



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 13/13

AN EJECTION AT LEEDS UNITED IN MARCH 2013

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.

The complaint

2. A long standing Leeds United supporter, who travels to matches at Elland Road from his home in Grantham, complained that he was wrongly ejected,

having been falsely accused of making a racist remark. Because he was handed to the police and spent a night in police custody, he missed a day's work the following day. He unsuccessfully sought compensation and an apology from Leeds United for his loss of earnings and extra travelling expenses.

The facts of the case

3. The complainant, now in his 40s, has been supporting Leeds United since he was a boy. Because of work commitments which involve weekend shifts, he has never been a season ticket holder, but buys ticket when he is free to attend, usually about 6 times per season. On 12 March 2013 he travelled to Leeds with two work colleagues by car and watched the night game against Peterborough from the Revie Stand behind the goal. Midway through the second half a steward requested him to go to the concourse and he complied immediately, believing that there may have been a problem at home. He was shocked to learn that he was accused of making a racist remark and would be ejected because of the Club's zero tolerance on racism. He denied the accusation, but was given no chance to discuss the matter further before he was handed to the police in the concourse. He was then arrested, stripped of his possessions, including his shoes and mobile phone, and held in a detention cell under the stands. At the end of the match he was taken to a police station in a van and held in the cells overnight. He was unable to let his friends know what was happening and was allowed only one phone call to his wife. Having been advised by the duty solicitor and having made a statement denying that he made a racist remark, he was released without charge at noon. He had to get back to Grantham and purchased a rail ticket for his journey, which got him back home in the late afternoon. He had been forced to miss a day's work for which he was not paid.

4. On 13 March the Leeds United Safety Officer wrote to the complainant, informing him that as a result of his arrest the previous evening, he was suspended from all fixtures and would not be allowed to purchase either home or away tickets. He was invited to offer an explanation of what had occurred. On 21 March the complainant addressed a six page letter to the Matchday Operations Department, as requested to do. He strongly denied the accusation, recounted his traumatic experience in police custody and submitted a claim for

compensation. He added some personal character information, citing his 25 year employment record, his Territorial Army service, his charitable activities and the fact that he had both friends and colleagues of Afro-Caribbean culture. Having heard nothing from the Club for over a month, he wrote three further letters on 25 April, to the Matchday Operations Department, to the Club Chief Executive and to the FA Customer Relations Department.

5. On 8 May the complainant was informed by the Safety Officer that his case had been escalated to senior management and on 15 May he received a substantive reply from the Ticket Office Manager, some 8 weeks after his initial letter to the Club. The letter explained the Club procedures in relation to racist chanting and that it had acted properly on the basis of information available on the night. Although the Club reserved the right to discipline supporters even when, as in this case, the Crown Prosecution Service decided not to proceed, it was confirmed that no further action would be taken and the suspension was lifted. The letter made no reference to the claim for compensation. Dissatisfied with the response, the complainant wrote three letters to the Club Chief Executive (30 May, 8 July, 30 August), reiterating his distress at what he had experienced and renewing his claim for compensation. Apart from a brief holding letter of acknowledgment, he received no further response from the Club.

6. The complainant first approached the IFO by letter on 2 November 2013. He was informed that this was premature and that he needed to refer his complaint to the governing body, the Football League. He did so on 26 November. On 3 December the Football League responded saying that it supported clubs taking racial allegations seriously and that "on this occasion the club were entitled to eject and impose a club ban". It was reported that since the Club believed it had acted properly in the original incident, it would not comply with the request for compensation. Having failed to get a resolution from the League, the complainant referred the matter back to the IFO in January 2014 and the IFO investigation began in February.

The Investigation

7. The IFO carefully considered the extensive correspondence submitted by the complainant, together with the responses from Leeds United. The IFO also considered the comments from the Football League, both to the complainant and on the Complaint Resolution Form. The IFO met with the complainant in Grantham on 18 February, when he was able to provide extra detail about his experience. On 27 February the Ombudsman and Deputy visited Elland Road, meeting the Safety Officer, the Ticket Office Manager, the Health and Safety Manager and the Supporter Liaison Officer. At the meeting some further documentation was supplied from Club records. As a result of the investigation, the IFO notes with concern that neither the Club nor the Football League advised the complainant of his right to refer his case to the Ombudsman service. He discovered the IFO's existence through his discussions with the Citizen's Advice Bureau. The Club points out that reference to the IFO is contained in the Club Charter, but also admits that the complainant was not advised about the Charter during the dispute.

The Findings

8. As is normal IFO practice, the complaint will be discussed in two parts, the original ejection and the way the complaint was handled. The complainant is adamant that he is totally innocent of the charge that he made a racist remark and his persistence in pursuing his complaint is testimony to the strength of his feelings. The IFO finds him a credible and trustworthy witness and both his personal demeanour and his personal history appear to support his case. Conversely, the steward who reported his alleged misdemeanour is equally certain that this was the man who made a racist remark to a player on the pitch. He was an experienced and trained steward supervisor and there appears no doubt in his two written statements about what he both saw and heard. (The IFO notes that he added an extra expletive in the statement made to the police compared to what he told both the Club and the complainant about the words spoken). The IFO strongly supports both the Club and the Football League in their firm action in seeking to eradicate racism when expressed by supporters and has no concerns about Club policy when a racist incident is confirmed.

9. The central question at issue is whether the Club has identified the correct person who made the racist remark. The IFO has had dealings with clubs who require at least two witness statements to substantiate a charge and the complainant has several times pointed out that no attempt was made to corroborate the steward's statement. The Club claims that once an incident is classed as an arrestable offence, such as suspected racism, then this becomes a police investigation. Nevertheless, the IFO is surprised that nothing was done to seek corroboration (eg from supporters in adjacent seats) *before* handing the supporter to the police. His was the only arrest at Elland Road that night. Unfortunately, in the absence of any corroboration, it is impossible to resolve the differences between the two versions of the events and therefore not possible for the IFO to say, despite sympathy for the complainant's experience, that the Club was wrong to eject the complainant and hand him to the police. However, **the IFO recommends** that Leeds United incorporates into its security practice the requirement, where there is only a sole witness, for stewards to try to obtain corroboration before handing miscreant supporters to the police.

10. If the original incident is shrouded in obscurity, the way the complaint was handled is much clearer. The complainant waited 8 weeks for a substantive reply to his original six page response to the Matchday Department and his subsequent letters to the Chief Executive went unanswered. He has never received a response to his request for compensation, nor an apology for the delays. In the light of this, the IFO finds that the complaint was badly handled by the Club, particularly in relation to unacceptable delays and leaving the complainant in limbo about his compensation request. The Club cites mitigating factors in explaining its shortcomings. Its procedure involves escalating unresolved complaints to a senior manager who discusses the case with the Chief Executive Officer. At this time the CEO had been heavily involved in negotiations for the takeover of the Club, which together with his subsequent departure, accounted for the non-response to the complainant's later correspondence. This evidence explains what was going on within the Club hierarchy, but does not excuse the failings in complaint handling. The discussions with the Club revealed that the complainant had not been advised about the Club Charter nor about the current complaints process, which is centred on the Supporter Liaison Officer who was not informed about this

complaint. **The IFO recommends** that the Club writes formally to the complainant to apologise for the delays in responding to his correspondence.

The IFO further recommends that the Club reviews its complaints handling procedures within the Matchday Department, including internal communications to the Supporter Liaison Officer, to ensure that complaints are handled in a timely manner and in line with the Club Charter.

11. On the matter of the request for compensation, the Club is factually correct that the major items in the complainant's list (the extra travel costs and the loss of wages) were the result of police action having charged him and not the direct consequence of the Club's actions in ejecting him. Some of his costs related to the extra postal charges resulting from delays in responding or in not responding at all. **The IFO recommends** that the Club should reimburse his postal expenses and explain in writing why it is unwilling to meet his other expenses. Given all that he experienced as a result of attending a match at Elland Road and in the light of his long standing status as a Leeds supporter with an unblemished record, the IFO hopes that the Club will consider supplementing the postal reimbursement with a modest goodwill payment.

Conclusion

12. The IFO has been unable to resolve the contradictions between the complainant's and the Club's version of events and hence cannot say that the Club was wrong to eject the complainant. However, the IFO can say that the complaint was badly handled and that there were major shortcomings in its procedures as revealed in this case. The Club has now written to the complainant to apologise for the delays and to give him a goodwill partial compensation payment. The Club hopes that the complainant will return to Elland Road following the Club's response to this IFO Adjudication.

Professor Derek Fraser, Ombudsman

20 March 2014

Mr Alan Watson CBE, Deputy Ombudsman