IN THE MATTER OF AN APPEAL BROUGHT UNDER THE ENGLAND AND WALES CRICKET BOARD DISCIPLINARY PROCEDURE REGULATIONS

Before:

Richard Whittam KC (Chair)
Christopher Coltart KC
Gareth Graham

BETWEEN:

LEICESTERSHIRE COUNTY CRICKET CLUB

Appellant

and

CRICKET REGULATOR

Respondent

DECISION OF THE APPEAL PANEL

INTRODUCTION

1. From 20 to 23 August 2026, Leicestershire County Cricket Club **('the Club')** played a County Championship match **('the Match')** against Glamorgan County Cricket Club **('GCCC')**. The Match took place at Uptonsteel Grace Road, the Club's home ground.

2. At the end of the Match, the Match Referee, Ian Ramage **('the Match Referee')**, rated the pitch as being 'Below Average' on days 1, 2 and 4 of the Match and 'Poor' on day 3, as defined in the Pitch Regulations **('the Pitch Regulations')** produced by the England and Wales Cricket Board **('the ECB')**. Under the Pitch Regulations, this led to an overall

rating of Poor, which in turn meant that the pitch had been 'Substandard' (as that term is also defined).

3. Producing a Substandard pitch is a breach of Regulation 7.1 of the Pitch Regulations, which leads under Regulation 7.2 to a referral to the Cricket Regulator **('the Regulator')**. By letter dated 1 September 2026 **('the Charge Letter')** the Club was charged by the Regulator with that breach **('the Charge')**. The Club pleaded not guilty and the matter was referred for a hearing before a Disciplinary Tribunal of the Cricket Discipline Panel **('the Tribunal'** and **'the CDP'** respectively).

4. For the purposes of that hearing, and in accordance with Regulation 7.6 of the Pitch Regulations, the evidential burden was on the Club to show (a) that the pitch was not Substandard and/or (b) that the Club had sought, acting reasonably, to prepare the best quality pitch that it could for the Match.

5. In its response to the Charge Letter, the Club conceded that the pitch had been Poor. It denied, however, that it had not reasonably sought to prepare the best quality pitch that it could for the Match.

6. The hearing took place on 11 September 2026, and the Tribunal produced its written judgment on 15 September 2026. The Tribunal found the Charge proved. Initially, the sanction imposed was an 8-point deduction, a further 8-point deduction suspended until the end of the 2027 season and a fine of £5,000.

7. After the hearing had concluded, the Regulator belatedly brought Playing Condition Law 16.2.6 of the 2026 Rothesay County Championship Playing Conditions **('the Playing Conditions')** to the Tribunal's attention. This states that in the event of a pitch rating of Poor in accordance with the ECB's Pitch Regulations, the home team shall be awarded zero points and any first innings points already achieved shall be rescinded. The home team shall also be credited with a loss. Those sanctions do not preclude the matter being referred to the Cricket Regulator. In this case, that meant a deduction of 19 points for the Club. As a result, the Tribunal amended the sanction it had initially imposed, such that only the suspended points deduction and the fine remained.

8. The Club now appeals against the Tribunal's findings that the Charge was proved. There is no separate appeal against the sanction imposed by the Tribunal. It should be noted

that there is no appeal mechanism for the sanction imposed under Playing Condition Law 16.2.6, which is of mandatory effect.

9. In accordance with the provisions of the ECB's Disciplinary Procedure Regulations **('the DPRs')** a panel **('the Appeal Panel')** was convened for the appeal, consisting of the individuals named at the top of this document. Two hearings took place before us. The first was on Friday 16 October 2026 **('the Preliminary Hearing')** at which the Club sought to rely on fresh (i.e. new) evidence for the purposes of the appeal **('the Fresh Evidence application')**. That application was refused by us for the reasons set out in paragraphs 40-66 below.

10. The second hearing was the substantive appeal itself, which took place on Wednesday 28 October 2026. Both parties were legally represented, the Club by Craig Harris of Furnival Chambers and the Regulator by Ross Brown of Onside Law. We are very grateful to both advocates for their helpful presentation of the case. We have paid close attention to, and taken account of, all the evidence and the written and oral submissions, even if they are not expressly referred to in this decision.

11. At the end of the substantive hearing, we indicated that we would reserve judgment and produce a written decision in due course. This document contains that decision and the reasons for it.

THE PITCH REGULATIONS

12. The detail of the Pitch Regulations is important for the purposes of the appeal and so we set out the relevant parts in full below.

Definitions

Substandard Pitch *means a Pitch which is rated Below Average, Poor or Unfit by a Match Referee (or, if not present or appointed, the Umpires) pursuant to Regulation 7.*

……..

4. RATING OF PITCHES – MULTI-DAY MATCHES (3 DAYS OR MORE)

Objective

4.1 Pitches must be prepared to provide an even contest between bat and ball and must allow all disciplines in the game to flourish. In all cases, Pitches will be judged on how they play, and not whether they are dry or what colour they are.

Pitch Categories and Criteria

4.2 In accordance with the objective at Regulation 4.1, the following are the agreed categories and criteria for the rating of Pitches used for Multi-Day Matches.

	Uneveness	**Seam Movement**	**Carry and/or bounce**	**Turn**
Very Good	*At most, occasional unevenness of bounce at any stage of the Match*	*At most, occasional seam movement at all stages of the Match*	*Very good carry and/or bounce throughout the Match.*	*A little or moderate turn from the protected area on the first two days, AND wearing to considerable turn from the protected area on the third and fourth days of play* *OR* *Moderate turn from the protected area throughout the Match*
Good			*Good carry and/or bounce throughout the Match.*	*Moderate turn from the protected area on the third or fourth*
Above Average	*At most, more than occasional unevenness of bounce on the third or fourth playing days of the Match.*	*At most, regular seam movement (at any stage) on only the first playing day of the Match*	*Lacking carry and/or bounce on the third or fourth playing days of the Match.*	*Little or no turn from the protected area throughout the Match* *OR* *Considerable turn from the protected area on the first or second playing days of the Match* *OR* *Excessive turn from the protected area on the third or fourth playing days of the Match*

Below Average	*At most, more than occasional unevenness of bounce on the first or second playing days of the Match.*	*At most, regular seam movement (at any stage) on the first AND second OR further playing days of the Match*	*Lacking carry and/or bounce on the first or second playing days of the Match.*	*Excessive turn from the protected area on the first or second playing days of the match.*
Poor	*Excessive unevenness of bounce for any bowler at any stage of the Match*	*Excessive seam movement at any stage of the Match*		
Unfit	***A Pitch is rated unfit only if it is dangerous***			

4.3 Fulfilment of the lowest criteria will determine the overall rating for the Pitch. For example, if the Pitch demonstrates:

4.3.1 no unevenness of bounce at any stage throughout the Match; and

4.3.2 at most, occasional seam movement at all stages of the Match; and

4.3.3 moderate turn from the protected area throughout the Match; but

4.3.4 lacks carry and/or bounce on the first or second playing days of the Match,

then it must be rated "Below Average" due to the failure to meet a higher carry and/or bounce criterion.

Clarifications

4.4 Excessive means "far too much". It is recognised that even on the best Pitches a delivery can demonstrate "excessive" behaviour. In assessing a Pitch rating therefore, "how often" must be considered along with "how much".

4.5 It is recognised that a limited amount of seam movement may occur early in the Match and that a Pitch may develop some unevenness of bounce for seam bowlers as the Match progresses. This is acceptable but must not develop to a point where they would be described as "excessive" (or where ball is completely dominating the bat).

4.6 When assessing the Pitch, Match Referees must:

4.6.1 consider the balance between bat and ball;

4.6.2 take into account the type, nature and identity of the bowlers; and

4.6.3 climatic conditions.

…….……...

7 SUBSTANDARD PITCHES

7.1 A County or Hundred Team must not prepare a Substandard Pitch. A County or Hundred Team that prepares a Substandard Pitch will be in breach of these Pitch Regulations unless they can demonstrate that they sought, acting reasonably, to prepare the best quality Pitch that they could for the Match they were staging.

Referral to the Cricket Regulator

7.2 Where a Match Referee rates a Pitch as Below Average, Poor or Unfit, they must report this to ECB Domestic Cricket Operations immediately who in turn will refer the matter to the Cricket Regulator without delay so that it may start an investigation in accordance with the Disciplinary Procedure Regulations.

7.3 The Cricket Regulator may investigate the matter as it sees fit pursuant to the Disciplinary Procedure Regulations, including by conducting such of the following steps as it considers necessary:

7.3.1 seeking evidence from any persons it considers necessary, including (but not limited to): (a) the Match Referee and Umpires; (b) the Head Grounds Manager of the home County (or ground at which the Match is being played) and/or grounds person of the outground, or Hundred host venue; (c) the home team captain and Coach; and/or (d) the away team captain and Coach, all of whom must cooperate with the Cricket Regulator's investigation; and

7.3.2 instructing the Pitch and Grounds Advisor (or their nominee) to inspect the Pitch in question and to produce a report detailing their findings.

Referral to the Cricket Discipline Panel

7.6 If the Cricket Regulator decides to bring a charge, the Cricket Regulator will refer the matter to the Cricket Discipline Panel for determination in accordance with the Disciplinary Procedure Regulations, as supplemented by the following provisions. The burden is on the relevant County or Hundred Team to show that (a) the Pitch was not a Substandard Pitch and/or (b) that they sought, acting reasonably, to prepare the best quality Pitch that they could for the Match they were staging. Factors relevant to the assessment at (b) include, but are not limited to:

7.6.1 whether the County or Hundred Team are able to demonstrate that there were any circumstances relating to the preparation of the Pitch that were beyond their control;

7.6.2 whether the condition of the Pitch was a direct result of any genuine and reasonable measure(s) taken to improve its quality;

7.6.3 covering, match scheduling and Pitch preparation; and/or

7.6.4 whether Regulation 6 was complied with.

THE STATE OF THE PITCH AND THE RATING ASCRIBED TO IT BY THE MATCH REFEREE

13. It is common ground between the parties that, for the purposes of the Match, the Club tried to recreate the pitch which had been used earlier in the season for a game against Yorkshire County Cricket Club ('**YCCC**'). This involved shaving the grass at each end to assist the spinners as the match wore on and leaving the grass longer in the middle (16mm) to provide carry and bounce for the seamers. This formula had produced a good surface for the YCCC game, and it was hoped it would do the same again.

14. It is equally common ground that this was not the outcome. Everyone agrees that the pitch for the Match was nowhere near as good as for the YCCC game, and that it suffered from variable bounce. The extent and frequency of that variability was canvassed in evidence put before the Tribunal by the Regulator, as summarised below.

The Match Referee

15. In his match report, the Match Referee made the following observations:

i) He had officiated at the YCCC game earlier in the season. The pitch for the GCCC game had been visually similar, but it had been played on since and it had also been hot and dry for the previous two months since that earlier game. He therefore had cause for concern about it and had taken photographs of it on day 1.

ii) Callum Lewin, the Head Groundsman at the Club **('the HGM')** had told him that it was not the sort of pitch that he would have chosen to prepare and that leaving 16mm of grass in the middle was not his preference.

iii) The HGM had been upset about filming for a Bollywood production at the ground a few days before the Match had taken place and the amount of exposure the pitch had had to the sun as a result.

iv) The pitch had looked dry throughout and was significantly worse than for the YCCC game. The Match Referee was not surprised that neither side scored much over 150.

v) There were 37 examples of uneven bounce over the course of the GCCC game, from both ends.[1] Day 3 had been the worst.

vi) The uneven bounce depended on the type of bowler and the hardness of the ball. The degree of bounce was significant, sometimes high and sometimes low. Some balls misbehaved off a good length and batters were hit on the gloves.

vii) He rated the uneven bounce as being '*at most, more than occasional'* on days 1,2 and 4 and *'excessive'* on day 3. Under the Pitch Regulations, this led to a Below Average rating for days 1, 2 and 4 and a rating of Poor for day 3.

[1] Note that his report refers to 43 deliveries, but the parties were agreed that the log contains only 37 such entries.

viii) Under the Pitch Regulations, this in turn led to an overall rating of Poor. That was a matter, the Match Referee said, to which he had given considerable thought during and immediately after the game.

The umpires

16. The match umpires were Ben Debenham **('BD')** and Mike Burns **('MB')**. A combined summary of their assessment of the pitch was as follows:

i) When the ball pitched in the grassy area of the pitch, it resulted in significant differences in the height of the delivery, which were impossible to predict. Some came through at shin height and others at chest height.

ii) There was regular uneven bounce from both ends. The number of batters rapped on the gloves was well into double figures, which is far more than they would usually expect.

iii) The ball also indented the surface of the pitch which contributed to the uneven bounce.

iv) Ground plate movements in the pitch appeared to have been a factor as well.

v) The HGM did not seem happy with the pitch. He gave the impression that he had been instructed around preparation and was concerned that the pitch may reflect on him personally. He had worried that it might not play well.

vi) One of the umpires had heard second hand that the HGM had said that he had been asked to roll the pitch more than he would have liked (which would have the effect of taking more moisture out of the pitch, see report of the Match Referee).

vii) The Club had not sought to prepare the best pitch possible but one that would get a result.

viii) They (the umpires) had discussed the possibility of abandoning the Match on the basis that the pitch was too dangerous. It was a close call. That was a conversation which one of the umpires had never previously had before in any other match.

ix) The pitch had looked bad, and it had not been a pleasant game to officiate. One player had said that he did not want to bat for fear of being hurt and did not want to bowl for fear of hurting someone else.

x) Both umpires agreed that Poor was the appropriate rating for the pitch.

The captains and coaches

17. The Club captain, Ian Holland **('IH')**, accepted that there had been some uneven bounce from day 1, which had surprised him. In his view, the bounce was uneven because the pitch had been a lot dryer than expected. This may have been exacerbated by a limited overs semi-final game played on it in the run up to the Match.

18. He said that the GCCC players had made a point of emphasising the uneven bounce but '*...it was only dangerous on a handful of occasions during the whole game'.* The Club had wanted to force a result within 4 days but had no intention of producing uneven bounce, or for the ball to have been hitting the gloves as often as it was. He would have rated the pitch as *'average'*, on the basis that *'it did a little too much...it did not play as I would have wanted it to.'*

19. Alfonso Thomas (the Club's head coach) said that the grounds staff at the Club work in conjunction with the coaching staff and the captain. The HGM goes above and beyond to produce the best pitch possible. A lot of variables go into how a pitch behaves and it is not an exact science. The Club always strives for an even contest between bat and ball. The recent weather had played a part in relation to this pitch, which had been prepared to replicate that for the YCCC game. The 'Bollywood day' had also been a factor, although it was difficult to say how much impact this had had. He had never seen a wicket *'go up and down'* in the way that this one had. This had been unexpected and the problems had not been foreseeable. There had been no problem with pitches in his five years at the Club. He had expected a par score of around 320 and the Club would have batted first if it had won the toss. In relation to the uneven bounce, GCCC had sought to make the most of the situation with the Match Referee.

20. Kiran Carlson (captain of GCCC) said that the pitch had been excessively dry. There had been moving plates and cracks in the middle of the pitch, leading to uneven bounce

('a lottery') for both teams. Several players had been hit on the head, upper body and gloves. He had been close to walking his players off.

21. The coach of GCCC, Richard Dawson **('RD')**, said that the pitch was clearly cracked underneath the grass covering in the middle. The bounce was dangerously up and down from the start of the Match and the HGM had said to him, *"Don't ask me any questions I can't give you an answer to."* RD had never seen a pitch this bad in his 30 years in professional cricket. The physios had come onto the pitch several times to treat injuries to batters. The Club coaching staff admitted to him that they had unintentionally produced a bad pitch.

HGM interview with the Regulator

22. On 27 August 2026, the HGM was interviewed by the Regulator. In summary, the account given by the HGM in that interview was as follows:

    i) He had produced only one 'Below Average' pitch in the last 15 years.

    ii) For the Match, he had been told to produce a good pitch with something for everyone, including the batters.

    iii) He had watered the pitch to the same extent that he would do for any other game: *"I put on as much water as I could, as I usually would. Absolutely drowned the pitch as I normally do."* The last watering had been carried out on 9 August 2026.

    iv) It was only the day before the Match that they did the moisture readings, which were lower than expected at 24%. He would ordinarily hope for 30-34%.

    v) He had used the heavy roller on the pitch for a total of 14 hours in the lead up to the Match.

    vi) The Club had hosted the Bollywood event on 14 August 2026. The arrangements for this had been chaotic and he had had no say in them. The producer had refused to let them put a sheet or any kind of protective mat on the pitch to stop it from drying out. The event had overrun by 5 hours, which was *'horrendous'* and they finally put the covers on at 9pm, by which time the pitch had sat open for 13 hours

(which was *'crazy'* according to another member of the grounds staff, Mark Smith **('MS')**, who sat in on the interview).

vii) The day before this event, the HGM had communicated his concerns to the Director of Cricket, Claude Henderson **('CH'),** and to the Stadium Manager, Dan Archer **('DA')**, that if it was very hot and they were not able to cover the pitches, they would lose a lot of moisture.

viii) The HGM agreed that the pitch had been completely dry to two inches. The Clegg hammer readings suggested that the pitch was much harder than normal because there was less moisture in it than he would have liked.

ix) He had raked the pitch and put a mechanical scarifier through it before watering it on 9 August 2026. With the benefit of hindsight, he could have raked it out a little bit more and tried to manage the moisture content better, but the Bollywood event, the semi-final and the hot weather made this very difficult.

x) He had anticipated that a par score would have been around 180-200.

xi) His main concern with the length of grass in the middle of the pitch had been excessive seam movement.

xii) There were more cracks in the pitch than usual, which was likely to have been the main source of the uneven bounce, although he had not been too concerned about that at the time. He had never encountered uneven bounce at the ground before.

23. This largely replicated the account which the HGM had given in his prior match report, save that, in that report, he had said that they had tried to ameliorate the negative effects of the Bollywood event by leaving the ground sheet on for longer the following day, 15 August 2026. He had also said that during the semi-final played at Grace Road on 16 August 2026, the Club had kept the pitch covered with an artificial turf mat.[2]

[2] This report was not in the bundle before the Tribunal but a summary of it appears in the expert report of Andy Mackay of the ECB (see below) which was in that bundle.

Expert evidence relied on by the Regulator

24. The final aspect of the evidence placed before the Tribunal by the Regulator was an expert's report prepared by Andy Mackay (**'AM'**), who is the ECB's Pitch and Grounds Advisor. He has 30 years' experience in professional grounds management.

25. Following the Match, he had been asked to inspect the pitch and to provide a written report on (a) why it had underperformed and (b) whether the Club had, in his view, sought reasonably to prepare the best quality pitch for the Match.

26. The essence of his written evidence can be summarised as follows:

    i) Within the grassy area of the pitch, there were some clumps which had not been sufficiently 'disturbed' (i.e. raked) during preparation. Any ball landing on these areas would have been projected upwards at a steeper angle than expected.

    ii) The pitch was crazed with cracks underneath the grass cover, which were unstable and uneven in places. Cracks of this description usually render uneven pace and bounce from the ball and can lead to sharp deviation in any direction. These cracks were visible at the start of play, per the photographs taken by the Match Referee.

    iii) The soil had dried and shrunk to a point where fractures and cracks were affecting the integrity of the pitch surface.

    iv) The soil profile at the ground is one which is capable of producing good pitches but it will fail once moisture levels become too low.

    v) There were some pitch indentations caused by the impact of the ball. It is likely that these were caused by moisture in the grass leaf in the early stages of the Match. Most of the indentations were not severe but nonetheless significant, measuring up to 2mm deep. One or two were deeper, measuring up to 4-5mm deep. A ball striking the indentations may deviate either vertically or horizontally.

    vi) The Clegg hammer readings were consistent with a significant variation in bounce, although as some unevenness of bounce is expected by day 4 of any game, not too much should be read into this. The moisture reading of 24.8% was broadly in

line with that taken by the HGM at the beginning of the Match and is low for this ground (29-34% is the usual range for day 1).

vii) The pitch underperformed through a combination of:

(a) moving cracks; and

(b) acute level changes caused by (1) the collapse of junctions of some of the cracks (2) the leading edge of large clumps of grass and (3) indentations in the pitch.

viii) It is likely that all three factors played some part in the variable bounce and any one of them in isolation could have resulted in a pitch rating of Substandard.

ix) The Match Referee's assessment of *'excessive'* bounce will have been informed both by the extent of deviation and the frequency of it. Balls striking the collapsed junction of a crack may not have happened often, but the effect would have been profound and with significant jeopardy for the batter as the ball rose very sharply. Variability from movement in cracks would have produced a less significant effect, with deviation from indentations and clumps of grass somewhere in the middle.

x) There were three reasons why the pitch performed as it did:

(a) It had been allowed to become overly dry at depth, such that the cracking was not normal and highly undesirable. The risk of this should have been managed during the hot weather, as is a basic requirement for a professional venue with access to an array of covers and irrigation.

(b) The combination of wetter/ cooler weather just before the Match and the very long grass covering in the middle of the pitch led to too much moisture at the surface of the soil. This in turn caused indentations from the ball striking the pitch. The grounds staff should have appreciated the risk of this, and a reasonable response would have been to reduce the height of the cut and/or to reduce the density of the grass covering.

(c) The pitch should have been raked more thoroughly or aggressively in order to manage the clumps of grass in the middle of the pitch.

xi) Whilst the pitch for the YCCC game may have been a good surface, that was at a different time of year in completely different weather conditions. The pitch for the GCCC game was significantly drier and harder.

xii) These negative outcomes were foreseeable as a result of a pitch which had become excessively dry at the surface, whilst retaining substantial grass cover in the middle. This was not reasonable decision making for an experienced and skilled grounds team at a Professional County HQ venue.

xiii) No other pitches around the country were rated as being substandard during the same round of Championship matches.

xiv) The effects of the hot weather should have been countered by the judicious use of covers and/ or greater use of the new irrigation system, which had been installed that winter.

xv) In relation to the Bollywood event, it is unlikely that this was the sole cause of the problems, but it would have accelerated the drying out of the pitch. Any competent person would have recognised the need for a protective mat for the pitch during the event and insisted on this as a condition of hire. Not to do so was complacent.

xvi) Any risk of significant damage to the pitch from hosting the semi-final of the limited overs game shortly before the County Championship match was mitigated by the use of a protective mat.

27. In conclusion, therefore, AM found that the Match Referee's pitch rating of Poor had been justified and that the Club had not sought, acting reasonably, to produce the best possible pitch for the Match.

THE CLUB'S RESPONSE TO CHARGE

28. On 7 September 2026, the Club put in its formal written response to the Charge Letter. The Club's Chief Executive Officer, Emma White **('EW')** told us in evidence during the Preliminary Hearing that she had primarily been responsible for this document but that

it had been a collaborative effort and signed off by the Director of Cricket and the Chairman of the Board.

29. In the response, the Club denied the Charge. It simultaneously made clear, however, that it was accepting the Match Referee's pitch rating of Poor, so that the only issue was whether the Club had sought reasonably to produce the best possible pitch:

> *"The Club accepts that the pitch ultimately played differently from what was intended and that the Match Referee subsequently rated it "Poor". That outcome is not disputed for the purposes of this response. What is disputed is the suggestion that Leicestershire CCC failed to act reasonably and failed to seek to prepare the best quality pitch that it could for the match."*

30. In addressing that latter issue, the Club organised its response under a number of headings. These headings, and a summary of the principal points made under each, appear below:

(i) <u>The Club deliberately sought to reproduce a previously successful pitch</u>

(a) The starting point for preparation of the pitch for the Match was not reckless or experimental. It followed the preparation for the YCCC game, which had resulted in a pitch rating of Good.

(b) There was therefore a legitimate and evidence-based reason for adopting the same approach for the GCCC game.

(c) This is highly significant when considering whether the Club acted reasonably.

(d) A professional grounds team cannot be expected to disregard a method which had recently produced a successful Championship pitch.

(ii) <u>The Club did not intend to produce an unsafe or uneven pitch</u>

(a) The uneven bounce which caused the rating had not been the Club's objective.

(b) The point of the longer grass had been to maintain bounce and carry and not to cause excessive seam movement or uneven bounce.

(c) The aim had been to produce a competitive pitch, which it was – there were four completed innings and a result.

(iii) <u>The preparation was undertaken using the information available at the time</u>

(a) The issue is what the Club reasonably knew when preparing the pitch, rather than what became apparent only after four days of cricket.

(b) The pitch was prepared under materially different circumstances than for the YCCC game. There had been consecutive heatwaves and drought conditions over the preceding two months and significant difficulty in managing the moisture content of the square.

(c) Specific preparation for the Match had started on 10 August 2026 and the required 14 hours of heavy rolling had been completed by the ground staff.

(d) The Bollywood event did result in the pitch being exposed to extreme heat and for longer than anticipated. This was six days before the Match, however, and steps were taken to compensate for the moisture loss by leaving the ground sheet on for longer and by covering the pitch during the subsequent semi-final of the One Day Competition.

(e) This was not a case of the grounds staff simply ignoring the weather. Rather they took steps to mitigate against it despite having no previous knowledge or experience of such a long stretch of unprecedented heatwaves.

(f) This was done by watering, covering and rolling the pitch. The HGM had *'absolutely drowned'* the pitch in the normal manner to prevent it from drying excessively.

(iv) The eventual dryness was not intended and was materially different from the Club's expectation

(a) The moisture readings were materially lower than usual and lower than expected. The HGM had believed that there would still be considerable moisture in the surface on day 1 of the Match. There had been no intention to make the pitch that dry or cracked, or to produce the uneven bounce. It was simply the unintended consequence of extraordinary conditions.

(b) The HGM expected a par score of approximately 180-200 based on what had happened against YCCC and the prevailing overhead conditions.

(v) The same preparation did not produce the same result because the conditions were not the same

(a) The pitch for the Match was prepared after two exceptionally hot months and the pitch had in the meantime been used for two T20 matches.

(b) There had been pitch issues elsewhere in the County Championship, reinforcing the notion that the extreme weather conditions had made it difficult to predict how pitches would perform.

(c) As a result, the Club could not reasonably have known with certainty that the same preparation methodology would not respond in exactly the same way under these materially different circumstances.

(vi) This was an exceptionally difficult period for grounds teams

(a) There was no precedent for the prevailing weather conditions.

(b) Pitch preparation is not an exact science involving many variables and no pitch can be guaranteed. The HGM consistently went above and beyond what was required of him in order to obtain the best pitch for the Club.

(vii) <u>The evidence does not establish that the Club deliberately sacrificed pitch quality for a result</u>

(a) The Club wanted the pitch to offer something for both seam and spin.

(b) There is no evidence that the Club deliberately sought to create excessive bounce.

ix) <u>The rating of 'Poor' does not answer the question of whether the Club sought reasonably to prepare the best quality pitch that it could</u>

(a) The Club used a tried and tested method to produce a good pitch.

(b) It watered extensively, undertook the required heavy rolling and used its available covers and protective measures.

(c) It responded to the exceptional heat and exposure *'with knowledge available'*.

(d) It did not intend the pitch to produce excessive uneven bounce and had expected it to produce higher scores and a competitive contest.

(e) The fact that the pitch ultimately behaved differently did not retrospectively make those decisions unreasonable.

(f) The Charge should therefore be dismissed.

31. The Club supplemented this written material with oral evidence given at the Tribunal hearing by EW and CH, which largely reinforced the points made above, although the following additional points were also made:

i) The pitch for any given game is discussed between the Director of Cricket, the coaches and the captain, who then ask the HGM to produce the best pitch he can in the best interests of the club. Ultimately, the preparation is a matter for him, but he is free to discuss any concerns he may have.

ii) It was not reasonably foreseeable that there may have been moisture in the surface for the Match. The YCCC pitch was likely to have produced more moisture and yet there was no uneven bounce.

iii) On the first day of preparation, the pitch had been soaked more than normal. In hindsight, it was not clear what else the Club could have done. It has never before had an issue with cracks causing uneven bounce.

THE TRIBUNAL'S DECISION

32. Much of the evidence we have summarised above was expressly referred to in the written decision of the Disciplinary Tribunal dated 15 September 2026. To the extent that it was not, we nonetheless take it into account under Regulation 11.12.3 of the DPRs:

> "…*the Appeal Panel shall be permitted to have regard to transcripts of evidence and/or submissions given before or made to the Disciplinary Tribunal as well as to any document(s) admitted before that Disciplinary Tribunal or any ruling of that Disciplinary Tribunal*".

33. In arriving at its decision to uphold the Charge, the Tribunal made the following observations:

i) There was no question of the Club having deliberately prepared a pitch which produced uneven bounce.

ii) The Club did not (perhaps could not) dispute the pitch rating of Poor.

iii) This was on the basis of cracks causing uneven bounce, not clumps of grass or indentations leading to the same issue.

iv) In accordance with Pitch Regulation 7.6.1, the Club's case relied in part on factors beyond their control, namely the heatwave which had been unique in its intensity.

v) The Tribunal was satisfied that the preparations for the GCCC pitch had been *'normal'*, in the sense that the Club simply sought to replicate the pitch for the YCCC game but did no more than that.

vi) Very markedly different weather conditions, however, inevitably created a situation, including the dryness of the pitch to depth and consequential cracking, which was not only foreseeable but against which the Club should have taken positive steps to guard.

vii) It was insufficient, in the face of such extreme conditions, simply to prepare a pitch in exactly the same way as before.

viii) There were measures available to the Club to reduce the impact of the challenging weather conditions, including the judicious use of covers to provide shade and the application of additional water during preparation. The pitch should also have been protected during the Bollywood event.

ix) These defects were foreseeable consequences of the preparation employed and should reasonably have been expected and mitigated by the ground staff.

x) The moisture at surface level was not reasonably foreseeable but the grassy clumps should have been foreseen and managed effectively.

xi) Whilst the Club may not have intended to produce a Substandard pitch, its methodology to avoid this outcome could not objectively be considered reasonable.

xii) As a result, the Club had failed to discharge the burden on it under Regulation 7.6 and the Charge was proved.

THE ORIGINAL GROUNDS OF APPEAL

34. Appeals are governed by Regulation 11 of the DPRs. Under these provisions, there is no right to a re-hearing of the case. Rather, the appellant must establish at least one of the grounds of appeal set out in Regulation 11.3.3.

35. Those relied on by the Club in its original Grounds of Appeal dated 9 October 2026 were as follows:

(i) the Disciplinary Tribunal came to a decision to which no reasonable body could have come;

(ii) there was a significant procedural irregularity in the proceedings before the Disciplinary Tribunal; and/or

(iii) there is fresh evidence, which (a) was not reasonably available to the Disciplinary Tribunal (b) which is significant to the matter(s) being determined and (c) which is now available (this being the test under Regulation 11.3.3(d) for admitting fresh evidence on appeal).

36. In relation to ground (i), the Club sought to withdraw the concession it had made before the Tribunal that the pitch had been Poor, on the basis that this had been made in error. It was therefore appealing under both limbs of the relevant test. In other words, no reasonable Tribunal could have concluded that the Club had failed to show (a) that the pitch was not Poor or otherwise Substandard or (b) that all reasonable efforts had been made to produce the best possible pitch for the Match.

37. Ground (ii) concerned events leading up to the hearing before the Tribunal, in particular an expedited timetable which, it is said, did not give the Club a proper opportunity to prepare for that hearing.

38. Ground (iii) concerned fresh evidence upon which the Club wished to rely in the appeal and which it suggested was significant and had not been reasonably available to it at the time of the original hearing.

39. As set out above, the question of whether or not the Club should be allowed to rely on the fresh evidence was the issue canvassed at the Preliminary Hearing, following which we indicated that this application would be refused. Our reasons for this decision are set out below.

THE FRESH EVIDENCE APPLICATION

The fresh evidence produced by the Club

40. This evidence comprised statements from the following three witnesses:

    i) Tony Hemmings, an expert witness in relation to the preparation and condition of cricket pitches;

    ii) CH; and

    iii) the HGM.

41. The evidence of each is considered in turn below.

Tony Hemmings

42. Tony Hemmings **('TH')** is presently the Chief Curator and Educator for the Pakistan Cricket Board. As set out in his witness statement (which takes the form of an expert's report) he has had a long and distinguished career in the preparation of cricket pitches and there is no doubt that he is an expert in this field.

43. As Mr Harris confirmed on behalf of the Club, TH's evidence went primarily to the first limb of the Regulation 7.6 defence, namely whether the pitch should have been rated as Poor or otherwise Substandard.

44. We considered TH's expert report carefully. In summary, the main points made by him on this issue included:

    i) Pitches should be judged on how they look, not how they play. The inspection in this case undertaken by AM was at the end of the game when the pitch was at its driest and most cracked.

    ii) The pitch played decently on day 4 of the game and one batter scored 99.

    iii) On the basis of the records kept by the Match Referee, there was on average only one incidence of variable bounce every 6.4 overs. Some of these may however only have been minimal and, in any event, this cannot qualify as excessive.

iv) Ball variation, bounce and type has as much to do with the bowler who delivers the ball as it does the pitch. Seam position, pace, age of ball and brand of ball all play a part in how the ball reacts to local conditions and all teams play to this.

v) The key issue is how many of the 37 relevant deliveries can be attributed to an identifiable pitch defect rather than normal cricketing variables. This has not been substantiated by the Regulator, nor can it be.

vi) The failure at the time to calibrate the Clegg hammer (used to measure the hardness of the pitch) and the fact that insufficient readings were taken, make this aspect of the analysis unreliable.

vii) In any event, a Clegg reading of 0.87, as obtained from this pitch, was not consistent with variable bounce.

viii) Comparisons could be made with the state of this pitch and that used for another game in September 2026 at Trent Bridge between Nottinghamshire and Hampshire, which did not result in action being taken.

ix) Indentations in the pitch tend to lead to lateral rather than vertical deviations and there was no evidence of that during the Match.

x) Whilst there was some uneven bounce in the pitch, the frequency of this over the course of the match, and the possible impact of non-surface variables, meant that more detailed analysis was required before all 37 incidences could be treated as evidence of pitch induced uneven bounce.

xi) This was not a pitch which should have been rated as Poor. Instead, using the relevant criteria under the Pitch Regulations, it should have been rated as Above Average instead.

45. As observed in his report, this final point is tempered by the fact that the ratings scale does not provide for a finding of 'Average'. Nonetheless, in light of the other available evidence (see paragraphs 13-27 above), it remains a startling conclusion. For example, reliance was placed by TH on the fact that one batter was able to score 99 runs on this pitch (paragraph 44 ii above). No reference was made in TH's report, however, to the

response given by that batter (the Glamorgan captain, Kiran Carlson) to the Regulator, which included the following passages:

> "*The uneven bounce occurred throughout the match. It was similar from both ends, with slightly more variation in bounce coming down the hill towards the Pavilion.*
>
> *The uneven bounce lasted for all 4 days. This was primarily the seamers bowling into the 'green' area of the wicket. Balls were going both up and down excessively, in both directions.*
>
> *In terms of the regularity of the uneven bounce, a ball an over or so displaying uneven bounce is what batters were facing. As a result, several players got hit on the head, the neck, their chest, and on the gloves, but equally balls were also keeping low.*"

And:

> "*I have been asked how I managed to score 99 if the pitch was as bad as I have said. The truth was that I was lucky. I was dropped a couple of times and did not get given out when I could have been. The percentage of balls that could have dismissed me but missed the stumps was high. I played and missed to some deliveries. Batting was not easy and I was fortunate on several occasions"*

Also, when asked whether the pitch was suitable for the match concerned, he replied:

> *"No, it was not, and the match should have been abandoned. I made that clear to both the match referee as well as the umpires. On several occasions I was close to walking my team off."*

46. In any event, TH's report was plainly 'significant' for the purposes of Regulation 11.3.3(d). In terms of whether it should be admitted in the appeal proceedings, the only issue therefore was whether it had been 'reasonably available' to the Club at the time of the hearing before the Tribunal (as to which, see paragraphs 50-66 below).

The evidence of CH and the HGM

47. In his statement, CH made the following observations:

    i) The HGM is free to express his opinions about a match pitch, and the preparation of that pitch is a collaborative effort.

ii) The Bollywood event took place six days before the Match and not four days, as suggested by the HGM in his interview with the Regulator (see above).

iii) As a result of the topography of the Grace Road stadium, the pitch used for the Match was exposed only to 10 hours of direct sunlight on the day of the Bollywood event and not 14 hours, as suggested by the HGM in his interview.

iv) During his pitch inspection, AM noted that the only two significant indentations were very wide of the wicket and so could not have had any material impact on it. This was not replicated in his written report.

48. In his statement, the HGM confirmed the matters set out above.

49. On behalf of the Club, Mr Harris sensibly conceded that there may be an issue about the significance of these last two statements for the purposes of the fresh evidence test. In the event, we have not had to resolve this issue as all the new statements relied upon by the Club fail the first limb of that test, namely whether they were reasonably available to the Club at the time of the Tribunal hearing.

Reasonable availability of the fresh evidence

50. In relation to the question of whether the expert evidence of TH had been reasonably available before the Tribunal hearing, the Club relied on a witness statement from EW dated 9 October 2026.

51. The effect of EW's written evidence was as follows:

i) Following receipt of the Charge Letter, which suggested an abridged timetable for the Club's response from the normal 10 working days to 4 working days, EW had felt under pressure in formulating that response. This was exacerbated by the tone of the correspondence from the Regulator, which emphasised the need to resolve matters before the final round of County Championship matches.

ii) This matter landed on her desk at a particularly busy time at the end of the season when she needed to attend to a multitude of issues.

iii) She had no idea of the process and had not been afforded time to instruct lawyers and/or an expert on the Club's behalf.

iv) In relation to the first limb of the available defence (i.e. the pitch rating of Poor), the Regulator had not informed her that this could be challenged and so she had assumed that it could not be.

v) Whilst there had been some variable bounce in the pitch, she did not accept that a rating of Poor was appropriate, and she believed that the match officials had been negatively influenced by GCCC in arriving at this conclusion.

vi) From the moment of instructing counsel and an expert after the Tribunal hearing, it had taken two weeks for them to produce the Grounds of Appeal and their report respectively, which proves that there had been insufficient time to do so initially.

vii) EW had taken advice from the CEOs of other county sides, who had recommended not instructing lawyers for the Tribunal hearing, as the Club would undoubtedly be found guilty. She therefore ought to save lawyers for the appeal.

52. The Club relied also on written submissions from Mr Harris, upon which he expanded orally at the Preliminary Hearing. We considered all the points he made, which included the following:

i) These proceedings were rushed at the expense of due process for the Club.

ii) It was clear from correspondence passing between the parties prior to the hearing that EW was not familiar with the DPRs and the Club was suffering from a lack of legal representation.

iii) Context is important. EW had a lot of other matters to address at the time, and a standard of perfection is not required of her, only that she acted reasonably. She was engaged in the process and doing her best in difficult circumstances.

iv) Whilst it might have been open to the Club to apply for an adjournment, this would only have led to more delay in the process.

v) Whilst EW may have been mistaken about the ability of the Club to challenge the pitch rating, that does not mean that the expert evidence which might otherwise have been obtained was reasonably available at the time.

vi) There was no proper opportunity for the Club to appoint lawyers and no realistic prospect of an expert's report being obtained before the Tribunal hearing in any event.

vii) The failure to instruct lawyers or an expert was only a function in any event of the Club being rushed through the process, rather than the product of an informed decision.

viii) On the basis that the expedited timetable had led to an oversight on the part of the Regulator (i.e. the failure to include the Playing Conditions in the hearing bundle) it was unfair now to criticise EW for failing to familiarise herself with the Regulations or for not acting more quickly.

53. In response, the Regulator served a witness statement dated 15 October 2026 from Chris Haward, Managing Director of that body. It also relied on written and oral submissions from Mr Brown. The case advanced by the Regulator on the Fresh Evidence application was thereby as follows:

i) Rather than appealing in the sense intended by the DPRs, the Club was in reality seeking to a new hearing of the case. This is impermissible by virtue of Regulation 11.12.1.

ii) The fresh evidence provision within the DPRs exists to cater for cases where genuinely new and significant evidence comes to light after the original Tribunal hearing, in circumstances where it could not have been obtained with reasonable diligence at the time of that hearing.

iii) The new evidence was reasonably available before the Tribunal hearing; the Club simply failed or chose not to obtain it. The Club is therefore the author of its own misfortune.

iv) There were concerns about the pitch before the Match had even begun, which were confirmed by the Poor rating ascribed to it by the Match Referee at the end of the game and by AM's inspection of it the same day. Through the workings of the Pitch Regulations and the DPRs, the Club was therefore on notice from that point that it was likely to be charged with producing a 'Substandard' pitch.

v) Under the Pitch Regulations, this put the Club in significant peril, as the starting point for any deduction was 16 points. The Club should therefore have put in train the necessary measures to defend that charge. This was particularly so as the Club was at risk of relegation from Division 1.

vi) The fact that EW was busy also with other matters is no excuse. This issue should have been prioritised. It was a matter for her and the other senior executives at the Club to discharge their responsibilities properly.

vii) In relation to the suggestion in EW's witness statement that she did not know that the Club could challenge the pitch rating, this was clear from a plain reading of the Pitch Regulations, with which the Club should have been familiar.

viii) In addition, the Regulator relied on Mr Haward's witness statement, in which he said that he had explained the position to EW during a courtesy call made to her on 1 September 2026, just before the Charge Letter was issued. The Regulator relied also on the Charge Letter itself, which made plain the available defences, and on an email from Angus Hetherington **('AH')** to EW dated 9 September 2026, in which the Regulator again spelled out the position to her.

ix) The Club ultimately took the decision not to challenge the pitch rating, a point which it expressly conceded in its written response to the Charge Letter.

x) In order to defend the Charge (on whatever basis) the Club ought reasonably to have known that it would need an expert to counter the evidence of AM. There would have been time to instruct someone if it had been done straight after the Match concluded.

xi) The Regulator did not accept that there was insufficient time to instruct lawyers to represent the Club, noting that both lawyers and TH had been instructed within

two working days of the Tribunal hearing and on the same day that its decision was issued.

xii) Although the Regulator sought a shortened timescale for the proceedings before the Tribunal (as it was entitled to do under the DPRs) the Charge Letter made clear that the Club should say if this caused it difficulties. At no stage did the Club ask for more time to prepare its case or to instruct lawyers or an expert.

xiii) In light of her evidence about discussing the way forward with other CEOs, EW now admits making a conscious decision not to instruct lawyers prior to the Tribunal hearing and seeks instead a second bite of the cherry in defending the charge.

xiv) If there is a re-hearing of the case before the Tribunal, based on evidence which was reasonably available at the time, the Regulator would effectively be deprived of a right of appeal if it was unsuccessful before the Appeal Panel.

xv) If the Club's application were allowed, this would encourage other clubs not to prepare properly for cases before the Tribunal and to seek instead to remedy matters on appeal. That would undermine the integrity of the process.

54. EW gave oral evidence before us at the Preliminary Hearing. She was asked questions by Mr Brown for the Regulator and by the Panel. In light of the evidence which the Regulator had produced (see above) she did not seek to maintain the account in her witness statement that she had not known that the pitch rating could not be challenged, or that the Regulator had failed to explain this to her. Although she could not recall the specifics of the call with Mr Haward, and although she said that she had not read the email from AH in full, she accepted that these communications had been made to her. She further agreed that she had read the Charge Letter, in which the position had been spelled out in terms.

55. EW accepted, therefore, that she knew at the time that, in principle at least, the Club could challenge the rating decision of the Match Referee. She told us, however, that she had mistakenly believed that by sheer dint of the number of balls of variable bounce which had been bowled, the defence could not be made out. She conceded however that she had not checked the Pitch Regulations at the time to see if this was correct.

She further accepted that even if she had not been familiar with the detail of those Regulations, someone else at the Club should have been.

56. In relation to the instruction of lawyers, EW was asked if she had so much as conducted a Google search to identify one prior to the Tribunal hearing. She said that she had not, although she had received recommendations from others. She had not however contacted any of the firms recommended to her. Her view, shared by the Director of Cricket and the Chair of the Board, was that the Club's defence was relatively straightforward and could be presented to the Tribunal without legal assistance.

57. As to the advice received from other CEOs about the futility of instructing lawyers at first instance and saving them for appeal, there was some confusion as to when precisely this advice had been given. In the event, it appears first to have been mentioned during a phone call with Jamie Cox (CEO of Somerset County Cricket Club) on or around 1 September 2026. EW confirmed in evidence that she had again discussed this issue with the Club's Director of Cricket and the Chair of the Board.

Analysis and conclusion on the Fresh Evidence application

58. We agree with the Regulator's submission that the fresh evidence rule exists primarily to cater for evidence which comes to light after a Tribunal hearing and which could not with reasonable diligence have been uncovered beforehand. That is not to say that there may not be other situations in which the rule is engaged but they are not easy to envisage, and they do not arise on the facts of this case.

59. In our view, and for the following two reasons, the Club is the author of its own misfortune. First, there appears to have been a woeful lack of understanding of the regulatory position. Even a cursory review of the Pitch Regulations would have confirmed the entitlement to challenge a pitch rating issued by the Match Referee and also the basis upon which this could be done. The Club failed however to take this basic step, which contributed to its failure to instruct an expert for the Tribunal hearing.

60. It follows that TH's evidence was reasonably available at the time of that hearing and we reject Mr Harris' submission to the contrary. The senior executives at a professional cricket club should be familiar with the regulations, or at least to remind themselves of them as circumstances may require. That was not done here.

61. Second, we reject the suggestion that the Club did not instruct lawyers for the Tribunal hearing because it had no reasonable opportunity to do so. As the evidence unfolded at the Preliminary Hearing, it became clear that a conscious decision had been taken not to instruct lawyers, either because the Club believed that it was sufficiently well equipped to deal with the matter itself and/or because it thought it would save that expense for an appeal, if necessary.

62. If lawyers had been instructed, and if they had considered that more time was required (in particular to obtain an expert's report) they would have asked for an adjournment. The Regulator's position at the Preliminary Hearing was that it would have agreed to that course of action. Even if it had not, we are in no doubt that the Tribunal would have ordered it.

63. The Club did not, however, instruct lawyers or seek an adjournment. Instead, it gambled that it could get through the process without incurring legal costs and then have another go at defending the charge if it lost before the Tribunal. That was a serious error of judgment. We are not prepared to rectify that mistake now by allowing the Club to present TH's evidence on appeal when it was reasonably available at the time of the first hearing. The application to admit his evidence is therefore refused.

64. In relation to the evidence of CH and the HGM, Mr Harris suggests in his written submissions that this evidence could not have been given at an earlier point in time, as it only arose out of matters in the Tribunal's decision. We disagree. AM's report and the transcript of the HGM's interview with the Regulator were served with the Charge Letter on 2 September 2026. If that material contained factual errors or omissions, they should have been rectified by the Club at the time. This evidence was therefore also reasonably available at the Tribunal hearing and the application to admit it is also refused.

65. By way of postscript, we return to the question of the advice which EW says she received from other CEOs about the futility of defending first instance hearings before the CDP and saving up lawyers for an appeal. We would denigrate that advice. All Tribunals appointed by the CDP are made up of individuals with no connection to the ECB or the Regulator and no vested interest in the outcome. Those cases are resolved fairly and squarely on their merits.

66. Equally, whilst clubs will wish to consider in any given case (including pitch cases) whether they need legal representation (and they may not) what is always required is a timely assessment of the charge and the applicable regulations. No one should think that lawyers will save them on appeal by obtaining evidence which should have been deployed at first instance. The events of this case are a salutary lesson to that effect.

THE REVISED GROUNDS OF APPEAL

67. In light of our refusal to allow the Fresh Evidence application, the Club amended its original grounds of appeal for the substantive hearing on 28 October 2026. It no longer relied on the second and third grounds set out in that Notice of Appeal, namely procedural defects in the Tribunal proceedings and the admission of the new evidence.

68. Instead, the Club now relied only on its first ground of appeal, namely that the Tribunal came to decisions to which no reasonable Tribunal could have come. This ground of appeal is advanced in relation to both limbs of the defence under Regulation 7.6 (i.e. the pitch rating arrived at by the Match Referee and also whether the Club had sought reasonably to produce the best possible pitch for the Match).

69. The Club's submissions were set out in the Grounds of Appeal and in its later skeleton argument dated 22 October 2026, as supplemented by Mr Harris' oral submissions at the substantive hearing on 28 October 2026. These submissions included the following principal points.

<u>The pitch rating issue per Regulation 7.6(a)</u>

70. The Club conceded before the Tribunal that the pitch had been Substandard, as defined in the Pitch Regulations (indeed, the Club accepted that the rating of Poor had been warranted, even though a rating of Below Average would have sufficed for this purpose). Before us, the Club sought to withdraw this concession on the basis that it was made in error. Further or alternatively, it submitted that the Tribunal should (a) have queried this concession at the time and (b) considered the underlying evidence to determine whether the Substandard rating was indeed justified. Had it done so, the Tribunal could only reasonably have concluded that, on the balance of probabilities, the Club had satisfied

the evidential burden placed on it by Regulation 7.6 (i.e. to show that the pitch was not Poor or otherwise Substandard).

71. The matters relied on by the Club in support of this submission were as follows:

i) In relation to *'excessive'* uneven bounce (which had given rise to the Match Referee's rating of Poor) the evidence was insufficient for this finding to have been made. Indeed, the evidence positively demonstrates that the pitch was not Substandard.

ii) The question of whether a pitch is Poor by reference to excessive uneven bounce is essentially a statistical one, determined by the outcome of deliveries rather than the condition of the turf.

iii) In accordance with the Pitch Regulations, it also requires a finding that there was *'far too much'* unevenness of bounce. In this case, however, the Match Referee provided only 37 instances of uneven bounce over four days' play (1,658 deliveries), describing the uneven bounce only as *'significant'*.

iv) That is not *'far too much'*, either across the Match as a whole or during any stage of it, and it becomes even less so when one considers the following:

a) even on the best pitches, a delivery can demonstrate 'excessive' behaviour;

b) the question of 'how often' must be considered alongside 'how much';

c) a pitch may develop some uneven bounce as a match progresses, which may increase towards the end of the game; and

d) Regulation 4.6 also requires one to take account of the type of bowlers engaged, the balance between bat and ball, the type of bowlers engaged and the climatic conditions. This game produced a result with some high individual scores and took place in unsettled conditions at the end of a long, hot summer.

v) By reference to the log of how many deliveries of uneven bounce there were on each day of the Match, the following points emerge:

a) The Match Referee only considered the uneven bounce to have been excessive on day 3, even though, taking an average number of uneven bounce deliveries every 10 overs, this figure was lower than it had been on days 1 and 2.

b) Umpire Denham's evidence was that there was uneven bounce 'every 3 or 4 overs' but that is not consistent with the statistics in the log, which demonstrate that on average there were less than two such deliveries every 10 overs throughout the Match as a whole, and closer to one or less on days 2, 3 and 4.

c) His agreement with the Match Referee's rating of Poor was based on *'uneven bounce throughout'* but that is not the test to be applied under the Pitch Regulations.

d) Umpire Burns, in also agreeing with the Match Referee's assessment, relied on *'regular uneven bounce across all four days'* which again is not the test to be applied.

e) Although the Club's captain and coaches accepted some unevenness of bounce, this did not amount to *'excessive'* as defined in the Pitch Regulations.

f) Of the GCCC witnesses, only RD described the uneven bounce as being dangerous.

72. The Club submitted that, based on the evidence and the definitions in the Pitch Regulations, the pitch did not even warrant a rating of Below Average, let alone Poor. The Tribunal's finding that the Club had failed to establish this outcome was therefore one to which no reasonable body could have come.

<u>Whether the Club had sought reasonably to prepare the best pitch for the Match (per Regulation 7.6(b))</u>

73. The Club submitted that the Tribunal applied the wrong test in considering this issue. Rather than focusing on whether the Club had sought reasonably to prepare the best

pitch for the Match, the Tribunal had instead converted identified risks and post-match observations into a strict or hindsight-based test.

74. In particular, it was said, the Tribunal fell into error as follows:

i) It had treated outcome as proof of unreasonableness, in that it had moved impermissibly from the fact that the pitch became dry, cracked and produced uneven bounce to the conclusion that the Club must have acted unreasonably. The Tribunal should instead have focused on risks to pitch preparation in the period leading up to the Match and whether the Club had failed unreasonably to address those risks. The Tribunal failed to conduct this analysis with sufficient particularity, adopting broad propositions instead about the need for additional shade and water. It should have considered, for example, the question of when the unstable cracking (as opposed to normal cracking) had become visible underneath the grass covering, what measurements might have revealed excessive drying at depth, how much additional shade or watering was required and whether intervention at a late stage may have caused other problems instead.

ii) The prior successful YCCC match was not given rational weight by the Disciplinary Tribunal when coming to its decision. It was not unreasonable for the grounds staff to believe that taking the same approach again would achieve comparable results, even if the conditions were different. The Tribunal relied on the differing weather conditions and the moisture/hardness figures but did not explain why these differences made the failure of the pitch reasonably foreseeable before the Match started.

iii) The evidence did not establish a reliable pre-match route from measurements to unstable deep cracking. The Tribunal characterised the post-match defects as foreseeable without identifying a validated threshold, testing methodology or contemporaneous measurement by which the Club should have predicted unstable cracking at 150-200mm depth.

iv) The subsidiary causes of uneven bounce could not rationally support the findings of the Tribunal. AM accepted that as a result of the dense grass in the middle of the pitch, the HGM could not necessarily have been expected to spot any clumps.

The Tribunal nonetheless found that such clumps should have been foreseen and managed. The evidence in relation to indentations was similarly equivocal. The case therefore largely depended on the reasonable foreseeability of the deep drying and unstable cracking, which was not made out on the evidence.

v) The match evidence was not reconciled with excessive pitch induced unevenness. Each of the 37 deliveries logged by the Match Referee should have been subjected to technical analysis of magnitude, bowler, speed, seam presentation, ball age, point of impact and any identifiable surface defect before all 37 examples could safely be treated as pitch induced excessive unevenness. The Regulator failed to present this evidence and the Tribunal accepted a global causal connection, despite the fact that (a) behaviour depended on the bowler type and ball hardness (b) later scoring became easier and (c) that a batter scored 99 in the fourth innings.

vi) The Tribunal applied a standard approaching perfection rather than reasonable professional conduct. The Club was not required under Regulation 7.1 to eliminate every risk, to predict the effect of unprecedented weather or to select the single course of preparation now considered optimal by AM. Equally, judging the conduct of the Club by the outcome involves the impermissible use of hindsight.

vii) The Tribunal failed to analyse reasonable alternatives and competing risks, in particular whether more water and shade, shorter grass and more aggressive raking were required on the information then available or whether they might themselves had produced different problems (e.g. greater indentations or excessive seam movement).

viii) Finally, parts of the Tribunal's judgment treated the agreed pitch rating and the physical defects as the start and end points of the enquiry under Regulation 7.6(b), rather than analysing process, knowledge and reasonableness of conduct. This led to an impermissible conflation of rating and breach.

THE REGULATOR'S RESPONSE

75. The Regulator responded by way of a skeleton argument dated 26 October 2026, as supplemented by Mr Brown's oral submissions at the substantive hearing.

76. The Regulator emphasised that the task of the Appeal Panel was not to substitute its own view of the primary facts and evidence but instead simply to determine whether the Tribunal came to a decision to which any reasonable body could have come.

77. In that light, the Regulator addressed both aspects of the appeal, namely the pitch rating and also whether the Club had sought reasonably to produce the best possible pitch. A summary of the points made in relation to these issues is set out below.

The pitch rating issue

78. The Regulator submitted as follows:

i) The concession by the Club on this issue was expressly made and properly accepted by the Tribunal. The Club should not now be permitted to withdraw it.

ii) There was no legal obligation on the Tribunal to go behind that admission and to scrutinise the underlying evidence.

iii) Even if it had done so, there was ample unchallenged evidence upon which the same conclusion could have been reached (i.e. that the Club had failed to discharge the evidential burden upon it to show that the pitch was not Poor or otherwise Substandard).

iv) The assessment of a pitch rating is not simply a statistical analysis of how many balls of uneven bounce were bowled. This does not address the fact that some bowlers may be more likely than others to produce such bounce (e.g. seamers over spinners) plus other factors such as the age of the ball, the energy levels of the bowlers and so on. Variable bounce may therefore come in clusters and so focusing simply on the average number of variable bounce deliveries every 10 overs does not tell the whole story.

v) Taking all these matters into account, the Tribunal's decision cannot be described as one to which no reasonable body could have come.

Whether the Club sought reasonably to prepare the best possible pitch

79. In response to the points made on this issue in the Notice of Appeal, the Regulator submitted as follows:

i) The Tribunal applied the correct test to the evidence, namely focusing on the reasonableness of the efforts made to produce the best possible pitch.

ii) The Tribunal's reasoning did not start with the Poor rating and then work backwards to assess the reasonableness of the pitch. It focused instead on matters of foreseeability and risk management. The care with which it undertook the analysis is demonstrated by the fact that it declined to conclude that the Club should reasonably have foreseen that surface moisture might be an issue (see above).

iii) It is not correct to say that the prior successful YCCC match was given insufficient weight. The Tribunal gave this issue careful consideration, noting differences in the weather and the pitch readings for moisture and hardness. The Tribunal's subsequent finding that it was insufficient simply to seek to replicate a pitch from earlier in the season was an entirely reasonable one.

iv) In relation to the Club's submission that there was no reliable pre-match route from the pitch readings to unstable deep cracking, and that undue weight was given to subsidiary causes (i.e. the indentations and clumps) the evidence demonstrates that the deep cracking was reasonably foreseeable and sufficient of itself to cause the unevenness of bounce.

v) The Club's submission that the uneven bounce was numerically insufficient to warrant a finding of Poor and that there should have been a delivery-by-delivery analysis of causation is misplaced. The key issue is whether the pitch defects identified by AM were reasonably foreseeable such that the regulatory definition of a Substandard pitch was met. The Tribunal was entitled to accept AM's evidence on causation. Nothing in a recalculated analysis of the Match Referee's log would

undermine that finding, let alone render it one to which no reasonable Tribunal could have come.

vi) The Tribunal did not conflate the issues of rating and reasonable efforts to produce the best possible pitch, treating them as analytically distinct.

80. In that light, the Regulator submitted, the Tribunal decision was based on a detailed, reasoned and even-handed analysis of the evidence. Certainly, the decision arrived at fell squarely within the range of decisions to which any reasonable Tribunal could have come.

OUR ANALYSIS & FINDINGS

The pitch rating issue

81. Once the Match Referee had rated the pitch as having been Substandard, and once the Club had been charged, the evidential burden fell on the Club to persuade the Tribunal, on the balance of probabilities, that this rating was incorrect (Regulation 7.6(a)). As the Tribunal declined to make that finding, the sole issue for us on appeal under Regulation 11.3.3(a) of the DPRs was whether this was a decision to which any reasonable Tribunal could have come.

82. On the face of it, this is a simple decision. The Club conceded before the Tribunal that the pitch rating of Poor had been warranted and so, not unreasonably, the Tribunal accepted that concession. The Club now seeks to withdraw that concession, however, and/or to argue that the Tribunal should in any event have examined the underlying evidence before accepting it at face value.

83. We would have taken a great deal of persuading to accede to this submission but in the event, it is not necessary for us to resolve it. Even if the concession is put to one side, there was a wealth of other evidence from which any reasonable Tribunal could have concluded that the pitch rating of Poor was justified.

84. The umpires gave serious thought to declaring the pitch unfit (i.e. dangerous) and calling the game off. Deliveries were regularly rising sharply off a good length and striking

batters on the gloves and elsewhere (the physios were called onto the pitch several times to deal with such incidents) whilst on other occasions the ball kept low. One player had even said to the umpires that he did not want to bat on the pitch for fear of being injured or to bowl on it for fear of injuring someone else.

85. The umpires agreed with the pitch rating issued by the Match Referee, who in turn said that it was a matter to which he had given considerable thought over the entire course of the Match.

86. RD, the Head Coach of GCCC, an experienced and well respected former international cricketer, said that it was the worst pitch he had seen in his 30-year career and that it had been dangerous. The GCCC captain, Kieran Carlson, said that he had been close to walking his players off.

87. Lest it be thought, as suggested by the Club, that the GCCC players and staff had exaggerated the issue, these observations were echoed by the Club itself. IH, the Club captain, conceded that the pitch had on occasion been dangerous and the coach, AT, said that he had never seen a pitch with such variable bounce.

88. In addition to these matters, we agree with the Regulator that the issue of a pitch rating cannot be resolved simply by a statistical analysis of the type suggested by the Club (i.e. focusing on the average number of balls of variable bounce every 10 overs). Instead, the evidence falls to be reviewed in the round. Whilst the number of balls of variable bounce bowled is one consideration (and 37 in one game is a significant number) this falls to be considered alongside all the other matters which we have outlined above, including the extent of the deviation and the corresponding difficulties faced by the batters.

89. If therefore the Tribunal had been invited to examine the evidence in relation to this issue and to decide it for itself, we are in no doubt that it could reasonably have concluded that the Club had failed to demonstrate that the pitch rating was incorrect. Indeed, any contrary finding would have been perverse. This was a Poor pitch, whether that term is used colloquially or in the sense defined in the Pitch Regulations. This aspect of the appeal therefore fails.

90. For the sake of completeness, we think it highly unlikely that, even if admitted, the evidence of TH would have made any difference to this outcome. He primarily (albeit not exclusively) addressed the numerical assessment of variable bounce as recorded by the Match Referee. As set out above, this does not provide a definitive answer to the accuracy of the pitch rating, which falls to be considered by reference to all the available evidence, including the reports of the umpires, players and coaches. We note further that TH's report did not address the second available limb of the defence under Regulation 7.6(b), namely whether the Club had sought, acting reasonably, to prepare the best quality pitch for the Match **('the reasonable efforts defence')**. This is considered further below.

The reasonable efforts defence

91. In considering this issue, three things are immediately clear from the evidence. First, the HGM and the other grounds staff at the Club take pride in their work and have a good record of producing acceptable pitches. Second, the Club did not intend to produce a Substandard pitch for this game. Third, the weather leading up to the Match had been unusually and persistently hot.

92. Whether individually or collectively, however, these matters are not sufficient of themselves to make out the reasonable efforts defence. The test imports a degree of objectivity in that a club must prove that it sought acting reasonably to produce the best possible pitch for the game in question.

93. Before the Tribunal, the onus was on the Club to demonstrate that this test had been met. The Tribunal was not persuaded. The issue for us therefore was whether that was a decision to which any reasonable Tribunal could have come.

94. In our view, it unquestionably was. Stripped down to its bare essentials, the primary issue with this pitch was excessive dryness at depth, leading to extensive and unstable cracking. It fell therefore to the Tribunal to consider (a) the extent to which this had been reasonably foreseeable when preparing the pitch and (b) the extent to which measures should reasonably have been taken to mitigate this outcome.

95. In resolving these matters, the Tribunal had the benefit of AM's expert's report. His evidence was that simply seeking to recreate the pitch for the YCCC game had been

insufficient in light of the weather which had since prevailed. It was reasonably foreseeable that the pitch for the GCCC match would become excessively dry if measures were not taken to offset the impact of this extreme weather, notably the use of additional shade and watering as required.

96. These measures were not however taken by the grounds staff. In his interview with the Regulator, the HGM confirmed that he had watered the pitch ten days before the Match in exactly the same way that he would for any other game. No additional watering was undertaken, and the first moisture reading was only taken the day before the Match began. In AM's view, this was not reasonable decision making for an experienced and skilled grounds team at a Professional County ground.

97. In terms of ensuring sufficient shade for the pitch, the ability of the grounds staff to prepare properly was hampered by the Club's commercial activities. The decision to leave the pitch uncovered for the Bollywood event and exposed to at least 10 hours of intense sunlight was described by the HGM and MS in interview as being *'horrendous'* and *'crazy'*. Whilst, as AM pointed out in his report, this was not the sole determinative factor in the problems which arose, it played a part and any competent person would have insisted on the need for a protective mat as a condition of hire.

98. The Club offered up no expert evidence to counter AM's conclusions and so this was the state of the evidence before the Tribunal. In considering it, the Tribunal applied the relevant test correctly. It did not, as the Club suggests, take the pitch rating of Poor and work backwards to conclude that the Club had not sought, acting reasonably, to produce the best quality pitch for the Match. Rather, the Tribunal considered with care the extent to which the problems with the pitch had been reasonably foreseeable before the Match had started and whether the Club had taken reasonable measures to avert the negative outcome.

99. Adopting that approach, the Tribunal was well within its rights to conclude that the Club had failed to show that the relevant test was met. Certainly, this outcome fell comfortably within the range of decisions to which any reasonable Tribunal could have come. This aspect of the appeal therefore also fails.

DECISION

100. For the reasons set out in this document, the outcome is as follows:

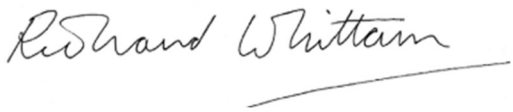
i) the appeal is dismissed;

ii) the sanctions imposed by the Tribunal shall stand.

101. Having dismissed the appeal, the consequences of Playing Conditions Law 16.2.6 will remain (i.e. the deduction of 19 points from the Club (see above)). This is a mandatory outcome stipulated by the ECB and is in addition to any sanction imposed by the CDP. We have no jurisdiction to interfere with that outcome, even assuming that we were minded to do so.

102. We have given anxious consideration to the question of costs. The Club took a flawed tactical decision not to concentrate on the proceedings before the Disciplinary Tribunal and to engage its cricketing, financial and legal armoury for any appeal. That might lend itself to the Club having to pay the costs of the appeal. In the particular circumstances of this case, however, including the fact that this is the first appeal from a Disciplinary Tribunal in relation to a Substandard pitch finding, and given also the mandatory sanction imposed under the Playing Conditions (see above), we have decided that it is inappropriate to make any such order and we decline to do so.

103. Subject to ss.67-68 of the Arbitration Act 1996, there is no appeal from this decision, which shall be considered final and binding on the parties.



Richard Whittam KC
For and on behalf of the Appeal Panel
London, UK
3 November 2026