

IFO

THE INDEPENDENT
FOOTBALL OMBUDSMAN



Chartered Trading
Standards Institute
ADR Competent Authority

The Independent Football Ombudsman is approved by Government under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015

IFO COMPLAINT REF: 18/07

INDEFINITE EXCLUSION AT BRIGHTON

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 [EFL]) 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 is an Approved Alternative Dispute Resolution Body and its findings are non-binding. 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 the full cooperation of Brighton and Hove Albion FC.

The Complaint,

3. A Brighton supporter complained that following a dispute with another supporter in the Club shop on 12 August 2017, the Club had imposed on him an indefinite ban, which he is not allowed to appeal for ten years.

The facts of the case

4. On 12 August the complainant wrote to the Club claiming to be "absolutely fuming and angry" that he had been denied admission to the first game of the season against Manchester City. He said that he had been pushed by someone behind him in the club shop and that a person considerably larger than him had reacted in an aggressive and confrontational manner. He regretted that he had responded in a similar manner. He said that the reaction of the stewards had been "completely over the top and out of order". He asked for the return of his season ticket.

5. On 13 August a supporter who had witnessed the incident emailed the Club outlining how the complainant had intimidated the little boy and used an offensive word to him about his father. The supporter said that the elderly gentleman with the complainant had been trying to pacify him. The supporter strongly urged the Club to ban the complainant for life. On 15 August the shop's Retail Supervisor, who had intervened in the altercation, said that the boy's father had complained that the complainant had kept bashing into his back while queuing and that the complainant stank of booze. The complainant had said that he would apologise to the child, but had then bent down to the child and used the offensive word about the father.

6. On 15 August the Club's Head of Safety and Security wrote to the complainant saying that he had been refused entry to the stadium because his behaviour in the shop had been deemed totally unacceptable; and the Club had been made aware of an incident, witnessed by Club staff, when he had used offensive language to a young child, which the Club found deplorable. As a result, the Club had decided to impose an indefinite ban on him. The complainant appealed. He said that he sincerely apologised for his completely

unacceptable behaviour; he had been under extreme duress and strain in his personal life. He said that he had sworn, not at the child but at the man, because he was annoyed at the other man's behaviour and had felt intimidated. In almost 40 years of following the Club he had not been involved in any incident resulting in a ban.

7. On 13 September, at the invitation of the Club, the complainant attended an Appeal Panel which comprised the Head of Safety and Security, the Supporter Services Manager, the Deputy Security Manager and the Police Football Intelligence Officer. On 20 September the Head of Safety wrote telling the complainant that during the hearing he had admitted he had leaned over the 9 years' old boy and called his father an offensive word. The Head of Safety said that it was clear that the complainant had not understood the severity of his actions. That had been further highlighted from social media posts the complainant had made on 19 September, when he had responded to a post about going to a match by saying:-

"Some of us can't go because we are banned for f*****g trivial reasons!!!"

the reason being "Shouting and swearing in the Club shop".

The Head of Safety said that the Club take their safeguarding responsibilities extremely seriously and have a duty to protect young children from such abuse. The Head of Safety said that the Club had decided to uphold the indefinite ban, which the complainant could appeal after ten years.

8. The complainant then made a further appeal to the Club's Chief Executive, who replied saying that he was entirely satisfied that, due to the nature of the incident and his subsequent aggressive and dismissive private and public reactions to the Club's decision, the length of the ban was entirely proportionate.

The complainant's account

9. The complainant told the IFO that he had become embroiled in a dispute with another supporter in Brighton's club shop, which had descended into pushing, shouting and swearing. The complainant said that the man had initiated the

incident by turning around and saying something to him in a very aggressive and intimidating manner. The man had his son with him and, "to his eternal regret", the complainant had used an extremely offensive word about the father, but he maintained that the words had been directed at the father rather than the son. The incident had occurred at a time of considerable stress for the complainant and was entirely out of character. His appeal to the Club had been rejected; the Club seemed to have placed a lot of emphasis on the fact that a young child was involved, but the complainant had had his elderly, disabled father with him. His father had decided not to attend further matches as he did not have the complainant to accompany him.

10. The complainant said that at his appeal hearing he had offered to buy the other man's son a club shirt by way of apology. The Club had noted that, but to the best of the complainant's knowledge, they had not passed that on to the other man, thereby denying him the opportunity to accept the apology. The Appeal Panel had comprised Club employees plus the Police Football Liaison Officer, but no independent person. The complainant questioned whether the appeal process was meaningful.

11. The complainant said that he had submitted a subject access request, but all he had received from the Club was a copy of CCTV footage from the incident in the shop, a single sheet from an independent fan witness to the incident and a single sheet with his contact details. It appeared that the Club either had no written records of the appeal process or they had not been disclosed to him.

The investigation

12. The Club submitted a dossier of evidence and comments on the complaint. They said that CCTV evidence of the incident in the shop, which has been supplied to the complainant after his subject access request, clearly showed that the complainant pushed the other man, who did not retaliate, but there was an altercation and the small child was visibly traumatised. The complainant leaned over the boy, who was crying, and said "Sorry, your dad is a [offensive word]." (The complainant maintains that he said "Sorry to make you cry son, but your dad is a [offensive word].") The complainant's father could be seen with his hands between the complainant and the other man and the complainant did not

show any signs of “looking after his elderly father’s welfare”, as he had claimed. Stewards called to deal with the situation confiscated the complainant’s season card and police officers asked him to leave the premises. The incident was witnessed by a shop employee and a fellow supporter, who later complained to the Club about the complainant’s behaviour. The Club said that at the appeal hearing, the complainant had not shown any remorse. The complainant had said he would be prepared to apologise to the child and provide him with a Club voucher. The Panel recommendation, to uphold the indefinite ban with a right of appeal after ten years, was approved by the Club’s Executive Committee.

13. On 8 February the IFO and Deputy visited the Club and discussed the complaint with the Head of Safety and Security, the Head of Ticketing and Supporter Services, the Supporter Services Manager and the Head of Legal and Commercial. The officials said that they regarded the incident as extremely serious. The Head of Safety considered it on a par with racial, homophobic and sexist behaviour and that the Club had been consistent in their approach to the matter. They were trying hard to encourage a friendly atmosphere at the stadium and the complainant had proved by his actions that he was not the sort of person they want.

14. The CCTV evidence sent to the complainant was pixelated in order to conform to Data Protection requirements. The footage seen by the IFO was much better and it was possible to zoom in to get a clearer view of what took place. The person behind the complainant at the start of the incident was the complainant’s father. The complainant appeared to bump into the man with the child, who turned and said something. The complainant pushed the man twice and the complainant’s father got between the men, apparently acting as a peacemaker. The complainant then bent down and said something to the child. Several people in the crowded shop obviously heard this and some pointed animatedly at the complainant, apparently incensed by what he had said.

Findings

15. Although the complainant continues to dispute some of the circumstances surrounding the incident, he has acknowledged the use of the offensive word about the father of the boy. What the IFO has to consider is whether the appeal

process was meaningful, and whether the sanction is disproportionate. The IFO is satisfied that, with the opportunity for a personal hearing, the process was meaningful. The presence of the Police Football Intelligence Officer, with his extensive experience within football, and who is not employed by the Club, gave the process some independence.

16. As to the proportionality of the sanction, there is no doubt that the complainant's action in relation to the young boy was abhorrent. In addition, his initial lack of honesty about the incident, which the IFO is satisfied is as described in paragraph 14, and his apparent inability to comprehend the seriousness of his actions, have not helped his cause at all. However, an indefinite ban with no review possible for ten years is a harsh penalty for someone who has faithfully supported the Club for so long. The IFO hopes that this report will help him to realise the serious significance of his behaviour and **recommends that the Club review the situation after five years.**

Conclusion.

17. The IFO is satisfied that the Club were justified in taking a very serious view of the complainant's actions, but considers that the sanction was a harsh penalty for a faithful supporter.

Professor Derek Fraser, Ombudsman

28 February 2018

Mr Alan Watson CBE, Deputy Ombudsman