

IN THE DISCIPLINARY PANEL HEARING

BETWEEN:

ENGLAND BOXING LIMITED

Complainant

-and-

KELLY SMITH

Respondent

WRITTEN DECISION OF THE DISCIPLINARY PANEL FOLLOWING THE HEARING ON 22nd NOVEMBER 2021

INTRODUCTION

1. This document sets out the decision, and written reasons, of the Disciplinary Panel (“the Panel”) pursuant to the England Boxing Disciplinary Procedure, following a video hearing held on 22nd November 2021.
2. The Disciplinary Panel were asked to deal with the evidence within the Disciplinary Pack, and the hearing was held *in absentia* of the Respondent.
3. The Panel was made up of:- Mr Rizwan Mughal (Chairperson); Ms Gladys De Groot; Ms Tracy Davies.
4. England Boxing were represented at the hearing by Counsel, Ms Charlotte Mitchell-Dunn.
5. England Boxing Limited (“EB”) is the national governing body (“NGB”) for the sport of boxing in England. It sits at the top of the pyramid for the control and regulation of boxing in the country. There are then a number of Regional Associations (“RAs”) that undertake various governance and administrative tasks on behalf of EB. Clubs, individual members and trainers are on the next level down.
6. EB has responsibility for organising championships, including the Junior Development Championships (“JDC”). The Technical Rules, Championships, Referees and Judges Sub-Committee of the Board of EB is responsible for organising the JDC, which are governed by the AIBA Technical and Competition Rules. Additional rules are set out in the entry form for the JDC. The latter rules provide that EB retains the right to amend, alter or add directives, policies and procedures at any time it deems necessary.

Background

7. The background facts surrounding this matter can be summarised as follows:

8. In 2018, the Respondent was the subject of a separate disciplinary investigation emanating from a safeguarding matter. During that process, the Respondent raised a complaint against an individual who had reported the safeguarding concern. The complaint made by the Respondent related to a Safeguarding Certificate she had been provided with, which she admitted she had not attended an EB course for.
9. Whilst the previous disciplinary matter was completed, and the Respondent received a suspension, she withdrew her complaint however, the matter was investigated by EB. As a result of the investigation, the individual who had issued the Safeguarding certificate to the Respondent was charged (*EB v McNally*).
10. EB notified the Respondent that they would pursue her however, the Respondent advised that she would not renew her EB membership after suspension. The matter was left in abeyance at that stage until such time that the Respondent re-applied for membership.
11. The Respondent decided to re-join EB, and so the disciplinary matter has been resurrected.

Charges against the Respondent

12. By letter dated 27th August 2021, the Respondent was charged as follows:-

13. Charge 1 –

“In or around November 2018, you accepted a safeguarding certificate despite the fact you had not completed the requisite training.

Through your actions you have:

- (i) Acted contrary to the England Boxing Code of Conduct.*
- (ii) Not acted in the interests of the sport or of England Boxing*
- (iii) Brought the sport of England Boxing into disrepute”.*

14. Charge 2 –

“In or around November 2018, following the issuance of a Safeguarding Certificate for which you had not completed the requisite training to obtain, you

- (i) Acted in a role requiring safeguarding accreditation without the requisite training.*
- (ii) Failed to promptly notify England Boxing that you had not conducted the requisite training in order to obtain the certificate.*

Through your actions you have:

- (i) Acted contrary to the England Boxing Code of Conduct.*
- (ii) Not acted in the interests of the sport or of England Boxing*

(iii) *Brought the sport of England Boxing into disrepute*".

15. It is not the Panel's intention to rehearse the EB Code of Conduct for the sake of brevity. The Code is available and readily available online.

Respondent's Response to Charges

16. In accordance with EB's Disciplinary Procedures, the Respondent provided a statement of response to the Charges letter.

17. The Respondent stated that she did not deliberately or consciously contravene the rules.

18. In relation to Charge 1, the Respondent states;

"I do accept that, while not deliberate or reckless, I did make a mistake and accepted a certificate, without checking the detail or requirements that go with the issue of such a certificate... I am truly sorry for this error."

19. In relation to Charge 2, the Respondent states;

"I confirm... I did volunteer as a newly qualified Level One Coach... At no time did I take sessions without the presence of another qualified boxing coach".

"Upon becoming aware, in late August / early September 2019, that I should have attended an accredited safeguarding course, I sought to rectify the issue and then I notified England Boxing".

20. The remainder of the Respondent's statement in response deals with the Respondent's background in boxing and provides mitigation. The Panel do not propose to rehearse the points made but did consider all of the points raised when deciding on appropriate sanctions to impose.

Evidence

21. The Panel were provided with a copy of the Safeguarding & Child Protection Workshop Certificate ("the Certificate"). The certificate is dated 9th June 2018 and clearly states that the Respondent has successfully completed the Workshop.

22. In an email dated 25th November 2019, from the Respondent to EB, the respondent stated:

"I would like to make a complaint about a safeguarding certificate being given without any training... To receive my lanyard I completed a first aid course and was given a safeguarding certificate by Mr Vince McNally. At the time I didn't

realise the importance of doing a safeguarding course and thought that a certificate was just given to you.

I remember a course being held at South Wye Police Boxing Club in June but didn't go on the course and I can prove I wasn't there."

23. In an email dated 8th January 2020, from Vince McNally to EB, Mr McNally confirmed that he had wrongly issued the Respondent with a safeguarding certificate. Mr McNally was subject to a separate disciplinary hearing.
24. The Respondent provided a statement by way of email to EB on 12th March 2021 within which the Respondent stated that she had previously carried out safeguarding training through her children's school. She says that she understood that this complied with the safeguarding requirement for EB.
25. As outlined above, the hearing proceeded in absentia of the Respondent and so the written evidence was taken into consideration and the Respondence sought not to rely upon oral evidence.

Panel's Findings against the Respondent

26. The Panel made the following findings in respect of the Respondent after considering all of the evidence:-
 - (i) The Respondent admitted Charge 1 by way of her response to the charges.
 - (ii) The Respondence admitted Charge 2 by way of her response to the charges.
 - (ii) For the avoidance of doubt, the Panel finds that both charges are proven.

SANCTIONS

27. The Panel gave consideration to all of the evidence and any mitigating circumstances. They had regard to a number of factors and applied the appropriate weight to each.
28. The Panel considered the sanctions available to them pursuant to the England Boxing Disciplinary Procedure: -
 - (i) A reprimand.
 - (ii) A fine not exceeding £5,000.
 - (iii) A ban from participating in the sport
 - (iv) A ban from membership of England Boxing.
 - (v) The imposition of any such condition on participation in the sport.
 - (vi) A requirement to attend appropriate training
 - (vii) A requirement to pay a contribution to the costs of the disciplinary hearing.

29. The Panel invited submissions from EB as to the appropriate level of sanction and their position on costs. EB submitted a level of suspension and attendance at an EB Safeguarding Course to be attended and the Respondent to provide evidence on the mandatory training attended within one year.
30. In the Panel's view, the nature of the misconduct was sufficiently serious to warrant a number of sanctions. The Panel do not accept that the Respondent made a mistake. On balance, the evidence suggests the Respondent sought to deceive EB and the Certificate provided quite clearly gives the impression that the Respondent attended the Safeguarding Workshop, when she admits she did not attend.
31. It also appears to the Panel that there was some collusion between Mc McNally and the Respondent in order to bypass attendance at the Safeguarding Workshop.
32. The Panel considered that a reprimand was justified in this instance given that the actions of the Respondent were not trivial.
33. The Panel considered whether a fine was appropriate however, imposition of a fine would hold no real justification in circumstances where alternative sanctions would achieve the desired outcome, having regard to the nature of the actions of the Respondent.
34. The Panel overwhelmingly agreed that a ban from the sport was justified, to give the Respondent an opportunity to reflect and to send a clear message to EB members that dishonesty, such as that displayed by the Respondent to intentionally circumvent a policy, will not be tolerated.
35. The Panel considered that the Respondent should attend an EB Safeguarding Workshop within the next 12 months and mentored by a Safeguarding Officer of a neighbouring club or by the Southern Counties Safeguarding Officer.
36. A requirement for the Respondent to pay a contribution to the costs of the disciplinary hearing was not justified in the circumstances.
37. Therefore, having regard to all of the circumstances of the case, the Panel found that it was fair, just and reasonable to impose the following sanctions against the First Respondent:-
- (i) A reprimand.
 - (ii) A ban from participation and coaching in the sport until September 2022.
 - (iii) The Respondent is required to attend an EB child safeguarding workshop, the cost of which shall be borne by the Respondent, within 1 year, and she is required to provide evidence of attendance at the training to EB before expiry of the ban referred to in (ii) above.

38. In reaching its decision on sanctions, the Panel had full regard to the wider public interest, including the protection of minors involved in the sport, public confidence in the sport generally and its administration, and the importance of the sport upholding proper standards of conduct.

RIGHT OF APPEAL

39. The Respondent may exercise their right to appeal pursuant to Rule 40 of the England Boxing Disciplinary Procedure. Should the Respondents wish to lodge an Appeal, they must send a written Notice of Appeal to the EB Officer within 28 days of the written decision of the disciplinary panel. The Notice of Appeal shall summarise the grounds of appeal and why the Respondent consider that the disciplinary panel's decision was wrong. The Respondent shall also submit a fee of £250, which shall be refunded if their appeal is successful but shall otherwise be forfeited towards the costs of the appeal.

Dated this 7th day of December 2021

Mr Rizwan Mughal (Chair)
Ms Gladys De Groot
Ms Tracy Davies