



Cricket
Discipline
Panel

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

AND IN THE MATTER OF AN APPEAL TO THE DISCIPLINARY TRIBUNAL

Before:

Graeme McPherson KC (Chair)
Will Brown
Anurag Singh

BETWEEN:

MITCHELL SANTNER

and

CRICKET REGULATOR

DISCIPLINARY TRIBUNAL DECISION

Secretariat: Ellie Stocker (Sport Resolutions)
Observer: Eisha Wallsten (Sport Resolutions)

Date: 4 September 2025
Venue: Remote hearing

Appearances: Appellant – Lord Grabiner KC
Alec Stewart
Respondent – Angus Hetherington

INTRODUCTION

i) Background

1. On 23 June 2025 Mitchell Santner (***MS***) was given out Leg Before Wicket (LBW) (***the Decision***) during a match between Worcestershire CCC and Surrey CCC (***the Match***).
2. MS believed – rightly, as it later emerged - that he had in fact hit the ball before it struck his pads, and that the Decision was therefore incorrect. To indicate this, he raised his bat twice and showed it to the umpire. Having done so, MS left the crease to begin his walk from the field of play. As he did so, approximately 7-9 seconds later, he struck the square (not the Match wicket itself) with his bat.
3. The umpire considered that MS' actions might constitute breaches of Regulation 4.5 of the England and Wales Cricket Board (***ECB***) Professional Conduct Regulations (***the PC Regulations***). Accordingly, and in accordance with the procedure set out in Regulation 4.7 *et seq* of the PC Regulations:
 - a) The umpire informed the Match Referee of MS' actions, and
 - b) The Match Referee convened a meeting of *inter alia* the Match Referee, the umpires, and MS.
4. At the meeting:
 - a) The umpire reported MS' actions as follows:
 - i. *'After being given out LBW [MS] raised his bat twice and showed it to the umpire suggesting he had hit it', and*
 - ii. *'While walking off having been given out [MS] slammed his bat into the square.'*
 - b) MS responded (in respect of both actions) *'Emotion got the better of me. Sorry for it. 1st ever offence. Shit from me. Sorry for my actions'*. MS did not take issue with any aspect of the umpire's description of his actions.

5. The Match Referee concluded that MS' actions had amounted to breaches of Regulation 4.5 of the PC Regulations:
 - a) He concluded that MS' action of raising his bat twice and showing it to the umpire amounted to a breach of Regulation 4.5 Level 1(c) of the PC Regulations (*'showing dissent to an umpire's decision by word or action'*) (***the First Breach***)
 - b) He concluded that MS' action of slamming his bat into the square as he walked off amounted to a breach of Regulation 4.5 Level 1(b) of the PC Regulations (*'wilfully mistreating any part of the cricket ground, equipment or implements used in the match'*) (***the Second Breach***).
6. The Match Referee concluded that the First Breach and the Second Breach each merited a separate penalty:
 - a) In accordance with Regulation 4.16 of the PC Regulations he imposed a Reprimand on MS in respect of the First Breach; and
 - b) In accordance with Regulation 4.18 of the PC Regulations he imposed 3 Penalty Points on MS in respect of the Second Breach.

In this Decision we refer to those penalties together as '***the MS Penalties***'.

7. The Decision of the Match Referee also had a consequence for Surrey CCC:
 - a) Regulation 4.28 of the PC Regulations provides that if, during a season, Registered Cricketers registered with or on loan to the same Professional County Club whilst playing for that Team in the County Championship receive 4 or more fixed penalties:
 - i. The Team is deemed to have committed a separate offence, and
 - ii. An automatic points penalty as set out in Regulation 4.32 of the PC Regulations will be applied to the Team

- b) The MS Penalties imposed by the Match Referee on MS meant that Surrey CCC had (and will have for the rest of the season) those two fixed penalties on its own record for the purpose of Regulation 4.28 of the PC Regulations.
8. Additionally, the umpires concluded that MS' actions merited 5 penalty runs being awarded against Surrey CCC. That penalty was imposed in accordance with Law 42 of the Laws of Cricket which addresses Players' Conduct:
- a) MS' actions were deemed to be two separate instances of Level 1 unacceptable conduct for the purpose of Law 42.1.
 - b) In accordance with Law 42.2.2.3.1 the penalty for the First Breach was a first and final warning to all members of Surrey CCC (although such a warning was not in fact given).
 - c) In accordance with Law 42.2.2.4 the penalty for the Second Breach was the awarding of 5 penalty runs to Worcestershire CCC.
9. The Match Referee produced two written Conduct Reports dated 23 June 2025 confirming:
- a) His findings on the First Breach and the Second Breach,
 - b) The MS Penalties and the Surrey Penalties, and
 - c) The decision of the umpires to award 5 penalty runs to Worcestershire CCC.

ii) Surrey CCC's challenge to the Penalties

10. Following the Match Lord Grabiner KC, in his capacity as President of Surrey CCC, wrote to the ECB (on 29 June 20225 and 6 July 2025):
- a) Asserting that:
 - i. by treating MS' actions as two distinct episodes rather than a single episode, and so

- ii. by imposing two penalties on MS rather than one the Match Referee had arrived at a result for MS that was manifestly unfair, and
 - b) Asking that consideration be given to the MS Penalties being referred to a Disciplinary Hearing for reconsideration.
- 11. Regulation 4.13 of the PC Regulations provides that:

‘There shall be no review of the Match Referee/umpire’s decision unless the cricketer reported alleges that they have been mistakenly identified by the umpire and/or the Match Referee ...’.

The PC Regulations thus do not allow the substance of a decision reached by the Match Referee to be reviewed or appealed (save in the limited circumstance described in Regulation 4.13).
- 12. However, Regulation 4.15 of the PC Regulations entitles the Chair of the Cricket Discipline Panel to convene a Disciplinary Hearing before a Disciplinary Tribunal in the event that he considers that the consequence 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. If such a Disciplinary Hearing is so convened by the Chair, Regulation 4.15 of the PC Regulations requires the Disciplinary Tribunal appointed to conduct the Disciplinary Hearing:
 - a) To consider whether *‘any penalty that would ordinarily be imposed under Regulation 4 would produce a result which is in all the circumstances unfair for the relevant cricketer’*, and if so
 - b) To consider whether, in its absolute discretion, the normal penalty should be disappplied and substituted with such lesser penalty (if any) as it considers appropriate.
- 13. After considering submissions from Surrey CCC and the Cricket Regulator, the Chair of the Cricket Discipline Panel agreed to convene a Disciplinary Hearing in accordance with Regulation 4.15 of the PC Regulations. We were then appointed as the Disciplinary Tribunal to conduct that Disciplinary Hearing and to consider the matters summarised in the previous paragraph.

iii) The proceedings before the Disciplinary Tribunal

14. In accordance with directions given by the Chair of the Disciplinary Tribunal:

- a) Surrey CCC and the Cricket Regulator each provided written submissions to the Disciplinary Tribunal, and
- b) A remote hearing was held on 4 September 2025 at which we were addressed by Lord Grabiner KC on behalf of Surrey CCC and Mr Hetherington on behalf of the Cricket Regulator.

We were greatly assisted by the written and oral submissions of both parties.

15. At the conclusion of the hearing, we informed the parties that our Decision and Reasons would follow. This document now sets out that Decision and our Reasons.

(A) The approach to be taken by the Disciplinary Tribunal at a hearing convened under Regulation 4.15

16. Application of Regulation 4.15 requires a Disciplinary Tribunal to consider two questions:

- a) First, whether the penalty that would ordinarily be imposed (or in a case such as this, that was in fact imposed) under Regulation 4 produces a result that is manifestly unfair in all the circumstances to the relevant cricketer (***‘the First Question’***); and
- b) Secondly, if the answer to the first question is ‘Yes’, whether it should in the exercise of its absolute discretion disapply that penalty and substitute a lesser (or no) penalty as it considers appropriate (***‘the Second Question’***).

(B) The positions of the parties

i) The starting point

17. We start by setting out what was common ground between the parties.

- a) First, in light of Regulation 4.13 of the PC Regulations, no challenge could be made to the Match Referee's decision that MS' actions constituted two separate and distinct breaches of the PC Regulations.
- b) Secondly, that the PC Regulations:
 - i. provide for fixed penalties to be imposed by a Match Referee (as set out in Regulation 4.5 of the PC Regulations and Law 42.2) when a breach of the PC Regulations/unacceptable conduct on the part of a player has been found, and
 - ii. do not allow for those fixed penalties to be adjusted by the Match Referee, whether upwards to reflect any aggravating features or downwards to reflect any mitigating features.
- c) Thirdly, having decided that MS' actions constituted two separate breaches of the of the PC Regulations, the MS Penalties and Surrey Penalties imposed by the Match Referee correctly reflected the fixed penalties provided for in Regulation 4.5 of the PC Regulations and Law 42.2.
- d) Fourthly, that the MS Penalties and Surrey Penalties were accordingly to be viewed (for the purpose of Regulation 4.15) as '*the penalty ... ordinarily imposed under Regulation 4*' given the unchallengeable decision of the Match Referee to characterise MS' actions as two separate and distinct breaches of the PC Regulations. For convenience, we refer to that as '***the Normal Outcome***'.

ii) The position of MS

18. The position of MS was that the Normal Outcome (i.e. the MS Penalties) was manifestly unfair for MS in all the circumstances. The circumstances relied on by MS in that regard were:
- a) First, that although found to be two separate and distinct breaches, MS' actions:

- i. Stemmed from the same trigger event, namely the umpire's decision to give MS out in circumstances where MS believed that he had hit the delivery, and so
- ii. Were in reality part and parcel of the same episode/incident and so were in truth one episode.

Treating them as separate episodes for the purpose of calculating the penalty to be imposed on MS had resulted in a disproportionate and over-harsh outcome.

- b) Secondly, that MS' actions had been triggered by a genuine and reasonable (and in fact correct) belief that he had been wrongly given out.
 - c) Thirdly, the fact that MS had immediately apologised for his behaviour and had not seek to justify it in any way.
 - d) Fourthly, that MS had enjoyed a long and distinguished professional player career with no previous incidents of misconduct or unacceptable conduct.
 - e) Fifthly, that Penalty points will (in light of Regulations 4.20 & 4.21 of the PC Regulations) remain on MS' disciplinary record for 24 months, and he will thus be exposed to an automatic suspension in the event that he accumulates a further 6 or more Penalty points in that period, when had the Match Referee concluded that this was in truth a single incident, no Penalty points would have been incurred and no blemish would go onto MS' disciplinary record.
19. MS' position was that a fair result, and the penalty that should be substituted for the MS Penalties, would be the imposition of a Reprimand alone.

iii) The position of the Cricket Regulator

20. The Cricket Regulator's position was that the Normal Outcome did not produce a result that was manifestly unfair to MS in all the circumstances. In summary that was because:
- a) Although having a common trigger, MS' actions (1) were separate and discrete events, and (2) comprised two separate and distinct breaches of different

individual PC Regulations, and (3) resulted in separate and distinct harm.¹ It was not manifestly unfair to impose penalties, and thus arrive at a result, which reflected such findings. The fact those separate and distinct breaches

- i. Were close in time to one another, and
 - ii. Had the same underlying ‘trigger’ (i.e. MS’ sense of injustice and frustration at having been given out incorrectly) did not make the result manifestly unfair to MS
- b) Had the actions underpinning the First and Second Breaches in fact been considered as a single episode, and so a single breach of Regulation 4.5 of the PC Regulations
 - i. They would collectively have been considered to be not a Level 1 breach but rather a (single) Level 2 breach, and
 - ii. Since Regulation 4.16 of the PC Regulations provides that the penalty for a first/single Level 2 breach is the imposition of 3 Penalty Points MS would have received an equivalent penalty to the MS Penalties in any event i.e. the result would have been the same
- c) No unfairness arises from the fact that MS is exposed to a greater risk of an automatic suspension (by virtue of the fact that the MS Penalties include 3 Penalty points) during the next 24 months than would have been the case had the episodes been treated as a single episode/breach of the PC Regulations. That is simply a consequence of MS’ conduct attracting a penalty that included 3 Penalty points
- d) The PC Regulations do not provide for mitigation – such as a player’s previous good disciplinary record or expressions of contrition for unacceptable conduct – to reduce a penalty imposed for a breach of Regulation 4 of the PC Regulations.

¹ The Cricket Regulator’s case was that (1) the First Breach caused both harm to the umpire and to the wider game (by undermining the authority of umpires *per se*), and (2) the Second Breach had caused harm to the ground preparation and to the image of the game.

(C) Question 1: is the result manifestly unfair for MS in all the circumstances ?

i) The elements of the first Question

21. It was submitted on behalf of MS that in order to answer the First Question we should consider three matters:

- a) First, the 'result' that has been produced by the Normal Outcome
- b) Secondly, what are 'all the circumstances' in this particular case
- c) Thirdly, whether that 'result' is 'in all those circumstances' manifestly unfair.

22. We agree. That is the approach that we took. Given that we received submissions on the same, and in case it might be helpful to future Disciplinary Tribunals, we briefly consider each of those elements as follows.

a) Meaning of 'the result'

23. The meaning of '*the result*' goes beyond the mere penalty imposed as the Normal Outcome and can include actual or potential consequences of that Normal Outcome for the relevant cricketer.

b) All the circumstances

24. That wording is wide. It will however be for an individual Disciplinary Tribunal in each case to decide what circumstances are and are not relevant to its consideration of whether the result was manifestly unfair for the relevant cricketer.

ii) 'Manifestly unfair'

25. The PC Regulations do not contain a definition of '*manifestly unfair*'. That is understandable; what is '*manifestly unfair*' will vary depending on the particular circumstances of a case. For that reason we did not consider it helpful to try to arrive at a definition of that phrase ourselves.

26. The parties did not agree as to how the word '*manifest*' in Regulation 4.15 of the PC Regulations should be interpreted on an appeal such as this:

- a) The Cricket Regulator invited us to conclude
 - i. That the term '*manifestly unfair*' sets the bar for an appellant higher than would have been the case had Regulation 14.5 of the PC Regulations simply used the word '*unfair*', and
 - ii. That the burden that rests with an appellant under Regulation 4.15 of the PC Regulations of proving '*manifest unfairness*' is thus a substantial one
 - b) On behalf of MS Lord Grabiner KC submitted
 - i. That '*manifest*' did not 'raise the bar' for an appellant or require him to prove any more than 'simple' unfairness, and
 - ii. That the word should be given its ordinary meaning of 'clear' or 'obvious'.
27. In our view the position of MS is the correct one. The burden on an appellant under Regulation 4.15 of the PC Regulations is to satisfy the Disciplinary Tribunal that the Normal Outcome is clearly and obviously unfair to the relevant cricketer in all the circumstances. It will be a matter for the Disciplinary Tribunal in each case to judge whether or not that threshold has been crossed.
28. MS also
- a) Criticised the Cricket Regulator for its use in its written submissions of the words '*manifestly excessive*' and '*clearly and obviously unjust*' (instead of the words '*manifestly unfair*') to define the burden imposed by Regulation 4.15 of the PC Regulations on an appellant, and
 - b) Suggested that such altered wording demonstrated that the Cricket Regulator had misunderstood the substance of this appeal.
29. We did not consider that that criticism advanced matters. However, we do agree
- a) That the test set out in Regulation 4.15 of the PC Regulations – '*manifestly excessive*' – is clear, and

- b) That adding gloss to that test or attempting to interpret it using other phraseology and those words is unnecessary and not helpful.

ii) Application of the test in this case

- 30. The 'result' of the Normal Outcome is that MS
 - a) Is subject to the MS Penalties, and
 - b) Is exposed to the potential consequences described in paragraph 18(e) above).
- 31. Additionally, the Normal Outcome means that Surrey CCC is exposed to an increased risk of an automatic points penalty as set out in paragraph 7 above. However, that exposure falls outside the scope of what is '*a result which in all the circumstances is manifestly unfair for the relevant cricketer*'. It is therefore not something that is part of the 'result'.
- 32. Turning then to '*the circumstances*' of which MS submitted we should take account when considering whether that result was '*manifestly unfair for [MS]*' and whether or not such circumstances mean that the result is in fact manifestly unfair for MS:
 - a) We were prepared to accept in the abstract that the fact
 - i. That multiple actions might have a common trigger, and
 - ii. That such actions might occur in close temporal proximity, and
 - iii. That there might be a link between actions are circumstances of which a Disciplinary Tribunal could take account when considering whether or not a result was manifestly unfair to a relevant cricketer that such actions had been treated as giving rise to multiple breaches which had then given rise to multiple, cumulative penalties
 - b) But we did not accept that on the facts of this case MS' actions should in fact be viewed – for the purpose of assessing whether the result was manifestly unfair to

MS – as being part and parcel of the same episode/incident or as in truth only one episode:

- i. This is not a case where a single action had led to a decision that a breach of more than one limb of Regulation 4.15 of the PC Regulations had occurred
- ii. Instead, there were two separate and discrete actions on the part of MS, separated by a number of seconds, each causing different harm and each of which fell within a different limb of Regulation 4.15 of the PC Regulations.

We therefore rejected the factual basis of the submission that was in very large part at the heart of MS' appeal, and so rejected the submission that such matters meant that the result was manifestly unfair for MS

- c) We tested our conclusion by comparing MS against a hypothetical cricketer
 - i. Who had only shown dissent by raising his bat twice and shown it to an umpire to suggest that he had hit the ball and that an LBW decision was incorrect, or
 - ii. Who had only slammed his bat into the square after being given out.

Either of those hypothetical cricketers would have committed a Level 1 breach of Regulation 4.5 of the PC Regulations, and each of those cricketers would be expected to receive a Reprimand. It is perfectly reasonable – and not manifestly unfair on MS - for the result of MS' Breaches to exceed the penalty that would be imposed had only one or other of the Breaches occurred. And in our view it is perfectly reasonable – and not manifestly unfair to MS – for that result to be the imposition of 3 Penalty points

- d) We agreed with the Cricket Regulator's submission that the counterfactual that would have come into being had MS' actions in fact been treated as a single episode (as Lord Grabiner KC put it in his reply submissions '*both episodes as parts of a single expression of dissent at the umpire's decision*') can and should be considered in this case as a relevant circumstance:

- i. That 'single episode' would in our view inevitably have been considered to be not a Level 1 breach of Regulation 4.5 of the PC Regulations, but rather a Level 2 breach of Regulation 4.5 of the PC Regulations. The fact that MS' expression of dissatisfaction at/disagreement with the umpire's decision had manifested itself
 - 1. In two different actions (the showing of the bat and the slamming of the bat into the square), and
 - 2. Over the course of several seconds would have been treated as '*serious dissent*' or other misconduct the nature of which would be equivalent to a Level 2 offence
 - ii. Three Penalty points would then have been imposed on MS in accordance with Regulation 4.16 of the PC Regulations for a first Level 2 breach
 - iii. And in those circumstances, the result flowing from the imposition of the MS' Penalties (and in particular, the fact that MS has ended up with 3 Penalty points) cannot be said to have been manifestly unfair on MS
- e) Although the facts that
- i. MS' actions had been a genuinely-held and reasonable reaction to a perceived injustice,
 - ii. That MS had apologised for his actions, and
 - iii. That had a disciplinary record which, prior to these actions, was exemplary were within the scope of '*all the circumstances*', none of those matters made the result produced by the Normal Penalty manifestly unfair to MS in this case. Penalties for breaches of Regulation 4 of the PC Regulations are fixed and a Match Referee has no discretion to reduce those penalties to reflect any mitigation that might be available to the player. While we do not go so far as to say that there could never be a case where mitigation (which the Match Referee is required to ignore) might persuade a Disciplinary Tribunal that a fixed penalty imposed by the Match Referee was manifestly unfair to

the relevant player, this does not in our view come close to being such a case

- f) No unfairness arises from the fact the MS Penalties include Penalty points
 - i. That will remain on MS' disciplinary record for 24 months, and so
 - ii. That expose him to a greater risk of an automatic suspension being imposed in the future than would have been the case for a single episode.
- 33. Although in the previous paragraphs we have addressed individually each of the circumstances relied on by MS as demonstrating that the result was manifestly unfair to him, we also asked ourselves whether, taken as a whole, those circumstances (as we found them to be) produced a result that was manifestly unfair to MS. In our view they did not.
- 34. We therefore answer **Question 1** above in the negative.

(D) Question 2: Discretion

- 35. As set out above, a Disciplinary Tribunal only becomes entitled to disapply the Normal Outcome and substitute it with a lesser penalty (or no penalty) in the event that it concludes that the Normal Penalty produces a result that is manifestly unfair in the circumstances to the relevant cricketer.
- 36. Since we have concluded that the result of the decisions of the Match Referee to impose the MS Penalties was not in all the circumstances manifestly unfair to MS, **Question 2** did not arise. There was no basis open to us to exercise any discretion to substitute any lesser penalty in place of the MS Penalties, and we did not do so.

(E) The position of Surrey CCC

- 37. As Lord Grabiner KC made clear at the outset of his submissions, Surrey CCC was not an appellant in these proceedings since it had *locus*. There was thus no direct challenge to the fact that the decisions of the Match Referee had the consequence for Surrey CCC set out at paragraph 7 above. However, Lord Grabiner KC did submit that



Cricket
Discipline
Panel

- a) If we agreed that the result produced by the MS Penalties was in all the circumstances manifestly unfair for MS, and
 - b) If we exercised our discretion to substitute a Reprimand for the MS Penalties then we could and should consider also revising the consequence for Surrey CCC despite Surrey CCC not being an appellant in this appeal.
38. Given our conclusions on **Question 1** above and our dismissal of MS' appeal, it is not necessary for us to decide that question on this appeal, and we do not do so. Instead we leave it for a future Disciplinary Tribunal to consider should the issue arise.

(F) Conclusions and Order

39. The Appellant failed to satisfy us that the penalties imposed on MS by the Match Referee produced a result which was manifestly unfair to MS or that we should substitute a lesser penalty than 3 Penalty points imposed on him by the Match Referee.
40. In the circumstances, and for the reasons set out above, we dismiss the appeal.

A handwritten signature in black ink, appearing to read 'G. McPherson', with a long horizontal stroke extending to the right.

Graeme McPherson KC (Chair)
For and on behalf of the Disciplinary Tribunal
London, UK
9 September 2025