

## **Full CDC decision following a panel hearing on 19 November 2020 to consider Complaints brought against Nottinghamshire CCC and Dan Christian**

1. A CDC panel hearing, held remotely, was convened on 19 November 2020 following Complaints being brought by the ECB Integrity Team against Nottinghamshire CCC and their T20 captain, Dan Christian. Although separate Complaints, the parties agreed that both Complaints could be considered at the same hearing.

### **2. The Directives**

2.1 As far as it related to Nottinghamshire CCC, the Complaint was as follows:

2.2 ECB Directive 3.6.21 states that:

“Subject to the overriding discretion of the CDC Chairman or their authorised deputy, if during any period of 12 months there are 5 or more separate occasions on which Registered Cricketers registered with or on loan to the same First Class County....receive a penalty under Directive 6, this will amount to a separate offence under these Directives and that Team shall be required to attend a Disciplinary Panel hearing in accordance with the CDC Regulations. In these circumstances, the captain(s), coach and/or Director of Cricket and Chief Executive and/or Chairman of the Team in question shall be required to attend. The Disciplinary Panel shall have the power, in its absolute discretion, to impose any or all penalties available to it under the CDC Regulations“.

2.3 As far as it related to Mr Christian, the Complaint was as follows:

ECB Directive 3.5 states:

“In respect of Directives 3.1-3.3 inclusive, it shall be the additional responsibility of any person captaining a team in any match(es) (whether appointed to this position on an ad hoc basis) to ensure that each member of their team complies with all such obligations”.

- 2.4 The above Directives relate to conduct on or off the field amounting to a Breach of the Laws of Cricket and/or the Spirit of Cricket. There are 4 levels of Breach within the Directive, ranging from Level 1 (being the least serious) to Level 4 (being the most serious.) Each Breach results in a Fixed Penalty being issued by the Match Referee. The Match Referee has sole discretion as to whether to issue the Fixed Penalty following consultation with the Umpires and the player involved. After every occasion where a Fixed Penalty is issued, the Match Referee completes a Conduct Report, which is then signed by relevant parties and submitted to the CDC.
- 2.5 It is important to note that, in the Directives, there is no opportunity to appeal a Fixed Penalty save for in very exceptional circumstances, which did not apply in this case.

### **3. Background to the Complaints**

- 3.1 Nottinghamshire CCC had received 5 Fixed Penalties, all in the Vitality T20 Blast competition, in a short period from 31 August 2020 – 4 October 2020. Mr Christian was captain on each occasion and, in fact, was himself issued with one of the 5 Fixed Penalties.
- 3.2 In their response to the Complaints, Nottinghamshire accepted 4 of the Fixed Penalties but had “*strong reservations*” about one of them, namely an incident of “mock fielding” by one of their players (who we choose not to name but will call Player X.) “Mock fielding” is where a player chasing a ball in the outfield slides to try to persuade the batsmen not to run when, in fact, the ball is not close enough for the player to gather. This is deemed to be deliberate deception under Law 41.4 or 41.5 and is a Level 2 breach. The remaining 4 breaches were all Level 1 which, in this case, includes matters such as wilfully mistreating any part of the cricket ground or using obscene or offensive language.
- 3.3 Mr Christian adopted the same approach to the “mock fielding” incident as Nottinghamshire. The panel interpreted this to mean that he also had “*strong reservations*” about the imposition of the Fixed Penalty.

- 3.4 Given the reservations of Nottinghamshire and Mr Christian regarding the allegation of “mock fielding”, all the parties considered it appropriate to obtain witness statements from the two Umpires (Mr Pollard and Mr Cook), from the Match Referee (Mr Whitaker) and from Player X. Such witness statements were submitted to the panel so that the seriousness of the incident could be assessed in more detail.
- 3.5 As there was no right of appeal to a Fixed Penalty in these circumstances or video evidence of the incident, the ECB, Nottinghamshire and Mr Christian suggested that oral evidence of the above individuals should be dispensed with. This would, in their view, avoid an unnecessary adversarial situation that would serve no positive purpose. The Chair of the hearing, Mr Smith, was content to agree this but explained to the parties that each witness statement submitted could not therefore be challenged and would stand as drafted. The Panel is grateful to Nottinghamshire, ECB and Mr Christian for their approach to this matter.
- 3.6 The ECB and Nottinghamshire put forward submissions to the panel on sanction some days before the hearing took place. The Panel is also grateful for the parties’ assistance in this regard.

#### **4 The hearing**

- 4.1 The hearing was held remotely due to the pandemic and also because Mr Christian was in Australia. The parties expanded upon their submissions as to sanction.
- 4.2 The ECB suggested that the Panel should consider imposing a points penalty on Nottinghamshire, suspended for 12 months if 2 further Fixed Penalties are received by Nottinghamshire within a period 12 months from the date of the hearing and they also suggested what that points penalty would look like. The exact nature of the penalty and the competition in which it was to be imposed could be decided at a later date depending on the seriousness of future breaches and the competition in which they occurred. As a result of financial pressures on Counties due to the pandemic, the ECB did not suggest that Nottinghamshire should be issued with an immediate fine but asked the Panel to consider whether a suspended fine would be appropriate. The ECB did not seek any costs in relation to the hearing.
- 4.3 Nottinghamshire were concerned that the ECB’s suggestions above, in effect, would mean that the only realistic sanction left available would be a points deduction. They indicated that, if points were to be, deducted in any competition, this could have a greater financial impact upon the Club than a direct financial penalty. The Club explained that if further Fixed Penalties were to be received, their players had agreed to pay any fine between them and that fine could be paid to the Professional Cricketers’ Trust.
- 4.4 Nottinghamshire also indicated that the Club had, up to this point, a good disciplinary record and that some of the Fixed Penalties issued could be related to the extraordinary circumstances prevailing in 2020, namely the lack of spectators at the ground which made offensive language more audible than it would otherwise have been, particularly with regard to televised matches.
- 4.5 Mr Christian emphasised that tensions run high in professional sport and that the Fixed Penalties issued were at the lower end of seriousness.
- 4.6 We thank all parties for their submissions.

#### **5 Deliberations**

- 5.1 Having carefully considered the submissions of all parties, the Panel adjourned the hearing to consider its decision, which is relayed to the parties at the hearing. It is set out below.
- 5.2 Nottinghamshire and Mr Christian accepted that 4 of the Fixed Penalties had been correctly applied. As stated above, they had strong reservations about the remaining one, the matter of “mock fielding” by Player X.
- 5.3 Player X, in his witness statement, denied that he intended to mock-field but, to his credit, did accept that the Umpires genuinely believed that his action was a deliberate attempt to deceive the batsman.

Nottinghamshire, very sensibly and also to their credit, did not question the integrity of the Umpires in relation to the incident.

- 5.4 The Panel had no video evidence at its disposal regarding the incident of “mock-fielding” and, in any event, as stated above, there is no entitlement for Nottinghamshire to appeal a Fixed Penalty in this case. The issue of whether Counties should have a right of appeal against Fixed Penalties has been raised by Counties previously and has been debated by the CDC. It has been decided that it would be unworkable for Counties to have the opportunity to appeal such Penalties due to the number of them issued through the course of a season and because the Umpires are clearly best placed to observe what happens on the field of play. Before each Fixed Penalty is issued, the player concerned gets every opportunity to put forward his version of events, as does the Captain of the team concerned. The imposition of a Fixed Penalty is not a decision taken lightly by the Match Referee but he/she does so having heard all the evidence. In this case, it is clear that the Match Officials followed due process before the Match Referee issued the Fixed Penalty.
- 5.5 The Panel acknowledged Nottinghamshire’s previous good disciplinary record but was concerned about the seniority of the players involved in the Breaches and the very short period of time over which the Breaches occurred. The Panel noted that over the course of the 2020 Vitality T20 Blast competition only 9 Fixed Penalties had been issued to the remaining 17 Counties combined (all of whom played the competition behind closed doors and many, if not all, were involved in televised matches), whereas Nottinghamshire had received 5. This suggests to the panel that there has been a short-term deterioration in levels of discipline at the Club, which needed to be addressed.
- 5.6 It was noted that the ECB reminded Nottinghamshire after every Breach of the consequences of reaching 5 Fixed Penalties in a 12-month period. Yet, unfortunately, this made little discernible difference and the Breaches continued. The panel noted that Breaches were generally low-level, mostly emanating from frustration and, thankfully, none of the misconduct was aimed at opposition players or the Match Officials.

5.7 Nevertheless, there were too many incidents and action needed to be taken to address the situation.

## **6 Sanction**

- 6.1 Taking all the above into account the panel imposed the following sanctions:
- 6.2 Nottinghamshire were issued with a suspended points deduction of 2 points in the Royal London Trophy and/or 2 points in the Vitality T20 Blast and/or 16 points in the County Championship. The deduction will come into force if the Club receives 2 further Fixed Penalties in a 12 month period from the date of this hearing. The exact penalty will be decided by the panel at the material time and will depend in what competition the Breaches occur and their seriousness.
- 6.3 The panel did not impose a fine upon Nottinghamshire suspended or otherwise. The Panel did not accept Nottinghamshire’s suggestion that their players pay a fine. Although the Panel welcomed the suggestion, it felt that it somewhat missed the point that the Complaint was brought against the Club, rather than the players. This is very much an issue that the Club as a whole should address and it is very much within the Club’s gift to do so. The panel also felt that it had to be mindful of other such suspended sanctions given to other Counties in the past in similar circumstances.
- 6.4 There was no order for costs made against Nottinghamshire.
- 6.5 Mr Christian was given a suspended one match ban to take effect if any player in a Nottinghamshire match which he is captaining receives a Fixed Penalty in the 12 months from the date of the hearing. Again, the precise nature of the suspension will be considered at the material time and will depend, in part, in which competition the Fixed Penalty is imposed.
- 6.6 No fine or order for costs was made against Mr Christian.
- 6.7 The Panel has no wish to be in a position where it has to impose any of the above sanctions but it will do, if necessary. The sincere hope is that Nottinghamshire heed the above conditions and that previous good levels of discipline return.

- 6.8 The ECB, Nottinghamshire and Mr Christian all have a right to appeal the above within 14 days. Their attention is drawn to the valid grounds of appeal at clause 10.3.3 of the CDC Regulations.
- 6.9 The panel would like to thank all parties for their professional approach to the hearing.

**Mike Smith (Chair)**

**Paul Parker**

**Tom Poynton (nominated by the PCA).**