



# **ESSEX COUNTY CRICKET CLUB**

## **INVESTIGATION SUMMARY REPORT**

**KATHARINE NEWTON KC**

**13 NOVEMBER 2023**

## INTRODUCTION

### Terms of Reference

1. In November 2021, I was appointed by Essex County Cricket Club ('the Club') to conduct an independent investigation ('the Investigation') into allegations of racist abuse and racially discriminatory behaviour that had been brought to the attention of the Club.
  
2. The allegations comprised:
  - (i) Allegations made by former players concerning racially discriminatory treatment during their time at the Club;
  - (ii) An allegation that the former Chairman of the Club had used racist language during an Executive Board Meeting in February 2017, and that having had the matter reported to the Board, the Club failed to properly investigate or respond to the allegation; and
  - (iii) An allegation that the former Chairman of the Club used racist language and intimidation during a telephone call, to dissuade a candidate from standing for election to the Club's General Committee.
  
3. Under the Terms of Reference, it was stipulated that the purpose and scope of the Investigation was to:
  - (i) Independently investigate the allegations referred to at 2(i) to 2(iii) above;
  - (ii) Independently investigate any other allegations of racially discriminatory behaviour referred to me by the Club; and
  - (iii) Make recommendations including, if appropriate, specific recommendations to address areas where I considered organisational practice and/or the culture of the Club could be improved in relation to preventing and responding to any allegations of racially discriminatory behaviour.

4. The Terms of Reference were published on the Club's website. The Club's website invited anyone who wanted to contribute to the Investigation, to do so by emailing [equality@essexcricket.org.uk](mailto:equality@essexcricket.org.uk), a dedicated reporting channel which was set up once the Club became aware of the allegations from players that had appeared in the press. Although an initial closing date for receipt of information was set, it was later determined that this closing date would be removed to ensure that I was able to hear from anyone with relevant evidence, whenever they chose to come forward.
5. As the Investigation progressed, other individuals did come forward with further allegations of racially discriminatory treatment, and these allegations were added to the remit of the Investigation.

#### Participation in the Investigation

6. In conducting the Investigation, I was entirely reliant on individuals being willing to voluntarily participate in the Investigation. Neither the Club, nor I, had any legal or other power to compel individuals, who were no longer employed or engaged by the Club, to participate in the process.
7. At the outset of the Investigation, which coincided with the period immediately following Azim Rafiq's appearance before the Digital Culture Media and Sport Committee, individuals exhibited an initial willingness to participate. Insofar as the allegations against the former Chairman were concerned, with one exception, all relevant witnesses agreed to be interviewed, and only one individual insisted on speaking to me on condition of anonymity.
8. However, when I began to investigate the allegations made by former players, I faced significant challenges in securing full participation. I wanted to speak to as broad a range of people as possible so as to

obtain a balanced view of the situation. However, I found a marked reluctance, on the part of some, to become involved. Certain ex-players said in unequivocal terms that they did not wish to participate in the Investigation, whilst others chose not to reply to my numerous emails inviting them to participate. I received emails from some individuals who, whilst expressing sympathy for those ex-players who had come forward to talk about their experiences, said they thought it would be detrimental to their own careers to take part in the Investigation and declined to participate. More than one individual got as far as agreeing to meet with me, only to then pull out of the interview minutes before it was due to commence. Some individuals indicated to the Club that they were prepared to take part in the Investigation, and then failed to respond to any further communications on the subject. It became apparent that certain individuals were concerned about the potential adverse consequences of taking part in the Investigation and 'naming names.' Others expressed concerns that their participation might affect their sons who were keen cricketers. Of those who were willing to take part, many agreed to do so only on condition of anonymity.

9. In addition, given the historic nature of many of the allegations, there were difficulties in obtaining up to date contact details for potential witnesses who had long since departed the Club. In cases where the Club no longer had the relevant contact details, inquiry agents were engaged to assist in tracking down potential participants. This was successful in some, but not all, cases. In my view all reasonable attempts were made to speak to potentially relevant witnesses. However, due to the issues highlighted above, this has not been possible in all cases and my conclusions need to be read within that context.

## Interviews

10. All participants were invited to attend an interview with me either in person or over Teams. Some were accompanied at their interviews by (i) their legal representative, (ii) a Professional Cricketers Association representative, or (iii) a friend. Others chose to attend unaccompanied. All interviews were recorded and transcribed by an independent transcription service. Each interviewee was sent a copy of the transcript of their interview and given an opportunity to comment. For some individuals it was necessary to have more than one interview.
  
11. Those accused of discriminatory conduct were sent details of the allegations against them in advance of their interviews, so that they had an opportunity to properly prepare.

## Timescales

12. This has been a lengthy and complex investigation. In total I have interviewed and/or received written representations from more than 50 witnesses.
  
13. It has taken far longer to complete the Investigation than had been anticipated at the outset. There are many reasons for this. However, these reasons primarily emanate from the fact that due to the voluntary nature of the Investigation, I have had no control over the time taken for individuals to respond to my emails and queries.
  
14. In some cases, I had to wait months for interviews to be scheduled with certain key participants. In other cases I was left repeatedly chasing participants, over lengthy periods, for responses to requests for important information, which I required in order to reach fair and balanced conclusions on the relevant allegations.

15. Given the seriousness of the allegations, my primary concern throughout the process has been to ensure the Investigation is both thorough and fair to all concerned. A thorough and fair process involves following up on all potential lines of enquiry as well as giving individuals an opportunity to respond to the evidence that has emerged during the investigatory process. In short, I needed these responses in order to ensure that my conclusions on these serious allegations were reasoned and fair and that the integrity of the Investigation was maintained.

16. Having reached my provisional conclusions, a Maxwellisation/Representations Process commenced which, in turn, led to some limited further investigation being required. A number of those affected asked for extensions of time to submit their representations, extensions I determined should be granted.

17. Whilst the delays were a real concern, in my view, it would have been entirely inappropriate to impose a 'guillotine' on the time taken for individuals to respond and/or meet with me during the Investigation, given the potentially serious consequences of my findings to their lives and careers. I am, therefore, grateful to the Club for allowing the Investigation to take its course.

#### Standard of Proof

18. The standard of proof I have applied is the civil standard of proof, namely the balance of probabilities. This is the appropriate legal standard of proof for an investigation of this type.

#### Parallel ECB Investigation

19. Whilst the Investigation has been ongoing, the England & Wales Cricket Board ('ECB') has also been conducting its own investigation into some of the same allegations. Several of those I interviewed

indicated that they had also spoken to the ECB. It is important to record that the two investigations have been conducted separately, and I have not been provided with the evidence the ECB has gathered on the matters under investigation (other than some of the written representations provided to the ECB by those who were present at the Club's 2017 Board meetings.)

#### PROVISION OF A SUMMARY REPORT

20. In October 2023, I provided the Club with a 182 page Investigation Report ('the Report') setting out my findings and recommendations in respect of the allegations brought to my attention in the course of the Investigation.
  
21. From the outset of the Investigation, the Club has expressed a desire to publish my findings to the fullest extent possible. The Club considers there is an important public interest in publication, given the need for incidents of racist or other discriminatory behaviour to be, and to be seen to be, identified and addressed.
  
22. However, there are legal and welfare issues which the Club must take into account when deciding whether, and to what extent, the Report should be published. In particular, the Club must be mindful of the potential adverse impact on victims, complainants and witnesses who have participated in the Investigation and who are identified or identifiable from the Report. For example, as indicated under the 'Participation in the Investigation' heading above, many individuals were reluctant to participate in the Investigation, and agreed to do so on condition of anonymity as they were concerned about the consequences of their participation becoming known. Whilst I have taken steps to try and protect their identities in the Report, some of the allegations are so specific (e.g. they relate to an incident said to have

occurred during a particular fixture and/or at a particular time) there remains a significant risk of their identities being exposed by way of jigsaw identification. Given the comparatively low numbers of Black and South Asian cricketers at the Club during the relevant periods, complainants and witnesses of those ethnicities (who wished to remain anonymous) are particularly vulnerable to jigsaw identification.

23. The Club will also need to consider the complex data protection legal issues that arise as a result of the substantial amount of personal data contained within the Report.
24. Furthermore, I have upheld a number of allegations of racially discriminatory conduct. I have named most of the perpetrators in the Report. However, these individuals are also being investigated by the ECB and the Club will need to assess whether publication of the Report could prejudice the ECB's parallel investigation, which remains on going.
25. Given these complexities, the Club has asked me to produce this Summary Report (containing a summary of my findings, together with my recommendations in full) which does not disclose the identities of any individuals. It will be for the Club to determine whether it chooses to publish the full Report or this Summary Report.

## SUMMARY ALLEGATIONS AND FINDINGS

### Findings concerning allegations made by former professional players

26. Three former professional players (who I shall refer to as Player 1, Player 2 and Player 3) raised complaints about how they were treated during their time at the Club. My findings were as follows:



## Player 1

27. I upheld several allegations of discrimination brought by Player 1.
  
28. I concluded that in the wake of the 9/11 bombings, Player 1 was given the nickname 'bomber' by certain senior players. He was given this nickname because he was of the same religion as the 9/11 Muslim terrorists.
  
29. I found that the phrase 'curry muncher' was commonly used in the dressing room to describe individuals of South Asian heritage. Player 1, Player 2 and many other players were referred to in this manner. I concluded the phrase was certainly in use from the mid-1990s and continued to be used for many years thereafter, although it was latterly shortened to 'munch' or 'muncher.' Anyone who joined the Club at this time would have found a dressing room where such references were normalised and part of the everyday environment.
  
30. On one occasion, Player 1 was praying during a practice session at the Chelmsford ground. Certain players in the dressing room had made comments about Player 1 praying, as a result of which a senior individual in the dressing room went to speak to Player 1 and suggested he should be praying somewhere else. Whilst there was a dispute between them as to exactly what was said, I concluded that whatever words were exchanged, they conveyed to Player 1 that he should not be praying publicly, and should do so in a more 'private' fashion. The conversation should not have happened, and coming off the back of being called 'bomber' and a 'curry muncher' it further contributed to Player 1 feeling that he would not be accepted at the Club. Player 1 was not provided with suitable prayer facilities and, having been dissuaded from praying in public, ended up praying in his car and/or the changing rooms at the indoor school.

31. Player 1 complained about an interaction he had with the same individual who had asked him why Muslims did not eat pork. Whilst I concluded there was nothing inherently inappropriate about the question in this case, I accepted that Player 1 did take offence at the question and assumed he was being ridiculed. In my view, this was not a case of race or religious discrimination, but it did highlight the need to ensure that questions about an individual's religion are handled with sensitivity and care so as to avoid causing offence.

32. Player 1 complained about the decision by the Club to release him, which he alleged was discriminatory and the product of Islamophobia because he had, more than others, professed his faith. Player 1 also accused the Cricket Committee of determining that, '*a British Pakistani boy did not deserve a chance.*' Having carefully considered all the evidence, including analysis of Player 1's chosen comparators, I did not uphold this allegation and was satisfied that the decision was not discriminatory. I concluded that the relevant decision makers were genuinely of the view, untainted by discrimination, that Player 1 would not have had a realistic chance of playing in the First Team, as there were better players with his same skillset.

33. I was concerned about the manner in which Player 1 was released. He was told, during lunch, in the middle of the penultimate Second Eleven game of the season, that he was being released. Player 2 also complained about the manner in which he was released. Having considered the evidence, I concluded that the manner in which he (and others) were released was inappropriate and unprofessional. These individuals were being told that their careers at the Club were over. News of this nature should have been conveyed at a formal meeting in a private room at the Club, and not by the side of the pitch and/or outside the dressing room as occurred in other cases. Whilst I understood the desire to inform the individuals as soon as the decision

had been made so as to minimise the chance of the information being leaked, I do not believe it was necessary or appropriate for such considerations to have led to Player 1 being informed during a break in the middle of a fixture. Although I have criticised this approach, I heard evidence from individuals of all ethnicities that they were released in a similar manner, and I do not believe Player 1 or Player 2 were singled out for this treatment because of their race or religion.

### Player 2

34. I upheld several allegations of race and religious discrimination brought by Player 2.

35. I concluded Player 2 was also referred to as a 'curry muncher' during his time at the Club. On one occasion, Player 2 asked a senior player why the phrase was used, to which the senior player replied, '*because you guys stink of curry.*'

36. In the days following the discovery of two car bombs in central London, a player at the Club asked Player 2, '*would you bomb us?*' This was said in front of other players in the dressing room. The question was asked of Player 2 solely because he is Muslim. The same question would not have been asked of an individual of a different religion.

37. Team America is a satirical film about, amongst other things, Islamic terrorists. In the film, the Islamic terrorists would say the phrase, '*Derka Derka Mohammad Jihad.*' I accepted Player 2's evidence that certain individuals in the dressing room would say this phrase, and other similar phrases, to Player 2. This occurred because Player 2 was Muslim and the same religion as the terrorists in the film.

38. I accepted Player 2's evidence that his voice was mocked and mimicked by certain individuals in the dressing room. In my view, this

was done because he was a junior player with a high-pitched voice. This was a dressing room where any perceived weakness or notable characteristic was seized upon and ridiculed, particularly when the player was in a junior and more vulnerable position. The mocking of his voice was not a one off, it was constant and affected Player 2, increasing his feelings of vulnerability. The fact it was done by a number of people made the situation more distressing for Player 2 as it was difficult for him to avoid. The situation was such that Player 2 felt compelled to try and change the pitch of his voice and avoid unnecessarily entering the dressing room. However, I did not consider the mocking of the pitch of his voice was done because of Player 2's race or religion. In my view, had a White junior player and/or a non-Muslim junior player possessed a similarly high-pitched voice, I believe it would also have been mimicked and mocked in the same way.

39. One year during Ramadan, a team 'get together' was arranged at a local pub/bar. Its main purpose was 'team bonding' to bring the team together in a social setting. The timing of the 'get together' meant it would be taking place at the same time as Player 2 was due to break his fast. Player 2 asked the Coach if he could miss the meeting. I accepted Player 2's account that in response to this question, it was made very clear to him by the Coach that his attendance was required. Whilst Player 2 was not 'forced' to attend, given the Coach's response to his request, and Player 2's position as a junior player, Player 2 felt obliged to attend and did, in fact, attend. This resulted in Player 2 having to break his fast in a pub, surrounded by alcohol, in the holy month of Ramadan. Player 2 could not eat the food as it was not halal, and so he drank only water having fasted all day.

40. Player 2 raised additional concerns about the manner in which he was informed by the Coach that the Club was thinking of putting him on

loan. Player 2 alleged the conversation took place in a public space in front of his teammates. Whilst I upheld the facts of his complaint, I concluded it was poor man management on the part of the Coach as opposed to an act of racial or religious discrimination.

41. Player 2 also complained about the decision by the Club to release him, which he alleged was discriminatory. I did not uphold this allegation. Having carefully considered all the evidence, including analysis of Player 2's chosen comparators, I did not believe the decision to release Player 2 was because of his race or religion. During his time at the Club, Player 2 had been subject to discriminatory conduct as outlined above, conduct which would have had a negative impact on Player 2's wellbeing. However, I concluded the central reason Player 2 was released was because, having come back from injury, it appeared that his bowling was getting worse not better, and his fast bowling was not of a high enough standard, compared to other bowlers of a similar type, to merit his place in the squad. Whether the decline in Player 2's bowling ability was as a result of his injury and/or a change to his bowling style, I was satisfied there was a decline in his ability and that, after five years in the squad, those responsible for the contract renewal decisions genuinely believed that to be the case. I did not believe the position would have been different had Player 2 been White or non-Muslim.

### Player 3

42. I upheld several allegations brought by Player 3 arising out of his time at the Club.

43. Player 3 was repeatedly subjected to racist treatment by a player who would taunt Player 3 by offering him bananas in manner which was unequivocally racist. This happened in the dressing room, and on the coach back from fixtures. The Coach was aware of this racist conduct

and immediate action should have been taken against the individual; yet nothing was done to stop the behaviour. Given his position, the Coach would have played an influential role in setting the tone and culture of the team. His failure to stop this behaviour sent a strong message to the squad and staff that this conduct had been condoned.

44. Due to his family relocating, the Club secured accommodation for Player 3 in Chelmsford so that he could remain close to the ground. During this period an individual came to trial at the Club, and it was determined he would share accommodation with Player 3 during the trial. One night, after a team night out, the trialist got drunk and threw a banana down the stairs at Player 3, and told him to, '*Go fetch it you f\*\*\*ing monkey.*' On another occasion the trialist threw a banana at Player 3 one morning before training.

45. Player 3 did not feel able to report the incidents due to a fear that it would affect his chances of being re-signed and/or playing in the First Team. However, Player 3 was distressed about the incident which occurred after the night out and told his mother what had occurred. She reported the incident to the Club and the trialist was asked to apologise to Player 3. In my view, the Club's actions did not go far enough. Player 3 was a longstanding member of the Club's professional staff. The perpetrator of the offensive racist conduct was a trialist at the Club. He had racially abused Player 3 in his home. In my view, the trial should have been terminated immediately. Instead, the trialist continued at the Club for a number of weeks during which time he played a T20 game and some other Second Team games. When the decision was finally made to terminate the trial, it was because the Club felt he was not the right, 'cricketer of character' for the Club. Given his racist conduct towards a member of the Club's professional staff, his cricketing ability should not have come into it, and his trial should have been terminated on the basis of his conduct. Not only did

the Club fail to terminate the trial, the Club also failed to move the trialist to alternative accommodation. Player 3 was, therefore, compelled to continue living with the individual who had racially abused him whilst the trial continued.

46. On another occasion, during a fielding practice session, Player 3 (who is Black) and another Black player both misfielded the ball, in response to which the Coach said, *'is this a Black thing?'*

47. Player 3 complained that he felt intensely scrutinised and singled out by the Coach. Player 3 considered the Coach's approach to have been racially discriminatory. Having carefully analysed the evidence I did not believe that to be the case. I concluded that Player 3 was an exceptionally talented cricketer with enormous potential. However, there was a frustration amongst some of the coaching staff at the Club, including the Coach, that Player 3 was not fully realising this potential. Player 3 was an individual who required a supportive coaching style. He did not respond well to being put under pressure and scrutiny by his own coach. Regrettably the Coach's approach was to do exactly that which was ultimately counter productive as it put Player 3 into the pressure zone and on edge, which affected his performances. In my view this was an example of poor man management by a coach who did not have the skills to get the best out of Player 3. However, I did not consider his approach to have been an example of racially discriminatory conduct.

#### Additional findings concerning behaviour towards Black individuals at the Club

48. I also concluded that a senior individual at the Club referred to Black individuals as "egg'n" which is a shortened version of the phrase egg and spoon, cockney rhyming slang for 'c\*\*n,' an offensive term to

describe Black people. I upheld an allegation that an ex-player had, on more than one occasion, referred to a Black player as 'N\*\*\*er' in his presence. I also heard evidence from multiple sources that Black players would routinely be at the receiving end of comments about the size of their penis.

### Findings concerning the former Chairman

#### Allegations concerning the use of racist language during an Executive Board Meeting

49. I concluded that the former Chairman of the Club used racist language during an Executive Board meeting in early 2017. During the meeting, the former Chairman was giving an update about the ground development at Chelmsford, in the course of which he referred to an unwelcome and hidden issue that had arisen in the context of the ongoing negotiations. At this point, he used the phrase, '*N\*\*\*er in the woodpile*' to describe the issue that had arisen. Three individuals who were present at the meeting told me they heard him use the phrase.

50. There were at least two missed opportunities when an independent investigation into the former Chairman's use of this phrase should have been instigated.

51. First, those Board Members who heard the comment at the 2017 Executive Board Meeting, should have taken immediate steps to address the former Chairman's use of the phrase. In the event, the issue was not raised for another 11 months, which was far too long a delay in the circumstances. I found the reasons given to me for the delay and/or inaction unsatisfactory. These individuals had a duty to act in the best interests of the Club and address the behaviour they had witnessed. If they felt unable to raise the issue with the former Chairman directly, the CEO should have sought legal advice from the Club's solicitors. These individuals had all heard the former Chairman



use racist language during a meeting and the matter should have been dealt with at the earliest opportunity.

52. Second, in January 2018, the allegation was expressly raised with the Board/General Committee neither of which saw fit to commence any form of investigation into the allegation. I heard conflicting evidence as to what happened both before and during the January 2018 meeting. Whichever version of events is correct, it is clear that no independent investigation took place. Since the former Chairman was the person accused, it was inappropriate for the investigation to consist either of (i) the former Chairman asking individuals round the table whether they had heard the comment or not, or (ii) other individuals being asked whether they had heard the comment whilst the former Chairman was present and sitting at the same table. What was required was an independent investigation by someone independent of the Club who would be able to meet with people individually to hear their accounts in a neutral environment. That did not happen until the decision to appoint me in November 2021.

53. It is unfortunate that the first time the 'woodpile' allegation was presented to the Board was 11 months after it had been said, in a document designed to oust the former Chairman and replace him with another individual. Had the issue been raised as an individual item much earlier, it would not have been drowned out by the 'noise' generated by this approach which was deemed by many to have been an attempted 'coup.' Thus the serious allegation of racially discriminatory language by the Club's then Chairman got lost. That should not have happened. There was a collective failure of those present at the January 2018 meeting to deal with the issue properly, in that all those present had a duty to act in the best interests of the Club and should have proposed an investigation into the issue regardless of what other issues were being raised.

Allegations concerning the former Chairman's approach to an election candidate

54. Turning to the second allegation, I concluded that the former Chairman of the Club acted in a bullying, condescending, threatening and intimidatory manner during a phone call with an individual who was standing for election to the General Committee. The former Chairman had been deeply unhappy about the relevant individual's Facebook posts, which the former Chairman had perceived as critical of the hard work that he and other members of the General Committee had put into the Club. The former Chairman did not want this individual on the General Committee to add to the critical voices already there. As a result, he called the individual and acted in a manner designed to dissuade him from standing.

55. However, whilst the former Chairman's conduct was unacceptable, I did not conclude he acted in this way because of the individual's race. I heard evidence from numerous witnesses (including some who were considered 'supporters' of the former Chairman) as to the rude and dictatorial manner in which the former Chairman acted towards and spoke to people at the Club of all ethnicities, including his fellow General Committee and Board members. On the basis of the evidence, I believed the former Chairman would have spoken to a White individual in a similar way had he posted similarly critical messages on Facebook as part of his campaign for election.

56. I concluded that during the call, the former Chairman had used the phrase, 'you(r) lot' to the individual concerned. The meaning of this phrase depends on (i) the context in which it is used, and (ii) the reason why the person has used the phrase. Having examined the factual matrix leading up to the conversation, and the former Chairman's evidence and explanation, I concluded that on the specific facts of this

case, the reference to 'you(r) lot' was to a group of individuals who the former Chairman perceived as critical of his running of the Club and who he believed had been undermining him and trying to make life difficult for him since he became Chairman of the Club. The former Chairman believed this individual was part of that group and labelled him accordingly.

### Additional Complaints

57. Two additional individuals (Persons 4 and 5) came forward with complaints of racially discriminatory treatment.

58. In the case of Person 4, he complained about use of the phrase curry muncher, as well as raising concerns about the lack of appropriate catering for Muslim players. I upheld these complaints although it is appropriate to note here that the catering situation has now been remedied by the Club. For reasons explained in detail in the full Report, it was not possible to investigate and reach fair conclusions on the rest of Person 4's complaints.

59. I did not uphold the complaints of discrimination raised by Person 5, who was neither an ex-player nor ex-employee of the Club. However, I determined the complaints had been brought in good faith as a result of a genuine sense of grievance as to the manner in which Person 5 considered he had been treated by certain individuals connected to the Club.

## CONCLUSIONS AND RECOMMENDATIONS

### Introduction: Summary of Findings and Themes

60. In conclusion, I determined that several players were subject to racist abuse and racially discriminatory treatment during their time at the Club. The allegations from ex-players concerned the period from the

mid-1990s to circa 2013. The victims were Black players and players of South Asian heritage. The perpetrators of the discriminatory conduct were either White or of South Asian heritage.

61. I am satisfied that in the periods covered by the allegations, the culture of the Club's dressing room was such that it was entirely normalised and tolerated behaviour to refer to players' ethnic, racial and religious origins under the misguided belief that it was acceptable 'banter' despite the fact that those references were racist and discriminatory. Those at the receiving end of this treatment were too scared to speak up for fear of damaging their prospects of selection and progression. In any event, there were no effective mechanisms for raising such concerns. When concerns were raised by Player 3's mother, the Club's response was poor.
  
62. There was a lack of understanding of the needs of Muslim players. The catering was of an unacceptable standard, there were no proper prayer facilities, and little thought was given to the scheduling and location of team events during Ramadan.
  
63. Two of the players alleged that the Club's selection and release decisions in their cases were discriminatory. Whilst I did not uphold these specific allegations, concerns were expressed by several ex-players and witnesses that selection and release decisions were unfair. The suggested reasons for the unfairness differed. Some believed ethnic minority players had to try twice as hard/perform twice as well as their White counterparts to get the same amount of credit and recognition. There was also a sense that ethnic minority players needed to conform to the prevailing majority culture in order to be accepted. Others felt there was favouritism at play depending on how friendly players were with the coaches.

64. It is not possible, so long after the event, to investigate and reach reliable conclusions on these more general assertions. However, these concerns cannot be ignored, and it is important the Club has robust, transparent and fair processes in place to ensure progress of all individuals is based entirely on merit. This applies as much to the progression of individuals through the age group categories, as it does to those on professional contracts.
  
65. I also determined that the former Chairman of the Club used racist language during a Board meeting in 2017, and that having had the matter reported to the Board in 2018, the Club failed to properly investigate or respond to the allegation. The former Chairman of the Club also interfered in the election process by using intimidation to try and dissuade a candidate from standing for election. Questions have been raised about the fairness and robustness of the voting process.
  
66. There was a lack of diversity amongst those in senior decision-making roles. The coaches, Cricket Committee, Board and other Committee members were overwhelmingly White and male. No diversity training was given to players, coaches, Committee members or Board members at the Club during the periods covered by my Investigation, and even now some at the Club are yet to attend the available sessions.
  
67. Under the Terms of Reference, I was asked to make recommendations including, if appropriate, specific recommendations to address areas where I considered organisational practice and/or the culture of the Club could be improved in relation to prevent and responding to any allegations of discriminatory behaviour.

68. Due to the historic nature of much of the conduct, I submitted extensive Requests for Further Information ('RFI') to the Club to ascertain (i) what steps the Club had taken to address these issues in more recent years, and (ii) an understanding of the current situation at the Club.
69. In response, I was provided with a substantial amount of evidence setting out the various initiatives and changes to the Club's practices which have been implemented with the aim of creating a more inclusive and diverse Club. These should be welcomed. However, to effect real and lasting change, there is more the Club needs to do and the recommendations that follow are designed to address the findings and themes outlined above, as well as other matters that emerged as a result of the Club's responses to the RFI.

## **RECOMMENDATIONS**

**Recommendation 1: Compulsory, high quality, interactive in-person EDI training for everyone employed or engaged by the Club. Specialist training is required which focuses on the particular EDI issues that are likely to arise as a result of the individual's role at the Club.**

70. The Club must implement compulsory, high quality in-person EDI training for everyone employed or engaged by the Club, with no exceptions.
71. The training must be in-person (or via a virtual platform such as Zoom etc) with a live trainer to ensure participation and discussion of difficult issues/scenarios that are directly relevant to those employed/engaged by the Club. On-line e-learning training (ie solitary learning consisting of watching videos/quizzes etc) is of very limited use and should be avoided.

72. In addition to general EDI training, it is imperative that specialist targeted EDI training is also provided which focuses on the specific EDI issues likely to arise as a result of the individual's role at the Club.
73. For example, coaches and other individuals responsible for selection and progression decisions need to be in receipt of specialist 'EDI in Selection' training which covers issues such as fair objective recruitment/selection, affinity bias <sup>1</sup> and confirmation bias <sup>2</sup> as it applies to their roles at the Club. There is a high risk of affinity bias and confirmation bias impacting on selection and recruitment decisions, the consequences of which are far more likely to negatively impact those from ethnic minority populations. Players should also receive targeted training that includes an examination of these biases as well as focussing on dressing room culture. At Recommendation 13 below, I have recommended the recruitment/appointment of an experienced EDI professional with particular experience of racial equality and diversity issues. Their duties will include examining the different roles at the Club, to determine the type of targeted and focussed EDI training required for each role.
74. The Club needs to ensure that the EDI training provided is of sufficiently high quality. Certain individuals I interviewed claimed to have attended EDI training, and yet attempted to downplay some of the allegations on the basis that, 'nobody had seemed offended at the

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<sup>1</sup> The tendency to favour people who share similar backgrounds, interests and experiences. Because of affinity bias, people tend to feel more comfortable around people who are like them. This can lead to unconsciously rejecting those who look or act differently.

<sup>2</sup> The tendency to search for and use information which confirms ones pre-existing views on a topic/individual.

time.’ This led me to question the effectiveness of the training they had received.

75. The EDI training needs to be undertaken without delay. I have been provided with the Club’s Safeguarding and EDI training Report from which it is apparent that several individuals, having enrolled onto Anti-Discrimination courses at some point in 2021 or 2022, have still not completed the course two years later. A number of these individuals are coaching staff.

76. The Club should not presume my findings can be confined to a few historic incidents that took place decades ago. One witness I interviewed said that even in more recent years, comments were made to players of South Asian heritage, which involved stereotypical assumptions about their relatives being Uber drivers or corner shop owners.

**Recommendation 2: The EDI page on the Club’s website should be re-drafted. The Club should create a well-publicised anonymous reporting facility for individuals to raise concerns about discriminatory behaviour. Those responsible for monitoring the various reporting channels need to have sufficient EDI experience to reliably identify when a complaint raises EDI issues.**

77. I am pleased to see the Employee Handbook has been amended to include provision for the informal resolution of grievances (whilst retaining the ability to raise formal grievances), as well as mediation. In many cases, individuals who raise complaints of discriminatory conduct simply want the behaviour to stop, and would prefer to resolve the issue through informal means.



78. However, those who are subject to discriminatory conduct and/or who witness discriminatory conduct are often fearful about raising their concerns (whether formally or informally) lest it affect their careers. During the Investigation, it was suggested by several interviewees that those on the receiving end of racist abuse could and should have raised the incidents with other players, the coaches or the CEO. In my view, that suggestion is unrealistic and fails to recognise the sense of vulnerability no doubt felt by an ethnic minority junior player seeking to make their way in the game.
79. The Club has an Equity, Diversity and Inclusion page on its website which has a section entitled 'How to report discrimination.' However under the heading '*What happens when you make a report?*' the website says, '*every report we receive is reviewed by the ECB in order to determine who should deal with the report. Where the concern raised is a matter for the ECB to investigate, the ECB will investigate....*' There is then a link to the ECB's reporting page which, whilst allowing an anonymous complaint to be made, says in terms that, '*By pressing submit you are giving your explicit consent to the ECB reviewing the details supplied, investigating the concern (where the concern raised is a matter for the ECB) and sharing the details with any cricket organisation(s) about which there is a concern (where the concern raised is a matter for the relevant cricket organisation(s) to review and/or investigate).*'
80. Only at the very end of the webpage, it says, '*Alternatively Essex Cricket also have a confidential email address for reporting discriminatory instances of any kind, by contacting [equality@essexcricket.org](mailto:equality@essexcricket.org).*' There is not, currently, an option to anonymously register a concern with the Club only (and not the ECB), without having to send an email.
81. In my view, the page as currently drafted has the potential to deter reporting and resolution of discriminatory behaviour. Often,

individuals in this position do not want to raise a formal grievance, nor do they want to notify the ECB as either of these routes could result in the issue becoming part of a formal disciplinary process.

82. I recommend the setting up of an anonymous reporting facility to provide an option for anonymous reporting of discriminatory conduct at the Club. The introduction of this facility should be well publicised as part of the Club's re-iteration of its zero tolerance approach to discrimination. The Club should embed a link to this facility on its EDI webpage.
  
83. The webpage should be redrafted. Under the heading, 'How to report discrimination' the Club should set out the various options available to anyone who wishes to report such conduct, starting with the internal mechanisms. Whilst the precise wording is a matter for the Club, I offer the following as a suggestion: *'Essex Cricket has a confidential email address equality@essexcricket.org for reporting discriminatory instances of any kind. Alternatively, if you would like to register your concerns anonymously, the Club has an anonymous reporting facility. Please click [HERE](#) to anonymously report your concerns. You can also report discrimination via the ECB's reporting channel - [HERE](#).'* I would remove all other wording currently under the section entitled, 'What happens when you make a report.'
  
84. I note in the Employee Handbook, and elsewhere, there is reference to the Club's Culture and Values Forum. The Terms of Reference describe the C&V forum as, *'an open access channel for any member of Essex Cricket to discuss an idea, good practice, initiative or concern in relation to EDI at Essex Cricket.'* However, the C&V forum is not currently referenced on the Club's EDI webpage. This should be remedied.

85. These recommendations should not be read as seeking to exclude the very valuable and important role the ECB has in seeking to eradicate discrimination in the game. However, other less formal internal options should be available which, in my view, will increase the chances of concerns being reported and resolved before they have a chance to escalate.
86. The Equal Opportunities section of the Employee Handbook should also be redrafted to include mention of all available reporting options.
87. Those responsible for monitoring these reporting channels need to have sufficient EDI experience and training to properly and reliably identify when a complaint raises EDI issues. During the RFI process, it became apparent that one of the individuals monitoring the [equality@essexcricket.org](mailto:equality@essexcricket.org) email address, had failed to identify that an email sent to the address in November 2021, was, in fact, raising allegations of discrimination despite the fact that the email referred expressly to '*racism and unfair treatment from Essex County.*' This error was not identified until the RFI process earlier this year.

**Recommendation 3: All allegations of discriminatory conduct must be investigated promptly, thoroughly and impartially. Those tasked with investigating allegations of discriminatory conduct must have EDI expertise and prior experience of conducting EDI investigations.**

88. All allegations of discriminatory conduct must be investigated promptly, thoroughly and impartially. The type of investigation will depend on the nature of the allegation, and the wishes of the alleged victim and/or person raising the complaint. However, there must be an investigation regardless of the identity and seniority of the person alleged to have behaved in a discriminatory manner. It took far too

long for the allegations against the former Chairman to be independently investigated.

89. Those investigating complaints of discrimination must have EDI expertise and prior experience of investigating discrimination complaints.

**Recommendation 4: The Club must ensure that sanctions for discriminatory behaviour reflect the seriousness of the conduct.**

90. The Club maintains it has a zero tolerance policy towards racism and any form of discrimination. Where discrimination is found to have occurred, the Club must ensure that any sanctions properly reflect the seriousness of the conduct. In determining the appropriate sanction in any given case, the Club must not be influenced by internal pressures such as (i) the popularity/cricketing ability of the perpetrator and/or (ii) dressing room pressure or concerns about 'losing the dressing room.'

**Recommendation 5: Essex Cricket in the Community ('ECiC') must develop an objective, rigorous, transparent and EDI focussed approach to the identification of talent.**

91. ECiC works with the local leagues, clubs and community partners to provide opportunities for people of all ages and abilities to participate in grassroots cricket. It also develops pathways into the professional game. It is, therefore, imperative that these potential routes into the professional game are underpinned by an objective, rigorous, transparent and EDI focussed approach to the identification of talent to ensure equality of opportunity for all.

92. In order to achieve this, the Club should:

- (i) Take proactive steps to increase the diversity of the scouts, coaches and selectors ('the decision makers') involved in grassroots cricket and the player pathway;
- (ii) Ensure all decision makers undertake the 'EDI in Selection' training referred to at Recommendation 1 with particular emphasis on recognising and eliminating bias;
- (iii) Use objective and transparent criteria in reaching decisions on selection, progression and release. Written reports should be produced (and retained), setting out the reasons for these decisions, and the evidence underpinning the decision. Comparisons of cricketers playing similar roles should form part of the analysis;
- (iv) Provide a right of appeal against decisions to release. The appeal should be heard by individuals who were not involved in the original decision to release the player; and
- (v) Collate and analyse EDI data in order to monitor progression through the pathway.

**Recommendation 6: The Club must implement objective and fair recruitment and retention processes to ensure decisions on the award, extension and termination of professional contracts are based on merit and free from bias or discrimination.**

93. In June 2022, EY Lane4 prepared a dressing room Culture Capture Report ('CCR') for the Club following discussions with players and staff. Whilst the CCR had many positive things to say about the culture of the dressing room, it did flag up a concern about the current method for recruiting new players for the professional squad. In particular the CCR stated, *'As mentioned before, the head coach is ensuring that new players are recruited based on their personality as well as their cricket performance. A lot of time has been invested to ensure that the*

*...the dressing room is a tight knit group that trusts each other and is supportive of each other....the head coach does a lot of background research and speaks with many different people to understand how potential new players 'tick'. He even asks other players for their approval (e.g is he a good person? What do you think?) According to the players they feel like they are listened to and they recognise the hard work that is put into selecting the right players for the team...' In response to this, the CCR cautioned that, 'There is currently a strong sense of subjectivity in the recruitment process, which can be a source of inappropriate bias and stereotyping. To support the recruitment decision making process to be more robust and more inclusive, we would suggest supporting the current approach with more formal and objective process, identifying recruitment criteria, or personal specifications, and assessing against this using a range of observations.'*

94. I agree with this analysis and a more objective set of criteria needs to be applied to support the recruitment decision-making process, and decrease the likelihood of bias and discrimination creeping into the process.

**Recommendation 6.1: The Cricket Committee should be provided with bespoke in-person 'EDI in Selection' training as a collective offering.**

95. Under Section 13 of the Club's Standing Orders 2021 - 22, the Cricket Committee is responsible for the award and extension of professional playing contracts. The Cricket Committee should be provided with bespoke in-person 'EDI in selection' training as a collective offering. Attendance by all members of the Cricket Committee must be compulsory.

**Recommendation 6.2: Prior to the mid-season PDR, the Club should undertake a comprehensive, objective and comparative review of the**

**performances of all players prior to determining which category should apply to each individual player.**

96. Players have Performance Development Reviews ('PDRs') which are carried out three times per year. At the mid-season PDR players are informed that they are either (i) certain to be retained, (ii) likely to be retained (subject to further review/discussion), (iii) unlikely to be retained (subject to further review/discussion), or (iv) going to be released. Prior to the mid-season PDR, the Club should undertake a comprehensive, objective and comparative review of the performances of all players prior to determining which category should apply to each individual player. This should involve scrutiny of their statistics (in context) as well as an examination of the opportunities that have been given to each player to play in First Eleven games. A written report should be produced setting out the full rationale for the categorisation decision.

**Recommendation 6.3: All decisions on retention/release must be based on a comprehensive and objective analysis of the relevant players using the steps set out below.**

97. In advance of any decision on retention/release being made, the Cricket Committee should have before it copies of the PDRs and a written report on the player which includes the individual's performance statistics as well as a comparison with other individuals with the same skill-set. All decisions must be made on merit. The situation should not ordinarily arise where a player with superior performance statistics is recommended for release over another individual with less impressive performance statistics. Should such a situation arise, the proposal should be challenged and heavily scrutinised by all members of the Cricket Committee before reaching a final decision.

98. EDI data on retention and release should be collated and analysed.

**Recommendation 7: The Club must monitor the opportunities given to play in the First Eleven to ensure they are fair, merit based and free from bias.**

99. I have been provided with a document setting out the Club's First Eleven selection flowchart which sets out the process for determining who will be selected as part of the First Eleven squad in any given match.

100. The Club must monitor the opportunities given to play in the First Eleven to ensure they are fair, merit based and free from bias. EDI data on selection decisions and opportunities should be collated and analysed.

**Recommendation 8: The decision to release a player should be communicated in private, at a meeting with the Club's CEO and Head Coach in a tactful supportive manner.**

101. The decision to release a player should always be carried out in a professional and tactful manner. The decision should be communicated to the player at a meeting with the Club's CEO and Head Coach. It will never be appropriate to communicate this decision (i) in public and/or (ii) in the middle of a match.

**Recommendation 9: The Club should adopt a more nuanced and rigorous approach to the collation and analysis of EDI data. The BAME 'catch all' categorisation should no longer be used. The Club should ensure it focuses on the progress of Black individuals as well as those of other ethnicities.**



102. At present, the diversity data obtained by the Club is simply split into two categories: White/BAME or White/Ethnic Minority. This is insufficiently nuanced and consequently means the Club cannot identify patterns that might affect one ethnic minority group over another.
103. For example, the current approach does not allow the Club to distinguish between the opportunities and experiences of someone of South Asian heritage, as compared to someone who is Black. This is particularly relevant in light of the concerns recorded in the recent Independent Commission for Equity in Cricket Report about the underrepresentation and lack of progression of Black cricketers. Furthermore, one of the interviewees commented that whilst he sees lots of South Asian children in the age group categories, he does not see many Black children at all. Particular attention needs to be paid to this issue.
104. In addition, the Club does not obtain data which differentiates between Muslim and non-Muslim cricketers.
105. Going forward the Club should seek to widen its approach to the collation and analysis of EDI data by using more nuanced data points for both race and religion.
106. At present, the data collated by the Club is sent to the ECB. Going forwards, the Club should also undertake its own analysis of the EDI data. There should be a regular analysis of the EDI statistics with particular focus on the progress of individuals (a) progressing through the age groups/pathway (b) from the pathway/Academy to the Professional Staff, (c) from the Second Eleven to the First Eleven and (d) those retained/released by the Club at the contract renewal stage.

**Recommendation 10: Amendment to the Club's 2022 Constitution and Rules to allow for the CEO to co-opt Board members in order to meet the Club's diversity targets and to comply with the 2020 ECB County Governance Framework's ('CGF') requirements for Effective and Inclusive Boards.**

107. Historically, the Club's Board has been overwhelmingly White and male.

108. The CGF requirements for Effective and Inclusive Boards provide that:

- (i) *Each organisation shall adopt a target of, and take all appropriate actions to encourage, a minimum of 30% of each gender on its Board;*
- (ii) *Each organisation shall adopt, and take all appropriate actions to encourage, a target for BAME diversity on its Board that reflects its local communities and population demographics; and*
- (iii) *Each organisation shall commit to and identify appropriate actions to progressing towards greater diversity in general on its Board including but not limited to gender, ethnic diversity, age, disability, social background and skills, showing consideration for its local demographics and own priority activity.*

109. In June 2022, the Club produced a Governance Action Plan, the first objective of which was to identify and appoint a new Board of Directors to take over from the interim Board. The Governance Action Plan said in terms that the Club was, '*committed to ensuring that this new Board reflects appropriate skills, experience and diversity to meet the needs of the Club and satisfy our Board diversity targets. As part of this recruitment process, we will also look to appoint a new Chair.*'

110. The Club utilised the services of an external executive search specialist (Perrett Laver) to assist in finding suitably diverse candidates.

111. The Club's 2022 Constitution also provided for a more thorough, transparent and objective election process than the 2018 iteration of the Constitution. Section 10.1 of the 2022 Constitution stipulated that the Board should comprise up to nine Members elected at an AGM. Following the Club's AGM on 23 November 2022, 8 out of 9 Board Members were new members; four Board members were female and two were from an ethnic minority background (although one of these individuals stood down in February 2023.)

112. Whilst progress has been made in changing the demographic profile of the Club's Board, the 2022 Constitution, as presently drafted, does not allow for the co-optation of additional suitable individuals in order to achieve a more diverse and inclusive Board. This should be rectified. The Constitution should, therefore, be amended to expressly provide that the CEO shall have the power to co-opt additional Board members in order to meet the Club's diversity targets and to comply with the requirements of the ECB's CGF.

**Recommendation 11: The Club must operate objective, fair and inclusive recruitment processes for all posts including coaching roles. All vacancies must be advertised and filled by way of open competition. Interview panels should be diverse. In appropriate cases the Rooney Rule should be adopted.**

113. I note from the RFI responses that the Club has already implemented this recommendation. It should continue to do so.

**Recommendation 12: EDI should be a standing agenda item at all Board meetings, and all senior executives should have EDI objectives as part of their KPIs. An annual EDI Report should be produced and published on the Club's website.**

**Recommendation 13: The Club requires assistance from an EDI Professional, with particular expertise and experience in racial equality and diversity, to help the Club in setting and delivering its EDI Objectives and implementing the Recommendations set out in this Report.**

114. The Club requires assistance from an EDI professional with the necessary experience in racial equality and diversity, to help the Club in setting and delivering its EDI objectives, and implementing the Recommendations set out in this Report. Whilst the Club has made progress in recent years, in my view, the Club needs specialist EDI input if it is to achieve long-term and meaningful change.

115. During the Investigation I was informed that the Club was looking to recruit a Safeguarding and Equality/Equity, Diversity and Inclusivity Support Officer. I was provided with a Job Description for the role and informed that the recruitment process was underway. However, it transpires that the person recruited into the role, *'has limited EDI experience, nor did many of the candidates that applied. This is why ECiC specifically targeted a Director [name redacted] with EDI experience. [Name redacted] who was recently 'Corporate Social Responsibility Senior Manager, EDI, is in the process of being appointed as an ECiC Director.'*

116. It is not clear in what capacity the Club is proposing to utilise this individual, or whether her experience encompasses racial equality and diversity and extends to the sorts of issues highlighted in this Report. It needs to be clarified whether she has the experience and capacity to assist in the manner required. If not, the Club needs to

appoint/recruit a suitably qualified individual who will have the skills to guide the Club at this important juncture.

**Recommendation 14: The Club should introduce a secure online voting system to replace the paper ballot process currently used in its elections. This will ensure fair elections with increased member confidence in the results.**

117. The current process involves votes being cast by way of paper ballot, sent to the Club's solicitors. Club staff will then attend the offices of the solicitors to count the votes. The candidate, who the former Chairman sought to dissuade from standing, expressed both surprise and concern about the outcome of the elections he stood in. I make no findings at all as to whether these concerns were well founded. However, in 2023, it should be possible for the Club to have a secure online voting system to replace the paper ballot process. This will be far less administratively cumbersome, and will ensure members can have full confidence in the results.

**Recommendation 15: The Club should ensure that it provides suitable facilities for Muslim individuals such as prayer rooms, appropriate catering and consideration of the Muslim calendar when scheduling events.**

118. From the RFI responses it appears the Club has already rectified many of these issues. It should continue to do so.

**Adaptation of these Recommendations to apply to other protected characteristics (such as sex, disability etc)**

119. Although the Investigation focussed on issues of race discrimination, these Recommendations can and should, where appropriate, be adapted to apply to other protected characteristics and social mobility.

Katharine Newton KC

13 November 2023