



**THE INDEPENDENT  
FOOTBALL OMBUDSMAN**

**IFO COMPLAINT REF: 10/08**

**EJECTION AT CRYSTAL PALACE, 16 MARCH 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 full cooperation from the Football League and Crystal Palace FC.

#### **The Complaint**

3. The complainant expressed his strong concern about what he deemed to be his wrongful ejection from Selhurst Park, where he had attended as a Leicester City supporter. He contended that this had been the result of mistaken identity when a flare was ignited in the away seating enclosure. He further complained that as a result of his ejection he was handed over to the police and kept in police custody until the early hours of the morning. Serving in the navy, this meant he was deemed to be AWOL and was potentially damaging to his naval career. As a result of the failure of the Club to deal with his complaint, he appended to his substantive case a supplementary complaint against the Club for failing to deal with his complaint properly under the terms of the Club's Charter

## The Events in Question

4. The incidents in question occurred at the Crystal Palace v Leicester City match on 16 March 2010. The complainant was seated in the away enclosure. At approximately 21.15 a flare was ignited at the rear of the away section. According to the complainant, his friend was wrongly identified as the person responsible; he therefore entered the concourse to enquire what was happening to his friend. Once there he was himself accused of handling the flare and was detained by two stewards, one of whom grabbed him around the neck. He was ejected by the police on the advice of the stewards. At some point during the action by the steward the complainant lost his spectacles. The complainant reports that one of the police said he could see marks on the complainant's neck where he had been assaulted by the steward. The complainant then spent some hours in the custody area of Bromley Police Station. He was eventually released without charge at 3 am and was consequently late back to his naval station in Plymouth.

5. The steward's version of events is quite different. His report claims that when the flare went off he pushed his way through the crowd and observed the complainant picking up the flare. When spotted, the complainant ran off and was pursued by the steward and subsequently detained by him and handed to the police. He stated that he provided a statement to the police on the facts of the matter as he had witnessed them.

6. Some time after the match (the date is unclear), the complainant sent a letter of complaint by email to the Club, arguing that he had been wrongly ejected, had been roughly treated by the steward and had unreasonably been handed to the police. He cited his release without charge, but pointed out that the whole affair was potentially damaging to his naval career. He asked to view the CCTV footage of the incident. Receiving no reply to his complaint, on 17 May he approached the Football League. As a result of the League's intervention, on 28 May the Club's Commercial Director emailed the complainant saying that as the matter was in the hands of the police, the Club had been advised not to respond as it was no longer a Club matter. Feeling that he was getting nowhere with his case he referred the matter to the IFO on 13 July.

7. In fact, the IFO did not commence the investigation immediately, as personnel changes at the League meant that the League stage of the complaints process had not yet been completed. A further attempt to get a substantive response from the Club was then made by the League. In response the Club explained that because it was the close season, it would not be possible to get reports from the two stewards until the new season commenced. However, the Club confirmed that no CCTV footage existed, as they operated a 24 hour CCTV system which was automatically overwritten every 28 days. There was further delay in getting the Club to respond to the League and several deadlines were missed and it was not until 1 September that the League received the steward's report outlined in paragraph 5. (The other steward had left his position.) The League responded to the complainant on 2 September. By this time the complainant had been posted to Iraq and delegated a member of the Football Supporters' Federation (FSF) to act on his behalf. The FSF representative replied to the League at some length and reiterated the request to get a substantive reply from the Club to the complainant's issues. The Club addressed these points on 2 September via the League. It argued that it was its policy to support the stewards in matters of public safety, that it could not take account of the complainant's status in the navy and that the Club was not responsible for the action of the police in detaining the complainant overnight. The Club concluded that its aim was "to run a safe and family friendly club. The safety of all supporters is of the utmost concern and priority". The FSF replied at some length on 9 September, disputing the Club's version. It argued that the steward had not provided reliable identification evidence, that the Club had done all in its power to delay a proper investigation of the case and that it was

unreasonable to support stewards without a thorough enquiry into the evidence. It queried the lack of video evidence and asserted that had the Club dealt with the complaint promptly the video evidence would have still been available. The complaint was formally referred to the IFO on 28 September 2010.

### **The investigation**

8. Given that the dispute had been going on for several months, there was a substantial body of written evidence available for the IFO to consult. Both the FSF and the League provided dossiers which were fully explored by the IFO. Since there was such a wide disparity in the respective versions of events, it was important to meet with both parties. The absence of the complainant on overseas duty meant that the meeting to discuss the case was held between the IFO and the FSF representative on 13 October. The Ombudsman and Deputy visited Selhurst Park on 20 October to meet the Stadium Manager/Safety Officer and to view the physical location of the events. Discussions were also held with the Football League Customer Services Officer who provided a helpful overview of the case. The IFO spoke by phone to the Club Police Liaison Officer and to a senior officer at Bromley Police Station who was able to confirm the basic facts, namely that the complainant was released without charge or caution. He explained in general terms that there might be a variety of reasons for such a decision to have been reached. He was also able to offer advice to the complainant on how to obtain copies of data held by the Metropolitan Police and this was passed to the complainant by the IFO.

### **Findings**

9. The complaint clearly falls into two parts, the ejection itself and the way in which the complaint was handled. Since the latter is much more clear-cut, this is dealt with first. Simply stated, the complainant sent a letter of complaint to Crystal Palace FC soon after the match and has **never** had a substantive reply from the Club. In the only direct response, sent belatedly on 28 May, the Club maintained that on police advice this was no longer a Club matter. Insofar as the Club later addressed the issues raised, it did so only in response to the Football League and not to the complainant himself. Indeed, it would appear that the complainant's original letter was never dealt with and when the complaint re-surfaced, the Safety Officer claimed that he had no knowledge of the complaint. It was only in July and at the behest of the League, that the matter was investigated and then in a rather leisurely fashion. This is quite unacceptable from a customer care perspective. The IFO has investigated several complaints where the delay in dealing with the complaint has been a tangential issue: in this case it is central. The IFO finds that this is quite the worst case of maladministration of a complaint that he has so far encountered.

10. The IFO appreciates that there were some mitigating factors which partially explain but certainly do not condone the Club's shortcomings. During the period in question, the Club was in the throes of administration. It was reported to the IFO that the Administrator made 28 people redundant from the office side of the Club. Indeed the Safety Officer recalled that on the very day the Commercial Manager sent the sole Club reply, he was himself made redundant. This meant that there was no continuity in dealing with the complaint. Even now when the Club has emerged from administration and a more stable office support system is in place, the IFO is not wholly persuaded that the Club has effective arrangements for dealing with complaints. The IFO recommends that the Football League discusses the matter with the Club and disseminates examples of best practice in complaints resolution. In the present case the response of the Club was not only in contravention of its own Charter, it was well below standards the IFO has found generally across the Football League. In view of the serious shortcomings in dealing with the complaint, it is the IFO Adjudication

judgment that Crystal Palace should apologise in writing to the complainant for the way it handled his complaint.

11. The ejection itself is much more complex and difficult to resolve. As in some other IFO Adjudications, there is no visual evidence which might have resolved the discrepancies between the two accounts. The complainant makes a fair point that if the complaint had been addressed properly at the outset, then it would have fallen within the period when the CCTV footage would still have been extant. However, there is no reference in the steward's report to alerting the control room about the incident with the flare, so perhaps there may not have been conclusive video evidence. One may well understand that the ejection (and possible criminal charges) of a naval rating carries serious career risks, but of course the Club had no means of knowing the complainant's status at the time of his arrest. The IFO fully understands that a steward needs to take immediate action when he perceives there to be a threat to public safety and appreciate that the Club wishes to provide a safe environment for all supporters and would normally support a steward in a matter of public safety. The Club questions why the allegations of assault by the steward were not mentioned at the time, but there is also no documentary evidence relating to the ejection itself, other than the post-hoc steward's statement. On the other side, the complainant flatly denies that he picked up the flare and that he ran when challenged. He claims that another person who was arrested and cautioned by the police had physical evidence of a flare on his hands where he had none and was released without charge. Unfortunately the IFO has no corroborating evidence relating to this claim as his powers do not extend to the right to access police records. However, the complainant does have that right in relation to his own arrest and detention. In the event that the complainant is able to produce relevant evidence in the future the IFO will consider this at a later stage.

12. The IFO finds it impossible to resolve the issue on the basis of the evidence currently available to him. The complainant and his representative have put forward cogent arguments and the delays by the Club tend to weaken its case, which rests solely on the post-hoc report of one steward. The IFO has not been convinced by the argument that the police intervention prevented proper action by the Club in relation to the complaint. The IFO has been provided with no clear statement about when the police advice was given and by whom. The complainant refers to his release from custody on the night of the incident yet he was informed some 10 weeks later that this was still a police matter. While the IFO fully endorses the Club's aim to provide a safe environment, in this case the lack of clear evidence means that he is unable to say with certainty that the Club was right to eject. Neither can he conclude that the complainant was wrongly ejected. Neither party has been able to supply corroborating evidence which would permit a clear conclusion, even on the balance of probability. Regrettably, the IFO is forced to decide that this is a case of "not proven".

### **Conclusion**

13. The investigation of this complaint has revealed clear and stark evidence that the Club was remiss in handling the complaint and the **IFO therefore upholds the complaint and rules that a written apology be issued to the complainant.** However, the IFO is not able to reach a clear conclusion on whether the ejection itself was justified. In the circumstances the IFO leaves open the matter of the ejection, pending the possible submission of further relevant evidence by either party.

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

**10 December 2010**