



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 16/03

A THREE YEAR BAN AT MANCHESTER

UNITED

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 English 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 that in investigating this complaint he has received full cooperation from the Premier League and Manchester United FC.

The complaint

3. A Manchester United supporter complained that the Club had unreasonably deprived him of his season ticket and had imposed a three year ban. While admitting that technically he had breached the ticketing regulations, he argued the ban was excessive and the result of personal animus against him by a senior Club official. He further complained that the Club had provided no opportunity for a personal hearing.

The facts of the case

4. The complainant has held his season ticket for three years. He is a social worker who sometimes has to work at weekends and cannot, therefore, attend every home game. He attended the match against Southampton on 23 January 2016 and as is his regular practice he went for a drink at a local hotel after the game. Knowing that he could not attend the next home game, he had arranged to lend his ticket to a friend whom he meets regularly at the hotel both before and after matches. When his friend did not turn up because he was drinking elsewhere, it was agreed that the ticket would be left at the hotel reception desk for collection. Some time later the friend reported that he did not collect the ticket as it, along with several others, had been confiscated by the police who, it emerged, had been engaged in an under-cover operation against ticket touting. On 29 January the complainant received a letter from the Club saying that his ticket was in the hands of the police, that he had breached the regulations, that the ticket was likely to be used as part of an illegal touting activity, that his ticket had been cancelled without compensation and that he was banned from the ground for three years. He was informed, "you will not be able to submit any appeal in respect of this ban until 29 January 2019 at the earliest."

5. The complainant immediately phoned the club to protest his innocence and was advised to submit his response by email which he did on 30 January. He claimed that he had no knowledge of his friend's ticket touting activity and that he was the innocent victim. He was particularly concerned about the possible impact on his career and wrote, "If this was then to proceed to a criminal record I would lose my employment and any potential jobs within the sector I work." He was informed that "the appeals team" would look at his case and he would be informed of the outcome. On 8 February the Club reported that "as your season ticket was in an envelope marked for a suspected ticket tout, the ban will remain in place". He was reminded that the ticket holder was responsible for ensuring that the ticket was not misused and was informed that "since this decision was made by the head of ticketing, it is final and there is no way it can be overturned". On the same day the complainant sent in a long reply in which he refuted that he had been, even inadvertently, involved in any illegal activity. He offered to have his ticket retained by the Club and to be collected and returned by him on a match by match basis. He made great play of the plethora of social

media sites where tickets are offered for sale, which indicated a systematic touting operation, whereas he was “an innocent fan who had made an easy mistake”. He reported that as someone with previous mental health problems the threat of possible criminal charges, which could have a large impact on his career, had caused him great anxiety and panic attacks.

6. The complainant made several requests for a personal hearing without success and on 9 February he was again informed, “the decision is final. The 3 year ban will remain in place and cannot be overturned.” Undeterred, the complainant submitted on 19 February what he termed “another appeal”, citing the lack of any police action in relation to himself and the absence of any link to criminal activity. He now added that a ‘whistleblower’ had informed him that a personal dislike of himself and his family was part of the reason for the ban. He accepted responsibility for his mistake but argued that the ban was unjustified because there was no evidence linking “myself to what was described as criminal activity”. He received no reply to this message.

7. He referred his complaint to the Premier League, also pointing out that the Club had taken money from his account for a compulsory Europa League ticket, when his ban would have prevented him from attending the ground [*this sum was refunded prior to the IFO investigation*]. The Premier League discussed the case with Club officials who explained that circumstantial evidence linked the complainant to ticket touting activity and the covert police/club activity demonstrated how seriously the Club took this problem. There had been 12 tickets waiting for the complainant’s friend and this confirmed the likely involvement in the illegal handling of tickets. The ban was in line with others for serious offences and the Club had found no merit in his appeals which were described as flimsy. The Premier League strongly supported the Club’s actions in seeking to stamp out ticket touting and felt that the Club was justified in taking the action it believed to be appropriate. The League found no evidence of personal victimisation. On 8 March the League referred the case to the IFO which sought confirmation from the complainant that he wished to proceed. On 4 April the complainant submitted a summary of his concerns and the IFO investigation began.

The Investigation

8. The IFO reviewed the correspondence to and from the complainant, together with the detailed summary provided by the Premier League. On 10 May, the IFO met with the complainant to discuss his side of the case, after which further documents were requested. On 7 June the IFO met with Manchester United officials, comprising the Director of Venue, the Customer Care Team Leader, the Administrative Manager and an Associate Legal Counsel.

The Findings

9. It is important to stress at the outset that the IFO strongly supports Manchester United's efforts to combat ticket-touting and the Club's joint activities with both the Premier League and the police. The IFO has adjudicated several similar cases at other Premier League clubs and is on the record that severe sanctions are merited in the case of proven ticket-touting. (See for example IFO 14/17). The key question in this case is whether the complainant was indeed involved in ticket-touting. First, it is necessary to clarify what is permitted in relation to the loan of tickets when the ticket holder is unable to attend. The Club explained that while previously there were strict rules about only the ticket holder using the ticket, these had been relaxed somewhat to adopt a more realistic approach. The current season ticket brochure clearly states, "remember, you can share your season ticket with friends & family if you are not able to attend a game". The more detailed regulations make clear that any breach by the "authorised user" will be deemed a breach by the ticket holder and that ticket holders are not permitted to market the availability of their tickets. It is clear then from the regulations that the complainant was permitted to loan his ticket to a friend and the sanction imposed is not because of the loan per se.

10. The Club informed the complainant that his ticket had been cancelled because there was evidence that it was likely to be used as part of an illegal ticket touting operation. That was certainly a reasonable conclusion to draw from the police operation which revealed multiple tickets in envelopes to be collected by the complainant's friend. (The complainant maintains strongly that he did not place his ticket in an envelope). In fact, of course, the complainant's ticket was not actually re-sold because it was confiscated by the police. Hence the complainant is correct in claiming that neither the police nor the Club has evidence that his personal ticket was ever sold by a ticket tout, though clearly it potentially might have been if the ticket had not been taken by the police and returned to the Club.

11. The central question is whether the complainant knew that his friend was a ticket tout and that there was a likelihood that his ticket would be illegally re-sold. The complainant asserts that he is "an innocent victim" whose friendship has been abused and exploited. He reports that he was totally shocked to learn of the multiple tickets to be collected by his friend and he had no idea that he was involved in ticket touting. He also maintains that he would never have consented to such activity, particularly because it carries such a personal risk. The Club has not been persuaded by the mitigation offered, but the IFO believes that there is one important aspect which bears on whether he would knowingly participate in touting. The complainant points out that were he even to have been charged or cautioned for a criminal offence then he would risk losing his job as a social worker. Moreover he is in a regulated profession and a conviction for fraud would almost certainly lead to the loss of his professional

status, depriving him of any employment in his sector. The Club does not accept that the professional status of any supporter has any relevance when considering touting offences and argues that in taking strong action in this matter it is motivated by the desire to enforce its ticketing regulations and to protect supporters' interests, rather than to secure criminal prosecutions. Nevertheless, the risk to the complainant's economic and professional future was a real one and the IFO considers that it is therefore unlikely that he would knowingly become involved in touting, even on the periphery of this shady activity. Having had the benefit of meeting the complainant, the IFO is persuaded on the balance of probability that he was indeed innocent of any ticket touting intent.

12. In the light of the foregoing the IFO believes that the sanction imposed was excessive. To repeat, the IFO supports Manchester United's sanctions policy in relation to touting and agrees that a three year ban for a proven offender is appropriate. During the discussion Club officials shared with the IFO a new tabulated document which commendably clearly sets out the Official Club's sanctions policy for a hierarchy of offences and misdemeanours. This is an excellent draft document which will be most helpful for supporters and will reinforce the Club's wish to deter offenders. It could be beneficially used by the Premier League as a template for the guidance of other clubs. The IFO would not wish this Adjudication to undermine in any way what the Club is seeking to achieve in the rigorous enforcement of its sanctions policy. Yet that policy has to be tempered by natural justice in its implementation. The IFO concludes that ***in this particular and individual case***, the three year ban was excessive, since the IFO believes that the complainant was not guilty of involvement in touting activity, though the Club had reasonable suspicion that he might have been.

13. On the basis of the initial evidence before them Club officials were entitled to ban all the supporters whose tickets were confiscated. Subsequent enquiries, of which this report is a part, have revealed mitigating circumstances which suggest that a more limited sanction should be imposed for this individual. While a three year ban would have been reasonable for a proven touting offence, it is not appropriate for inadvertent breaches of the ticketing regulations. The complainant accepts that he is responsible for the ticket and should have been more careful about lending to someone outside his family circle. He also accepts that he must suffer some sanction. The IFO finds no evidence of any specific personal animus against the complainant. Indeed, the central issue of the case is the blanket application of the policy without reference to individual circumstances. The complainant has suffered a financial penalty in that his ticket was cancelled without compensation and he has missed almost half a season of matches. **The IFO recommends that his ban be reduced from three years to one and that he is reinstated as a member with effect from 29 January 2017.** The IFO welcomes the indication from the Club that it is willing to accept this recommendation, though

it points out that under its shortly to be published sanctions policy even inadvertent breaches of its ticketing terms (such as in this case) may lead to a three year ban.

14. The complaint was generally well handled by the Club, apart from confusion over whether an appeal was possible. [This will be fully clarified in the new sanctions document, which should also clarify whether a personal hearing may be permitted in very serious cases]. The Club responded promptly to all but the complainant's final communication. There is one aspect which needs to be improved. Despite the imposition of his ban, funds were taken from his bank account for a Europa League match, which he would not have been permitted to attend. This money was subsequently refunded. However, the complainant continued to receive promotional material inviting him to buy tickets. Having been distressed by this whole episode it was particularly galling to find himself targeted for marketing communications from the Club. **The IFO recommends that where a ban has been imposed, the supporter's account is frozen and the Club ensures that no further marketing information is sent to the individual.**

Conclusion

15. The IFO sympathises with the Club's attempts to reduce the prevalent touting activity and to impose severe penalties on those proven to have been involved. It had reasonable suspicion that the complainant may have been party to such illegal activity. However, the imposition of a blanket ban on all those whose tickets were confiscated did not permit a full assessment of this individual case, which the IFO concludes was an inadvertent rather than intentional breach of the regulations. The IFO finds that a three year ban was excessive and recommends that this is reduced to one year, still a severe and deterrent penalty. Manchester United has indicated that it will accept the IFO recommendation and will reinstate the complainant as a member one year after his ban was imposed. All season tickets for 2016-17 have been sold so the complainant will have to go on the waiting list for the following season. He will as a member be entitled to purchase tickets on a match by match basis once his ban has been lifted.

Professor Derek Fraser, Ombudsman

15 July 2016

Alan Watson CBE, Deputy Ombudsman