

North Essex Cricket League

OVERSEAS CRICKETERS PLAYING IN THE NECL

STATEMENT FOLLOWING THE TWO COUNTIES CRICKET CHAMPIONSHIP APPEAL TRIBUNAL JUDGMENT IN THE CASE OF FRINTON-ON-SEA CRICKET CLUB AND BLAKE REED

The league's Management Committee, at its meeting on 17 August 2017, considered the implications for the North Essex Cricket League of the reserved judgment of the Two Counties Cricket Championship Appeal Tribunal, dated 8 August 2017, dismissing the appeal by Frinton-on-Sea CC and Blake Reed against the decision of the TCCC Management Sub-Committee (MSC) on 3 July 2017 to penalise Frinton 36 points for fielding an ineligible player (Blake Reed), in a TCCC Division One match against Maldon CC on 1 July 2017. The decision of the MSC was upheld by the Appeal Tribunal, but for reasons different from those of the MSC. For those interested in reading the 20-page judgment, it can be downloaded from the Two Counties website: go to www.twocounties.com and scroll down to 'Appeal Tribunal result'.

Some clubs will have received an e-mail from Paul Bedford at the ECB, "Important Update for Clubs" (sent from clubsupport@ecb-comms.co.uk), giving what purports to be "a summary update for leagues, clubs and players in the light of the judgment." I say "what purports to be," as the third bullet point of the update is misleading by stating that Blake Reed was deemed to be a "professional sportsperson" on the basis of a Home Office (HO) interpretation of who is a "professional sportsperson" within the meaning of that term in the Immigration Rules as set out in an ECB guidance document issued in January 2017. The Appeal Tribunal made clear that this 'gloss' on the Immigration Rules by the HO has no legal basis; the tribunal dismissed the appeal for reasons different from those applied by the MSC, as appears from para 72 of the judgment.

The ECB update is correct in stating (first bullet point) that it is the HO, not the ECB, who are "responsible for issuing visas to individuals from non-EEA countries who wish to play recreational cricket in England and Wales." Accordingly, ultimately it is for the Home Office (or the High Court in proceedings brought by Frinton/Reed) to decide whether or is not Mr Reed is in breach of his visa conditions. The update also correctly sets out (second bullet point) the definitions of "Professional Sportsperson" and "Amateur" set out in para 6 of the Immigration Rules. The problem is with the third bullet point, as the Appeal Tribunal judgment makes clear.

As will be seen from the Appeal Tribunal judgment, to date the HO has been singularly unhelpful in its advice on the issue. However, it is to be welcomed that the ECB "continues to have constructive dialogue with the Home Office" and it is to be hoped that such dialogue will lead to amendment/clarification of the Immigration Rules well before the 2018 English cricket season. (Mike Atherton's column in *The Times* on 10 August 2017, commenting on the Appeal Tribunal judgment, may assist in raising the profile of the issue at a national level.)

Meanwhile, the position of the NECL management committee, as agreed on 17 August 2017 and set out in the minutes of the meeting, is as follows:

"Following a lengthy discussion it was therefore decided that, while we note decision of the TC Appeals Tribunal as it applies to the TCCC, unlike them we have no rules relating to this matter. As a result, it was decided that as a league we will not be taking any action, unless or until there is any definitive ruling from the Home Office or a court of law. It is a matter for Frinton whether they continue to select Blake Reed for NECL games for the rest of the season."