



Cricket
Discipline
Panel

**IN THE MATTER OF THE ENGLAND AND WALES CRICKET BOARD
PROFESSIONAL CONDUCT REGULATIONS**

Before:

Richard Whittam KC, Chair of the Cricket Discipline Panel
Gemma White KC
Christopher Coltart KC

DILLON PENNINGTON

**DECISION OF THE CHAIR OF THE CRICKET DISCIPLINE PANEL
WITH REGARD TO THE FIXED PENALTY IMPOSED IN ACCORDANCE WITH
REGULATION 4 OF THE ECB PROFESSIONAL CONDUCT REGULATIONS**

EXECUTIVE SUMMARY

1. The Chair of the Cricket Discipline Panel (“**the Chair**”) did not consider that the consequences of the fixed penalty imposed on Dillon Pennington (“**the Cricketer**”) of 1 unit (i.e. the next 2 competitive first eleven matches) for his second Level 2 Breach of Regulation 4.5 of the Professional Conduct Regulations (“**the Regulations**”) within 24 months might produce a result that in all the circumstances was manifestly unfair for the Player.
2. As this was the first case of its type, exceptionally, the Chair convened a Disciplinary Tribunal to consider whether the Chair was correct in the above consideration, and, even had the Chair considered that the fixed penalty imposed on the Cricketer might produce a result that in all the circumstances was manifestly unfair, whether it was manifestly unfair. The Chair confirmed his original decision (as set out in paragraph 1 above) after hearing oral representations on behalf of the Player. The Disciplinary Tribunal agreed with the decision of the Chair. Further, the Disciplinary Tribunal concluded that, had it been convened to consider the matter, it would have concluded that the consequences of the fixed penalty imposed on the Cricketer did not produce a result that was manifestly unfair in all the circumstances.
3. **Note:** the Cricket Discipline Panel is independent of the England and Wales Cricket Board (“**the ECB**”) and the Cricket Regulator. The Cricket Discipline Panel (“**the CDP**”) applies ECB Regulations. If a Participant (as defined in the ECB Disciplinary Procedure Regulations) is dissatisfied with any ECB Regulation(s) the Participant should take that up with the ECB and not the CDP. The Chair, and any Disciplinary Tribunal convened in accordance with Regulation 4.15, will apply Regulation 4.

ATTENDEES

4. The hearing was conducted remotely by a video link.
5. Those who attended the hearing were:

Nottinghamshire CCC:

- 5.1. Dillon Pennington, the Cricketer.
- 5.2. Mick Newell, the Director of Cricket at Nottinghamshire CCC.

- 5.3. Lisa Pursehouse, the CEO of Nottinghamshire CCC.

The Cricket Regulator:

- 5.4. Angus Hetherington, Regulatory Lawyer, the Cricket Regulator.

The Secretariat:

- 5.5. Anna Thomas, Sport Resolutions.

PRELIMINARY MATTERS

6. The Chair explained how the hearing would be conducted.
7. Each member of the Disciplinary Tribunal introduced themselves. There was no objection to the constitution of the Disciplinary Tribunal.
8. The material available to the Disciplinary Tribunal was:
- 8.1. The Conduct Report Form dated 29 July 2023.
- 8.2. The Conduct Report Form dated 23 June 2025.
- 8.3. An email from the Cricket Regulator to Nottinghamshire CCC dated 24 June 2025 which set out the Fixed Penalty imposed on the Cricketer.
- 8.4. A series of emails between the Director of Cricket at Nottinghamshire CCC, the Regulator and Sport Resolutions (which included the initial responses by the Chair).

THE ISSUE

9. The umpires reported the Cricketer's conduct during the County Championship match between Nottinghamshire CCC's and Yorkshire CCC on 23 June 2025.
10. They determined that the conduct of the Cricketer was in breach of Law 42.3.1 at Level 2 and imposed 5 Penalty runs on Nottinghamshire.
11. The matter was considered by the Match Referee, who determined that conduct of the Cricketer was a Level 2 breach of Regulation 4.5 of the Professional Conduct Regulations ("**the Regulations**"):

"Level 2

(d) throwing the ball at or near a player, umpire, team official or another person in an inappropriate and dangerous manner"

12. The Cricketer had a previous Fixed Penalty Breach for similar conduct in the match between Gloucestershire CCC and Worcestershire CCC (for whom the cricketer played at the time) on 29 July 2023. As that was his first breach of Regulation 4, it attracted 3 points.
13. This subsequent breach was within 24 months of that previous breach and therefore attracted 6 points.
14. As the Cricketer had accumulated 9 points in a 24 month period the automatic suspension was 1 unit, which meant that automatically he was suspended from Nottinghamshire CCC's next two competitive first eleven matches:
 - 14.1. Somerset CCC v Nottinghamshire CCC (County Championship, commencing 29 June 2025).
 - 14.2. Durham v Nottinghamshire Outlaws (Vitality Blast North Group, 04 July 2025).
15. The cricketer, through Nottinghamshire CCC, sought to appeal against that automatic suspension.

THE CONDUCT REPORT FORM

16. The Umpires reported that having bowled the delivery, the Cricketer picked up the ball and threw it at the wickets in an inappropriate and dangerous manner and when the batsman at no time attempted to run.
17. The Cricketer asserted to the Match Referee that he pulled out after realising he should not throw the ball as he was about to (although he accepted that he did throw the ball). He denied that it was a dangerous throw. He submitted that the batter was out of his crease and there was a chance of a run out.
18. The Match Referee reported that the Umpires had got together on the field and *"issued an on field Level 2 for throwing the ball at or near a player in an inappropriate and dangerous manner"*. At the meeting, the Match Referee listened to the views of the Umpires and the Cricketer and also viewed video footage of the incident. He decided that the conduct did amount to a breach of Regulation 4.5 at Level 2.

THE RELEVANT TIMELINE

19. This breach occurred on 23 June 2025 and the Level 2 breach was confirmed by the Match Referee at 18.54 on the same day.
20. On the following day, 24 June, at 13.00, the Cricket Regulator informed Nottinghamshire CCC of the automatic suspension.
21. On the same day, at 14.19, Nottinghamshire CCC indicated that it sought to appeal the suspension.
22. The Cricket Regulator responded on the same day, at 21.29. The Cricket Regulator made reference to the Regulations (see §§26-29, below) and indicated that, save for a case of mistaken identity, there shall be no review of the Match Referee/umpire(s)'s decision, and that a Disciplinary Tribunal could only be convened if the Chair considered that the consequences of automatic suspension might produce a result that in all the circumstances is manifestly unfair for the cricketer. The Cricket Regulator sought the view of the Chair as to that interpretation of the Regulations.
23. Still on the same day (24 June, at 22.14) Nottinghamshire CCC replied indicating that it would respond more fully the following day, and awaited the Chair's response.
24. On 25 June, at 14:56, the Chair responded, through Sport Resolutions, indicating that on the information currently available to him, the Chair did not consider that the consequences of automatic suspension might produce a result that in all the circumstances is manifestly unfair for the cricketer. Given that the suspension was due to commence on Sunday 29 June, the Chair indicated that, as this was the Chair's first consideration of Regulation 4, and the issues that were being raised by Nottinghamshire CCC, efforts would be made convene a Disciplinary Tribunal on 26 June.
25. Thereafter, there was an exchange of emails that related to when the Disciplinary Tribunal could be convened. As there is no power to suspend a Fixed Penalty pending the outcome of the decision of the Chair, or a Disciplinary Tribunal, the Director of Cricket at Nottinghamshire did not want the determination of the Chair, or potential hearing to be delayed and accordingly the hearing was fixed for 10.00 on Thursday 26 June.

REGULATORY FRAMEWORK

26. The sole issue was whether the Cricketer could appeal against the automatic suspension imposed on him for his second Level 2 breach of Regulation 4.5 in 24 months.
27. Save for mistaken identity, there can be no review of the Match Referee/umpire(s)'s decision under Regulation 4:

“4.13 There shall be no review of the Match Referee/umpire(s)’s decision unless the cricketer reported alleges that they have been mistakenly identified by the umpire(s) and/or the Match Referee and makes such an application in writing to the Cricket Discipline Panel within 3 clear days of the notification by the Match Referee/umpire(s) to the cricketer under Regulation 4.8.

4.14 Any review, pursuant to an application under Regulation 4.13, shall be carried out at a hearing in accordance with Regulations 7 and 8 of the Disciplinary Procedure Regulations except the only issue for determination by the Disciplinary Tribunal shall be whether the cricketer reported was in fact the cricketer whose conduct the Match Referee/umpire(s) concluded amounted to a breach under Regulation 4.5 and not whether the conduct itself amounted to or involved any breach of Regulation 4.5.”

28. Regulation 4.15 permits the Chair to consider whether the penalty that would ordinarily be imposed on a cricketer might be manifestly unfair in all the circumstances:

“4.15 If the Chair of the Cricket Discipline Panel considers that the consequences of any penalty that would ordinarily be imposed upon a cricketer under Regulation 4 might produce a result which in all the circumstances is manifestly unfair for the relevant cricketer, they may convene a Disciplinary Hearing to consider the matter. At any such hearing, the Disciplinary Tribunal shall comprise three members of the Cricket Discipline Panel and the cricketer involved shall be invited to address the Disciplinary Tribunal. If the Disciplinary Tribunal concludes that any penalty that would ordinarily be imposed under Regulation 4 would produce a result which in all the circumstances is manifestly unfair

for the relevant cricketer, the Disciplinary Tribunal may, in its absolute discretion, disapply the normal penalty and substitute such lesser penalty (if any) as it considers appropriate. Notwithstanding Regulation 10 of the Disciplinary Procedure Regulations, each cricketer acknowledges and accepts that there shall be no right of appeal against such decision by the Disciplinary Tribunal at any such Disciplinary Hearing.”

29. Although Regulation 4.15 only makes reference to the cricketer being invited to address the Disciplinary Tribunal, given that the Cricket Regulator had been involved in the email discussion with regard to the interpretation of Regulation 4, the Cricket Regulator was also invited to attend the Disciplinary Tribunal.

SUBMISSIONS

30. The Director of Cricket at Nottinghamshire CCC (“**the Director**”) made submissions on behalf of the Cricketer.
31. The Director thanked the Chair for the speed with which the hearing had been arranged. He then made succinct and clear submissions.
- 31.1. Although it was accepted that the only challenge that could be made to the Match Referee/umpire(s)’s decision was if there had been a mistake as to the identity of the offending cricketer, the Director did make some short submissions as to why the decision was wrong, including making reference to the video recording showing that the batter was out of his crease. Further, he submitted that the Cricketer had sought to pull back from the throw and it was not inappropriate or dangerous.
- 31.2. His substantive submissions were:
- 31.2.1. The ECB Professional Conduct Regulations, Level 2(d) now included throwing the ball at or near a player, umpire or another person in an inappropriate and dangerous manner. That definition was unnecessarily wide and vague.
- 31.2.2. The subjective nature of the decision to be made by the Umpire meant that there was a lack of consistency. In some instances a cricketer threw the ball which struck another cricketer and no action was taken. Here, he reiterated, the throw was not a

dangerous one. It bounced two or three times before it got to the wicketkeeper.

- 31.2.3. The addition of 5 runs was an onerous sanction on the side for whom the offending cricketer was playing. It was a sanction against the side, and additional to the heavy sanction imposed on the Cricketer.
- 31.2.4. The doubling of the sanction (because it was a subsequent Level 2 breach by the Cricketer within 24 months) was unfair.
- 31.2.5. Nottinghamshire CCC had not been told by the ECB that the Cricketer had a first breach and were not aware of that breach. (In answer to a question from the Chair, the Cricketer accepted that he was aware of his previous breach and when it had occurred.)
- 31.2.6. The almost immediate commencement of the sanction meant that there was no time to prepare a submission to the Chair under Regulation 4.15, and that was unfair.
- 31.2.7. Further, the almost immediate commencement of the sanction meant that Nottinghamshire CCC had little time to make practical arrangements to replace the Cricketer who was due to play in their next two fixtures.
- 31.2.8. The imposition of a sanction such as this one could be injurious to the Cricketer's career.

- 32. The Cricket Regulator did not make any submissions. In the email exchange the Cricket Regulator had submitted that there was no provision to appeal against the decision of the Match Referee/umpires(s) (save on the grounds of mistaken identity) and the only basis for a potential review was under Regulation 4.15, if the Chair considers the consequences might produce a result that is manifestly unfair to the relevant cricketer and a Disciplinary Tribunal is convened to consider that issue.

DECISION

- 33. As this was the first case of its type, exceptionally, the Chair convened a Disciplinary Tribunal to consider whether the Chair was correct in the above consideration, and, even had the Chair considered that the fixed penalty imposed

on the Cricketer might produce a result that in all the circumstances was manifestly unfair, whether it was manifestly unfair. Having heard the submissions made on behalf of the Cricketer, the Chair did not consider that the consequences of the fixed penalty imposed on the Cricketer of 1 unit (ie the next 2 competitive first eleven matches) for his second Level 2 Breach of Regulation 4.5 of the Professional Conduct Regulations within 24 months might produce a result that in all the circumstances was manifestly unfair for the Player. In particular, the fact that a suspension might be injurious to the Cricketer's career did not meet the test for manifest unfairness. The same could be said for any player who is subject to suspension. The Disciplinary Tribunal agreed with the decision of the Chair that the test in Regulation 4.15 was not met and that it was not necessary formally to convene a Disciplinary Tribunal. Further, the Disciplinary Tribunal concluded that, had it been convened to consider the matter, it would have concluded that the consequences of the fixed penalty imposed on the Cricketer was not manifestly unfair in all the circumstances.

34. Regulation 4 of the Regulations is clear. It addresses Fixed Penalties for breaches of the Laws of Cricket.
35. The breaches are divided into four different levels and the details of what could amount to each of the different levels is set out in the Regulations. Level 2(d) is not the only breach that requires the Umpires to make a subjective decision. It is not necessary to set them out in this decision, but an obvious example is Level 2 (g) *“any other misconduct, the nature of which is, in the opinion of the umpires, equivalent to a Level 2 offence.”*
36. Save for mistaken identity, there is no review of the Match Referee/umpire(s)'s decision (Regulation 4.13 & 4.14).
37. The points for breaches of the Regulations are set out clearly, including the effective doubling of the points for a subsequent breach within 24 months.
38. The consequences of the accumulation of points and whether they lead to an automatic suspension, and the Matches to which the units of automatic suspension will apply, also are set out in the Regulations.
39. The only circumstances in which a Disciplinary Tribunal can be convened is if the Chair of the Cricket Discipline Panel considers that the consequences of any

penalty that would ordinarily be imposed upon a cricketer under Regulation 4 might in all the circumstances be manifestly unfair to the relevant cricketer. It should be noted that the unfairness is to the cricketer, and not the team for whom they play. There is no provision for any suspension of a Fixed Penalty sanction pending an application to the Chair under Regulation 4.15.

40. In this instance, the Cricketer did not play for Nottinghamshire CCC at the time of his first breach. The Cricketer was fully aware of his first breach and the points that he had accumulated. The consequences of a further breach within 24 months are set out in the Regulations.

APPEAL

41. The Regulations do not provide for an appeal against any decision by the Chair not to convene a Disciplinary Tribunal in accordance with Regulation 4.15. Further, although the Disciplinary Tribunal did not make a formal decision, even if it had, there is no right of appeal against a decision by a Disciplinary Tribunal convened under Regulation 4.15 of the Professional Conduct Regulations.

NOTE

42. At the conclusion of the hearing the CEO of Nottinghamshire CCC sought to make further submissions about Regulation 4.
43. As this was the first case about Fixed Penalties in the Professional Conduct Regulations, the Chair entertained those submissions. In summary, they related to the apparent inflexibility of the Fixed Penalty Regime, in particular, the potential impact they have on professional cricket counties.

The Chair repeated that the CDP is independent of the ECB and the Cricket Regulator. The CDP applies ECB Regulations. If a Participant (as defined in the ECB Disciplinary Procedure Regulations) is dissatisfied with any ECB Regulation(s) the Participant should take that up with the ECB and not the CDP. The Chair, and any Disciplinary Tribunal convened in accordance with Regulation 4.15, will apply Regulation 4. Now that the scope and application of Regulation 4 has been considered, a Disciplinary Tribunal will in future only be convened if the Chair is satisfied that the test in Regulation 4.15 has been met.



Richard Whittam KC, Chair of the Cricket Discipline Panel

For and on behalf of the Disciplinary Tribunal

London, UK

03 July 2025