



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 12/11

WHEELCHAIR SUPPORTER'S VIEW OBSTRUCTED BY SUBSTITUTES AT BRISTOL CITY

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. In exercising its jurisdiction, the IFO does not seek to question the merits of judgements made by properly constituted Regulatory Commissions and Appeal Boards, unless there were shortcomings in the administrative processes which led to those judgements. It is not the role of the IFO to retry cases, but it is its role to explore and review the procedures under which complaints have been decided 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 Bristol City and the Football League.

The complaint

3. A Bristol City wheelchair supporter complained that, following a Football League change in practice regarding where substitutes are permitted to warm up, a significant part of his view of the pitch had been blocked off, and that, despite his complaints, neither the club nor the League had done anything to rectify the situation.

The events in question

4. At the start of the 2010/11 season the League wrote to all of its clubs instructing them to ensure that substitutes warm up on the side of the pitch opposite the assistant referee, in order to avoid the risk of injury through a collision with an assistant. This change followed a trial in the Johnstone's Paint Trophy, the results of which were disseminated to all League clubs before the change was implemented. On 17 August 2010 the complainant wrote to the club pointing out the impact the change had had on himself and fellow wheelchair users in the dugout block at the end of the Williams stand, immediately adjacent to the Ateyo stand, at Ashton Gate. On 1 October the club wrote to the League asking for a response to a message they had sent some five weeks earlier about the situation. They said that as a result of the change they were getting a lot of complaints from their disabled supporters whose view was badly restricted due to players warming up in front of them. On 4 October the League replied saying that the club should take all reasonable steps to resolve the problem. They strongly recommended that the club commission a full NRAC (National Register of Access Consultants) access audit, which would help find the best solution in line with the Disability Discrimination Act. The club could also try to encourage players to warm up away from the section directly in front of the disabled supporters' dugout. The League outlined their guidance on disabled supporters as follows:-

"With regard to the physical layout of a stadium, clubs are required to make adjustments to ensure that disabled people are not prevented from accessing the services that are being provided. This can involve creating or modifying access routes for those with mobility impairments and also providing wheelchair accessible spaces.... "

They said that the club would need to consider if there were other areas where fans could be located or whether the existing dugout area could be modified. The League recommended that, in either case, the disabled fans were informed and consulted throughout any process.

5. Over the following two years the complainant wrote to various members of the club's hierarchy about the situation. He had correspondence with, and met, the club's Supporters Liaison Officer, who sympathised with the situation and said that substitutes had been made aware of the problem. On 8 October 2012 the complainant emailed the League asking for some flexibility over the position of the assistant referees and substitutes, to enable wheelchair users to have an unobstructed view of matches. The League replied explaining the restrictions imposed by FIFA and the League regulations. They recommended that he contact the club further with regard to stadium facilities and access policy. They pointed out that clubs are required to make adjustments to ensure that disabled people are not prevented from accessing the services that are being provided. In further correspondence the League explained that a FIFA directive meant that all assistant referees have to run on the right wing, a situation which the League was unable to change. An injury to an assistant referee caused by a collision with a substitute had caused the League to introduce the change in relation to substitutes warming up, following experimentation in the Johnstone's Paint Trophy. Because of the risk of injury and potential liability, the League's rule would not be changed.

The investigation

6. The IFO and his Deputy discussed the matter at a meeting with the Football League. They explained the constraints imposed by the FIFA directive on the positioning of assistant referees and their own policy on where substitutes should warm up, which had been introduced as a result of injuries to an assistant and a player.

7. The Deputy IFO visited the club and met with the Supporters Liaison Officer. The Officer explained the constraints of such an old ground as Ashton gate. He acknowledged that the current situation is not satisfactory. He had met with the complainant and had offered two alternative areas for him (and the others involved) to sit, but the complainant had rejected both. One was in an area at ground level next to the exit where fans tended to congregate during the last ten minutes of games, thus obscuring the sightlines of those at ground level. The other area was in a corner of the stadium at ground level directly in front of the most vocal of the home support. The Officer took the Deputy on a tour of the ground. The small dugout construction where the complainant is housed is at ground level adjacent to the touchline near a corner of the pitch so the view of occupants is blocked not only when substitutes are directly in front of them, but also

when they are further up the touchline. The Officer had investigated the possibility of raising the wheelchair dugout to provide an unobstructed view, but the cost was prohibitive. The Officer showed the Deputy IFO an area at the back of the front tier toward the opposite end of the Williams stand, where he believed it would be possible to provide wheelchair users with unobstructed views by removing the back two rows of seats and building up the area to the level of the walkway behind it. There is already a ramp providing access to the walkway. The cost was likely to be only a quarter of that needed to modify the existing dugout area. Cost is a prohibiting factor to significant changes as the club has plans to move to a new stadium; it is also why the club has not commissioned a NRAC access audit.

8. The Officer was not aware of any reaction the club had made in response to the Football League's consultation exercise regarding the change of practice in relation to substitutes warming up. The person responsible for such things at that time was no longer with the club and there were no relevant records. The Deputy checked with the Football League but the first indication they had of a problem was early in the 2010/11 season after the complainant had raised the issue with the club.

9. The Deputy met with the complainant and other wheelchair users. They were unanimous in their complaints about enjoyment of matches being spoiled by obstruction of their view, and the fact that nothing had been done to rectify the situation. The Deputy then watched Bristol City's match against Wolves, sitting in the stand adjacent to the wheelchair area for the first half, and spending time with the complainant during the second half. During the first half there were long periods when there were six substitutes (three from each side) warming up along the touchline, and three of the home substitutes spent an extended period directly in front of the wheelchair dugout, not warming up but merely watching the match. During the second half there was similar activity. The Deputy took sample photographs. There was no apparent attempt to restrict the activities of the substitutes.

Findings

10. Two decisions have created the situation which has had an adverse impact on the complainant's ability view matches without obstruction. First, a FIFA directive means that all assistant referees must run on the right wing. Secondly, the League regulation prevents substitutes from warming up on the same wing as the assistant referee. Those are matters outside of the club's control but there is no indication that, in considering the latter proposal before its implementation, the club realised the potential impact on some of its wheelchair supporters. Neither do they seem to have recognised that there was a problem until the complainant raised it. Once the matter was drawn to their attention they asked the League for advice. The League suggested that the club commission a full access audit. Because of the intention to move to a new stadium, the club chose not to commission an audit. The IFO would have accepted that decision as reasonable had the club made determined efforts to resolve the problem, but more than two years later the situation is unchanged, despite the fact that the complainant is clearly prevented from accessing in full the services provided. The IFO finds that particularly disappointing and criticises the club accordingly. In the IFO's view, the club is clearly in breach of the requirement to "to make adjustments to ensure that disabled people are not prevented from accessing the services that are being provided".

11. The Supporters' Liaison Officer has had discussions with the complainant and has proposed two solutions, neither of which the complainant finds acceptable. Having viewed the areas, the Deputy IFO understands the complainant's stance. The Deputy discussed with the complainant the possible solution put forward by the Officer for the opposite end of the Williams stand (paragraph 7), which the complainant regarded as having potential. **The IFO therefore recommends** that the club proceed without delay to establish that the proposal conforms to the requirements of the legislation regarding disabled access (eg is the existing ramp acceptable?), that it meets the needs of those affected and, if so, to implement it as soon as possible.

12. The club accepted the IFO's findings and recommendation, in particular that the current arrangements were unsatisfactory and needed to be improved. They said that following the Deputy IFO's visit, approval for the necessary expenditure had been given for the area identified. Prior to the commencement of work they had invited all those affected, together with the Chair of the Disabled Supporters' Association, to view the

area. Although the wheelchair users appreciated the higher view and the fact that the area was under cover, they had concerns that it was adjacent to the away stand, that they would be obliged to use toilets in the away end and that it was at the opposite end of the ground to the medical centre. (Apparently one young fan has fits and requires medical attention on a regular basis.) The fans said they would prefer something similar to the proposal, but at the end of the Williams stand close to where they currently sit.

13. The club said that there would be knock-on effects to implementing that idea. As there is no ramp access to that area, the club is carrying out a feasibility study and obtaining quotes to carry out the work necessary. There are also season ticket holders to consult about the need to relocate them. The club said that subject to resolving those issues, they would go ahead with the work at the earliest opportunity, with the aim of ensuring that the new area is fully operational for the start of the 2013-14 season, a promise which they had made to the fans. The IFO welcomed those developments.

14. **The IFO recommends** that if the proposal does not conform to the legislation, then the club commissions an access audit. Whatever the outcome, a solution must be found as a matter of urgency. In the meantime, **the IFO recommends** that the club makes every effort to ensure that substitutes warming up do so as far from the wheelchair dugout as is practicable, which while not providing a full solution to the problem, would alleviate it somewhat. In reply, the club said that they would continue to remind substitutes of their obligations to the disabled fans. They would remind coaching staff prior to each home game, reinforce the message with the players, brief the referee and fourth official, and remind the fourth official during the course of the game.

15. The IFO considered carefully whether to recommend compensation for the complainant, but felt that would be harsh on the club in the light of the fact that the situation had been created by external regulation over which the club had no control and that the solution has cost implications. However, **the IFO recommends** a new arrangement should be in place no later than the start of the 2013-14 season, failing which the question of compensation would arise.

Conclusion

16. Although the IFO has had reason to criticise the club for the delay in rectifying the problem, there were mitigating factors which the IFO has taken into account. The IFO welcomes the developments since his intervention and hopes that the club can meet the deadline set for implementing a satisfactory solution, failing which the club should compensate the complainant and his fellow wheelchair users.

Professor Derek Fraser**31 December 2012****Mr Alan Watson CBE**