

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

8 October 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. This particular Disciplinary Panel originally convened on 30 September 2020.
8. At the outset of that hearing SCCC and MC jointly submitted that this Panel should hear both cases, hearing the case in respect of MC on 30 September 2020, 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.
9. The ECB had no objection to this application.
10. 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. That date crystallised as 8 October 2020.

SANCTION IN RESPECT OF MC

11. The Panel's decision upon sanction for MC has already been disseminated amongst the parties, a summary of the decision having been communicated to them on the evening of the 30 September 2020.
12. 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.
13. The Panel specifically noted that the 3 matches for which MC will remain suspended after 30 September 2020 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 that day, remained unclear. One of those matches has now been served, given the adverse result to Sussex CCC of the quarter-final in the T20 Blast on 1 October 2020.

APPROACH TO SANCTION IN THE CASE OF SCCC

14. The Panel are once again very grateful to the parties for the detailed written and oral submissions made as to sanction.
15. 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.
16. 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.
17. As we have made plain in the decision pertaining to MC, ball tampering is cheating, and as cases in recent years have made plain, it is rightly treated very seriously by cricket's disciplinary bodies.
18. The ECB Directives (Directive 3.7) and the playing Regulations of the BWT (Regulation 41(2)(d) clearly render a team responsible for its players' misconduct regarding the alteration of a match ball.
19. When players seek to alter the condition of the ball, they do so with the intention of having a positive impact on the game for the advantage of their team, quite apart from the acquisition of any personal benefit.
20. Thus the responsibility of any team in these circumstances must be a serious one, and cannot simply or fairly be assessed by the number of points which the team earned in that particular match. In cases where a team promptly admits the charge laid, it must be marked, as a minimum in this Panel's view, by a deduction of the maximum points available for the match in which the misconduct of this type occurred.
21. Moreover, it is only right that players understand the serious impact upon their team, and their team-mates, which actions such as these will engender.
22. It is from this starting point that the Panel consider whether further aggravating and mitigating factors lie.
23. It seems to this Panel inappropriate, both in principle and from a practical perspective, to consider increasing a sanction simply because the impact of a one game maximum point deduction may have had little impact on a particular team in a competition's final standings.

24. The Panel do not consider there to be any aggravating factors in the circumstances of this case. Whilst the admission of guilt was not immediate, SCCC's initial response was based wholly upon the word of the player, who at that time denied any wrongdoing at all. Thereafter, upon proper analysis of the evidence, SCCC fully admitted responsibility, and indeed clearly understood the seriousness of the offences by suspending MC forthwith for six matches.
25. The mitigating factor which is SCCC's admission is taken into account as per paragraph 20 above.
26. For these reasons this Panel considers that the level of sanction in this case should fall at the lower end in terms of culpability, which it has already assessed as the maximum points available for the match.
27. As regards any financial penalty and/or costs, the Panel notes the financial impact which the suspension of MC has had and will have upon SCCC. Moreover given the Panel's assessment of the SCCC's culpability in this matter, the Panel considers that it is not appropriate to impose a financial penalty.
28. In more serious cases, where the fault of the team is greater than here, a range of sanctions are available, including the deduction of points beyond those applicable to the referable match, and financial penalty. Moreover, a Disciplinary Panel considering future breaches by a team, consequent upon a conviction such as this, is very likely to consider this as a significant aggravating factor.

SANCTION

29. **Given that SCCC 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 deduction of the maximum points available in the BWT match in which the offence occurred. Therefore, twenty-four (24), points will be deducted from the points total that SCCC achieved by the close of the 2020 BWT Competition.**

COSTS

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

RIGHT TO APPEAL

31. Should SCCC wish to appeal they have fourteen (14) days to do so from the date on which they receive this decision.

Mark Milliken-Smith Q.C.

Chair, CDC Disciplinary Panel