



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 13/05

EJECTION AT THE BRIGHTON v BRISTOL CITY MATCH

27 NOVEMBER 2012

The Role of the Independent Football Ombudsman (IFO)

1. The office of the IFO has been established by the three English football authorities (The Football Association (FA), The Premier League and The Football League) with the agreement of Government. The IFO has been designated as the final stage for the adjudication of complaints which have not been resolved within football's complaints procedure. The IFO operates a system of non-binding arbitration. IFO Adjudications will normally comprise two parts: an impartial assessment of the substantive complaint and a review of the procedure by which the complaint was handled. The IFO's role is to investigate the complaint and judge whether it was dealt with properly and whether the outcomes were reasonable for all parties concerned. Under the procedure agreed by the Football Governing Bodies, the adjudication of the IFO is final and there is no right of appeal against IFO findings.

2. The IFO must make clear at the outset that he has received full cooperation from Brighton and Hove Albion FC, the Football League and the complainant.

The complaint

3. A longstanding Brighton season ticket holder complained that he was unjustifiably ejected at the home match against Bristol City. He contended that he had been victimised and discriminated against by the Club.

The Facts of the Matter

4. After about 15 minutes of the second half of Brighton's home match against Bristol City on 27 November 2012 the complainant, who was attending with his father, went to the toilet. In the concourse he was approached by stewards who took him to one side and warned him about his behaviour. Towards the end of the game stewards sought to eject the complainant for persistent standing. He refused and there ensued a confrontation with the lead steward. The complainant was eventually taken outside by police officers and had to hand over his season ticket. On 28 November the Club's Head of Operations wrote to the complainant. He said that during the second half stewards had spoken to the complainant about his persistent standing and had clearly told him that if he failed to take his seat he would be asked to leave. The complainant had failed to follow that instruction despite the fact that CCTV footage clearly showed that those in front of him were seated. When asked to leave, the complainant had refused to do so, had sworn at the stewards and had pushed a steward backwards over the seat in front. The Head of Operations said that as the matter might be investigated by the police, the Club had imposed an indefinite exclusion on the complainant. Once investigations were complete the Club would decide the length of the exclusion and would write to the complainant again. On the following day the complainant complained to the Club that he was being victimised, and ejected randomly. He asked to meet to try to find a resolution and asked if the police could attend as he felt the stewarding in relation to him was personal, aggressive, unjustified and vindictive. He added that his 78 year old father was upset by the incident. The complainant sent a further letter on 3 December. On 14 December the Head of Operations emailed the complainant, saying that he had now had the opportunity to examine the stewards' statements and to view CCTV footage in relation to his ejection. The steward had decided not to press for an assault charge and the complainant remained excluded from matches while the Club considered their decision on a fixed period of exclusion. In such circumstances the complainant was not entitled to a refund of his season ticket. That same day the complainant replied asking

for a full response to his letters. He said that he did not deny having become angry but it was hardly surprising that he had reacted after having been wrongly ejected previously.

5. Meanwhile, on 10 December 2012 the complainant's father had complained to the Club about the "rough treatment" he and his son had received when "an extremely belligerent steward barged me aside and then proceeded to grasp my son and push him back". He said that a large part of those in the north stand had been standing and he was convinced that his son had been victimised as he had previously been singled out, before being exonerated. On 15 December the complainant's brother wrote to the Club outlining a number of incidents where he believed the family (who had six season tickets in the lower tier of the north stand) was being victimised. On 31 January 2013 the complainant emailed the Club complaining that his complaint had not been addressed and that he appeared to have a "non-permanent indefinite ban with no dates for a review". He believed he was due an apology and a full refund for the matches he had missed. On the following day the Club's Safety Officer wrote to the complainant saying that the Club had undertaken a full investigation; it was clear from CCTV evidence that the complainant had assaulted a steward, as a result of which the Club were excluding him for the rest of the season and the whole of 2013/14. Prior to returning to the stadium he would be required to sign a behavioural agreement and he would not be allowed to purchase tickets in the north stand. The Safety Officer said that the complainant had a right of appeal and was entitled to view the CCTV footage. Meanwhile, having approached the IFO for advice, the complainant had contacted the Football League about the situation. On 4 February the League repeated to the complainant what the Safety Officer had told him.

6. On 15 February the complainant emailed the Club's Head of Operations. He said that despite having written several times to complain, he found that he had to write to him again in order to appeal. He maintained that he should not have been ejected and that he had been assaulted by the steward. He said that his behaviour had been no different from that at other matches and he had not caused any offence or upset to any spectators in the immediate surrounds. Hundreds of spectators could have been ejected for what he had been accused of. His father had been standing at the same time as him but had not been ejected.

The Investigation

7. On 22 May the IFO and his Deputy visited the Amex stadium and met with the Safety Officer. (The Head of Operations was on sick leave.) They viewed the CCTV evidence of the eviction. It showed the complainant and his father both standing. Spectators behind, and those diagonally to the left in front of the complainant, were also standing, but those immediately in front were seated. The lead steward went carefully past the complainant's father and spoke to the complainant. There followed a heated conversation where the complainant was obviously refusing to leave and was apparently swearing at the steward. The steward put his hand on the complainant's arm as if to lead him out; the complainant pushed the steward with his forearm causing him to bend backwards right over the seat in front. Two other stewards went to assist and a struggle ensued, while a fourth steward stood against the father in a protective stance. The complainant left only after two police officers came to assist. There was no footage available of the complainant's behaviour prior to the ejection.

8. The IFO visited the Safety Officer's position in the control room which gives a close, uninterrupted view of the complainant's seat. The Safety Officer said that he had observed the complainant standing persistently and apparently encouraging others to do so during the first half. When the complainant left the stand the Safety Officer had asked stewards to warn him about his behaviour, as he had wanted to avoid a further ejection of the complainant. However, when the complainant returned to his seat, he had stood, apparently defiantly, with his arms folded. It was the Safety Officer's decision to eject the complainant. The Safety Officer made the point that the complainant had not been exonerated after his ejection in March 2012; the position had been that, although the complainant had been observed standing and encouraging others to do so, the CCTV evidence available did not bear that out. (The Head of Operations' letter of 26 March 2012 said "I can confirm that no further action is to be taken against you following the incident last Tuesday as having reviewed the CCTV footage there would appear to be no case to answer").

9. As the Club did not consider that the complainant had made a formal appeal, the IFO informed him that he should make his intentions absolutely clear. The complainant appealed and met with the Club's Head of Operations and the Security Manager. The

complainant viewed the CCTV footage. On 26 June the Head of Operations wrote to the complainant. He outlined what had happened on the day of the ejection and pointed out that the complainant had not provided any justification for the assault, but had highlighted that others had been standing and that he felt that he was being victimised by the Club. The Head of Operations did not consider any justification for removing the terms of the exclusion as previously outlined.

10. On 29 July the Deputy IFO met with the complainant and his father. The complainant outlined the events when he was ejected from the match against Derby on 20 March 2012, when his daughter had been "unpleasantly ejected" also, a situation which he said the Club had failed to investigate. He said that the Club had told him that he had been ejected "not particularly for standing" but for encouraging others to stand. He had viewed the relevant CCTV footage of that ejection with Club officials who had agreed that there was no case to answer. He had received a bland apology from the Club. In the first half of the Bristol City match the person next to him had been ejected for encouraging others to stand. He remembered stewards having twice given general orders for fans to sit; he had complied and had stood only at times of excitement or when those in front had stood. He denied having encouraged others to stand. When he had encountered stewards after going to the toilet, they had warned him to behave but not told him what the problem was, other than that one steward had said "We are watching you and know you've been ejected before". He could not remember if he had sat or stood on returning to his seat. He said that his behaviour had been no different to hundreds of others in the north stand, that ejections by the Club were random and inconsistent and that he was being victimised and persecuted by the Club. Had that not been the case there would have been no altercation with the steward.

11. The Deputy IFO paid a further visit to the Club and met with the Security Manager, who had attended the appeal hearing with the Head of Operations. (The Head of Operations is no longer an employee of the Club.) Together they again viewed the relevant CCTV footage. The Security Manager said that, as the Club still view very seriously what they regard as an assault on their steward, they are maintaining their position on the complainant's exclusion.

Findings

12. The complaint is best dealt with in three parts - the reasons for the ejection, the ejection itself and the Club's handling of events post ejection. The reason clearly was for persistent standing. It is a requirement of the ground regulations that spectators in seated areas should not stand persistently. That was a fact known to the complainant. It is also a fact that he was by no means the only supporter standing at the match. What is really in contention is why he was singled out for ejection. Because of his own observation of the complainant's behaviour during the first half of the match, the Safety Officer directed stewards to give him a warning when the opportunity presented itself in the concourse away from other fans. The complainant was identifiable to the Safety Officer both from his excellent viewing position and because he was known from his ejection at the Derby game. In arranging for an individual warning by stewards the Safety Officer was trying to avoid the complainant from being ejected on a second occasion. Although the complainant said that the stewards had not warned him specifically about what behaviour was causing concern, he must have known that standing was the issue, since the person next to him had earlier been ejected for the same reason. The IFO can sympathise with the argument that other fans standing (including his father) were not treated the same, and that he was specifically singled out, but the complainant was distinctly unwise to have continued standing after the warning by stewards about his behaviour, however non-specific that warning might have been. It is clear from the CCTV footage that he was still standing when asked to leave the stadium, even though those immediately in front of him were not. The IFO can only conclude that the Club were entitled to act as they did. Although the complainant believes that he was exonerated when he was ejected in March 2012, the Club does not share that view - it was simply that the CCTV evidence they had available at that time did not bear out what stewards and the Safety Officer had observed. In that context, the complainant makes the valid point that the letter to him states that there was no case to answer and he maintains that at his appeal hearing, his contention that he had previously been exonerated was not challenged by Club officials.

13. As for the ejection itself, the CCTV evidence is very clear. When asked to leave, the complainant refused and has admitted swearing at the lead steward. When the steward

put his hand on the complainant's arm with the intention of leading him out, he reacted with an aggressive forearm push which caused the steward to fall backwards over the seat in front. The only apparent contact with the complainant's father was from a steward trying to shield him from the altercation which had ensued.

14. As a private business the Club are able to exclude any supporter from the ground if they feel it appropriate to do so. In this case the IFO is satisfied that they considered the evidence carefully before reaching their decision, and on adjudicating the complainant's appeal. Had the complainant left the stadium peaceably when asked to do so, the likelihood is that he would have been given a ban of only three matches. The Club's disciplinary measures include a ban on any future tickets for the north stand. As the other five members of the complainant's family have seats in the north stand, that seems harsh, given that he will have to sign a behavioural agreement and will be easily identifiable from the control room. **The IFO recommended that, providing the complainant signs the agreement, the Club should either review sympathetically the ban on the north stand or discuss suitable arrangements for the family to sit together elsewhere.** In response, the Safety Officer said that he was prepared to meet the complainant to discuss his return to the stadium for 2014/15, and will rescind the decision not to allow the complainant to return to his seat in the north stand on condition that he signs a behavioural agreement and understands that he must comply with stewards' instructions to be seated.

15. Finally, the IFO considers the way in which the Club handled the complaint. On 28 November they told the complainant that he was excluded indefinitely pending any investigation of the incident by the police. On 14 December the Head of Operations told the complainant that the steward had decided not to progress the matter by way of criminal law and the Club would decide a suitable fixed period of exclusion for the complainant. However, it was not until 1 February 2013, after the complainant had complained of delay in dealing with his complaint, that the Club gave their decision. That was an unnecessarily lengthy period for the complainant to be left in limbo, and apparently finalised only after the complainant had complained about the delay. The IFO also finds that it should have been obvious to the Club from the complainant's email of 15 February that he wished to appeal, which had the effect of delaying the appeal hearing, but did not otherwise disadvantage the complainant.

Conclusion

16. Although the IFO accepts the complainant's contention that he was singled out for ejection, he finds that the Club were entitled to enforce the ground regulations with regard to the complainant's persistent standing. Unfortunately, his angry reaction to being asked to leave, no doubt compounded by what he perceived as a previous unjustified ejection, caused him to incur a lengthy ban, rather than the three matches it might have been, but that is a decision the Club were entitled to take in such circumstances. The IFO has found some shortcomings in the way in which the Club handled the complaint, but these did not materially disadvantage the complainant whose complaint is not upheld. The IFO welcomes the Club's willingness to reconsider the circumstances surrounding the complainant's return to the stadium.

Professor Derek Fraser**19 September 2013****Mr Alan Watson CBE**