearly excessive in accordance with the procedure set out in Fast Track 5 of the Fast Track Regulations. In bringing such a claim, the Player / their Club must establish that it is clear and obvious that the standard punishment otherwise applicable to that sending-off offence would be clearly excessive. Such claims may only be made by a Player and their Club for the following sending-off offences: (a) using offensive, insulting, or abusive language and/or gestures; (b) serious foul play; (c) violent conduct; or (d) spitting at an opponent or any other person.”*

18. Liverpool FC further submitted that if the Commission did not accept their submissions that the red card should be rescinded on the grounds that the Referee made an ‘obvious error’ they would submit that there were circumstances that a three-game ban is ‘clearly excessive’. This provision can be found in the FA Handbook 2023-2024. Fast Track 5: Clearly Excessive: Regulation 1 states:

*This Fast Track 5 sets out the process where a Player or their Club seeks to limit the disciplinary consequences of the dismissal of the Player from the field of play by demonstrating that the circumstances of the dismissal were truly exceptional such that the standard punishment, set out in Part D: On-Field Regulations, would be clearly excessive.*

19. The Club submitted that the player's actions in making contact with the opponent were not worthy of a red card and a yellow card would have been suitable punishment.

- a. the Player made a genuine attempt to get the ball fairly from THFC No.8 and there was no intent on his part to engage in 'Serious Foul Play' nor any recklessness or negligence; at most the Player was careless.*
- b. there was no "excessive force" used on the Player's part;*
- c. the Player had no intent to injure THFC No.8 and any contact with the THFC NO.8 was due to the Player's right foot 'ricocheting' off the football and higher than the Player had originally intended.*
- d. THFC No.8 was not injured as a result of the incident and played until the 90th minute before being substituted.*
- e. the Incident did have a negative impact on the Match for the Club given the score line was 0-0 when the Player was dismissed in 26th minute and went on to lose the Match 2-1 (i.e., the Club and the Player have already suffered a significant impact as a result of the decision*
- f. having had to play over 70 mins with 10 men and subsequently losing the Match);*
- g. the Player has a very good disciplinary record (as detailed below); and*
- h. the wider interests of football are not served by giving a red card for an offence of this nature which as the Club submits does not constitute 'Serious Foul Play.'*



*We therefore ask the Commission to consider carefully whether an accidental collision of this nature, with no malice, intent or “excessive force” is worthy of a three match suspension and that the standard punishment be reduced to the one game minimum suspension that is provided for under the Rules.*

20. This was rejected by the Commission. The threshold for ‘clearly excessive’ is a high one and based on the prescribed criteria above whereby the Club would have to show it was clear and obvious that a three-match ban would be clearly excessive the Commission concluded that, in relation to the circumstances of this dismissal of serious foul play, it was clear and obvious that to apply the standard punishment was not clearly excessive. No truly exceptional circumstances existed within this case. Therefore, this claim was dismissed.
21. Pursuant to the relevant Regulations, this decision of the Regulatory Commission is final and binding, and there shall be no right of appeal from decisions made by Regulatory Commissions under Fast Track 4 or Fast Track 5.

**Marvin Robinson**

Regulatory Commission Chair

04 October 2023