



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 11/04

EJECTION AT THE CRYSTAL PALACE v WATFORD MATCH

9 NOVEMBER 2010

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 cooperation from Crystal Palace FC and the Football League.

The Complaint

3. A young man (a university student) complained that he was ejected from the Crystal Palace stadium on 9 November 2010 for no good cause when he was watching the game as an away Watford supporter. When he was unable to get any response to his complaint, his mother (as his adviser and agent) contacted Crystal Palace repeatedly by phone, letter and email and further complains that the Club has failed to deal properly with the case and failed to meet its own Charter obligations. The complainant also alleges that in disclosing his name to Watford and in misusing information about him supplied by Watford, Crystal Palace was guilty of defamation of character. Finally, it is alleged that Crystal Palace has breached the Data Protection Act. (It has been explained that such an alleged breach does not fall within the jurisdiction of the IFO, and that part of the complaint is being dealt with by the Information Commissioner).

The Facts of the Matter

4. The complainant is a Watford season ticket holder who goes regularly to away games in the Home Counties and the south of England. He travelled to the match with three other university students. He states that in order not to obstruct the view of other supporters, his party moved to the back of the away enclosure in order to stand and watch the game. He claims that he was not spoken to by any steward during the first half and that his group committed no offence. At half time he went to the concourse and was approached by a steward, who told him that on police advice he was being ejected. On asking for an explanation for his ejection, he was informed that he had been seen throwing a beer can and had made a racist remark to the steward. (This accusation was subsequently withdrawn, see Para 6). The steward demanded to see the complainant's driving licence and when this was returned to him he was instructed to leave the stadium. Once outside, he found other Watford supporters who had been ejected. In all 8 Watford fans were ejected, all for alleged obscene gesturing and foul and abusive language, including two others from the complainant's party. The complainant went with others to the main reception asking to see a senior steward, but was moved on by police before

anything was resolved. He left the area peacefully and claims that at no time before or after his ejection did he speak or behave aggressively.

5. The complainant telephoned the Club the next day to register his complaint, followed up by a letter dated 12 November. Despite other phone calls and letters, the complainant did not receive a reply (unsigned and undated) until 17 December 2010. This letter explained the reasons for the ejection (the use of foul and abusive language) and confirmed that details had been passed to Watford, in common with general practice. It also contained the claim that the complainant was known both to the Watford Football Intelligence Officer and the Club's Safety Officer. The complainant and his mother took great offence at some of the statements in the letter and send a protest letter in reply. When this produced no response, telephone contact was made with the Club and they were informed that no papers relating to the complaint could be located and they were requested to re-submit copies of all correspondence. They finally received a reply on 29 March 2011. This confirmed that no racist remark had been made and that Crystal Palace had no knowledge of why the complainant's name was known to Watford. The letter contained an apology and enclosed the original email which was sent to Watford. There followed further letters and phone calls which produced no response and the complaint was referred to the Football League on 9 May. There was a further delay in getting a response from the Club and the League did not reply substantively until 28 June. The complainant and his mother submitted the complaint to the IFO at the end of August and the IFO confirmed on 13 September 2011 that he would investigate and adjudicate the complaint.

The Investigation

6. The IFO carefully reviewed the extensive correspondence submitted by the complainant, together with similar papers supplied on request from the Club. The IFO also reviewed correspondence to and from the Football League, including the Complaints Resolution Form summarising the case and confirming that the League had completed its stage of the complaints process. The Club suggested to the League that there may have been email messages sent to the complainant's mother which were not received due to IT difficulties. However, in the documentation supplied by the Club to the IFO no such messages were

included and the only direct messages were the two letters already cited. It is in the second of these (29 March) that the Club withdrew the allegation of racism and reported that the steward had confirmed that the complainant had not made a racist remark. The IFO visited Crystal Palace on 28 October and met with the Safety Officer and the Head of HR. The IFO met the complainant and his mother on 23 November 2011.

The Findings

7. The complaint is best analysed in its three component parts - the ejection itself, how Crystal Palace dealt with the complaint and the issue of defamation. As in similar IFO investigations, it is difficult, if not impossible, to resolve the contradictions in the accounts given by the respective parties. The Club maintains that a group of Watford fans were identified who had been drinking and were behaving aggressively. The Club claims that this group was spoken to by stewards. Since to remove the group as a whole risked provoking disorder, it was decided to deal with the fans individually. This is why the complainant was approached in the concourse. The Club further asserts that the driving licence was requested only as a means of identification and was returned promptly once the details had been recorded. This version of events is at complete variance with that supplied by the complainant. He states that he had not been drinking, had not behaved aggressively and was not spoken to by stewards: hence his total surprise that he was ejected for what he could see as no justification. He reported that a Watford fan totally unknown to him in a state of partial undress did come and sit near his party for a period and that he may have been falsely deemed guilty by association. He points out that he was searched on entry and therefore could not have brought a beer can or bottle into the stadium.

8. Having met and interrogated the complainant, the IFO is persuaded of the veracity of his version of events as now recalled. However, the complainant has produced no corroborating evidence, such as independent witness statements, to back up his case and while he comes across as a serious minded and quiet individual, it is known that people sometimes behave out of character when attending football matches. Conversely, the Club has equally been unable to produce evidence other than the bare facts of the ejection. There is no video evidence, though presumably since it is alleged that the ejected fans were

identified as troublesome, the CCTV cameras would have picked this up. The Club states that CCTV tapes are routinely wiped after 28 days. Yet it was aware within days of the incident that a complaint had been received, so that any relevant video evidence should have been retained. The steward's report no longer exists, having been destroyed, the Club states, at the mother's request (this is disputed by the mother who asked for a copy, as advised by the Information Commission). However, the Safety Officer has informed the IFO that the report simply stated the name of the complainant and the reason for his ejection, so it would have added no further light on the matter. The police officer cited by the steward in enforcing the ejection has not been identified by the Club. However, the complainant did identify the police officer and was informed by the Metropolitan Police that the officer denied being involved in the decision to eject, which was made, he reported, by the security staff themselves. In the light of the conflicting statements, the IFO finds that it is **highly likely** that the complainant was ejected without just cause. However, the lack of corroboration means that the IFO cannot substantively uphold this part of the complaint, because he cannot conclude with absolute certainty that the complainant was wrongly ejected.

9. On the second part of the complaint the matter is much more clear cut. Patently, the Club failed to meet its own charter commitment to reply within 14 days and there is compelling evidence that the complaint was very badly handled. It was some 5 weeks before the complainant received a reply and, for example, nearly 5 months before the Club withdrew the accusation of racism. The Club was dilatory even in replying to the Football League. The Club's record keeping was grossly deficient and the complainant was required to resubmit all correspondence because the files could not be found. It is symptomatic of the Club's documentary shortcomings that when the IFO visited the Club, he could not view the matchday file because it could not be located in the archives, even though the visit had been specifically arranged to discuss this complaint. The complainant and his mother have repeatedly complained that the Club has refused to supply all the information, yet in this regard the Club is factually correct that it has supplied as full an explanation as it is able, since no further documentation exists. The IFO finds it deeply disappointing that the failings revealed are almost identical to those identified in a previous Adjudication

Report on Crystal Palace, also relating to an ejection, (IFO Report 10/08). Urgent remedial action is needed to improve record keeping and complaint handling. Clearly the advice of the Football League has not produced improvements and the IFO recommends that the League takes a more proactive approach to addressing the Club's shortcomings. The IFO finds that the complaint was handled in a dilatory and inefficient manner and therefore **upholds** this part of the complaint.

10. The issue of possible defamation of character is a complex one. It has been alleged that Crystal Palace should not have revealed the complainant's name to Watford. Both clubs are party to a Football League agreement to share intelligence between clubs in the interest of maintaining a safe and secure environment for all supporters. The League has confirmed that it is common practice for clubs to supply the names of ejected away fans to their home club. This, for example, would identify any fan who should not have been present because of a banning order. In the Club's defence, the Safety Officer explained that he only supplied the names after a specific request from his opposite number at Watford. The IFO is satisfied that the Club was not behaving improperly in informing Watford of the names of those ejected. Similarly, the complaint that the Club's reply to the complainant should not have been copied to the Senior Safety Officer at the FA is not well founded. It is again common practice to keep him apprised of contentious safety and security issues.

11. The use made by Crystal Palace of comments made by Watford during this exchange of information caused great distress to the complainant and his mother. The Crystal Palace Safety Officer reported that during a telephone conversation, the Watford Safety Officer remarked that the complainant was "known" to him. Crystal Palace drew the wholly unwarranted conclusion that the complainant was "known" because of some previous misdemeanour. The December letter states "you are known to the Football Intelligence team" and in telephone conversations it was pointed out that the complainant was known to the authorities and therefore was not the innocent bystander portrayed. In this regard Watford FC were partially culpable in not clarifying the context in which the complainant was known to them. In fact, it emerged that the complainant was known only because he had been the innocent victim of an assault by an

away Doncaster supporter at a Watford home game and his name was known to the police only as a witness to an assault. To its credit, Watford quickly moved to correct the false impression created by the comments of its own Safety Officer. On 31 December 2010 Watford's Head of Operations wrote personal letters to the FA Head of Safety, to the League's Chief Operating Officer and to the Crystal Palace Safety Officer to deny that Watford regarded the complainant as "a person who is anti-social whilst attending football matches". Indeed, the Club knew him only as a valued supporter and not one whom Watford had any concerns about. It sums up Crystal Palace's approach that it took 3 months before it incorporated this information into its reply of 29 March when a general apology was offered. In the circumstances, a more explicit apology is called for.

12. Having reviewed the claim that the complainant was defamed by Crystal Palace's action, the IFO finds that the Club did not behave improperly in informing Watford FC of the fact of the ejection, nor was it improper to copy a letter to the FA Head of Safety. The inferences drawn by Crystal Palace did imply damage to the complainant's reputation, for which it and Watford were jointly responsible. Watford should have clarified the context in which the complainant's name was known to them and Crystal Palace should not have been so quick to draw an inference which coloured their view of the complainant and appeared to support their action in ejecting him. Watford moved quickly to repair the damage and is reported to have put in place procedures which will prevent such a recurrence. Crystal Palace should do the same and ensure that any intelligence received is carefully checked before damaging conclusions are drawn. The implications expressed in the December 2010 letter were not put into the public domain and were communicated directly to the complainant, who in turn made Watford aware of the allegations. Prompt action by Watford meant that the misunderstanding was aired for only a short time even in the minds of staff at Crystal Palace. The IFO therefore is unable to sustain the claim of defamation of character.

Conclusions and Recommendations

13. The IFO fully appreciates the rightful indignation of the complainant who feels that he has been very unfairly treated and sympathise with his mother who shares the sense of injustice with her son. Both have put forward cogent and

believable arguments. Yet the lack of corroborating evidence prevents the IFO from being certain that the complainant was wrongly ejected, even though the Club's procedure in this matter was far from wholly satisfactory. The IFO strongly supports the Club's desire to create a safe and family-friendly environment at Selhurst Park and endorses strong action by stewards when dealing with behaviour which might inconvenience, annoy or endanger other supporters. Yet this carries with it the responsibility to be certain about the identity of alleged offenders and the need to acquire, record and retain the evidence of misdemeanours. The IFO **recommends** that Crystal Palace improves its procedures for ejections, through better and more comprehensive evidence gathering and by retaining appropriate records, including CCTV, which would provide an audit trail, in the event that the justification for the ejection is disputed.

14. The complaint was badly handled, marked by unjustifiable delays in responding and hence this aspect of **the complaint is upheld. The IFO rules that Crystal Palace should send a letter of apology to the complainant and his mother.** The shortcomings revealed demonstrate that any previous advice from the Football League has not produced the necessary improvements. Therefore, the IFO **recommends that the Football League works proactively with Crystal Palace, particularly in the areas of record keeping and complaint handling.** The temporary and limited nature of the misleading comments issued to the complainant lead to the conclusion that no lasting damage was done to the complainant's reputation. Nevertheless, they did cause unnecessary distress and the **IFO rules that Crystal Palace should apologise for making unwarranted assumptions about the reasons for Watford knowing the complainant.** Crystal Palace is unique in the ten year history of the IFO and its predecessor the IFC, in having two adverse adjudications on the same aspects of its practice.

Professor Derek Fraser, Ombudsman
Mr Alan Watson CBE, Deputy Ombudsman

22 Decemberr 2011