

Football Association Disciplinary Commission

The Football Association on behalf of Oxfordshire FA

V

Stephen Wilkes – Case ID: 11133882 M

WRITTEN REASONS

INTRODUCTION:

1. This is a hearing summary and includes written reasons for the decision of the disciplinary commission (the commission) which sat alone on Friday 3 March 2023.
2. The commission was a non-personal hearing chaired by Bill Stoneham (National Serious Case Panel).
3. The following is a written record of the main points considered by the commission. It is a summary of the main evidence presented and is not intended to refer to all the points made in the evidence presented. The absence in these reasons of any particular point, or piece of evidence, should not imply that the commission did not consider any such point or evidence. For the avoidance of doubt, the commission carefully considered all the evidence that was submitted.

THE CHARGE:

4. The charge in question arose following a fixture between Milton United Ladies FC (the club) v Wycombe Wanderers Ladies FC (the opposition) played on Sunday 30 January 2023.
5. Oxfordshire FA issued a charge letter dated 27 February 2023. In this letter, Stephen Wilkes (the referee) was charged under FA Rule E3 – Improper Conduct (including foul and abusive language) and FA Rule E3.2 – Improper Conduct (aggravated by a person's ethnic origin, colour, race, nationality, faith, gender, gender reassignment, sexual orientation, or disability). It is alleged that Stephen Wilkes (the referee) used insulting language contrary to FA Rule E3.1

and it is further alleged that this constitutes an aggravated breach as defined by FA Rule E3.2 because it includes a reference to disability. This refers to the comment(s): 'He seems to hear well enough for someone wearing hearing aids', or similar.

EVIDENCE:

6. Oxfordshire FA provided the following evidence in relation to the charge:
 - I. An undated statement submitted by Dean McConnell (club manager);
 - II. an undated statement submitted by Zoe Barnes (club player);
 - III. an undated statement submitted by Holly Porter (club player);
 - IV. an undated statement submitted by Sophie Tatford (club player);
 - V. an emailed statement dated 8 February 2023 submitted by Katie Miller (club player);
 - VI. an emailed statement dated 30 January 2023 submitted by Carol Howes (opposition club secretary);
 - VII. an emailed statement dated 1 February 2023 submitted by Craig Anderson (opposition media manager);
 - VIII. an emailed statement dated 2 February submitted by Amy Leach (a spectator)
 - IX. various emails between Andrew Evans (Oxfordshire FA) and Stephen Wilkes (referee).
7. On 28 February 2023, Oxfordshire FA received a reply from the referee stating 'Deny- Correspondence'.

DETERMINATION

8. The commission reminded itself that the burden of proving this charge falls upon Oxfordshire FA.
9. The applicable standard of proof required for this case is the civil standard of proof, namely the balance of probability. This standard means that the commission would be satisfied that an event occurred if it considered that, on the evidence presented it was more likely than not to have happened.
10. The assessment of the evidence in such cases is entirely a matter for the commission. The commission must assess both the credibility and the reliability of the evidence placed before it.
11. As the charge had been denied, the commission carefully studied the submitted evidence. Though much of the evidence is hearsay and includes subjective references, frequently to other events, the following points were deemed relevant:

- I. In his statement, the club manager, about whom the alleged comments were made, states he did not hear what was said but he did challenge the referee after the game about the accusation. He claims that during their conversation the referee offered an apology for referring to him 'as the manager with hearing aids'. This apology was declined;
 - II. most of the undated submission from Zoe Barnes is irrelevant, but she does categorically state that during the second half the referee said to her: 'He seems to hear well enough for someone wearing hearing aids'. In Ms Barnes' opinion this was a direct reference to her team manager – Dean McConnell
 - III. in her undated statement Holly Porter states that she heard the referee comment: '...for someone who wears hearing aids, he can hear a lot';
 - IV. in her undated statement Sophie Tatford states she heard the referee comment: 'the managers got hearing aids in, how does he know what I've even said?';
 - V. in her emailed statement dated 8 February 2023, Katie Miller states she heard the referee comment: 'not sure how you heard as you wear hearing aids.' It is her belief that this comment was directed at her manager Dean McConnell;
 - VI. in the correspondence between the county FA and the referee, the latter does not deny making reference to the club manager wearing hearing aids. He merely claims that he made this reference as a means of identifying the manager. He disputes that he made any comment that was aggravated, or which could be deemed as discriminatory or insulting;
 - VII. all other evidence was discounted as either being irrelevant to the charge levied, or mere hearsay.
12. Having carefully read all the evidence, with particular emphasis on the points listed immediately above, based on the balance of probability, the commission deduced that there is sufficient evidence to indicate that the case against the referee is proven. It is accepted that the referee probably partly made reference to the hearing aids to help with identification, but there is sufficient evidence to indicate that his comments went beyond the stage of simple identification.
13. In reaching this decision, the commission recognised that with the case being dealt with by way of correspondence, the commission was unable to evaluate the evidence through questioning of the witnesses. Thus, it could only consider each witness's account against the totality of the documentary evidence submitted.
14. Stephen Wilkes' disciplinary record over the last five years was then considered. He has an exemplary record.
15. Points made in mitigation include:
- I. The referee's exemplary disciplinary record;

- II. Though the referee disputes the context of the comments and denies saying anything that might be deemed as discriminatory or offensive, he did attempt to apologise for any misunderstanding that might have occurred.

16. Aggravating factors identified included:

- I. The evidence offered, though not entirely consistent in the exact words used, indicates that an aggravated offence took place;
- II. By his own admission, the referee lacked composure at various times in this game and he let his standards slip as a consequence.

OUTCOME:

17. For a proven charge of this nature, FA Regulations state that the sanctioning range is 6-12 matches. Six matches is the standard minimum. A commission may impose a suspension in excess of twelve matches where there are significant aggravating factors. A participant found to have committed an aggravated breach will be subject to an education programme.

18. Having considered all the facts in this case, the decision of the commission is that **Stephen Wilkes** is:

- I. Suspended from all football activity for 42 days;**
- I. fined a sum of £40-00;**
- II. ordered to complete an on-line education programme before the time-based suspension is served. Failure to comply with this order will result in a sine-die suspension being issued against Stephen Wilkes until he has fulfilled this order in its entirety;**
- III. the suspension is calculated on the basis of a conversion rate of one game equating to seven days. Thus, a six-game suspension, as levied in this instance, equates to forty-two days.**

19. There is a right of appeal against this decision in accordance with the relevant provisions set out in the Rules and Regulation of the Football Association.

Bill Stoneham

Chairperson

03 March 2023