

**IN THE MATTER OF**

**ENGLAND BOXING**

**-and-**

**MR BRIAN ALVIN FINCH**

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**DISCIPLINARY COMMITTEE DECISION**

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**A. INTRODUCTION**

1. This is the written decision of the Disciplinary Committee, consisting of Mr Phillip Law (Chair), Ms Emma Waters, and Mr Terry Gillam in the matter of Mr Brian Alvin Finch pursuant to the England Boxing Disciplinary Procedure (“the Procedure”). This is the Committee’s decision.
2. The hearing was held remotely by Zoom on a number of occasions.
  - a. On 19 July 2023, the matter commenced and was adjourned so that live evidence could be called.
  - b. The hearing reconvened on 27 July 2023 where live evidence was heard.
  - c. The Committee met without parties on 28 July 2023.
  - d. The hearing convened with all parties present on 7 August 2023 to deal with sanction.
3. England Boxing was represented by [REDACTED]. Mr Finch attended and represented himself on 19 July 2023 and was then assisted and represented by Mr Michael Day thereafter.

4. England Boxing ('EB') is the National Governing Body ('NGB' for boxing in England. The International Boxing Association ('IBA' formally known as the 'AIBA' or Association Internationale de Boxe Amateur) is the International Federation ('IF') for the same sport.

5. The Committee was asked to apply the England Boxing Code of Conduct<sup>1</sup> which states:

*It shall be a condition of membership of England Boxing (whether Individual Membership, Club Membership or Associate Membership) that the Member agrees and continues:*

...

- *To abide by such Rules, Policies and Procedures as the Board of England Boxing may approve from time to time, including England Boxing's Technical Rules, its Child Protection Policy, Code of Conduct, Equity, Ethics and Disability Policies and its Disciplinary and Appeals Procedures, insofar as applicable;*

...

- *To abide by AIBA's Regulations (including its Statutes, Bylaws, Technical & Competition Rules, Code of Ethics, Disciplinary Code and Procedural Rules) insofar as applicable; and*
- *Not to act against the interests of the sport or of England Boxing, and not to bring the sport or England Boxing into disrepute.*

6. The AIBA Code of Ethics<sup>2</sup> states:

#### **18 General Principles of Conduct**

18.1 A person bound by this Code must comply with the following principles:

(a) human dignity;

(b) nondiscrimination, either on the basis of race, gender, nationality, ethnic origin, religion, philosophical or political opinions, sexual preference or any other grounds;

(c) nonviolence, including abstaining from any kind of pressure and harassment, whether physical, mental, professional or sexual;

(d) friendship, mutual aid and fair play;

(e) integrity;

(f) transparency;

(g) priority to the interests of the sport of boxing and the athletes in relation to financial interests;

(h) sustainability;

(i) political neutrality;

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<sup>1</sup> <https://www.englishboxing.org/wp-content/uploads/2019/05/England-Boxing-Appendix-Code-of-Conduct.pdf>

<sup>2</sup> [https://www.iba.sport/wp-content/uploads/2021/07/AIBA\\_Code-of-Ethics\\_final-1.pdf](https://www.iba.sport/wp-content/uploads/2021/07/AIBA_Code-of-Ethics_final-1.pdf)

*(j) promotion of the Olympic Movement ideals.*

*18.2 Any person bound by this Code shall be aware of the importance of his duties to comply with the abovementioned general principles of conduct and other rules of conduct specified in this Code. A person bound by this Code shall fulfil and exercise his duties and responsibilities diligently, especially with regard to finance-related matters.*

*18.3 Any person bound by this Code must refrain from any activity or behavior or any attempted activity or behavior that might give rise to the appearance or suspicion of improper conduct.*

## **B. THE CHARGE**

7. The charge against Mr Finch was set out in the charge letter. The charge read:

*“That on the morning of Sunday 23 April 2023 at the Premier Inn hotel, Newcastle upon Tyne, you did sexually assault [REDACTED] and in doing so brought the sport of amateur boxing into disrepute contrary to the AIBA code of Ethics and the EB Code of Conduct”*

8. It is alleged that Mr Finch, on the date in question and at the location in question he touched [REDACTED] and that that touching was sexual and non-consensual; and that in so doing he brought the sport of boxing into disrepute contrary to:

- a. the EB Code of Conduct; and
- b. AIBA’s Code of Ethics.

## **C. BURDEN AND STANDARD OF PROOF**

9. The burden of proving the charges was on England Boxing.

10. The applicable standard of proof was the balance of probability. The balance of probability means the Committee will be satisfied an event occurred if it considers that, on the evidence, the occurrence of the event was more likely than not. The same standard applies to the Committee’s consideration of whether any proven act or omission amounts to a violation of the Code of Conduct, taking account of any applicable defence. EB has the burden of disproving any such defence to the same standard.

#### D. JURISDICTION

11. The Committee was satisfied that it had jurisdiction to determine the charge.
12. The disciplinary procedure can be applied to Mr Finch, as he was actively involved in boxing at the material time. Jurisdiction is not disputed. Further, Mr Finch as an experienced be official of England Boxing and Appointments Secretary for the Northwest region of England, is bound by the relevant rules and codes pursuant to §4.2 of the England Boxing rules. As an official he is required to adhere to the AIBA and EB Codes of Conduct: see §4.3 of the boxing rules.<sup>3</sup>

#### E. FACTS

13. The Committee read evidence and submissions provided by EB and Mr Finch. The Committee live heard evidence from:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14. The Committee also received written accounts from:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

15. EB set their case out in the following way.

- a. The National Amateur Championships ('NACs') were held over the weekend of 22 and 23 April 2023, in Newcastle upon Tyne.

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<sup>3</sup> <https://www.englandboxing.org/wp-content/uploads/2023/01/2022-2023-RULE-MASTER-2022-FINAL-VERSION-0123.pdf>

- b. Mr Finch attended the finals event as an EB appointed official. Also at the event was [REDACTED], the alleged victim in this matter, [REDACTED]. Both were separately staying at the same local hotel. A number of other attendees of the NACs were also staying at the hotel.
- c. In the early hours of Sunday morning, a group of NAC attendees were in the lobby of the hotel. Mr Finch and [REDACTED] were part of that group. At some point in the early hours, [REDACTED] started to leave the group. [REDACTED] farewells included what are described as hugs.
- d. [REDACTED] approached Mr Finch to hug him as a farewell gesture, at which point it is alleged that Mr Finch said, "Can I grab your bum?" or words to that effect. He is said to have not waited for a response before touching [REDACTED] in the way he had allegedly suggested before hugging [REDACTED]. The touching is alleged to have been non-consensual and sexual in nature.
- e. EB submit that the assault was witnessed by three people, [REDACTED], [REDACTED], both employees of England Boxing, and [REDACTED] who is also an employee of England Boxing. All three have provided witness statements that purport to corroborate the touching.

16. Mr Finch denies the allegation:

- a. He denies any sexual touching, consensual or otherwise, in relation to the complaint made.
- b. He accepts that he had been officiating on Saturday 22nd April at the NACs and that he was staying at the hotel in question. He did not appear to dispute the jurisdiction of EB or the Committee.
- c. He went to the hotel bar and was socialising with other officials who were at the NACs. He states that those present were, [REDACTED] and [REDACTED]. He adds that [REDACTED] and [REDACTED] group of friends were also present for a time before heading out for a night in Newcastle.
- d. All, ([REDACTED]) were drinking alcohol. He denies ever being drunk. For much of the evening [REDACTED].

- e. The socialising continued until around 1am when ██████ left. A short while after this ██████ and ██████ group returned joined everyone who was remaining in the bar area.
- f. Not long after this he states that ██████ moved to go back to ██████ room and proceeded to hug all officials who were present, including him. He denies “say[ing] anything inappropriate or touch[ing ██████] in an inappropriate manner”.
- g. He also denied being present at breakfast the next morning.

17. The Committee considered the following evidence:

- a. ██████ gave evidence in person and answered questions from Mr Day and the Committee, having adopted ██████ statement. The Committee found ██████ to be a reliable witness doing ██████ best to answer questions truthfully. ██████ did not seek to exaggerate the incident or the impact of events upon ██████
  - i. ██████ stated that a number of officials were in the hotel lobby bar until quite late. ██████ had spent a couple of hours with Mr Finch that evening, and he had told ██████ his name. ██████ eventually decided to go up to ██████ room and some hugged as gesture of good night. ██████ gave Mr Finch a hug. He made a comment about wanting to pinch or grab ██████ bum and with that, he did so. It took ██████ by surprise, and ██████ felt awkward and embarrassed and decided to leave without saying anything. ██████ did not report the matter and would not have done so but for ██████ conversation with EB staff the next day. ██████ did not want to participate in process of this nature. ██████ was not ‘OK’ with the touching.
  - ii. ██████ stated that ██████ saw Mr Finch at breakfast the next morning.
  - iii. ██████ was a reluctant witness. ██████ considered the hearing to be more stressful than the event itself. ██████ did not consent to the touching and did not want to attend the hearing. ██████ did not know Mr Finch before the hearing and had no animus towards him. ██████ was told by EB staff (████████████████████) that they would be reporting the matter to EB.
  - iv. ██████ stated that ██████ had drunk a small glass of wine during the evening but no more. ██████ maintained that the statement provided was ██████

evidence, that Mr Finch was at breakfast the next morning and denied that ■■■ had been pressured into providing a statement to EB.

- b. ■■■ gave evidence and answered questions from Mr Day and the Committee, having adopted ■■■ statement. The Committee found ■■■ to be a reliable witness doing ■■■ best to answer questions truthfully.
  - i. ■■■ knew Mr Finch as ■■■ had dealt with him regarding a kit order. ■■■ is a member of staff for EB.
  - ii. ■■■ stated that ■■■ left the hotel with others (including ■■■) and returned to the hotel to find the group in the lobby. They had visited a number of bars but had not got into all of them. ■■■ had consumed 3 or 4 alcoholic drinks and did not feel drunk. ■■■ did feel tired.
  - iii. Some of the group in the lobby (after they returned to the hotel) were obviously drunk. ■■■ did not see ■■■ drinking and saw Mr Finch with an unfinished bottle of Chardonnay. ■■■ alleges that at around 02:00am, ■■■ announced ■■■ was going up to ■■■ room and bid everyone goodbye by hugging them and thanking them for a successful day. As ■■■ said goodbye to ■■■ then turned to Mr Finch who stood up and said, "Can I grab your arse?" and without allowing ■■■ to respond to the question, he then proceeded to do so very aggressively using his full left hand.
  - iv. The next day, ■■■ in the presence of ■■■ They took the opportunity to check how ■■■ felt about what had allegedly occurred in the early morning.
  - v. When examined by Mr Day, ■■■ had not been able to identify that Mr Finch was missing a middle finger on his left hand.
- c. ■■■ gave evidence and answered questions from Mr Day and the Committee having adopted his statement. The Committee found ■■■ to be a reliable witness trying his best to answer questions.
  - i. ■■■ is the partner of an EB member of staff.

- ii. [REDACTED] had been drinking that night and had consumed between 4 and 5 pints of beer. [REDACTED] couldn't remember [REDACTED] drinking but recalled Mr Finch drinking white wine.
  - iii. [REDACTED] stated that when [REDACTED] said [REDACTED] was going to bed, [REDACTED] said [REDACTED] goodnight and gave a few people a hug. [REDACTED] said that Mr Finch asked if he could '[REDACTED]' and before [REDACTED] could even process the question, [REDACTED] had already proceeded 'to grab the [REDACTED] bum' and was very 'handsy'. [REDACTED] stated that Mr Finch touched the [REDACTED] in question with at least one hand but that [REDACTED] 'wanted to think' that it was both hands.
  - iv. [REDACTED] didn't know Mr Finch before this incident. [REDACTED] was introduced to Mr Finch during the course of the evening.
- d. [REDACTED] gave evidence and answered questions from Mr Day and the Committee having adopted [REDACTED] statement. Whilst [REDACTED] initially gave evidence with [REDACTED] camera off, [REDACTED] eventually turned [REDACTED] camera on to conclude [REDACTED] evidence. The Committee found [REDACTED] to be a defensive witness. Notwithstanding this, the Committee considered [REDACTED] to be a witness of truth. [REDACTED] made appropriate concessions when asked questions by Mr Day, for example in relation to the presence of [REDACTED] at the drinks in the early hours.
- i. [REDACTED] prior to the incident. [REDACTED] had consumed four alcoholic drinks during the course of the evening. [REDACTED] didn't know if [REDACTED] was drinking and was aware of a bottle of white wine that Mr Finch was drinking.
  - ii. [REDACTED] stated that at around 01:50am, [REDACTED] advised [REDACTED] was leaving and gave everyone a hug to say goodnight. When [REDACTED] went to give Mr Finch a hug, he asked "Can I feel your bum?" [REDACTED] said he did not wait for an answer and then 'groped [REDACTED] bottom'. When questioned, [REDACTED] evidence was that Mr Finch used two hands to touch [REDACTED].
  - iii. The next day [REDACTED] and [REDACTED] spoke to [REDACTED], and [REDACTED] considered that [REDACTED] was upset at what had transpired.
- e. [REDACTED], called by Mr Finch to give evidence. The Committee considered [REDACTED] to be a reliable witness who was doing their best to answer questions truthfully. He did not report seeing anything untoward when he saw [REDACTED]



██████████ leaving the lobby at the material time. He could not recall if ██████ was drinking alcohol. He was called to give evidence regarding breakfast. He described ██████████ joining breakfast and the Mr Finch joining breakfast later that morning.

- f. ██████████ provided a statement. ██████ did not see any untoward behaviour in his statement taken on 21 June 2023. He saw some people hugging. The Committee considered this account to be a truthful account.
- g. ██████████ provided a statement; he saw nothing untoward on the night in question. He saw ██████████ in the lift but did not detect that anything had happened in his 'small conversation' with ██████. The Committee considered this to be a truthful account.
- h. ██████████ provided a written account and saw nothing of concern as per ██████ email of 24 April 2023. The Committee considered this to be a truthful account.
- i. ██████████ provided a written account and did not witness the incident and vouches for the integrity of Mr Finch in ██████ statement of 10 July 2023. The Committee considered this be a truthful account.

18. Mr Finch gave evidence in his defence.

- a. Mr Finch has been involved in Boxing for over 40 years, He has an impressive catalogue of experience and roles within the sport.
- b. He denied the assault in the strongest terms. As far as he was concerned, he hadn't thought anything of events of that night until EB contacted him regarding the allegations. When asked, he had no idea why he had been identified as the person that touched ██████████.
- c. He had been officiating at the NACs and was present in the lobby. He was drinking alcohol but was not drunk as he was attending a football match the next day and needed to drive. He accepted the evidence that he had an unfinished bottle of Chardonnay with him at the end of the evening.
- d. He accepted that a hug took place. He denied that he touched ██████████ beyond the hug. He denied asking to touch ██████ inappropriately (or at all).
- e. He could provide no explanation for the allegations against him.

- f. He denied being at breakfast in the morning. When [REDACTED], giving evidence on behalf of Mr Finch, suggested that Mr Finch was in fact at breakfast, Mr Finch suggested that he was only at breakfast to say his goodbyes.

## **F. SUBMISSIONS**

19. EB submitted that the charge should be found proved. They pointed to the evidence of witnesses that attributed the touching to Mr Finch. In addressing some inconsistencies between witnesses, [REDACTED] submitted the number of hands seen could be explained by the position of different witnesses in relation to the incident.

20. Mr Day, on behalf of Mr Finch submitted that:

- a. The statements of the witnesses were conflicted with regards alcohol consumption, words attributed to Mr Finch, the number of hands used in the alleged assault, witness positions, and timings.
- b. Alcohol consumption had led to the accounts differing – and that witnesses may have consumed more than they had admitted in evidence.
- c. There was a lack of clarity in the accounts.
- d. The evidence was flawed and practiced by the witnesses.
- e. The evidence was insufficient to found a charge.

21. In accordance with the EB Rules, both parties were asked whether they considered that they had had a fair trial. Both parties confirmed that they had.

## **G. DETERMINATION**

22. The Committee:

- a. Took account of all the written and live evidence presented by both parties.
- b. Took account of all submissions made by both parties.
- c. Reminded itself that EB bore the burden of proving the charge to the civil standard.
- d. Directed itself that an honest witness may be mistaken and that an honest but mistaken witness could be a convincing witness.

23. Taking account of the above, the Committee makes the following determinations of facts on the balance of probabilities.
- a. Mr Finch was present at the Premier Inn Hotel, Newcastle, in the lobby in the early hours of 23 April 2023.
  - b. That he directed words to [REDACTED] to the effect that he asked permission to touch [REDACTED] bottom.
  - c. Without waiting for an answer, he touched [REDACTED] bottom. The touching was unwanted, without consent, and sexual in nature.
24. The Committee considered that the witnesses presented by EB were credible and largely consistent on matters. Mr Finch was well within his rights to identify inconsistencies between witnesses. However, the Committee considered that:
- a. The words described by the witnesses were essentially consistent.
  - b. The actions described were largely consistent and could be explained by witnesses recalling a short (in time) matter from different, times, positions and angles.
25. In all material ways, the accounts were sufficiently consistent.
26. The Committee considered that this was a lapse of judgement by Mr Finch and out of character, insofar as it was inconsistent with the character evidence provided by Mr Finch's witnesses.
27. The Committee had some difficulty with the concept of the sport being brought into disrepute on this occasion. As far as the Committee was aware, the information about this matter had been contained to the parties – and it might be argued, with some strength – that the *sport* had not *yet* been brought into disrepute.
28. The Committee used the relevant sections of the respective codes for guidance on the issue of bringing a sport into disrepute:
- a. EB charged their case pursuant to the AIBA Code of Ethics and the EB Code of Conduct. The Committee noted paragraph 18.3 of the AIBA Code of Ethics:

*18.3 Any person bound by this Code must refrain from any activity or behavior or any attempted activity or behavior that might give rise to the appearance or suspicion of improper conduct.*

- b. Mr Finch's conduct, as proved, certainly fell within this category.
- c. The EB Code of Conduct also applied:
  - *To abide by AIBA's Regulations (including its Statutes, Bylaws, Technical & Competition Rules, Code of Ethics, Disciplinary Code and Procedural Rules) insofar as applicable; and*
  - *Not to act against the interests of the sport or of England Boxing, and not to bring the sport or England Boxing into disrepute.*
- d. Again, the Committee considered that Code of Conduct had been breached.

29. Using those standards, the Committee concluded that the sport of English Boxing had been brought into disrepute on the balance of probabilities.

## **H. SANCTION**

30. The parties reconvened on 7 August 2023 by Zoom meeting. The parties were informed of the decision regarding the charge. Parties were invited to provide submissions.

31. EB submitted that:

- a. There was no record of Mr Finch having a record of previous offending. As such the Committee treated this matter as a first breach of the Rules.
- b. He had been the subject of an interim suspension order since 26 April 2023 and had therefore been suspended for approximately 3.5 months.
- c. This was a serious matter. The matter was aggravated by virtue of Mr Finch's status as an official. That the reputation of the sport would be diminished as a result.
- d. When asked for a position on sanction, EB:
  - i. sought a suspension of at least 12 months;
  - ii. accepted that [REDACTED] had accepted that [REDACTED] had considered the matter was less stressful than the hearing process;

- iii. that the level of assault was at the lower end of potential assaults of this kind;
  - iv. that no costs were sought.
- 32. Mr Day submitted that the sport of Boxing in the northwest was already in disrepute and that a finding of this nature would have less of an effect than EB had suggested.
- 33. Mr Finch provided evidence to state that he had been in the sport for over 40 years without incident. He identified a number of high-profile roles and events that he had attended and played a voluntary role in.
- 34. He asked the Committee to keep any sanction to the minimum and to allow him to participate in the sport. He outlined numerous charitable activities that he performs outside of boxing.
- 35. The Committee considered all submissions provided. The Committee:
  - a. Reminded itself that it had the option to impose no sanction at all and then considered the sanctions in ascending order.
  - b. The Committee considered the need to mark the seriousness of the matter. It considered the aggravating factors to be:
    - i. That this was a serious incident of misconduct.
    - ii. That ██████████ was put through the process of a hearing that required ██████ to relive the incident.
    - iii. That this was a sexual assault and would have a particular impact on the reputation of the sport.
  - c. The Committee bore in mind the need for proportionality in sanction. It therefore needed to impose the most proportionate sanction that achieved its aims. To this end, the Committee noted the following points of mitigation:
    - i. Mr Finch's hitherto good character
    - ii. That this breach was short-lived and at the lower end of the spectrum of sexual assaults. The Committee noted ██████████'s comments on the impact of this incident on ██████ during the course of the hearing.
- 36. The Committee considered that the conduct found was entirely unacceptable on the part of Mr Finch. He had, in a momentary lapse of judgement, assaulted another participant in

the sport. Whilst the Committee were prepared to accept that this was a one-off lapse, the seriousness of the incident is not lost on the Committee.

37. The Committee impose the following sanction:

- a. A three month ban on Mr Finch from participating in the sport, pursuant to §32.2 of EB Disciplinary Procedure.

38. The Committee concludes that the ban has been served by the period Mr Finch has served on his suspension.

39. The Committee makes no order for costs as none was sought.

#### **I. RIGHT OF APPEAL**

40. A right of appeal is available to both England Boxing and Mr Finch in accordance with the EB Disciplinary Procedure.