

DECISION OF THE DISCIPLINARY PANEL OF THE CRICKET DISCIPLINE COMMISSION (“CDC”) IN THE MATTERS OF:

1. A CHARGE BROUGHT BY THE ENGLAND AND WALES CRICKET BOARD (“ECB”) AGAINST MR. MITCHELL CLAYDON IN RELATION TO A BREACH OF THE ECB DIRECTIVES 2020 AND THE PLAYING CONDITIONS OF THE BOB WILLIS TROPHY

and

2. A CHARGE BROUGHT BY THE ECB AGAINST SUSSEX COUNTY CRICKET CLUB IN RELATION TO A BREACH OF THE ECB DIRECTIVES 2020 AND THE PLAYING CONDITIONS OF THE BOB WILLIS TROPHY

30 September 2020

**THE CDC
DISCIPLINARY PANEL:**

Mark Milliken-Smith Q.C. (“MMS”) (Chair)
S Claire Taylor (“SCT”)
Chris Tickle (“CT”)

THE PARTIES:

THE ECB:

Represented by:
Alan Fordham (“AF”) (Head of Cricket Operations (First Class))
Meena Botros (“MB”) (Director of Legal and Integrity)
James Pyemont (“JP”) (Head of Integrity)

**SUSSEX COUNTY
CRICKET CLUB
 (“SCCC”):**

Represented by:
Oliver Harland (“OH”) (Northridge Law LLP)
Rob Andrew (“RA”) (CEO, SCCC)

**MITCHELL
CLAYDON: (“MC”)**

Represented by:
Oliver Harland (“OH”) (Northridge Law LLP)

BACKGROUND TO THIS HEARING

1. This Disciplinary Panel (“DP”) was convened to hear cases in relation to charges brought by the ECB against:
 - a. MC for a breach of the ECB Directives 2020 and the playing conditions for the Bob Willis Trophy; and,
 - b. SCCC for a breach of the ECB Directives 2020 (the “**Directives**”) and the playing conditions for the Bob Willis Trophy.
2. It was alleged that MC applied hand sanitiser to the ball in the Bob Willis Trophy (“BWT”) match between SCCC and Middlesex County Cricket Club at Radlett on 23 August 2020. MC applied hand sanitiser to the ball following a sanitisation break between the 47th and 48th over of Middlesex CCC’s 1st innings.
3. As a result of his actions, MC was suspended by SCCC for six matches before today’s hearing, consisting of one match in the Bob Willis Trophy and five matches in the T20 Blast competition. SCCC also fined MC £1,000.
4. Following an investigation, MC and SCCC were each charged (the “Charges”) with a breach of ECB Directives 3.3 and 3.7 which state:

3.3 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.

3.7 Contravention of the Bob Willis Trophy Playing Conditions 5 or 41.2....
5. Both MC and SCCC have admitted the Charges and therefore a Disciplinary Panel hearing was required to determine the sanctions that should be imposed on each of them.
6. Given that the Charges arise from common facts and that SCCC and MC admitted those Charges, both parties agreed that it was appropriate that these matters should be heard by the same CDC Panel.

SEPARATE HEARINGS IN RESPECT SCCC AND MC

7. At the outset of the hearing SCCC and MC jointly submitted that this Panel should hear both cases, hearing the case in respect of MC forthwith, but postponing the case in respect of SCCC to a date to be fixed. Two primary reasons were advanced: firstly SCCC required further time to prepare the arguments they wish to advance in mitigation, and secondly there was a need for expedition in the case of MC given that he was due to play for SCCC in the quarter-final of the T20 Blast on the 1st October 2020.
8. The ECB had no objection to this application.
9. This Panel agreed that there was merit in the application, and was satisfied that there was no prejudice to MC. Accordingly The DP directed that the case in respect of SCCC be adjourned to a date convenient to SCCC, the ECB and the members of this Panel.

APPROACH TO SANCTION IN THE CASE OF MC

10. The Panel are very grateful to the parties for the written and oral submissions made as to sanction.
11. In making its decision as to sanction, the Panel recognised that the ECB Directives are rules which are intended to protect the interests of the wider game and the reputation of the sport of cricket.
12. The Panel recognises that, at the present time, hand sanitiser is required to be used by players and officials for the purposes of health and safety. But, as the video evidence plainly showed, and as MC admitted, he was deliberately using hand sanitiser for a completely different purpose, namely to seek to alter the condition of the ball in an attempt to gain an unfair advantage. OH, on behalf of MC, has accepted without demur that this is a serious regulatory breach.
13. Ball tampering is cheating, pure and simple, and as cases in recent years have made plain, it is rightly treated very seriously by the sport's disciplinary bodies. This is not just because of the nature of the act itself, but to ensure that the message is clear to all who play the professional game, and elsewhere, that such conduct is wholly unacceptable.
14. The Panel's attention was drawn to previous decisions of the CDC in cases in which players have sought to alter the condition of the ball. They ranged in date from 2003 to 2015. However, they are of limited assistance given that the landscape is now very different from when those cases were decided.

15. Submissions have been advanced that it may be apposite to suspend part of any suspension period. The Panel do not consider that such a penalty is appropriate given the seriousness of the offence. Nor, neither as a matter of principle nor of practicality, does the Panel consider that an assessment of the nature of the matches from which a player may be suspended is appropriate.
16. The Panel invited comment from MC at the conclusion of the submissions of the ECB and OH, in which he expressed both his responsibility and remorse for his actions.
17. As regards any financial penalty and/or costs, the Panel notes the financial impact which any suspension will have upon MC, that MC has already been fined £1,000 by his county, and the straitened financial times which the current crisis has created more generally. Accordingly the Panel does not consider it right to order any financial penalty in respect of MC.
18. The Panel considered the following as aggravating factors:
 - a. MC originally denied the charge, and caused both his Club Captain and County to write positively as to his good character to seek to persuade others of his innocence, and
 - b. he is a senior player who is expected to set an example.
19. The Panel considered the following as specific mitigating factors:
 - a. MC admitted this offence, albeit not immediately (see below)
 - b. this is MC's first offence in an unblemished career of some 350 matches
 - c. the impact that the stigma of his admitted conduct will have both on his professional and personal life
 - d. there is no suggestion that he acted with nor sought to influence or involve any other player.

SANCTION

20. **Given that MC admitted the Charges brought by the ECB and was therefore guilty of a breach of the ECB Directives and the playing condition of the Bob Willis Trophy, the Panel imposed the following sanction:**
 - a. **Mr. Claydon will be suspended from playing for 9 matches, save that**

b. the suspension imposed by SCCC is to be taken into account, so that Mr. Claydon will serve a suspension of an additional 3 matches as from 30 September 2020.

21. The Panel specifically notes that the 3 matches for which MC will remain suspended after today may include a mix of T20, 50 over and 4 day matches, given that the extent of SCCC's involvement within the last remaining domestic competition of 2020, namely the T20 Blast, as of today, remains unclear.

COSTS

22. There is no order as to costs. Each party will bear its own costs.

RIGHT TO APPEAL

23. Should MC wish to appeal he has fourteen (14) days to do so from the date on which he receives this decision.

Mark Milliken-Smith Q.C.

Chair, CDC Disciplinary Panel