

**BEFORE THE DISCIPLINARY PANEL OF THE CRICKET
DISCIPLINE COMMISSION OF THE ENGLAND & WALES
CRICKET BOARD**

**IN THE MATTER OF DISCIPLINARY CHARGES BROUGHT BY
THE ENGLAND & WALES CRICKET BOARD (“ECB”)
AGAINST OLIVER ROBINSON (“OR”)**

DECISION OF THE DISCIPLINARY PANEL

Introduction

1. This Disciplinary Panel was convened to hear a case in relation to two charges brought by the ECB against OR, namely:

(i) a breach of ECB Directive 3.3 which provides that:

“No Participant may conduct themselves in a manner or do any act or omission at any time which is improper or which may be prejudicial to the interests of cricket or which may bring the ECB, the game of cricket or any cricketer or group of cricketers into disrepute”; and

(ii) a breach of ECB Directive 3.4 which provides that:

“Each Participant is bound by and must comply with the ECB Anti-Discrimination Code”;

- specifically, paragraph 1.1 of the ECB Anti-Discrimination Code which provides that:

“It will be a breach of this Code for any Participant to act in any manner, make any omission, or engage in any conduct, which (in the opinion of a reasonable person) does, or is likely to, offend, insult, humiliate, intimidate, threaten, disparage and/or vilify any person or group of people, based on, or by reference to, any Protected Characteristic.”

2. OR has admitted both these charges, and it falls to this Panel to consider the appropriate sanctions.

The Facts giving rise to these Charges

3. OR acted in breach of these ECB Directives because of his posting of a series of offensive Tweets, which came to light on the 2nd June 2021, which was also the first day of his first Test Match for England.
4. The charges encompass 14 Tweets which OR posted over a period of 2½ years from February 9th 2012 to October 17th 2014, when he was aged between 18 and 20.
5. Those Tweets contained a number of racist, sexist, disablist, Islamophobic and offensive remarks. They were publicly available until OR closed his Twitter account in the wake of the media revelations. On 2nd June 2021 and thereafter those Tweets were widely disseminated in the media, both nationally and internationally, bringing them to the

attention of the wider public.

6. OR made a verbal apology which was broadcast publicly after play on the evening of the 2nd June 2021, in addition to a verbal apology to the England team.

Approach to the Breaches

7. The Panel is very grateful to the parties for their written and oral submissions.
8. In making its decision as to sanction, the Panel recognised that the ECB Directives are rules which are intended to protect the interests of those who play the wider game as well as the reputation of the sport of cricket.
9. The content of these Tweets, which OR had retained on his Twitter social media account, are in obvious breach of the ECB's anti-discrimination policy, which is designed both to stamp out discrimination in all its forms, and to promote greater inclusion and diversity across all levels of the game of cricket.
10. Every individual is responsible for both their posts and wider social media content: that responsibility lasts so long as it remains in the public domain, and indeed even if it does not. After all the very purpose of posting a Tweet is to disseminate it.
11. As a result of these Tweets, and their public availability and subsequent

widespread public dissemination in the media, OR has let down those who oppose discrimination. These Tweets have undermined not only the work and clearly stated strategic objectives of the ECB in this regard, but also the multiplicity of such projects within the wider cricketing community.

12. Cricketers in OR's position, representing their county let alone country, are role models within the cricketing world, and in particular to children and young people. They enjoy the advantages of the highest profiles within the game, but with those benefits comes significant responsibility. The consequent impact of their misconduct cannot be underestimated.

13. These are extremely serious breaches of the ECB Directives, and have been recognised by OR and the ECB as such from the outset. Their content is appalling in both its tone and nature, although we must observe that their language is not of the very worst. These breaches in our judgment are aggravated by the following factors:

(i) the breadth of their targets;

(ii) the number of tweets posted;

(iii) the period over which they were posted.

14. Such conduct is quite rightly regarded as extremely serious within both the sporting and wider societal contexts. We are conscious however that the latter cannot be our concern - but the cricketing context certainly is. The gravity lies not just within the nature of the posts themselves, but

because the message must be made clear to all who play the professional game, and to all those who play elsewhere, that such behaviour will not be tolerated.

Mitigation relevant to sanction in OR's case

15. However, that is not an end of the matter. Every case must be judged on its own facts and circumstances, and proper regard must be had to those factors which mitigate the conduct.

16. The Panel takes the view that there are significant mitigating factors which apply in OR's case.

Time elapsed and resulting change in character of OR

17. These Tweets were posted more than 6½ years before their revelation – there has been no more such conduct since.

18. Given both his character and personal circumstances, the Panel accepts that he was a young and immature man at the time. However the Panel notes that he was nevertheless an adult at the time of their posting, and indeed, although his personal circumstances were difficult, actively looking to further a professional cricket career.

19. The Panel also notes that all but two of the tweets were made before OR had received any formal social media education from the PCA or other professional body, and before he first became a Registered Cricketer. His

first training programme took place in the Spring of 2014, and continued annually thereafter. Regrettably such training did not result in him removing the Tweets which are the subject matter of these charges.

20. We accept that OR had genuinely forgotten that the Tweets were there, although this cannot obviate his responsibility for posting them and for their continuing accessibility on his Twitter account.

21. There is compelling evidence before us in references from those who have been close to him in the cricketing environment which clearly demonstrate that OR is a very different person today to the young man who expressed those views.

22. Those who have coached him both before and after he joined Sussex CCC in 2015 have spoken powerfully to the very positive changes in his personality, reflected in a happier and more settled manner, and his strong commitment to cricket and to the work ethic it requires on and off the field.

23. He is regarded today as a thoughtful and well-respected person, and as a highly popular and disciplined professional cricketer. These qualities led to his appointment as vice-captain of his county at the beginning of this season, and no doubt contributed at least in part to his selection to the England Test team.

24. This is the first disciplinary matter brought against OR by the ECB.

25. The Panel is satisfied that OR, in terms of character, is far from the

younger man portrayed by those Tweets.

Remorse

26. OR's remorse and shame are, in our view, genuine and profound, exemplified by his public statement of the 2nd June. That prompt apology, his early admission of guilt and cooperation in these proceedings are important factors to his credit.

27. OR chose to address the Panel. His apologies to his teammates, the ECB and the wider cricketing world were heartfelt, as plainly was his description of the impact of his actions upon his family. He openly articulated his wish to help others learn from his own experiences.

Impact of revelation of Tweets on OR

28. The revelation of these Tweets came about on the first day of OR's first Test match. The impact of that revelation was clear in the emotional and genuine public apology he made to the media that night. What should have been the pinnacle and proudest moment of his career has become, in some ways, its nadir.

29. The media attention that followed focussed heavily upon OR, and from whichever perspective it came, has taken a very heavy personal toll on him: those close to him describe him as "*shell-shocked*" and "*withdrawn*". The Panel accepts that the personal impact on him, his family and those close to him has been intense and extensive.

30. Moreover, of course, he has suffered the professional and personal shame of being suspended from international cricket, thus missing what would have been only his second Test Match. That was a huge personal blow, but also a not insubstantial financial one. Thereafter he voluntarily chose to withdraw his availability for selection for at least three of Sussex CCC's T20 matches which followed. This decision was a direct result of the impact upon him of the consequences of the revelation of these Tweets.

31. The impact to his reputational and professional standing has been enormous, and that stain on his character will remain, whatever the sanction in these proceedings.

Approach to sanction

32. Taking account of the factors relevant to the charges which are set out at paragraphs 7 to 14 above, the Panel first assessed the appropriate sanction to be applied had these Tweets been posted and retained by a cricketer in OR's position in the 2½ years directly leading up to the 2nd June 2021.

33. By virtue of the conduct which gave rise to the breach of the Anti-Discrimination Code, OR admits that he breached ECB Directive 3.3, that is, his conduct by its nature is prejudicial to the interests of cricket and has brought the game into disrepute. It is artificial, in the Panel's view, to seek to impose separate sanctions for each charge, as they are inextricably linked.

34. In assessing the extent to which the conduct has brought the game into disrepute, the Panel must take account of the very widespread dissemination of the Tweets, and the magnitude of the audience to whom they thus became available.

35. It also considered relevant the damaging coincidence in timing of the revelation of these Tweets with the overt statement against all forms of discrimination by the England team at Lord's that day, as well as the concurrent and wider strategic objectives and drive of the ECB to advance inclusivity within the sport.

36. The Panel considers that the proportionate sanction for charges of this level of seriousness today would be an immediate suspension of 8 matches.

37. The Panel then turned to consider the mitigation applicable to OR's case. This is set out at paragraphs 15 to 31 above.

38. The Panel considered this mitigation to be of significant weight, not least the time elapsed since the posting of the Tweets, and the clear change in OR's character in that time. It also took account of OR's remorse, admissions and cooperation as well as the huge impact which the revelation of these Tweets and its consequences have had upon him and his family.

39. In the particular circumstances of OR's case, and considering the matches which he has missed as a direct result of his own conduct, the

Panel decided that he should be free to resume playing cricket immediately.

40. OR's suspension for the Second LV= Insurance Men's Test against New Zealand resulted in a loss of Match Fee, but he had already been paid his Squad Fee for that Match. Given that the Panel's sanction has taken account of the suspension for that Match, it determined it both logical and proportionate that OR be fined an amount in a similar sum, namely £3,200.

41. Given the compelling evidence before it regarding the growth of OR's character in the years since the Tweets were posted, the Panel also considered that there was a real opportunity for OR, by speaking to his experiences, to have a valuable and positive impact upon others both inside and outside the cricketing community.

42. With OR's willing agreement, and with the helpful assistance of the PCA, for both of which we are very grateful, the Panel has strongly recommended that OR takes part in PCA led training programmes as regards both the use of social media and in respect of anti-discrimination more widely, over the next 2 years.

43. Our powers as to sanction do not permit us to specifically direct this, but we are confident that the assurances given by OR in this regard will be met. That, in our judgment, would be a constructive, forward looking and positive outcome from these proceedings.

44. In imposing the following sanctions the Panel at all times had in mind the

principles of proportionality and fairness.

45. The Panel were also mindful of the various disciplinary cases within the cricketing and wider sporting arenas to which they were referred, although, as the parties conceded, they could only be of limited assistance on their facts.

Sanctions

Given that OR admitted the Charges brought by the ECB and was therefore guilty of the breaches of the ECB Directives the Panel impose the following sanction for each charge which will run concurrently:

- a. OR will be suspended from playing cricket for 8 matches, 5 of those matches to be suspended for a period of 2 years;**
- b. in respect of the remaining 3 matches, the suspension imposed by the England Team from the Second LV= Insurance Men's Test against New Zealand is to be taken into account, as are two of the Vitality Blast T20 matches from which OR voluntarily withdrew himself from selection for Sussex CCC due to the impact of these proceedings - OR is therefore free to play cricket immediately;**
- c. a fine of £3,200 which represents the squad payment which he received for the Test Match for which he was suspended;**

- d. a strong recommendation that OR participates in all training programmes in both the use of social media and in respect of anti-discrimination as directed by the PCA over the next 2 years (to include undertaking any training himself which the PCA consider appropriate for these purposes).**

If OR commits any further serious breach of cricketing regulations within the 2 year period of suspension, then it is likely that, at the discretion of the CDC, the suspended element of this sanction will be brought into operation, and may be in addition to any separate sanction imposed for that further serious breach.

Any appeal against this decision must be made within 14 days of the date of the decision and should be in accordance with the provisions set out in CDC Regulation 10.

Mark Milliken-Smith Q.C.

Chair, CDC Disciplinary Panel

30th June 2021

The members of the Disciplinary Panel were Mark Milliken-Smith Q.C., Claire Taylor and Anurag Singh.