

**BEFORE THE DISCIPLINARY PANEL OF ENGLAND BOXING
IN THE MATTER OF**

ENGLAND BOXING

- and -

TOM DEVANNY

Respondent

DISCIPLINARY PANEL DECISION

INTRODUCTION

1. This document sets out in writing the final decision (**“the Decision”**), with reasons, of the disciplinary panel (**“the Panel”**), following a hearing of the above matter in Leeds on 9 September 2018 (**“the Hearing”**), under the England Boxing disciplinary procedure (**“the Procedure”**).
2. The Panel was made up of two practising barristers, Alun Jones (Chair) and Simon Lewis, and a longstanding member of England Boxing, Alan Keast. The latter attended, as had been agreed in advance by the Panel, via telephone.
3. Mr Devanny elected not to attend the Hearing, having indicated the same in correspondence during the week before the Hearing, and was not represented.

4. England Boxing was represented by Gordon Valentine, who attended the Hearing in his capacity as the England Boxing Compliance Officer and as the “Responsible Person” under the Procedure.

EXCPEITIONAL CIRUMSTANCES

5. On the afternoon of 17 September 2018, it was announced that Mr Jones had become very seriously ill a few hours after the Hearing concluded and died a short time thereafter.
6. The events set out in the paragraph above are truly tragic. While it would not be appropriate to go into any detail about Mr Jones within this particular document, it is hoped that the reader will forgive this one point: for the record, in the firm and clear view of the principal author of this document, and in the knowledge that such a view is genuinely and widely shared, Mr Jones was an outstanding individual and lawyer and will be a great loss to the legal community and beyond.
7. Having had to consider the practical implications of these unforeseen developments from the perspective of these proceedings, the other two members of the Panel took the decision that the most appropriate thing to do in the circumstances would be for Mr Lewis to step in as Acting Chair, draft this document in line with the Panel’s discussion at the Hearing and in line with the Decision, and for it then to be issued as intended (**“the Exceptional Approach”**).
8. Mr Lewis and Mr Keast are satisfied that the Exceptional Approach is appropriate for reasons including those below:

- (a) The Panel had had a full and detailed discussion, in private, during the Hearing, pursuant to paragraph 31.6.4 of the Procedure, covering all material matters.
- (b) A clear decision had been reached, and unanimously agreed by the Panel, at the end of that discussion. Indeed, the Decision had been communicated orally, pursuant to paragraph 31.6.5, at the end of the Hearing to those present (i.e. to the representative of England Boxing).
- (c) The reasons for the Decision had been discussed and agreed by the Panel (before the Decision was communicated orally) during the Hearing.
- (d) Mr Lewis is a practising barrister who has also been formally appointed to chair England Boxing disciplinary panels and has done so in the recent past.
- (e) Mr Lewis took sufficient notes during the Hearing, and has a sufficient recollection of the discussion during the Hearing, to enable him to produce a formal determination document which is consistent with that discussion and the Decision.
- (f) Noting the wording of paragraph 31.6.6 of the Procedure, there appears to be nothing within the Procedure which either expressly or impliedly requires the Decision and/or the Panel's written reasons to be drafted (or signed) by the Chair personally.
- (g) If the Chair (in an alternative scenario) had, for any reason, been unable to attend the Hearing at all, the other two members of the Panel consider that it would be have been open to them, if the

circumstances appeared suitable to them, to continue the Hearing and decide the case as a two-panel member, with Mr Lewis (given the matters set out at sub-paragraph (d) and (e) above) acting as the Chair. Indeed, they would have been minded to do so.

- (h) Further or alternatively, to the extent that the Exceptional Approach may otherwise constitute a material deviation from any provision of the Procedure, it is noted that paragraph 48 of the Procedure expressly provides as follows:

Any deviation from any provision of this Disciplinary Procedure shall not invalidate any finding, procedure or decision unless that deviation seriously and irretrievably prejudices the position of one of the parties or the fairness of the process or outcome.

- (i) To the extent that it is necessary to rely on paragraph 48 of the Procedure, both Mr Lewis and Mr Keast are readily satisfied that the Exceptional Approach will not in the circumstances cause the type or extent of prejudice or unfairness (or indeed any material prejudice or unfairness) envisaged by the same. For the avoidance of doubt, neither Mr Lewis nor Mr Keast consider the Exceptional Approach to be in any way inconsistent with the overarching principles of natural justice.
- (j) Further, to the extent it may be relevant, it is noted that paragraph 31.6.2 of the Procedure provides that:

The procedure at the hearing shall be at the discretion of the disciplinary panel, subject always to compliance with the principles of natural justice and ensuring that

both EB and the Respondent have a proper opportunity to be heard.

- (k) The only realistic alternative would appear to be a complete re-hearing before an entirely fresh panel, which would not appear to be in anyone's legitimate interest, and serve only to add delay, uncertainty and cost.
- (l) England Boxing has confirmed that it has no objection to the Exceptional Approach.
- (m) Finally, in the event that Mr Devanny has any objection to the Exceptional Approach, he will of course have an opportunity to appeal under paragraph 40 of the Procedure.

PRELIMINARY MATTER

- 9. As indicated above, there was no attendance at the Hearing from either Mr Devanny or any person representing him.
- 10. The Panel decided to proceed in Mr Devanny's absence. It did so on the following basis:
 - (a) Paragraph 31.6.2 of the Procedure expressly provides the Panel with a discretion to proceed in the absence of a respondent.
 - (b) The Panel was satisfied that Mr Devanny was aware of the Hearing, its start time and all other necessary arrangements such as the venue etc – with sufficient notice – and that England Boxing had taken the necessary steps to comply with any obligations on it to provide such notice.

- (c) As a consequence, Mr Devanny had been given a full and fair opportunity to attend the Hearing in order to present his case orally.
- (d) Mr Devanny had indicated in writing, by an email to England Boxing, dated 29 August 2018, that he was not intending to attend the Hearing. Specifically, in that email he stated:

Given the disappointment I feel in having this charge made against me after devoting over 35 years to amateur boxing together with extreme stresses of a lengthy and convoluted process in investigating it, I have decided to accept the charge purely so that I do not have to continue addressing it or attend the hearing.

I look forward to hearing from you in due course after the panel has made there decision.

- (e) Mr Devanny sent a further email to England Boxing dated 5 September 2018, in which he stated, in response to an email from England Boxing seeking further clarification following Mr Devanny's email dated 29 August 2018:

Fine, I will admit the breach of code. In terms of any fines the panel see fit to levy in my case I would advise that my only income is my State Pension. I have limited savings which I keep for contingencies which may arise at any time in my life since I am now 70 years of age.

- (f) Adjourning the Hearing would lead to inevitable and relatively substantial costs and disruption to England Boxing.
 - (g) There was no evidence before the Panel to suggest that Mr Devanny would attend any re-arranged hearing, or that the latter sought or would otherwise benefit from any adjournment.
 - (h) The Panel would still have the opportunity to consider the documentary evidence before them, including that from or on behalf of Mr Devanny.
11. Taking into account all of the above, and having regard to the nature of the Charge and the documentary material before them, the Panel concluded that proceeding with the Hearing would be consistent with the overriding objective for the matter to be dealt with fairly (from the perspective of both parties) and expeditiously.
12. In coming to this decision, the Panel also reminded itself that the formal rules of evidence do not apply to these proceedings and that the Panel ultimately retains a relatively broad discretion as to how best to manage the Hearing.

DOCUMENTS

13. The Panel had regard to a bundle of documents prepared for the hearing (**“the Bundle”**). Numerical references in square brackets in what follows are to pages in the Bundle, unless otherwise stated. Those documents included (using the specific headings within the Bundle’s index):
- (a) EB discipline report

- (b) Complaint
- (c) Response
- (d) Statement
- (e) Expenses receipt
- (f) Response letter
- (g) Info re recorder
- (h) Clarification expenses
- (i) Info re expenses host club
- (j) Letter of Charge
- (k) Lewtter [sic] of Hearing

14. In addition, the Panel had regard to the emails from Mr Devanny referred to at paragraphs 10(d) and 10(e) above.

15. Further, the Panel was handed, at the outset of the Hearing, a letter dated 5 September 2018 from William MacDonald, sent under cover of an email of the same date from Mr MacDonald:

- (a) Mr MacDonald refers to himself in the letter as (and the Panel had no reason to doubt that he is indeed) an “AIBA/England Boxing Referee and Judge (R&J) in the Yorkshire Region”.
- (b) The letter was written “in support” of Mr Devanny. In large part, on a proper analysis, it serves as a character reference for Mr Devanny. Among other things, Mr MacDonald states that he has known Mr Devanny since 1999 and that during that time:

... I have always found Tommy to be a fair and honest person in his role as a Supervisor, wanting nothing more than ensuring that all the boxes, coaches and officials under his control are treated fairly ...

In finishing, I would just say that having known Tommy for as long as I have, that he has never given me any cause to question his honesty or commitment to the sport.

- (c) The Panel took the view that it could – and would – have some regard to such matters as part of the general body of evidence. It had no reason to doubt the sincerity of Mr MacDonald’s words.
- (d) Mr MacDonald also made some (albeit limited) points about “this incident” (i.e. about matters relating to the material allegations in these proceedings); but does so in the context where it is accepted that he “was not in attendance” at the material time, and in circumstances where no questions could be put to Mr MacDonald the Hearing. As a consequence, the Panel felt it could place little if any weight on such aspects of the letter. In any event, there were other documents within the Bundle, which covered similar ground.

BACKGROUND

- 16. In order to place the Charge into context, it is useful at this point to set out some background matters:
 - (a) These proceedings arose out of or are otherwise connected to a boxing event, which took place in Leeds on 26 January 2018 (“**the Event**”). The Event was hosted by Seacroft Boxing Club (“**the Club**”), under a permit issued by England Boxing via the Yorkshire regional boxing association.

- (b) Mr Devanny had been appointed to act and did indeed act as the official Supervisor for the Event. A number of other officials, making up to 9 in total, were involved in the management of the Event (“**the Officials**”). One of Mr Devanny’s responsibilities, in the capacity of Supervisor, was to manage the expenses of the Officials.
- (c) Phil Wood attended the Event, acting in the capacity of Master of Ceremonies. Mr Wood became aware that Mr Devanny made an expense claim (“**the Expense Claim**”) in relation to the Event, purportedly on behalf of the Officials, for the sum of £175 (“**the Sum Claimed**”).
- (d) A handwritten note, evidencing the Expense Claim, is provided in the Bundle [8]. The receipt appears to have the signature of Mr Devanny at the bottom, with his position as supervisor specified underneath that. It states:

OFFICIALS
SEACROFT
26-1-18
£175.00

- (e) Mr Wood considered the Sum Claimed to be unusually high and, following some investigations which he himself appears to have undertaken, unreasonably high. Around the same time, Mr Wood made a complaint about the Expense Claim [4].
- (f) That complaint went to the Yorkshire Regional Secretary, Richard Cawthorn. Mr Cawthorn asked Mr Devanny to account for the Expense Claim. On 7 February 2018, Mr Devanny provided a

brief explanation in writing for the Sum Claimed [5]. In full, he stated (so far as relevant):

Regarding Seacroft Expenses:

Officials 9 claim was £135.00.

As the club did not provide any refreshments IE food I

Charged £5.00 per officials in attendance making the

total £175.00, hope this explains it all.

- (g) On 12 February 2018, Mr Cawthorn forwarded information to England Boxing [6].
 - (h) Mr Devanny subsequently, by letter dated 19 March 2018, provided England Boxing with a purported breakdown of the Sum Claimed [9-10]. The letter contains a more detailed account than that set out on 7 February 2018. However, in the Panel's view, that subsequent account was not entirely consistent with the account provided on 7 February 2018, raised a number of new matters, and did not provide a full and adequate explanation of the Sum Claimed.
 - (i) Mr Devanny provided some further detail regarding the Expense Claim in an email dated 3 April 2018 [12].
17. There are a number of issues, arising out of the Expense Claim, which are, at least to some extent, addressed within the documentary material in the Bundle. Among other matters:
- (a) First, there is the question of the fee (£25) claimed/paid to the Recorder at the Event. There is some evidence within the Bundle [11], from Mr Cawthorn, that a Recorder would not ordinarily be

expected to claim any fee at all for an event such as the Event, still less a £25 fee. Mr Devanny, on the other hand, sought to explain by email dated 3 April 2018 [12] why the Recorder claimed and was paid a fee and a fee in the sum of £25. The evidence before the Panel was that the Recorder was the only official attending the Event who did not require or have any formal qualifications. It therefore struck the Panel as odd (at the very least), not being fully satisfied by the purported explanation provided in correspondence by Mr Devanny, that the Recorder was effectively the only official to be paid a significant fee at the Event.

- (b) Second, there is a question relating to the amount claimed/paid to Mr Devanny to purportedly cover his travelling expenses for the Event. The evidence indicates that Mr Devanny drove to the event, giving a lift to the Recorder and to another official (the Timekeeper). The evidence further indicates that Mr Devanny appears to have claimed expenses for all three individuals for that return journey, at the rate that they would each have been able to claim collectively had they all been travelling separately. The evidence further indicates that one of the officials travelling with Mr Devanny on that day claimed £5 himself for expenses in order to get to a point where he would then be collected by Mr Devanny.
- (c) Third, there is a question relating to the element of the Sum Claimed said to relate to refreshments for the Officials. Mr Devanny claims that those expenses were required because the Club had not adequately provided for refreshments. He accepted in correspondence, however, that he did not hand over such sums to the Officials at the same time that he paid them their travel expenses. He further accepted in correspondence that he failed to hand over such sums at all to some of the Officials during the

Event (on the basis that he was busy on other matters and those officials had leave before he was able to do so). He had further accepted or appeared to have accepted, again in correspondence, that at least some such expenses still remained to be handed over, on the basis that Mr Devanny had not yet had a chance to meet with the relevant officials in person and to hand over the cash [12].

18. It is noted that the Club has not any point complained formally about Mr Devanny or about the Expense Claim or the Sum Claimed. The Club has participated fully in the England Boxing investigation. But it appeared to the Panel to have done so on what might fairly be described as a neutral basis. The Panel is noted, however, that the documentary material provided on behalf of the Club [15], in the form of an email dated 19 April 2018 from its representatives, indicated that the Event was the very first such show that either the Club or in any event its representatives had actually put on. As a consequence, among other things, the representatives stated in that email:

I didn't know what was to be paid etc ...

At the time we didn't realise or understand what the normal expenses 'rate' was so we paid the fee with no hesitation ...

We didn't query [the Sum Claimed] because it was our 1st ever show and we didn't know what expenses should be expected.

[The Club's secretary] didn't want to complain mainly because we are a new club and the show still afforded us enough funds that we were able to purchase four brand-new punching bags and a brand new canvas for our Boxing ring.

We didn't know what expenses to expect so are happy to pay what was required originally, that was rather high then of course we don't want to be charged more than needed or other clubs and find it unacceptable however once the reason was explained we again have no complaints and only apologise for the member of staff not performing said duties for the error.

19. For completeness: it may be worth recording that the “error” cited above appears to refer to an administrative mistake by the Club on the day of the Event. The Club, apparently, had actually made some arrangements for refreshments to be provided for the Officials at the Event; however, in the end, due to human error, such refreshments never quite materialised.

CHARGE

20. Against that backdrop, the formal charge against Mr Devanny (**“the Charge”**) was set out in a letter dated 30 April 2018 [18-19]. In full, the Charge has been framed as follows:

That you on 26th January 2018 at the Seacroft Boxing Show, you acted against the principles of integrity, using your capacity as Supervisor, you over claimed expenses to the detriment of the Seacroft Boxing Club.

Contrary to s 3.1(f) of the AIBA Disciplinary Code and England Boxing Code of Conduct.

21. The Panel noted that while the Charge is one alleging a lack of full integrity, it is **not** expressly one of dishonesty, there being a distinction between the two. To confirm, the Panel did not, therefore, consider the matter as an express allegation of dishonesty.

EVIDENCE / SUBMISSIONS

22. Due to Mr Devanny's decision not to attend, there was no oral evidence from him during the Hearing.
23. The Panel received oral submissions from Mr Valentine on behalf of England Boxing. In the event, Mr Valentine was also able to provide some limited oral evidence (e.g. of Mr Devanny's positive contribution in his Regional Welfare Officer role [see further below]).
24. The Panel considered, with care, the documentary evidence before it.

DISCUSSION AND FINDINGS

25. After hearing from Mr Valentine, the Panel retired and conducted its deliberations in private.
26. First, the Panel considered whether the Charge had been made out.
27. In doing so, the Panel reminded itself that the standard of proof in these proceedings is the orthodox civil standard (i.e. the "balance of probabilities" or, put another way, whether something is "more likely than not" to have occurred).
28. Having considered all of the evidence before it, the Panel concluded, unanimously, that the Charge had been made out.

29. It relied on the following:

- (a) First, and principally, Mr Devanny admitted the Charge, in writing, by the emails referred to at paragraph 10 above.
- (b) Second, and in any event, the documentary evidence, when taken together, was not, in the judgment of the Panel, sufficient to provide a clear and adequate explanation for all elements of the Sum Claimed, particularly in relation to the three matters set out paragraph 17 above.

SANCTION

30. The range of potential sanctions that the Panel may impose where the Charge is proven following a hearing, are set out at paragraph 32 of the Procedure and include:

- (a) a reprimand;
- (b) a fine not exceeding £5,000;
- (c) a ban from participating in the sport or certain specific aspects of it (such as officiating, coaching, or holding office at club, regional or national level), for a period of time;
- (d) a ban from membership of EB, for a period of time;
- (e) the imposition of any such conditions on participation in the sport (or in any specific aspects of it), or on membership, as it considers fit;
- (f) a requirement to attend appropriate training; and, in addition,
- (g) a requirement to pay a contribution to, or all of, the costs of the disciplinary hearing.

31. The Panel noted, specifically, that paragraph 32 of the Procedure provides the Panel with the power to impose “one or more” of the sanctions listed above. In this way, there is nothing within the Procedure which prevents the Panel from selecting any combination of sanctions, so long as it reasonably considers the same to be just, proportionate and appropriate in all the circumstances.

32. The Panel further noted that paragraph 33 of the Procedure expressly provides:

Where the disciplinary panel imposes a ban, that ban shall take effect from the date of the decision, unless the Respondent has been subject to and has respected an interim suspension, in which case credit shall be given for the time served pursuant to that interim suspension.

33. The Panel was satisfied that the proven Charge, in the absence of highly persuasive mitigating factors, would represent a relatively serious falling short of the standards expected from England Boxing members.

34. The Panel kept in mind the general proposition that it is vital, in their view, to the successful operation of England Boxing, that standards are declared and upheld, that the public (including boxing clubs, their members and other stakeholders) is provided sufficient protection, and that public confidence in the sport and its administration are maintained.

35. In all the circumstances, the Panel was satisfied, unanimously, that a formal sanction was justified. In their unanimous view, it would be just, proportionate and appropriate to impose the sanctions given effect by the order set out at paragraph 41 below.

36. The Panel considered the following to constitute mitigating factors:
- (a) There was no evidence before the Panel that the matters which gave rise to the Charge were anything other than an isolated issue.
 - (b) Moreover, Mr Devanny, on the evidence before the Panel, has in fact made a substantial positive contribution to the sport over a sustained period of many years. The Panel heard and accepted evidence from Mr Valentine that Mr Devanny has, in addition to wider contributions, been a “very good” Regional Welfare Officer and has worked constructively and in partnership with England Boxing to deliver a range of impressive improvements and reforms in his region.
 - (c) There is, it would appear from the evidence, no clear written or unwritten expense policy (or rules, or guidance, or forms, etc), either in the Yorkshire region or nationally, which would govern and clarify the claiming of expenses for events such as the Event.
 - (d) The Club had not formally complained.
 - (e) Mr Devanny, albeit rather late in the day, admitted the Charge.
37. The Panel decided not to impose a fine. It did so partly on the basis of the evidence that Mr Devanny is a man of modest financial means, reliant, in essence, on his state pension. It also took into account the evidence which indicated the substantial positive contribution that Mr Devanny has made to the sport over the years. Further, it was not clear to the Panel, on the evidence, precisely how much Mr Devanny actually “over-charged” or may have benefitted from personally. The Panel also

took into account the fact that it was minded to make a costs order in any event. The Panel was told that the costs relating the Hearing itself (not taking into account any other costs) was around £300.00.

38. The period of a ban was considered justified and proportionate in all the circumstances, given the seriousness of the admitted failure/breach and the importance to the sport of England Boxing retaining public confidence in the administration of the sport.
39. The imposition of conditions appeared to be entirely sensible and justified to the Panel, in the circumstances.
40. Finally, the Panel should record that it gave some consideration to the evidence that Mr Devanny has held, and continues to hold, roles as an executive board member for the Yorkshire region and as the Regional Welfare Officer. Despite finding the Charge proven, and while recognising the nature and importance of those roles, the Panel did not consider it necessary, proportionate or otherwise appropriate to prevent Mr Devanny from continuing in these two specific roles. It took this decision, in part, because there was no evidence before the Panel of any material issue in relation to Mr Devanny's performance or conduct in those particular roles and, indeed, on the contrary, there was positive evidence that Mr Devanny had performed admirably in the welfare role in particular. The Panel further noted that England Boxing, when issuing an interim suspension, had not considered it necessary to extend the terms to these two roles.

ORDER

41. The Panel makes the following order to dispose of this case:

- (a) The Charge is proved.
 - (b) Mr Devanny is banned from acting as a Supervisor for 9 months, with effect from the date of the Event, but in accordance with paragraph 34 of the Procedure full credit shall be given for all of the time Mr Devanny has already effectively been banned from the same under the terms of the interim suspension (i.e. all of that time served under the interim suspension shall be deducted from the 9 months imposed by this Order).
 - (c) The following conditions shall be imposed on Mr Devanny's membership of England Boxing until 1 June 2020 or the start of the 2020-2021 season (whichever is the later):
 - i. Mr Devanny must not in the course of his participation in the sport manage or administer the expense claims of others or otherwise handle money.
 - ii. Nothing in paragraph i. above shall however prevent Mr Devanny claiming his own legitimate personal expenses or from handling money in relation to the same.
 - (d) Mr Devanny shall make a contribution toward the costs incurred by England Boxing in the sum of £175.00, to be paid within 3 months unless otherwise agreed with England Boxing.
42. The time for any appeal against the Decision from either party, pursuant to paragraph 40 of the Procedure, is 28 days from the date of that party receiving this written document. Any such appeal must be made in

accordance with the provisions of paragraph 40 and shall require the payment of any applicable fee.

43. At the conclusion of the Hearing (albeit before the communication orally of the Decision), the Panel, pursuant to paragraph 31.6.3 of the Procedure, asked whether England Boxing considered itself to have had a fair hearing and if not why not. England Boxing confirmed that it did consider itself to have had a fair hearing. For obvious reasons, it was not possible to ask the same question to Mr Devanny during the Hearing.

Simon Lewis

18 September 2018

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Simon Lewis (Acting Chair)

Date