

**FA NATIONAL SERIOUS CASE PANEL**

**DISCIPLINARY COMMISSION**

**CHAIRPERSON SITTING ALONE**

*Sitting on behalf of the Amateur Football Association*

**CORRESPONDENCE HEARING**

*of*

**LEN WILCOCK**

**[Case ID: 11529617M]**

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**THE DECISION AND REASONS OF THE COMMISSION**

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Warning: This document contains discriminatory and abusive language.

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### Introduction

1. This matter concerns the public sharing on or around 18<sup>th</sup> December 2023 by Len Wilcock (“**the Participant**”) on his personal Facebook account of a post containing abusive, indecent and/or insulting language, including express or implied reference to Gender.
2. The social media post was reported to the Amateur Football Association (“**the Amateur FA**”) due to the nature of the post’s verbal content.
3. The Amateur FA investigated the reported incident.

### The Charge

4. On 21<sup>st</sup> December 2023 the Amateur FA charged Len Wilcock with:

- i. **Charge 1** - Misconduct for a breach of FA Rule E3 – Improper Conduct for a breach of FA Rule E3 – Improper Conduct (including foul and abusive language).
  - ii. **Charge 2** - Misconduct for a breach of FA Rule E3 – Improper conduct – aggravated by a person’s Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability.
  - iii. It is alleged that Len Wilcock used abusive and/or indecent and/or insulting words or behaviour contrary to FA Rule E3.1, and it is further alleged that this is an aggravated breach as defined by FA Rule E3.2 because it includes a reference to gender. This refers to the social media post Mr Wilcock shared to his Facebook page about Premier League Referee Rebecca Welch.
5. The Amateur FA investigated the reported incident.

6. The relevant section of FA Rule E3.1 states: <sup>1</sup>

*“E3.1 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”.*

*“E3.2 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”.*

7. The Amateur FA included with the charge letter the evidence that it intended to rely on in this case.
8. Mr Wilcock was required to respond to his charge by 4<sup>th</sup> January 2024.

### **The Reply**

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<sup>1</sup> Page 143 of the FA Handbook 2023/2024

9. Mr Wilcock responded to his charge via the FA Whole Game System on 4<sup>th</sup> January 2024. Mr Wilcock **accepted** his charge, and a **Guilty Plea** was entered. Mr Wilcock requested that the matter be dealt with in his absence as a **Correspondence Hearing**.

### The Commission

10. The Football Association (“**The FA**”) appointed me, Ian R. Stephenson, as a Chairperson Member of the Football Association National Serious Case Panel, to this Discipline Commission, as the Chairperson Sitting Alone to adjudicate in this case.

### The Hearing & Evidence

11. I adjudicated this case on 19<sup>th</sup> January 2024 as a Correspondence Hearing, (“**the Hearing**”).

12. I had received and read the bundle of documents prior to the Hearing.

13. The following is a summary of the principal submissions provided to me. 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 I did not take such point, or submission, into consideration when I determined the matter. For the avoidance of doubt, I have carefully considered all of the evidence and materials furnished with regard to this case.

14. The following evidence was provided in the case bundle:

15. A Facebook screenshot with the account heading “Len Wilcock” containing a photograph of a female referee. The text on the screenshot stated and I quote:

*“With the introduction of female referees for the first time in the premier league, players have been warned they may get booked for fouls they committed years ago that they had completely forgotten about (smiley face smiley face)”*. The screenshot had been forwarded from the account name “Alan Wilson”.

16. An identical screenshot to that referred to in paragraph 17 of these Written Reasons.

17. An identical screenshot to that referred to in paragraph 17 of these Written Reasons.
18. An Amateur FA email by Discipline dated Monday 18<sup>th</sup> December 2023 at 1:03pm requesting observations to the complaint.
19. An email response from Len Wilcock (the Participant charged) to the Amateur FA dated 18<sup>th</sup> December 2023 at 1:19pm. Mr Wilcock stated, and I quote:

*“The post in question was put up as a light hearted joke. Perhaps naively I never thought it would cause an issue, but as it has I am happy to remove it and apologise unreservedly.*

*It was certainly not put up for any other reason and you will see from one reply I made that I am someone who does not truly hold any views that are prejudiced in any way against female officials or Women in Football generally.*

*I should also point out that at least 2 Women posted a ‘like’ to it.*

*I can say no more than that it was not done as anything more than a joke, and if people have been upset by it I can only apologise and say that it was not my intention”.*

20. A further email response from Mr Wilcock to the Amateur FA dated 18<sup>th</sup> December 2023 at 1:128pm confirming that he had removed the social media post.
21. An undated statement sent by Mr Wilcock to the Amateur Football Alliance which stated, and I quote:

*“I write in response to the above charge. I apologise for not responding earlier but I have been unwell over the festive period so there were as I am sure you’ll understand other things on my mind.*

*On receipt of the charge I immediately realised and accepted that I had made a genuine error of judgement for which I apologise unreservedly. I would also like to state the following before submitting mitigations.*

*I had put up a mild counter argument to defend it against 2 refereeing colleagues, one an ex Football League official. But I was also shown support by 2 senior colleagues – both ex tutors – and the post was given a ‘like’ by 2 Women, one of whom is a huge football fan and another who is involved in the game as an administrator. However, on serious reflection I realised that the guidance given to me by my 2 refereeing colleagues was correct, but I am also grateful for the support of my other colleagues who know me personally. I would also point out to you the reply I made which wished Rebecca Welch ‘nothing but the very best of luck’ and stated ‘I hope to see more of the excellent crop of female officials move onwards and upwards from here on’.*

*From there on I resolved not to comment any further on it and effectively forgot about it mainly because as previously stated, I was unwell at the time and had other things on my mind as I will state to you in complete confidence that I am now into my third year since being diagnosed with clinical depression and am under the medication Citalopram to treat my condition.*

*That is all I can say on the original posting, but I would however like to submit the following in mitigation.*

*I have been a referee now for 35 years, and a Tutor – now a developer – since 2001, and during that time I have run many courses mainly for the AFA and Hertfordshire FA as well as several other counties.*

*On a great many of these courses the candidates have been mixed as far as gender is concerned, they have been held for schools and have on occasion had more female than male candidates and there has never been the slightest suggestion of me behaving or speaking in a way that could ever be construed as ‘improper’ or in a manner that is remotely ‘aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability’, and I have also often gone out of my way to help and assist female referees particularly when they start out in the game and have always done as much as I can to encourage female referees and players.*

*Also, during my time living in Somerset, I was for a period referees secretary for the Somerset Women's County Football League and have also served the Women's game as a match official for the last 20 years often in a team with female refereeing colleagues, without any sort of issue and as someone who has used social media for around 16 or 17 years I have never been even so much as questioned regarding anything that I've posted be it related to Football or any other subject matter, and I would like and expect these factors to be taken into consideration before any final decision is made on this charge.*

*I am often brutally honest about my past personal failings and am only too willing to admit that I am a flawed individual, but as far as this case is concerned I can add nothing more other than to say that I stand on my good record and reputation as a Referee, Tutor/Developer, Observer and administrator who has done his best to help my colleagues and has always done his job without undue favour based on anything other than football.*

*In closing, all I can say is that as someone who has never taken myself, or life generally that seriously I naively seemed to believe others have the same sort of approach to life. I now fully understand that this is not the case and will only learn from this somewhat negative experience”.*

22. That concludes all of the evidence that was provided to the Commission.
23. I can confirm that I carefully examined and carefully considered all of the evidence that was submitted to me in the case bundle.

### **Standard of Proof**

24. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, I would be satisfied that an event occurred if I considered that, on the evidence, it was more likely than not to have happened.

### **The Findings & Decision**

25. The Commission reminded itself that the burden of proving a charge falls upon the County FA, in this case it falls upon the Amateur FA.
26. In a Commission such as this the assessment of the evidence is entirely a matter for the Commission. I have to assess the credibility of the witness, that is whether the witness is attempting to tell the truth, and the reliability of the witness, that is whether, even though a witness may be attempting to tell the truth, their evidence might not be relied upon.
27. Where there are discrepancies between witnesses, it is for the Commission to decide upon which witnesses to accept and which to reject. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for the Commission to assess if the discrepancy is important. Having considered which evidence to accept and which to reject, the Commission then has to decide if, on the balance of probability, the alleged breach of the FA Rules is established.<sup>2</sup>
28. It should be noted that where direct speech is quoted in a witness statement, I have recorded it exactly in the wording and grammar in which it appears in the witness statement, without making any grammatical or typing alterations to obvious typo errors.

In summary:

29. It was alleged that Len Wilcock published a social media post on his facebook account which contained material that was Improper. The material contained a reference to a protected characteristic, namely Gender.
30. Mr Wilcock accepted the charge.
31. Mr Wilcock held Senior roles within Grassroots football and publishing material such as this on a public accessible social media post account amounted to Improper Conduct. The material contained a clear reference to an aggravated characteristic, namely Gender.

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<sup>2</sup> Paragraph 5



32. As Mr Wilcock had accepted his charge, I was not required to determine liability in this case. I considered that the threshold of both E3.1 and E3.2 had been met and that Mr Wilcock was correct to accept his charge. Both the E3.1 and E3.2 charges are **PROVEN**.

### **Previous Disciplinary Record**

33. After finding the charge proven, I then sought Mr Wilcock's previous Misconduct history going back 5 years.

i. I noted that Mr Wilcock had no previous Misconduct recorded against him.

### **Mitigation**

34. Mr Wilcock submitted the following response in relation to mitigation in his case, which I quote:

*"I have been a referee now for 35 years, and a Tutor – now a developer – since 2001, and during that time I have run many courses mainly for the AFA and Hertfordshire FA as well as several other counties.*

*On a great many of these courses the candidates have been mixed as far as gender is concerned, they have been held for schools and have on occasion had more female than male candidates and there has never been the slightest suggestion of me behaving or speaking in a way that could ever be construed as 'improper' or in a manner that is remotely "aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability", and I have also often gone out of my way to help and assist female referees particularly when they start out in the game and have always done as much as I can to encourage female referees and players.*

*Also, during my time living in Somerset, I was for a period referees secretary for the Somerset Women's County Football League and have also served the Women's game*

*as a match official for the last 20 years often in a team with female refereeing colleagues, without any sort of issue and as someone who has used social media for around 16 or 17 years I have never been even so much as questioned regarding anything that I've posted be it related to Football or any other subject matter, and I would like and expect these factors to be taken into consideration before any final decision is made on this charge.*

*I am often brutally honest about my past personal failings and am only too willing to admit that I am a flawed individual, but as far as this case is concerned I can add nothing more other than to say that I stand on my good record and reputation as a Referee, Tutor/Developer, Observer and administrator who has done his best to help my colleagues and has always done his job without undue favour based on anything other than football.*

*In closing, all I can say is that as someone who has never taken myself, or life generally that seriously I naively seemed to believe others have the same sort of approach to life. I now fully understand that this is not the case and will only learn from this somewhat negative experience”.*

### **The Sanction**

35. When considering the appropriate sanction, I had regard to the relevant provisions in the FA's Rules and Regulations, in particular the Standard Sanctions and Guidelines for Aggravated Breaches set out in Appendix 1 to Part A of Regulation 11 (the **“Aggravated Breaches Sanctions and Guidelines”**).<sup>3</sup>
- i. I noted that the sanctioning range for aggravated breaches is a suspension range of 6-12 matches. 6 matches is the standard minimum, a Commission may impose a suspension in excess of 12 matches where there are significant aggravating factors. However, due to the participant not being a player, Club Official, or Technical Area Occupant the commission may look to impose a day period-based suspension rather than a match-based suspension. A participant found to have committed an aggravated breach will be

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<sup>3</sup> Page 180 of the FA Handbook 2023/2024

subject to an education programme. The lowest end of the Sanction Range (6 Matches) shall operate as a standard minimum punishment (the “**Standard Minimum**”).

- ii. The Aggravated Breaches Sanctions and Guidelines provide that a Commission may only consider imposing a suspension below the Standard Minimum where certain specific circumstances arise. In so far as is relevant here, those circumstances are as follows:
- iii. The offence was committed in writing only or via the use of any communication device; and
- iv. The Commission is satisfied that there was no genuine intent on the part of the Participant to be discriminatory or offensive in any way **and** the Participant could not reasonably have known that any such offence would be caused;
- v. A Commission shall take all aggravating and mitigating factors into account, including but not limited to those listed in the Aggravated Breaches Sanctions and Guidelines when determining the level of sanction within the Sanction Range;
- vi. A Commission may assess that a Match-based suspension is not appropriate due to the specific circumstances of a case; the nature of the role of the Participant; and/or whether they are currently engaged by a Club. A Commission doing so should have regard to the Sanction Range as well as the mitigating and aggravating factors. A Commission shall be entitled to impose an appropriate time-based sanction that is commensurate with the breach, having regard to the specific roles and responsibilities of the Participant.
- vii. Aggravating factors which a Commission shall give consideration to include, but are not limited to:
- viii. The profile of the Participant, including where they hold a position of responsibility within their Club or organisation (e.g. Club Captain, Manager, Chairman, member of senior management);

- ix. Mitigating factors which a Commission shall give consideration to include, but are not limited to:
- x. Admission as the earliest opportunity where the factual conduct forming the basis of the charge would be capable of being disputed;
- xi. Demonstration of genuine remorse; and
- xii. Co-operation with the Association.

36. I considered carefully whether, in all of the circumstances, this was a matter where I was permitted to consider imposing a suspension below the Standard Minimum, in accordance with the provisions of the Aggravated Breaches Sanctions and Guidelines<sup>4</sup>.

37. I noted that the participant stated that he did not post the message through malice or with intent to cause offence. He posted the message believing that the content was humorous. This was clearly a serious misjudgement on his part. Such content, with a clear and obvious reference to Gender was offensive and improper. A person with so much experience in football would be expected to know that such comments were likely to cause offence, there simply is no excuse for not knowing or believing that to be the case.

38. I was entirely satisfied that it in these circumstances I was not able to impose a sanction that was below the Standard Minimum, for the reason that at the time the participant breached the rule, he did so and either knew, or ought reasonably to have known, that he would cause offence when he shared the Facebook Post. This is self-evident from the participant's admission that he read the post, the deeply offensive content of the post, and his acceptance that he should not have shared it. I was also satisfied that, even if I were permitted by the Aggravated Breaches Sanctions and Guidelines to consider imposing a suspension below the Standard Minimum, having regard to the matters set out<sup>5</sup> I would not have done so.

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<sup>4</sup> Page 180 of the FA Handbook 2023/2024

<sup>5</sup> Page 178 of the FA Handbook 2023/2024

39. After careful consideration of all of the evidence in this case I determined that the entry point for sanction would be 7 matches suspension. Due to the Aggravating factor of this matter being posted in public, for all to see, I would increase the sanction by one further match. The various Roles undertaken in football by the Participant would add a further 2 matches to the sanction total, prior to mitigation. The collective Aggravated factors would take the total suspension to 10 matches prior to mitigation.
40. The Mitigating factors would allow me to reduce the sanction by approximately one third in allowance for **Guilty Plea**. I would award a credit of 3 matches for this. A further credit of 1 match for **Clean Record** would see the sanction reduced to a total of 6 matches, this being the **Mandatory Minimum** sanction that I was allowed to impose.
41. No further credit would be allowed due to the fact that I would then be imposing a sanction lower than I was allowed to impose. I considered the sanction of a 6 match suspension as being fair, reasonable, and appropriate in this case.
42. Because Mr Wilcock is a non-playing participant in this matter, and due to the factor that this breach was not committed whilst acting in any of his roles in football, this 6 match sanction will need to be converted into days.<sup>6</sup> This shall be converted into days by multiplying 6 matches by 7 (days in the week) which converts into 42 days.
43. Therefore, I determined the appropriate Sporting Sanction is:
44. Mr Len Wilcock shall serve a suspension from all football activity for 42 days from the date of notification by The Amateur FA.
45. The suspension shall include all football activities.
46. Mr Len Wilcock must attend an **ONLINE Education programme**. This must be undertaken before the time-based suspension is served. Failure to comply with this order will result in a Sine-Die suspension being issued against the Participant until they have fulfilled this order in its entirety.
47. The sanction is formally imposed.

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<sup>6</sup> Paragraph 181 of the FA Handbook 2023/2024

48. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed: *Ian R. Stephenson*

FA National Serious Case Panel Chair

19<sup>th</sup> January 2024.