

## **Regulation 5 Complaint**

### **Rob Willmoth v Mike Truran**

#### **Regulation 5**

1. Regulation 5 establishes a complaints procedure for the handling of complaints concerning the ECF and its officials.
2. A complaint has been made by Rob Willmoth, ECF Director of Membership, against Mike Truran, ECF Chief Executive arising from the facts set out in section 6. A panel consisting of Julian Clissold, Stephen Woodhouse and Mike Gunn has been appointed to consider the complaint. This report reflects the findings and conclusions of the Panel.

#### **Conditions for Complaint**

3. The starting point is to consider whether the conditions for bringing a complaint have been satisfied.
  - (i) For a complaint to be brought, there should be an “alleged case of serious maladministration” (paragraph 1.2). The complaint was raised by way of an email sent to JC and SVW on 6<sup>th</sup> August 2021 which is included in paragraph 4 of this report. The email does not specifically claim that serious maladministration has occurred. Instead, it references the facts summarised in section 6 and claims breaches of Regulation 4 and 5.
  - (ii) The Panel is satisfied that this implies an allegation of serious maladministration which is sufficient to satisfy the gateway requirement in paragraph 1.2.
  - (iii) RW has paid the £50 fee required by paragraph 1.3.
  - (iv) The events leading to the complaint occurred on 17<sup>th</sup> July 2021. This was less than four weeks before the submission of the complaint as required by paragraph 1.4.
  - (v) RW sought three remedies, namely:
    - (a) An apology from MT. MT apologised by email (see email of 14.34 on 17<sup>th</sup> July) in section 6.
    - (b) A consideration of the matter by the Board. This occurred at the Board meeting held on 30<sup>th</sup> July.
    - (c) A public statement from MT relating to the subject matter of the complaint. No statement has been agreed.
  - (vi) Due to no statement having been agreed, the Panel is satisfied that all direct routes for the resolution of the matter have been attempted without a resolution occurring as required by paragraph 2.1

## **Complaint**

4. The complaint was submitted to JC and SVW from RW by way of email sent on 6<sup>th</sup> August 2021. The content of the complaint is that:

*Mr Truran wrote an email(s) on 16th July 2021, which he copied to several members of the ECF Board in which he effectively called me a liar.*

*In my opinion this is a clear breach of Regulation 4-Standards of Conduct for ECF Officials and specifically the following sections:*

- 2.1
- 2.2
- 2.3
- 3.1
- 3.3.1

## **Preliminary Observations**

5. There are a number of preliminary points to be clarified with regard to this complaint:
- (i) Regulation 4 sets out a behavioural code. A formal complaint would be made under Regulation 5.
  - (ii) In order for a Regulation 5 complaint to be heard, there has to be an “alleged case of serious maladministration”.
  - (iii) Although RW does not refer either to Regulation 5 or directly allege serious maladministration, the Panel concluded (and confirmed this with RW) that this was implied by the submission of the complaint and the payment of the fee required by Regulation 5. In other words, the complaint is that “there has been a breach or breaches of Regulation 4 in a manner which amounts to serious maladministration”.
  - (iv) It follows that the question for the Panel is whether, on the facts as established, MT has been guilty of serious maladministration.

## **Summary of Facts**

6. The key facts which are relevant are set out below.
- (i) The starting point is an email sent from MT to RW at 22.07 on Friday 16<sup>th</sup> July 2021. The email was sent to Nigel Towers and Alex Holowczak and copied to all of JC, SVW, Natasha Regan and RW. The email stated:

*The English Junior Coaches and Organiser's association with the assistance of the World Chess Federation will be running an online Fide Trainers Seminar over the weekend of Fr Sept 3rd to Sun Sep 5th.*

*As posted by Rob on the forum.*

*Really?*

*Isn't that just a straight lie?*

- (ii) RW replied at 22.22, saying:

*Why is this a lie? I see no lie here unless you want to dream up a lie*

*In fact I see it as positive for the coaches in England*

- (iii) RW continued in an email at 22.26 by saying:

*And note this is the second piece of defamatory piece of information you have put about me in an email. Now Calling me a liar.*

- (iv) The discussion continued the next day, starting at 11.06 with RW emailing MT with this link: [FIDE](#) which demonstrated that FIDE accredited the EJCOA as organising the seminar.

- (v) MT responded in an email stating:

*Just to clarify that the email from FIDE which I (and no doubt Alex) received at 19:22 on 16 July and which prompted my original email said nothing about organisers and contacts, simply stating 'Organized by the International Chess Federation (FIDE) through Trainers' Commission (TRG)'. There was none of the 'small print' you mention in your other email in FIDE's email.*

*Anyway, on the basis that it was FIDE who caused the trouble with their 16 July email in claiming the entire credit for themselves rather than sharing it around, may we leave it there?*

- (vi) MT's email has a time stamp of 10.41 but was sent after RW's 11.06 email.

- (vii) RW responded by saying at 12.17:

*I presume a formal apology by email will follow for calling me a liar, ccing the various emails who also received the email will follow?*

- (viii) MT replied at 14.34 saying:

*Rob*

*I didn't call you a liar; I asked if what you wrote was a lie.*

*But anyway, I apologise.*

*Mike*

- (ix) RW replied at 15.49 saying “Apology accepted”.
- (x) That finished that series of email exchanges. Subsequently, RW requested that the issue be raised at the Board Meeting on 30<sup>th</sup> July. The discussion at the Board lasted approximately an hour, but the salient facts can be summarised by setting out the minute of the discussion:

*RW alluded to emails he had received from MT and wanted his strong feelings that he had been unfairly accused by MT of lying noted in the minutes. It was noted that the matter had been discussed with MT who was equally strongly of the view that that he had asked RW whether RW had lied and had not stated that he was a liar. MT had accepted RW’s explanation and had apologised.*

*The Board agreed with one vote against (not RW) that the content of RW’s dissatisfaction should be recorded but not published and therefore that the minute of the discussion would be redacted.*

- (xi) Subsequently, in the context of correspondence with another director, the following exchange occurred between that director (whose comments are in black) and MT (whose comments are in red):

*What has finally convinced me to act and to write to you is the recent exchange with Rob Willmoth. I can only speculate your behaviour was motivated by the perception of EJCOA as some kind of threat to your position and ambitions. Not true. My concerns about EJCOA were around their public claim that they intended to field a candidate against Alex and their attempt to become a FIDE Academy with no clear explanation as to how the inevitable resulting confusion in parents’ minds as to the respective roles of the ECF Academy and the EJCOA Academy would be dealt with. I was in fact one of the people who suggested to Rob that EJCOA should engage with the ECF about making EJCOA part of the English junior development pyramid – a suggestion he declined to take up – and, despite Rob declining the suggestion, I subsequently encouraged Alex to re-engage with Rob on the matter, which Alex did. In any normal organisation the CEO publicly calling one of the Directors a liar I did not call one of the Directors a liar, nor did I make public what I said. See below. would undoubtedly have consequences. I've now seen the correspondence Correspondence that Rob did not obtain my agreement to share with you. and I'm horrified. In your email (17/7/21 10.41) the failure to simply apologise unequivocally and attempt to blame it on FIDE’s original email regarding the seminar is diabolical. What kind of mindset makes the CEO of an organisation call a fellow Director a liar in the first place? I did not call Rob a liar. I asked him whether what he had written was a lie. He put the record straight. He then demanded an apology, which I unequivocally gave. Rob accepted my apology, and as far as I was concerned that was the end of*

*the matter. I do not understand why Rob, whether of his own volition or under pressure from other Board members, saw fit to raise the issue again at the Board meeting.*

(xii) This exchange prompted the following reply from RW:

*Mike*

*I am disappointed by this email. Is this kind of behaviour really what I must expect to deal with in a voluntary post for the next 2 years?*

*I will reply only to the points that concern me.*

- You mention you did not call me a liar, and that I had written a lie. This is just semantics. I wrote a factual statement and any reasonable person would see what you wrote as calling the person writing the statement a liar. I note that at the recent Board meeting no one defended your behaviour.*

- Your apology was qualified and accompanied by "it was Fide's fault for sending the wrong information". This is not a real apology.*

*At the board meeting, the NED's confirmed they contacted you and said you should apologise. I wonder if you would have done this by yourself had they not contacted you.*

- Despite the qualified apology. The damage has been done. You did not have to email six people on the Board who were at best loosely connected to the Fide seminar issue, when calling me a liar ( or however you choose to describe it) .*

*Again, despite an apology the damage has been done. I derive all my income for my family from chess. Being called a liar has potentially damaging effects on my business and reputation. it was totally avoidable and certainly should never have been put in writing, not least by the CEO.*

- I now refer to the point about EJCOA. EJCOA have always said we would prefer to work with the ECF and that is still the case. There have been positive meetings with Alex Longson and I anticipate more progress from the forthcoming meeting with the NED's.*

*The correspondence from you has left me no option but to raise a complaint against you under regulation 4 and regulation 5.*

*Regards Rob*

#### **Regulation 4**

7. It has already been noted that the complaint can only be upheld if this results in serious maladministration contrary to Regulation 5.
8. Although Regulation 4 makes provision for imposing various sanctions (Paragraph 2.4), there is a requirement for disputes to be resolved by direct communication, failing which the Regulation 5 procedure is followed. However, the only provision under Regulation 4 to authorise the imposition of sanctions arises if there is a breach of the Code of Conduct in which case it is for the Board to take appropriate action. As the Board has already considered the facts of the case and concluded that no action is required, any review of Regulation 4 in isolation serves a limited purpose.
9. The Panel has nevertheless reviewed Regulation 4.
10. The main provisions to be considered would be Paragraphs 2.1 and 3.1.
11. Paragraph 3.1 stipulates that "Care must be taken to ensure that communications, whether written or on social media, comply with the expected standards of behaviour set out in section 2 above". As a result of the reference to section 2, it is difficult to see how there could be a breach of paragraph 3.1 without there also having been a breach of Paragraph 2, thereby rendering paragraph 3 otiose.
12. Paragraph 2.1 specifies three areas of specific actions which should be avoided and concludes with a general paragraph stating that "this includes, among other things, ensuring that the views, rights, values and dignity of others are treated with sensitivity and respect".
13. Asking a director whether a public statement they have made constitutes an "a straight lie" and copying that question to multiple members of the Board is not obviously treating the targeted director with "sensitivity and respect", but we believe that the general wording should be read in conjunction with the earlier specific cases of inappropriate action, namely that the actions should not:
  - (i) Cause gratuitous offence.
  - (ii) Injure the ECF, its officials or its events directly or indirectly.
  - (iii) Bring the game of chess or the ECF into disrepute.
14. There is no doubt that the email correspondence from MT caused offence. Further, the offence was unnecessary given that:

- (i) MT could have established the facts inoffensively by asking RW whether, in the light of the FIDE communication, it was accurate. In other words, there was no reason to query RW's integrity.
- (ii) There was also no reason, prior to the facts being established, for the email to be sent to anyone other than RW or why the question could not have been raised through a phone call.

15. One meaning of gratuitous is simply "unnecessary". On that basis, it would follow that the offence caused to RW is gratuitous, albeit mitigated by the apology given by MT shortly after he appreciated that RW had not been dishonest.

**The Panel finds that:**

**Although ill founded, there is no reason to doubt that MT believed that the statement made by RW was factually wrong at the time when the question was raised by MT. It is not clear why MT concluded that any error would be likely to be the result of a lie rather than an error or why RW would make an inaccurate statement. If, however, despite these weaknesses in the approach taken by MT, he genuinely believed that the statement was deliberately wrong, he was right to establish the facts and although it is arguable that as such the offence caused should not be seen as gratuitous the Panel has concluded that the offence caused was gratuitous due to being unnecessary.**

**Whether that is right or not, MT apologised when he realised that RW had not acted dishonestly and RW accepted the apology. That should have resolved the matter.**

16. With the second and third actions:

**The Panel finds that:**

- (a) We do not see any substantive evidence of any of RW or the ECF being injured. MT may have injured himself by incorrectly suggesting dishonesty on the part of a director, but that is a different matter.**
- (b) The exchanges were limited to senior ECF officials. As such, any damage would be limited to the reputation of the participants and as RW has been exonerated of any taint of dishonesty, it would not be him whose reputation is affected.**

**Paragraph 2.2**

17. This requires officials to comply with ECF bye laws and regulations.

**The Panel finds that any determination of whether there is a breach of 2.1 would require a finding of a breach of other provisions of Regulations 4 or 5. Notwithstanding the terms of Regulation 4, it cannot be construed separately.**

### Paragraph 2.3

18. This paragraph requires compliance with the FIDE Code of Ethics (see: [FIDE Code of Ethics](#)). However, the Code of Ethics is concerned with behaviour within FIDE tournaments and events and as such has no application to internal ECF communications.

**The Panel finds that the FIDE Code of Ethics has no application to the subject matter of this appeal.**

### Paragraph 3.1

19. This paragraph is concerned with taking care with written or social media communications to ensure compliance with paragraph 2.

**The Panel finds that:**

- (a) The paragraph is linked with paragraph 2. If MT's communications do not breach paragraph 2, there would be no basis for arguing that they breached paragraph 3.1.**
- (b) The paragraph is concerned with external communications rather than internal discussion amongst directors.**

### Paragraph 3.3.1

20. This paragraph concerns profane, offensive, racist, sexist or demeaning language and harassment and/or personal insults.

**The Panel finds that:**

- (a) The issue is with an imputation of dishonesty by the CEO and not with the language used to express that imputation.**
- (b) The language used by MT did not breach paragraph 3.3.1.**

### Serious Maladministration

21. The phrase "serious maladministration" is imprecise with an uncertain meaning. This has caused difficulty previously. It has been recognised that the Regulations would benefit from a review by the Governance Committee and the Panel believes that this would be beneficial given the uncertain scope of the phrase.
22. Any future change does not affect this determination. The Panel has no power to reach a verdict on any provisions other than those in the extant Regulation 5.
23. Maladministration is a term used in English law in the Parliamentary Commissioner Act 1967. This empowered the Ombudsman to "investigate any action ... in the exercise of administrative functions of that department or authority in any case where ... a member of the public claims to



have sustained injustice in consequence of maladministration in connection with the act so taken ....”.

24. As such, maladministration is a concept of public law, relating primarily to governmental or quasi-governmental organisation in their dealings with external persons in the discharge of their legal duties. It is not a concept which fits easily with matters concerning the internal operation of an independent, non-governmental body such as the ECF and it would appear not to be designed or intended to be used to revolve matters internal to the Board.

#### **Analysis of Facts**

25. The facts are not in dispute and are set out in paragraph 6 . The key points and the Panel’s findings in respect of them, are:

- (i) RW claims that MT effectively called him a liar. MT asserts that he did not call RW a liar.

#### **The Panel finds that:**

- (a) MT’s statement that he did not call RW a liar is factually correct.**
- (b) The question “isn’t that a straight lie” is an imputation of dishonesty on the part of RW.**
- (c) For the reasons stated in the correspondence, that imputation was ill founded.**
- (d) MT, having formed the judgment that the statement made might be factually incorrect, was acting properly to seek to establish whether there was a factual error.**
- (e) That determination could have been established without suggesting dishonesty.**
- (f) There was also no need for MT to have copied other members of the Board in the correspondence.**
- (g) The combined effect of imputing dishonesty and copying other board members caused offence to RW.**
- (h) RW was not reacting unreasonably in being offended.**
- (i) The facts could have been established by MT without offence being caused by avoiding a suggestion of dishonesty and limiting the discussion to RW.**
- (j) As a result, the offence was not necessary. As it was not necessary, it is gratuitous but was followed by an apology which was unequivocal and timely. The giving and acceptance of that apology would have been expected to bring the matter to a close.**
- (k) However, the decision for the Panel is whether the facts gave rise to serious maladministration taking the overall fact pattern as a whole.**

- (ii) RW asked for, received and accepted an apology. RW believes that the apology was qualified by MT’s references to a distinction between calling RW a liar and asking whether what he wrote was a lie.

**The Panel finds that:**

- (a) An apology was asked for, given shortly after being requested and was not qualified.**
- (b) The reference to the distinction between calling RW a liar and asking whether he lied was not relevant to the giving of the apology and did not alter the unequivocal nature of the apology.**
- (c) RW accepted the apology unequivocally.**
- (d) The giving and acceptance of the apology would have been expected to resolve the matter.**

- (iii) At RW's request, the matter was discussed at the Board meeting on 30<sup>th</sup> July. The Board agreed, with RW concurring, that no further action should be taken and that such action and any related publicity would be damaging to the ECF.

**The Panel finds that:**

- (a) The decision of the Board does not prevent RW from raising the complaint addressed in this decision.**
- (b) It is nevertheless difficult to reconcile RW accepting an apology from MT, agreeing in the Board that no action should be taken and issuing this complaint which should only proceed if resolution between the parties cannot be achieved.**

- (iv) MT referred to the disagreement with RW and the various allegations in further correspondence with another Board member. MT reiterated his previous statement that he did not call RW a liar. RW believes that this aggravates the previous imputation of dishonesty and vitiates the earlier apology.

**The Panel finds that:**

- (a) MT was responding to specific comments about having called RW a liar.**
- (b) Whether the distinction drawn by MT is relevant or not, he was doing no more than repeating his earlier explanation of his conduct and was neither withdrawing or compromising his apology nor repeating his earlier imputation of dishonesty.**
- (c) The exchange of emails, relating to Board members and only sent to Board and those otherwise privy to Board matters, did not extend the group of people having knowledge of the issues.**
- (d) As such, that correspondence should not be seen as aggravating the earlier actions or undermining the previous apology given.**

- (v) RW has expressed concern about knowledge of the exchanges with MT and the views expressed becoming public knowledge.

**The Panel finds that:**

- (a) Any wider promulgation of the facts of the case, beyond the reporting of the decision on the website, would necessarily result from a breach of confidence by a Board member or other person privy to Board information.**
- (b) It is acknowledged that there have been recent breaches of Board confidentiality, but unless such breach in this case can properly be attributed to MT, that would not change the character or nature of the MT's actions.**
- (c) Consequently, the risk of unauthorised disclosures by parties other than MT is not relevant to a determination or otherwise of serious maladministration.**

**Decision**

26. This complaint is necessarily brought pursuant to Regulation 5. For the complaint to be upheld, it needs to be demonstrated that the actions complained of amount to serious maladministration.

**The Panel has concluded, for the reasons stated earlier and viewing the fact pattern in totality, that, notwithstanding the offence caused to RW, serious maladministration has not been established. It follows that the Panel has determined that there has been no breach of Regulation 5 and consequently the complaint is rejected.**

**Julian Clissold (Chair of the Board)**

**Mike Gunn**

**Stephen Woodhouse**

**For and on behalf of the English Chess Federation**

**8<sup>th</sup> September 2021**