

**The NoSCA Appeals sub-committee (the 'Panel') was convened to consider an appeal by Calum Howard (Huntly CC) to a decision made by the NoSCA Disciplinary Committee. The decision followed an initial complaint received by Nairn County CC and subsequent reports from the two standing umpires of incidents which occurred during the NoSCA Reserve T20 final on Sunday 14<sup>th</sup> August 2016.**

Having considered all the available evidence submitted to us, a report of our findings follow.

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## **1. WAS THE INITIAL COMPLAINT COMPETENT?**

Clause 7.3 of the [NoSCA Constitution](#) states that an '*incident may be raised by a Club or umpire(s) involved in the match in question*'. Although Nairn County CC did not play in the final itself they were hosts for the finals day and the Panel deemed they were '*involved in the match*' and so their complaint was competent as it was received within the time constraint laid down in Clause 7.3.

In any event, the reports from the two standing umpires were also received within the time constraints and were themselves competent to initiate a complaint.

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## **2. WAS THE DISCIPLINARY COMMITTEE PROCESS HANDLED CORRECTLY?**

The Disciplinary Committee comprised Chris Blake (ex-officio Chair), Munro Ross (elected member) and Allan Duncan (co-opted member). The process followed was in accordance with Section 7 of the NoSCA Constitution and as per previous NoSCA disciplinary cases. However, the Panel notes that Mr Howard was reluctant to engage with the Disciplinary Committee and thus offered no evidence to them in his defence.

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## **3. WHAT IS THE BASIS OF MR HOWARD'S APPEAL?**

The Panel is unclear as to the exact appeal lodged by Mr Howard in his email.

However, in relation to Mr Howard's statement '*I do not believe the correct procedure regarding a complaint made to the Nosca Disciplinary Committee was followed*', the Panel can find no variation whatsoever from the procedures laid out in Section 7 of the NoSCA constitution and so do not agree that there was a procedural irregularity on behalf of the Disciplinary Committee. **In this matter the appeal is refused.**

In relation to the statement '*the content of the original complaint was varied and lacked the details required as set out in the CS Code of Conduct*', the Panel find that all the detail required was contained in the documents supplied to Mr Howard by the Disciplinary Committee. That this content was '*varied*' reflected the various incidents which took place during the game. Furthermore, it is the NoSCA constitution that defines the procedure for disciplinary cases, not the [Cricket Scotland Code of Conduct](#) (the 'Code') - this is only referenced to define and guide on the level of offence. **In this matter the appeal is refused.**

In relation to the statement '*No specific details of an alleged charge were passed to myself which in turn restricted my ability to produce a defence*' it is noted that Mr Howard was passed copies of both umpire's reports and a copy of the original complaint from Nairn CC and was asked for his comments on a number of occasions, but failed to submit any statement.

Notwithstanding the above, the Panel subsequently gave Mr Howard an opportunity to comment on three specific charges in relation to his conduct in the NoSCA Reserve T20 match between Highland CC & Huntly CC on Sunday 14th August 2016 at the Links, Nairn.

## 4. THE CHARGES

The following charges were outlined to Mr Howard via email on Monday 5<sup>th</sup> September 2016.

### **Charge 1 - Conduct that is both contrary to the spirit of the game and brings the game into disrepute (CS Code Level 2.10)**

Prior to the final between Highland CC & Huntly CC commencing, on the way out to the coin toss, you described Ken Ross as a 'Highland Umpire' to Mike Fox and requested that he stand at square leg for the duration of the game. Had Mike Fox agreed to your request this would have clearly undermined and humiliated Ken Ross, who is a fully qualified and experienced umpire who regularly stands in NoSCA matches. You also argued with Mike Fox (who is also Reserve Competitions Match Secretary) that Ken Ross was not an appointed umpire - although the Match Secretary confirms he was and Mr Ross also confirms he had been appointed.

### **Charge 2 - Showing serious dissent at an umpire's decision (CS Code Level 2.1)**

You shouted the words 'atrocious decision' at Mike Fox (square leg umpire) following a stumping appeal which was correctly refused as the delivery had been signalled a 'free hit' by the bowlers end umpire following a no-ball. These exact words were not only heard by both umpires, but also reported by the captain of Nairn CC who was on the boundary at the time. Notwithstanding that the umpire's decision was correct under Clause 54 of the relevant playing conditions, you also threw the ball down and continued to argue the point (described in the original complaint as '*a personal verbal attack towards Mike Fox*') despite being told on a number of occasions by Ken Ross (bowlers end umpire) that the batsman could not be out stumped as it was a 'free hit'.

### **Charge 3 - Showing dissent at an umpire's decision (CS Code Level 1.2)**

After the above incident you shouted the words 'Disgrace' towards Mike Fox following an appeal for a run-out being turned down. This resulted in the umpire reprimanding you and explaining that your behaviour was totally out of order.

A response to these charges was received from Mr Howard via email on Tuesday 6<sup>th</sup> September 2016. The Panel subsequently sought clarification from Mike Fox with regard to statements made by Mr Howard in his response. A copy of Mr Fox's clarification was sent to Mr Howard and Huntly CC on Sunday 11<sup>th</sup> September, giving them 5 days in which to respond. No further response was received from either party.

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## 5. PANEL FINDINGS

In reaching these findings, the Panel considered all the evidence available and sought independent advice from our national governing body (Cricket Scotland) and a solicitor qualified under Scots Law.

### **Charge 1 - Conduct that is both contrary to the spirit of the game and brings the game into disrepute (CS Code Level 2.10)**

Mr Howard states that the original suggestion for umpire Ken Ross to only stand in the final at square leg came from the umpire himself. However, Mike Fox (appointed umpire and competition Match Secretary) states that he advised Mr Howard prior to the coin toss that Ken Ross was appointed for the final and would be standing as normal (*'I stated that Ken would be umpiring at the bowler's end & at square leg and that was the end of it'*).

For Mr Howard to continue to argue this point after the coin toss was wrong and could only serve to undermine the authority of the appointed umpires (*'as the two captains and I left the pitch Calum was repeating his previous comments about he 'didn't think it was fair Ken umpired the final' and I informed him I had made the decision and it was final'*!).

It is also noted that Mr Howard was joined in the middle for the coin toss by one of his own senior players, whom Mike Fox reports also tried to influence the choice of the standing umpires for the final. This is highly irregular and was entirely unhelpful.

In the opinion of the panel, the attempt to have Mr Ross only stand at square leg in the final was largely responsible for the unpleasantness and dissent which followed during the game.

As captain of his side, Mr Howard has a duty to the Spirit of Cricket as outlined in the preamble to the MCC Laws of Cricket. This states that '**captains are responsible at all times for ensuring that play is conducted within the Spirit of the Game as well as within the Laws**'. It goes on to make specific reference to the Spirit of the Game involving respect for:

- **Your opponents** [*Panel emphasis*]
- Your own captain
- **The roles of the umpires** [*Panel emphasis*]
- **The game's traditional values** [*Panel emphasis*]

It then expands on this by saying that '**it is against the Spirit of the Game to dispute an umpire's decision by word, action or gesture**'.

**In the opinion of the Panel, Mr Howard clearly failed in his duty to the Spirit of Cricket and his conduct in continuing to question Mr Ross's appointment as an umpire was such as to bring the game into disrepute; he is thus guilty of the Level 2.10 charge.**

### **Charge 2 - Showing serious dissent at an umpire's decision (CS Code Level 2.1)**

Although Mr Howard disputes the description of his outburst as '*a personal verbal attack towards Mike Fox*' as described in the original complaint, he does not dispute that he shouted the words 'atrocious decision' at the umpire, nor does he dispute that he then threw the ball away, nor does he dispute that he had to be told on a number of occasions by Ken Ross (bowlers end umpire) that the batsman could not be out stumped as it was a 'free hit'.

Serious dissent is defined in the Code as '**conduct which contains an element of anger or abuse directed at the umpire or the umpire's decision, or excessive delay in resuming play or leaving the wicket**'.

**The Panel are satisfied that Mr Howard's conduct not only contained anger, but also abuse towards the umpire and excessive delay in resuming play and thus meets the definition of Serious Dissent on all points. Accordingly, we find him guilty of the Level 2.1 charge.**

### **Charge 3 - Showing dissent at an umpire's decision (CS Code Level 1.2)**

Mr Howard offers no comment or defence to the charge that he shouted the words 'Disgrace' towards Mike Fox following an appeal for a run-out being turned down.

**The Panel are satisfied that Mr Howard's conduct in this matter showed clear dissent at the umpire's decision and so we find him guilty of the Level 1.2 charge.**

## 6. WAS THE INITIAL PENALTY APPROPRIATE?

In the opinion of the Panel, the original decision made by the Disciplinary Committee was unduly lenient in that it failed to take account of Mr Howard's attempt, along with one of his players, to influence the choice of umpires for the final. This is a very serious matter which, were it to go unpunished, would undermine the appointment of umpires in the future – all of whom are unpaid volunteers travelling throughout the NoSCA area at their own expense.

The penalty for a Level 2 offence laid out in the Code is '**a ban of not more than 5 weeks**'. However, the Code also states '**that commission of any Level 2 offence within 12 months of any previous offence may, at the discretion of the panel, be regarded, for the purposes of penalty only, as a Level 3 offence**'.

Given that Mr Howard has been found guilty of two separate Level 2 offences and a Level 1 offence within the space of one game, the penalty applied could be considered as a Level 3 offence, for which the penalty is '**a ban of not less than 5 weeks and not more than 12 months**'.

A one week ban is at the bottom end of the penalty for a Level 2 offence. In the opinion of the Panel a more appropriate penalty for committing two Level 2 and one Level 1 offences in the same match would be at the top end of the Level 2 scale or the bottom end of the Level 3 scale.

It is also noted that Mr Howard made no attempt to apologise to the umpires for his outbursts and, regrettably, at no time since has he shown any contrition for his appalling conduct on the day.

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## 7. DECISION

**Mr Howard is banned from participating in all cricket for 5 weeks, but in view of this being his first offence 2 weeks of the ban are suspended.**

**The ban will run from Saturday 22<sup>nd</sup> April to Friday 12<sup>th</sup> May 2017 inclusive.**

**The 2 week suspension will be immediately revoked if Mr Howard is found guilty of any further disciplinary offence in any form of cricket during the course of the 2017 season.**

Under Clause 7.4 of the NoSCA Constitution the decision of the Panel is final, and no further correspondence will be entered into in this matter.

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### Appeals Panel

Jerry Bishop - President, NoSCA

Andrew Ballantyne - Vice-President, NoSCA

Neil Cameron – NoSCA Junior Liaison Officer (& CS Area Participation Manager)