

IN THE MATTER OF

ENGLAND BOXING

- and -

MARK RITCHIE

Respondent

DISCIPLINARY PANEL DECISION

INTRODUCTION

1. This document sets out a decision, along with written reasons, of the disciplinary panel (“the Panel”) pursuant to the England Boxing disciplinary procedure (“the Procedure”), following a private hearing of the above matter held in Nottingham on 21 January 2018 (“the Hearing”).
2. The Panel was made up of Simon Lewis (Chair), Sarah Lee and Dr Christopher Matthews.
3. Although Mr Ritchie had had legal representation at earlier stages in the course of these proceedings, he did not attend the Hearing and was not represented.
4. England Boxing was represented by counsel, Ms Mitchell-Dunn.
5. Gordon Valentine was present during the Hearing in his capacity as the England Boxing Compliance Officer and also in his capacity as the “Responsible Person” under the Procedure.

PRELIMINARY MATTER

6. As indicated above, there was no attendance at the Hearing from either Mr Ritchie or any person representing him.

7. The parties had, in the Notice of Hearing dated 21 January 2018, been asked to arrive by 1.30pm in order for the Hearing to start at 2pm.
8. Having been put on notice that Mr Ritchie had not arrived by 2pm, the Panel waited until about 2.15pm before calling in England Boxing's representatives to provide any update and to address the Panel.
9. Counsel for England Boxing made an application to proceed with the Hearing in the Respondent's absence, pursuant to paragraph 31.6.2 of the Procedure.
10. England Boxing submitted the following:
 - (a) On 27 November 2017, an initial Notice of Hearing was sent out by email to solicitors then acting for Mr Ritchie.
 - (b) On 20 December 2017, a further Notice of Hearing (which had been amended to reflect a change in the Panel's composition) was emailed to Mr Ritchie's solicitors.
 - (c) On 18 January 2018, a further email was sent out to Mr Ritchie's solicitors, to clarify whether they were going to act as his legal representatives at the Hearing.
 - (d) On 19 January 2018, a response was provided from Mr Ritchie's solicitors to confirm that they would not be in attendance but that they would forward the correspondence to Mr Ritchie.
 - (e) During the week before the Hearing, Mr Ritchie had been in touch with England Boxing, using the same email address that England Boxing had on its records for Mr Ritchie, about some other matter not related to these proceedings.
11. The Panel invited England Boxing to make one additional attempt to make contact, via telephone, directly with Mr Ritchie, to see whether he could provide any material update. After a short adjournment to allow that attempt to be made, England Boxing confirmed to the Panel that the phone call had been made but had gone unanswered.
12. After hearing submissions from Ms Mitchell-Dunn on the relevant background matters and on more specific arguments in support of

England Boxing's application, the Panel decided to proceed with the Hearing in Mr Ritchie's absence. It did so on the following basis:

- (a) The Panel was satisfied that Mr Ritchie was and/or ought to have been 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.
 - (b) As a consequence, Mr Ritchie had been given a fair opportunity to attend the Hearing in order to present his case orally.
 - (c) There was no evidence before the Panel to suggest that Mr Ritchie had a good (or any) reason for not attending.
 - (d) Adjourning the Hearing would lead to inevitable and relatively substantial costs and disruption to England Boxing.
 - (e) There was no evidence before the Panel to suggest that Mr Ritchie would necessarily attend any re-arranged hearing.
 - (f) The Panel would still have the opportunity to consider with care the documentary evidence and the representations in the Bundle, including those dated 9 October 2017 which contained Mr Ritchie's substantive response to the charge brought against him.
13. Taking into account all of the above, and having regard to the nature of the charge and the material in the bundle of documents, 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.
14. 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

15. 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) Disciplinary Investigation Report
- (b) First Decision by the Committee
- (c) Additional Investigation Report
- (d) Second Decision by the Committee
- (e) Charge Notice
- (f) Evidence to support Charge
- (g) Respondents [sic] Response

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 an earlier complaint brought by Mr Ritchie ("the Original Complaint") against both the East Midlands Regional Council ("the EMRC") and against a number of named individual members of the EMRC executive committee at that time.
- (b) Mr Ritchie had held a role of one sort or other with the EMRC in relation to the management of its website and communications activities. The Original Complaint centred on allegations about the way in which Mr Ritchie had allegedly been removed from that role on or around 30 July 2016, and various other associated matters, including an alleged attempt to unfairly refuse or otherwise deny Mr Ritchie membership of England Boxing.
- (c) The Original Complaint was received by England Boxing on 28 October 2016. It may have some marginal relevance to the present proceedings that one of the allegations was that the Chair of the EMRC had failed to respond to requests/communications from Mr Ritchie in timely or effective manner.
- (d) England Boxing produced a Disciplinary Investigation Report [1-13], which made various recommendations to the England Boxing Committee to consider.
- (e) On 12 June 2017, in the "First Decision by the Committee", the England Boxing Committee decided that there was a case to

answer against EMRC but not against the named individuals on the EMRC executive committee [14-20]. That process ran its course.

- (f) In the meantime, in an “Additional Disciplinary Investigation Report” [21-25], England Boxing recommended (as far as relevant) that Mr Ritchie himself be charged in relation to a number of matters [24].
- (g) On 6 September 2017, in the “Second Decision of the England Boxing Committee” [26-31], the England Boxing Committee decided that there was a case to answer in relation to Mr Ritchie, which led to the formulation of charges.

CHARGES

17. Against that backdrop, the formal charges against Mr Ritchie (“the Charge”) were set out in a “Charge Letter” dated 10 September 2017 [32]. There is only one. In full, it has been framed as follows:

Charge 1

You failed to respond properly or at all to some or all of the questions and queries that have been put to you, as part of a particular matter being investigated through the England Boxing disciplinary process.

Accordingly, your failure to co-operate has undermined the integrity of the England Boxing disciplinary process, you have not acted in interests of the sport or of England Boxing and you have brought the sport or England Boxing into disrepute.

EVIDENCE / SUBMISSIONS

18. The Panel read and had careful regard to the written representations that had been previously provided for Mr Ritchie or on his behalf [47-50] (“the Representations”).
19. The Panel received oral submissions from Ms Mitchell-Dunn on whether the Charge had been made out. She took the Panel through the relevant documents in the Bundle, in some detail, and submitted that

the failures by Mr Ritchie were serious failures which had had a both a real and a potential impact on the ability of England Boxing to efficiently and fairly manage both the present proceedings and the earlier proceedings in relation to the Original Complaint brought by Mr Ritchie.

20. After receiving what could fairly be described as persuasive responses from Ms Mitchell-Dunn to a range of questions and challenges from the Panel (which had felt an added need, in the Respondent's absence, to make sure, through its own questions, that the evidence and submissions relied upon by England Boxing was subjected to a robust test), the Panel entered into its private deliberations.

DISCUSSION AND FINDINGS

21. The Panel, first, considered whether the Charge had been made out.
22. In doing so, it reminded itself of two fundamental principles:
 - (a) The burden of proof lies with England Boxing.
 - (b) The standard of proof is the orthodox civil standard (i.e. the "balance of probabilities").
23. On 3 July 2017, the Charge Letter [34-37] set out the Charge and, importantly, asked 5 specific questions [37] ("the Questions"). The Questions related to Mr Ritchie's potential/alleged involvement in an online site referred to as "*Warrior Boxing Forum*" ("the Site") and, in particular, the username "*Eduardo 7*". Such questions were relevant to a material issue which had arisen in the administration of the Original Complaint. The Questions, in full, were:
 1. *Did you ever [use] the Site, in particular did you [contribute] towards discussions on the Site?*
 2. *If so, what username(s) did you use whilst contributing towards discussion on the Site?*
 3. *Did you operate the username "Eduardo 7" on the Site?*

4. *If not, do you know or are you aware of the person who operated the username “Eduardo 7” on the Site?*

5. *If so, why did you operate under the name “Eduardo 7”?*

... I would be grateful if for your client’s [i.e. Mr Ritchie’s] response as soon as possible, and in any event no later than 7 days ...

24. The Panel noted that, significantly, the Questions are phrased in the past tense. It would be and it would have been clear to any rational, reasonable and objective reader, that England Boxing was, in essence, seeking quite specific information in relation to any past involvement that Mr Ritchie (or others known to him) may have had in the Site and the Username. They were relatively straightforward and simple questions and, absent a good reason to the contrary, they ought to have been simple and straightforward to answer directly and with sufficient precision.
25. On 10 July 2017, the solicitor acting for Mr Ritchie (a Mr Shoebridge of Eastwoods Solicitors Limited) responded [39]. On behalf of his client, he indicated that Mr Ritchie was not happy with the England Boxing Committee’s decision to not proceed with the Original Complaint as against the named individuals at the EMRC and that he might object to the same. He also requested some documentation. However, the Panel noted, Mr Shoebridge made no attempt whatever to answer or otherwise respond to the Questions.
26. Later that same day, Mr Adams (on behalf of England Boxing) responded [38] and, among other things, pointed out expressly that Mr Shoebridge had not provided an answer to the Questions. Mr Adams, entirely reasonably in the view of the Panel, sought some clarity on when England Boxing might expect such a response.
27. On 17 July 2017, the Panel is satisfied that there was, on the balance of probabilities, a telephone conversation between Mr Adams and Mr Shoebridge [41] in which the latter informed the former that a response in relation to the Questions would be received from Mr Ritchie.

28. On 28 July 2017, no such response having been received, Mr Adams emailed Mr Eastwood (who had by then taken over the matter from Mr Shoebridge, the latter having apparently left the firm at some point after the phone call of 17 July 2017), to confirm that he would address all future communications to him and also to highlight the ongoing failure to respond to the Questions [41].
29. By letter dated 11 August 2017, Mr Eastwood wrote to Mr Adams on behalf of Mr Ritchie. The first paragraph was focused on the Original Complaint and sought an update in relation to that. The second paragraph expressed purported concerns regarding the circumstances and the way in which the Questions arose. It was suggested that Mr Ritchie, as a potential witness in any hearing of the Original Complaint could, in the context of any such hearing, provide “further clarification” (i.e. in relation to the Questions) if the same was “required”. While there was still no attempt in this letter to answer each of the Questions individually or directly, the letter did include the following (the underlining has been added by the Panel for emphasis):

For the avoidance of doubt, and in the interests of transparency however, we are instructed to make clear that our client [i.e. Mr Ritchie] has no connection with [the Site] using the name “Eduardo 7”, and accordingly is not responsible in any way for that site.

30. Subsequently, on 9 October 2017, Mr Eastwood provided the Representations [47-50]. In essence, it was submitted that:
- (a) Mr Ritchie is the complainant in this matter.
 - (b) Mr Ritchie has already provided a “great deal of documentation and information”.
 - (c) The allegation of failing to co-operate with the investigation against the EMRC is “emphatically denied”.
 - (d) There have been failures by England Boxing to “follow their own proper process” and to “establish the facts alleged against me”.
 - (e) Mr Ritchie was not made aware of relevant history or investigations early enough, nor the material allegations.

- (f) It is “questionable” as to what “justification England Boxing could have for raising [the Questions] directly with [Mr Ritchie], via [his] solicitors, leading to the present Notice of Charge, without at any stage apparently activating the Disciplinary Procedure”.
 - (g) Mr Ritchie objected to the way “these matters have been raised, as a compliment [sic] to a pre-existing disciplinary proceedings instigated as the result of a complaint by myself, when no formal disciplinary investigation has been instigated against me, and I have in essence been charged in relation to matters without in any way being warned as to the implications involved, or given the opportunity to clarify matters further before any charge was issued”.
 - (h) In any event, it cannot be properly said that Mr Ritchie failed to respond adequately to the Questions: “on any view” the Questions were responded to “albeit it in general terms”. The “advice” given by “my solicitors” was “unequivocal and clear”. Mr Ritchie “believes” that he has “in essence” answered the Questions in “appropriate fashion” given the “lack of explanation and context given at the time”.
 - (i) The Charge is “unfair and inappropriate”.
 - (j) Moreover, and more generally, England Boxing has conducted an “inappropriate” and “oppressive” process.
31. Having considered all of the evidence before it, the Panel concludes, unanimously, that the Charge had been made out. It relied on the following:
- (a) Mr Ritchie was, on any legitimate and sustainable view, late in providing any purportedly-substantive response to the Questions. The initial request was for a response within 7 days. While 7 days is not a long or overly-generous period of time, the Panel finds that it was nonetheless reasonable in the circumstances, including the nature of the questions themselves. In any event, Mr Ritchie was not even close to hitting that deadline, has not made out any good reason for the delay, and does not appear to have made any sufficient effort to agree an adequate extension.

- (b) The response in the letter set out at paragraph 29 above was, despite Mr Ritchie’s subsequent protestations to the contrary, neither clear nor unequivocal, when it is viewed objectively and regard is had to the Questions. On the contrary, it was vague and ambiguous. It was not an adequate response to Questions and, moreover, the same must have been plain to those responsible for producing it. First, while, as highlighted above, the Questions specifically asked about any past conduct and knowledge, the response emphatically failed to respond to or engage with the same. Instead, the response focused purely on the position as at the present time (i.e. as of 11 August 2017), which was largely if not completely irrelevant, rather than during earlier material times. For example, the letter stated that “our client *has* no connection with the site”. Responses such as “our client *has and has never had* any connection with the site” and/or “our client *has and had not at any material time* any connection with the site” would have been closer to what was required. To take yet another example, the letter stated: “*is* not responsible in any way for that site”. Second, rather than answering the Questions as they were put, the response substituted new and different concepts, such as “connection” and being “responsible” for the Site. Being connected is an unnecessarily vague – and a very unhelpfully vague – term to have substituted for the much clearer (and perfectly adequate and reasonable) words in the Questions themselves. There was never any allegation that Mr Ritchie was “responsible” for the Site, so the decision by Mr Ritchie or those acting on his behalf, to introduce and/or substitute that word is also strikingly odd and a matter of concern to the Panel.
- (c) Even in the subsequent Representations, Mr Ritchie repeated the earlier failure to respond to the Questions in the past tense as required. He stated: “I *have* nothing to do with ‘Eduardo7’”, without (to risk labouring the point) providing a response as to whether he had in the past (at the material time). Mr Ritchie further stated “...and I have no *direct* knowledge of it”, which rather begs the question of whether he had “indirect” knowledge of “it” or of who specifically (if not him directly) was involved in posting material via the Username.
- (d) The Panel considers that the overall approach adopted by Mr Ritchie in relation to the Questions bears all the hallmarks of an individual being deliberately evasive. The Panel considers itself

to be wholly entitled to draw such an adverse inference following his failure to attend the Hearing and/or provide any persuasive case in response to these proceedings.

- (e) There was no suggestion, the Panel noted, in the Representations that the solicitors were being held by Mr Ritchie to be to blame in some material way (i.e. that he had provided sufficient responses to them as his representatives, but that they had then failed to comply with his instructions and convey the same). The Panel further noted, in this regard, that the letter expressly used the phrase “we are instructed” before the purported response.
- (f) Despite the protestations contained in the Representation, the Panel is satisfied that it was legitimate and reasonable for England Boxing to: ask the Questions; ask them at that point in time; and ask them in the manner it did. They were important and relevant questions. A clear response was required in order to progress the Original Complaint effectively and efficiently. An important part of the EMRC’s defence, at the relevant point in time, to Mr Ritchie’s complaint, was said to be that Mr Ritchie had posted (or was otherwise involved in the posting of) a number of highly inappropriate posts on the Site under the Username. The Questions were clearly, therefore, a vital and necessary part of England Boxing’s investigation. The delay and the failure to answer them directly continued over a period of time when the Site was taken off-line. This had the further effect of frustrating England Boxing’s opportunity to effectively and efficiently investigate the relevant line of defence and counter-allegation. It also, at least potentially, impacted the way in which the EMRC might have presented its response to the Original Complaint (with potentially serious and adverse implications regarding the overall fairness of those proceedings). It ought to have been adequately clear to Mr Ritchie that the Questions were highly material to the Original Complaint and its effective management by England Boxing. Among other things, the Panel notes that the essence of the rationale for asking the Questions was set out in writing in the letter dated 3 July 2017 [37].
- (g) The Panel is satisfied that there was a culpable failure by Mr Ritchie, which disrupted and undermined the disciplinary procedure being followed by England Boxing. The Panel is not persuaded by Mr Ritchie’s submission that England Boxing acted

oppressively or otherwise improperly or that it breached its own procedures or policies in some material way in the course of asking the Questions. In the view of the Panel, Mr Ritchie did not act in the interests of England Boxing or the sport and his acts/omissions in failing to co-operate brought the sport into disrepute. The failures had the effect and may well have had the purpose of frustrating the efficient and fair progress of the ongoing England Boxing proceedings. A reasonable observer, considering matters objectively, would be likely to have its view of both England Boxing and the sport lowered, such that the same would have a negative impact on their respective reputations, undermine their public values, and/or cause them embarrassment. There is a further possibility that Mr Ritchie's conduct had the purpose or effect of have protected him from facing further allegations of misconduct himself (e.g. in relation to his alleged conduct on the Site). The Panel makes no finding of fact on this latter possibility but there is nonetheless a risk that the hypothetical rational and reasonably-informed observer might draw such an inference on consideration all relevant matters in the round.

- (h) For obvious reasons, England Boxing has an entirely legitimate aim of having in place reasonable procedures to manage disciplinary issues and there must be an equally legitimate expectation that individual members will take reasonable steps to comply properly with the same. Where members fall short of the standards expected in relation to such matters, there must be a sanction that, while proportionate, reflects the seriousness and potential implications of the failure.

32. In coming to this finding, the Panel notes that the proven failure constitutes a breach of the Code of Conduct of England Boxing, which provides that:

... the Member agrees and continues:

- *Not to act against the interests of the sport or of England Boxing, and not to bring the sport or England Boxing into disrepute.*

33. Even if the Panel had found that the failure had not brought the sport or England Boxing into disrepute, it would still have found that Mr Ritchie had failed to not act against the interests of the sport or of England

Boxing. In the judgment of the Panel, that, in and of itself, would have been sufficient for the Charge to have been made out. But in any event, for the avoidance of doubt, the Panel finds that all elements of the Charge is proven.

SANCTION

34. The range of potential sanctions that the Panel may impose if a charge is proven following a hearing, are set out at paragraph 32 of the Procedures 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.
35. The Panel notes, specifically, that paragraph 32 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 that 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.
36. There is an express provision to suspend any particular penalty, pursuant to paragraph 33.
37. The Panel consider there to be little, if any, persuasive mitigation provided by Mr Ritchie, whether in the Representations or elsewhere. Furthermore, he has shown no sign of any real insight into the failure or its consequences.
38. The Panel is satisfied that the proven Charge, especially in the absence of persuasive mitigating factors, represents a serious falling short of the standards expected from England Boxing members. Mr Ritchie would

have been well aware of the importance of prompt and effective responses in the context of formal disciplinary processes, as a similar complaint formed a part of the Original Complaint that he himself had brought. It is vital, to the successful operation of England Boxing, that it has and is seen by the public to have effective and fair disciplinary processes and procedures, and that members take reasonable steps to comply with the same.

39. In all the circumstances, the Panel is satisfied, unanimously, that a formal sanction is 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 45 below.
40. The Panel considered it appropriate to issue a formal reprimand in order to specifically mark the proven failure as unacceptable.
41. The imposition of the fine, at that level, was carefully considered to reflect the seriousness of the conduct and its potential/actual effect and in part (albeit to a much more modest extent) to create some form of deterrent effect both to Mr Ritchie and to the membership at large. The suspension of the fine was considered proportionate and would also enable any subsequent panel to consider the Respondent's means, if and to the extent they are relevant, in the event that the sanction is crystallised on the event of Mr Ritchie being found under the Procedure to have committed another disciplinary offence within the relevant period.
42. The relatively modest period of the ban was considered justified and proportionate in all the circumstances, given the seriousness of the failure and the importance of England Boxing having an effective disciplinary procedure that it not undermined.
43. The imposition of conditions appeared to be entirely sensible and justified, it being little more if any more than would be expected from members in any event.
44. England Boxing did not seek a costs order.

ORDER

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

- (a) The Charge is proved.
 - (b) Mr Ritchie shall be issued with a reprimand.
 - (c) Mr Ritchie shall pay a fine £500 suspended for 12 months (pursuant to paragraph 33 of the Proceedings), subject to any representations in relation to means in the event of Mr Ritchie being found under the Procedure to have committed another disciplinary offence within the 12 month period.
 - (d) Mr Ritchie shall be banned from being a member of England Boxing for a period of 3 months, with immediate effect from the date of this written decision.
 - (e) Conditions shall be imposed on Mr Ritchie membership of England Boxing that he complies with any current or future England Boxing investigations.
 - (f) There be no order as to costs.
46. The time for any appeal against this decision from either party, pursuant to paragraph 40 of the Procedure, is 28 days from the date of that party receiving this written decision document. Any such appeal must be made in accordance with the provisions of paragraph 40 and shall require the payment of any applicable fee.
47. At the conclusion of the Hearing, the Panel, pursuant to paragraph 31.6.3 of the Proceedings, 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 the Respondent.

Simon Lewis

 Simon Lewis (Chair)

29 January 2018

 Date