

IN THE MATTER OF

ENGLAND BOXING LIMITED

Complainant

- and -

EAST MIDLANDS REGIONAL COUNCIL

Respondent

DISCIPLINARY PANEL DECISION

INTRODUCTION

1. This is a decision, following a hearing held in Sheffield on 14 October 2017 (“the Hearing”), of the disciplinary panel, originally consisting of Miss Blondel Thompson (Chair), Simon Lewis and Phil Trask, in the matter of the East Midlands Regional Boxing Council (“the EMR”), pursuant to the disciplinary procedure of England Boxing (“EB”).

PRELIMINARY ISSUE

2. A potential preliminary issue was identified at the start of the Hearing regarding the objective independence of panel member Phil Trask. Having considered the potential issue, and on hearing submissions from the parties, Mr Trask made a decision to withdraw from the panel. In the circumstances, and having regard to paragraph 29.5 of the EB disciplinary procedure, Miss Thompson and Mr Lewis agreed with Mr Trask’s decision to withdraw. Exercising the discretion provided by paragraph 31.6 of the EB disciplinary procedure, they further decided, with the consent of parties, that it would be consistent with the overriding objective, as set out at paragraph 31.5 of the EB disciplinary procedure, to continue to hear the matter as a panel of two (“the Panel”).

BACKGROUND

3. At all material times:-
 - (i) EB was the national governing body for Olympic/amateur boxing in England.

- (ii) The EMR was the regional governing body affiliated to EB.
 - (iii) David Bassenger ("DB") was the Chair of the EMR (although the Panel noted that DB has subsequently been replaced in that role by Eddie Jarvis).
 - (iv) Mark Forman ("MF") was Secretary to the EMR.
 - (v) Janet Vitti ("JV") was Treasurer of the EMR.
4. The Hearing was convened to determine charges relating to the way in which the EMR had handled various issues relating to the role and alleged conduct of Mark Ritchie ("MR"). In summary, the allegations are as follows:-
- (i) The EMR failed to follow procedure in removing MR from his role(s) on the EMR Executive Committee.
 - (ii) The EMR failed to deal with MR's Subject Access Request(s) ("SARs").
 - (iii) The EMR unreasonably refused MR membership of EB.

REPRESENTATION

5. Charlotte Mitchell-Dunn (Counsel) represented EB. Gordon Valentine (Compliance Officer for EB) and Ryan Adams (the Responsible Person under the EB disciplinary procedure and a member of EB's HR, Legal and Compliance subcommittee) attended on behalf of EB.
6. Steve Osborne-Eston (the EMR Welfare Officer) represented the EMR. He was accompanied by Eddie Jarvis and Janet Vitti.

FACTS

7. The following is a brief summary of the facts.
8. On or around 18 July 2016, the EMR held an emergency Council Meeting to discuss the EMR website, MR's position and a complaint made against MR in relation to the same by JV. Numerous emails followed in which MR requested, without success, sight of the precise complaint being levelled against him by JV.
9. On 27 July 2016, MR issued a SAR and, following the EMR's failure to comply fully with the applicable legislation, MR reported the situation to the Information Commissioner.

10. On 30 July 2016, at a Council Meeting, the EMR discussed MR's position again. JV stated in the meeting that if MR stood down from his role(s), she would drop the formal complaint that she had raised against him. MR was not in the room when this matter was discussed – having been asked to leave – and his father Robert Ritchie (a member of the EMR Council) ("RR") went outside to speak to MR. It appears that, acting on behalf of the EMR, RR presented MR with the following choice: essentially, MR could either resign or be removed from his role. It appears that DB, in his capacity as Chair, also went outside to discuss the matter with MR and MM.
11. There is an issue as to what exactly was communicated and/or understood to have been communicated between MR, RR and DB while they were outside.
12. MR did not return to the meeting.
13. The EMR's position is that RR came back into the meeting and stated that MR was "walking away from the website" such that the EMR purportedly came to a genuine (if mistaken) view that MR had resigned.
14. The very next day however, on 31 July 2016, MR sent an email to MF at 20.51 in which he stated:-

"I have not resigned from my role as the EMR Communications and Promotions Officer ... denied in my entirety any opportunity to speak in response to any of the complaint(s) made against me ... I have every intention of defending myself against the complaints and I am more than willing to let a Case Management Review Panel determine whether there is a case to answer or not."
15. The Panel noted that the above email was not the only time that MR confirmed in writing to a representative of the EMR that he had not resigned from his position on 30 July 2016.
16. EB subsequently received a complaint from MR, represented by Eastwoods solicitors ("Eastwoods"), on 28 October 2016. The complaint was supported by a bundle of documents, a chronology and supporting evidence. GV acknowledged receipt of the same, in his role as the relevant EB officer.
17. On 1 December 2016, MR sent another letter to the EMR addressed to MF, appealing against the EMR's decision to refuse MR EB membership. MR provided evidence, via Eastwoods, the following day.

CHARGES

18. The formal charges ("the Charges") have been framed as follows:-

(i) Charge 1

The EMR Council failed to follow procedure in removing MR from his role on the Executive Committee including the EMR Council failed to follow disciplinary procedures. Accordingly, the EMR has not acted in the interests of the sport or of EB and has brought the sport or EB into disrepute.

(ii) Charge 2

The EMR Council failed to comply with various SARs made by MR. Accordingly, the EMR (through its council) has not acted in the interests of the sport or of EB and/or has brought the sport or EB into disrepute.

(iii) Charge 3

The EMR Council were unreasonable in refusing MR's EB membership application. Accordingly, the EMR (through its council) has not acted in the interests of the sport or of EB and/or has brought the sport or EB into disrepute.

DOCUMENTATION

19. The Panel had sight of the following documents:-

- Disciplinary Investigation Report
- MR's complaint
- MR's appeal against the EMR Council's decision to refuse membership
- Letter to the EMR Council – the complaint
- The EMR Council's extension requests
- The EMR Council's request for legal advice and conference call set up
- Summary email of conference call [between EB and EMR]
- The EMR Council's response to investigation letter
- DB's response
- MF's response
- JV's response
- The EMR Council's second response
- JV's second response
- Various social media screen shots submitted by JV
- The EMR Council's decision to refuse Mark Ritchie's membership
- DB – Confidentiality
- JV – Confidentiality
- MF – Confidentiality
- Decision of the EB Committee dated 12 June 2017
- Letter to EMR Council dated 3 July 2017
- Charge letter dated 3 July 2017

- The EMR Council's response to Charges dated 31 July 2017 ("the Response")
20. In addition, during the Hearing JV handed up some further documents, which the Panel duly considered.

DISCUSSION

21. In the Response, the EMR Council had made equivocal admissions to the Charges.
22. However, at the start of the Hearing, the Charges were read in full and unequivocal admissions were then made by the EMR in relation to each charge.
23. Due to the position adopted by the EMR in relation to the Charges, the Panel did not hear live evidence. The Hearing proceeded instead by way of submissions by the respective representatives in relation to the appropriate sanction.
24. A number of factors were considered in determining the appropriate sanction to be imposed.
25. The Panel reminded itself that the EMR Council includes and relies on a collection of unpaid volunteers, many of whom are in demanding full-time employment outside of the sport, without whom the sport could not properly carry out its functions.
26. The EMR's decision on 30 July 2016 was purportedly based on the premise that MR was not a Council Member and that he had actually resigned. It is worthy of note that item 6 of the EMR Council Meeting minutes on 11 November 2012 reads as follows:-
- (i) MR offered to be appointed by the Council to a position as "Communications Officer" with responsibilities for, inter alia, the EMR website; and
 - (ii) "the Council were in favour of this and [MR] accepted the role of Communications Officer for the Region."

MR performed his duties as the Communications Officer, administering the EMR website and relevant social media accounts.

It is difficult to understand how the initial error arose but it was compounded by the dismissive tone of the emails sent to MR which entrenched the position of the parties.

27. The submissions proffered by the EMR acknowledged the lack of written procedures in place that would have assisted them in dealing with the material difficulties. The EMR submitted that it acted in good faith throughout. They submitted that individual mistakes had been made by senior management and that there had been a failure by senior management to communicate properly with the wider EMR council.

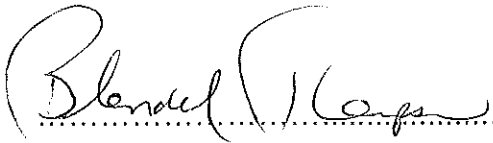
28. The Panel was encouraged by the 634 years of collective voluntary experience that the EMR has developed and the educational programmes that, among other things, they have put in place. In terms of the appropriate outcome from these proceedings, the EMR sought help and guidance as to future practice, particularly during any ongoing absence of formal written procedures.
29. The Panel noted the acknowledgement from EB that there is a need for them to draft and implement (a) a social media policy and (b) a data protection policy and that the same would assist the EMR and enhance their ability to function effectively.
30. EB's submissions in relation to sanction can be summarised as follows. They suggested a financial penalty suspended for 12 months be imposed on the following conditions:-
 - (i) The EMR work with EB on disciplinary matters and procedures.
 - (ii) The EMR work with EB on the appropriate response to managing SARs and data protection.
31. The Panel noted that costs were not being sought.
32. The parties confirmed, upon being asked by the Panel in accordance with paragraph 31.6.3 of the EB disciplinary procedure, that they considered themselves to have had a fair hearing.
33. The Panel retired to consider the matter in private.

SANCTION

34. It is the unanimous conclusion of the Panel that, in all the circumstances, the imposition of the following sanction upon the EMR is just, proportionate and appropriate:-
 - (i) A fine of £1,000 suspended for 12 months on the condition that the EMR:-
 - use all reasonable endeavours to work together with EB to agree and then comply with an Action Plan covering (a) disciplinary matters/procedures, (b) SARs/data protection and (c) social media.

COSTS

35. No Order for costs.



Blondel Thompson (Chair)



Date

Simon Lewis (Panel Member)