



From the National Court

**MOTOR SPORTS COUNCIL NATIONAL COURT  
SITTING TUESDAY 15 DECEMBER 2020**

**John Felix  
Mike Harris  
David Munro (Chairman)**

**J2020/11 Appeal**

The National Court has considered the appeal of Louis Foster who was a competitor in the British F3 Championship races held at Silverstone on Sunday 8<sup>th</sup> November 2020. On that date the Appellant was the driver of car 26 in the BRDC Formula 3 Championship.

There was an incident in Race 2 of that championship which led to the Appellant being required to appear before the Clerk of the Course (CoC), who, after conducting a hearing which commenced at circa 13:00 hours imposed a 60 second time penalty on the Appellant for breach of GR Q14.4.4 and C 1.1.5.

The Appellant then sought to appeal that decision to the Stewards of the Meeting.

There was no significant argument concerning the approximate time at which the Appellant was verbally informed of the CoC's decision, but a "WhatsApp" message was subsequently sent to Louis Foster by Gemma Mole, who was then acting as the Championship Co-Ordinator. A copy of the CoC's written decision was attached to this message in the form of a PDF file. It shows the time of issue as being 13:20 hours. It further states that the decision had been verbally delivered to the driver at 13:20 hours.

The decision form bore the following endorsement:

***"Due to the restrictions of Covid-19 judicial forms will no longer be signed and paper copies will not be distributed and will instead be e-mailed to the recipient, for judicial and appeal purposes the time of issue will be deemed to be the time the email was sent".***

There was no e-mail transmission in this instance, instead the decision was sent via a messaging app. The Court does not however base its decision simply on that discrepancy. There was no challenge to evidence produced on behalf of the Appellant which shows that the message itself was not actually sent by Gemma Mole until 13:23 hours.

The Appellant also competed in Race 3 and was involved in a further incident during that race which led to a second appearance before the CoC. This second appearance occurred during the 30 minutes following the delivery of the WhatsApp message.

The Appellant's team manager, Mr. Willet, submitted an appeal against the CoC's decision via email at 13.52 hours. This email was sent to an address which had been notified to all F3 teams prior to the event as being the address which was to be used for all appeals and protests. In the event this was not an address specified in the final instructions. Unfortunately, the Final Instructions had failed to provide clear information about which email address was to be used for the submission of appeals.

The Appeal Form bore the time of 13:45 hours.

The Appellant's team manager, Mr. Willet, was then asked to meet with the Stewards of the Meeting and he was told by them that they believed that the appeal was out of time. He was then asked to leave the room, and, on his return, he was informed that the appeal was out of time and that it would not be considered.

An appeal to the Stewards of the Meeting against a decision of the Clerk of the Course must comply with General Regulation C6.3(g) in that it must be submitted in writing within 30 minutes of the first communication of the decision to the competitor.

However, the necessity of complying with Covid-19 restrictions means that this regulation had been varied to the extent stated in the above endorsement in that:

***"... judicial forms will no longer be signed and paper copies will not be distributed and will instead be e-mailed to the recipient, for judicial and appeal purposes the time of issue will be deemed to be the time the email was sent".***

The Stewards apparently accepted that there had been service of the Appeal as they were seized of it and had therefore asked Mr. Willet to appear before them but in their written decision, timed at 15:18 hours, they considered the appeal inadmissible as it had been lodged outside the prescribed time. They found that there was no basis for extending the 30-minute time limit.

They gave the following reasons for this decision:

"The Clerk of the Course decision which is the subject of the appeal was timed at 13:20hrs and it is accepted that the driver and the entrant's representative received verbal notification at that time. It is also stated clearly on the decision form that for judicial and appeals purposes the time of issue (13:20hrs) will be deemed to be the time that e-mail communication of the decision was sent. This appeal was then submitted by e-mail at 13:52hrs (to an incorrect address) which is outside the 30-minute time limit stipulated in General Regulation C6.3(g). The Stewards have heard from the entrant's representative who refers to actual receipt of the e-mailed decision at 13:23 hrs and to other judicial matters which required his attention. He also apologised for the error made in sending the appeal to the wrong person, acknowledging that the correct recipient was clearly given in the Final Instructions. The Stewards do not consider that there were circumstances in this case that made the lodging of the appeal physically

impossible within the time limit such as to justify extending the time limit as permitted by GR C6.3.1. As the appeal is not being considered further, the appeal fee is returned”.

The Appellant’s case was, inter alia, that this decision was wrong insofar that the appeal had, in fact, been lodged within the 30-minute time allowed by CR C 6.3(g). This, it was averred, has led to a gross miscarriage of justice in that he was denied his right to have his appeal against the CoC’s decision heard by the Stewards.

The National Court finds that the appeal was plainly lodged within the 30-minute time limit and that therefore the Stewards erred by declining to hear the matter.

In these circumstances the Court then proceeded to consider the incident which had led to the initial hearing before the CoC.

Race 2 was clearly run in difficult conditions. It had been raining and the track was drying, but circa half the grid were running on slick tyres and half were on wets. There was only one green flag lap when 2 had been expected. During Lap 1 there was contact at Luffield Corner between car 26, driven by the Appellant, and car 22 driven by Piers Prior. This resulted in car 22 rotating and losing places as a consequence.

Piers Prior had been notified of the National Court hearing and had been invited to attend as a witness but had not replied to correspondence and was not present at the hearing.

The Court viewed the moving images contained in the on-board video recordings from both cars and finds that the incident in question was, in fact, a racing incident which occurred in circumstances where driving would have been particularly difficult due to the prevailing weather conditions. It does not find that the Appellant was responsible for causing a collision contrary to General Regulation Q14.4.4 nor does it consider that the Appellant drove in a manner incompatible with general safety or that he departed from the standard of a reasonably competent driver contrary to General Regulation C 1.1.5.

This appeal therefore succeeds and the Court orders that the appeal fee should be returned and that the results of the race should be amended accordingly.

**David Munro**  
**Chairman**  
**15<sup>th</sup> December 2020**