



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 15/01

THE FA'S HANDLING OF A COMPLAINT

The Role of the Independent Football Ombudsman (IFO)

1. The office of the IFO was 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 confirms that in investigating this complaint he has received the full cooperation of the FA. The jurisdiction of the IFO does not cover the actions or decisions of youth football clubs, local leagues or County FAs (CFAs). However,

in order to understand the nature of the issues giving rise to this complaint, it has been necessary to recount briefly some of the events concerning those bodies in order to put in context the part played by the FA.

The complaint

3. A man complained about the way in which the FA had handled his complaint about the actions of his daughter's football team, the league in which it played and the local CFA.

The facts of the matter

4. The complainant's son was a coach at the club but they relieved him of his duties on the grounds that he had not obtained criminal record clearance and relevant qualifications in order to fulfil the role. There was also a dispute with the club over whether, without permission, the complainant had taken one of the girls to her home after training. The outcome was that the club expelled the complainant, his son and his daughter. They were also suspended from attending the venue where matches took place, a decision which was endorsed by the local league. On 3 March 2014 the complainant met with the CFA's Chief Executive to discuss the way in which the CFA had dealt with complaints he had made about the club and the league. On 31 March the Chief Executive wrote to the complainant "to acknowledge and formally apologise for the process and actions of [the CFA] in dealing with your complaint. In my initial investigations (that I fully accept will be subject to an 'Investigative Hearing' conducted by an 'Independent Regulatory Commission') it is clear that the process in dealing with the case was not transparent to all parties." On receipt of relevant information from the complainant, arrangements would be made for an 'Investigative Hearing'.

5. On 4 August 2014 the complainant emailed the FA about delay in holding the hearing. On 19 August he emailed the FA as he had had no reply. He understood that the FA had told the CFA that they would not consider his complaint until the hearing had taken place. The FA replied that they could not become involved until the meeting, scheduled for 21 August, had been held. That meeting was postponed. On 9 October the complainant emailed the FA saying that the hearing had been cancelled three times. He complained that the hearing could

not be independent as the appointed members were all from the CFA. On 15 October the FA replied saying "The Association are not permitted to become involved in the matter until proceedings with the County FA have concluded and if at this stage you wish to lodge an appeal against their decision (in accordance with the Regulations for Appeals) this can be done and addressed to the Judicial Services Department at the FA."

6. On 30 October, in accordance with advice from the FA's Head of Judicial Services, the CFA held a Board of Inquiry, rather than a Regulatory Commission, into the complaints. Following the hearing, the Secretary to the Board informed the complainant that the Board had decided to make further enquiries before finalising their decision. On 18 November the Chair of the Board of Inquiry issued the written findings. The Board found the club's decision to dispense with the services of the complainant's son justified and proportionate, but expressed the hope that he would obtain his CRC and qualifications so he could resume coaching. In relation to the matter of taking a girl to her home, the Board asked the club to review their safeguarding procedures with immediate effect and were critical of the way in which the club had handled the matter. The Board found that the league had acted outside their remit in implementing a venue suspension against the complainant. Finally, the Board found that there had been a number of failings by the CFA and made recommendations to improve the handling of complaints. The Board did not consider any formal disciplinary action necessary.

7. On 23 November the complainant emailed the FA repeating all his grievances against the club, the league and the CFA and complaining about the way in which the Inquiry had been conducted. He was particularly aggrieved that the hearing of his complaints had changed from an "Independent hearing" to a Board of Inquiry, that he was unable to appeal despite the FA having told him that he could (see paragraph 5) and that the Chief Executive was the only CFA officer who had apologised to him. On 13 January 2015 the complainant submitted to the FA a "schedule of loss" for himself and his son claiming compensation for the FA having done nothing about what he regarded as fictitious complaints against them. In the meantime, the FA had been establishing from the CFA what had taken place at the Board of Inquiry and

subsequently. On 14 January the FA's Disciplinary Co-ordinator, on behalf of the Head of Judicial Services, sent the complainant a comprehensive reply outlining the findings of the Board. He explained that, initially, the members had been going to sit as a disciplinary panel but, after seeking advice from the FA, had sat as a Board of Inquiry; the decisions of such a Board are final with no right of appeal. The Co-ordinator said that the Board members had read all the paperwork, which included records of interviews held with relevant individuals, and were fully aware of the facts of the case. The Board had made their decision based on the facts as presented to them. The Co-ordinator said that it was unfortunate that it had taken so long to convene the Board. The FA felt it reasonable for the CFA's Chief Executive to have apologised on behalf of the whole organisation (see paragraph 4). The FA did not accept responsibility for any financial loss which had been incurred.

Investigation

9. The IFO considered extensive documentation submitted by the complainant. The IFO and his Deputy met with the FA's Head of Judicial Services. He explained that the FA had been unable to consider the complaint until the CFA had exhausted all their action on the case. He had advised the CFA that, as the complainant had not been charged with any offence, a Regulatory Commission was not appropriate and a Board of Inquiry should consider the issues. He had also advised the Chair (an Independent Football Panel Member) on the powers of the Board and had advised the CFA on the need to observe the FA rules and standards.

Findings

10. It has already been acknowledged by the Board, the FA and the CFA itself that the complainant's case and his subsequent complaints were not handled at all well at club, league and CFA levels and the Chief Executive of the CFA has given the complainant formal apologies. The IFO's role in the matter is to consider solely the actions of the FA. First, the complainant was dissatisfied that the FA would not consider his complaint until after the Board of Inquiry had made its decisions. In that respect the IFO is satisfied that it was right for CFA action first to be exhausted. The complainant was also dissatisfied that the FA's Head of Judicial Services had spoken to the CFA without also speaking with him.

The IFO is satisfied that part of the role of the Head of Judicial Services is to give procedural advice and guidance to CFAs, and he was merely fulfilling that role, correctly pointing out that a Regulatory Commission was not appropriate. At that stage the responsibility rested with the CFA to communicate with the complainant. Although there have obviously been a number of failings in the way in which the complainant's affairs have been handled, which have been identified by the Board of Inquiry, the IFO has seen no evidence that the FA, the only body within IFO jurisdiction in this case, were responsible for any of those. The only criticisms of the FA relate to two failures to meet their Customer Charter targets for replies to the complainant's emails. First, they did not reply to his email of 4 August until after he had sent a reminder on 19 August. Secondly, the FA should have acknowledged receipt of the complaint of 23 November when they were unable to respond substantively within the accepted timescale. Otherwise, the IFO is satisfied that the FA have fulfilled their role correctly and should not be responsible for any financial loss claimed by the complainant.

11. It is unfortunate that the complainant was led to expect a right of appeal after the hearing. That stemmed from the CFA having used the term "Independent Regulatory Commission" which was not appropriate to the circumstances of the case. In any event the complainant does not seem to have suffered more than a loss of expectation by that as the Board of Inquiry's findings, although not to his liking, were comprehensive and it is difficult to see what the complainant could have appealed against.

12. Part of the complaint is about the complainant's son not being able to coach. In that regard the situation seems quite clear. He is not suspended or banned; if he obtains the relevant qualifications there is no bar to his coaching.

Conclusion

13. The IFO has great sympathy for the complainant whose case was badly handled by the CFA, for which he has received a much deserved apology. It is appreciated that the changes to the formal status of the enquiry caused him frustration, as did the consequence that he had no right of appeal. Nevertheless, the FA did review how the CFA had handled the complaint and

confirmed the shortcomings in the proceedings. The IFO found no fault with the way the FA acted, other than a delay in answering some correspondence. Since the IFO jurisdiction in this case is limited to the role of the FA itself, the complaint cannot be upheld.

Professor Derek Fraser, Ombudsman
Alan Watson CBE, Deputy Ombudsman

24 March 2015