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THE INDEPENDENT  
FOOTBALL OMBUDSMAN

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**IFO COMPLAINT REF: 14/01**

**LIFETIME BAN FOR A MANCHESTER UNITED SUPPORTER**

**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. 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**

3. A longstanding Manchester United fan complained that the Club had withdrawn his season ticket, without giving a refund for games missed, and had given him a lifetime ban from attending Old Trafford for any form of event, which he considered unfair and disproportionate.

## **The facts of the matter**

4. On 7 November 2013 solicitors acting on behalf of the Club wrote to the complainant. They said that he had been viewed several times engaging in disorderly, aggressive and illegal behaviour which had culminated in him having been arrested for breach of the peace at the home match against Southampton on 19 October and arrested again under section 5 of the Public Order Act at the Real Sociedad match four days later. At the Southampton match he had been observed smoking. When approached by the Club's security team he had been so abusive he had been arrested. The Club had then returned his season ticket together with a letter warning him about his behaviour. At the Sociedad match he had indecently exposed himself. He had subsequently pleaded guilty in court and had been fined £500. As a result of all that, the Club had decided to retain his season ticket and ban him from Old Trafford for the duration of his lifetime, a decision which was final and binding and not capable of being appealed. The solicitors said that the Club had the unrestricted right to enforce such a ban and had not taken their decision lightly.

5. On 12 November the complainant emailed the Club expressing deep concern over the impact of the decision on his ability to support his beloved Club. He said that when asked to leave the stand at the Southampton match he had wanted to discuss the situation without leaving the stand so as not to miss a crucial part of the match. When told that he had to leave the stand, he had accepted the situation and had started to go down the stairs with no further complaint, but had been treated in an unnecessarily aggressive manner and had had his arm twisted, which had caused bruising. He said that he does not smoke and stressed that he had not been arrested at the Southampton match, but rather had been released without further action by the police. He said that he did not dispute the incident at the Sociedad match and had accepted his punishment in court. Basically he had got over-excited when United scored and had "pulled a Moonie" towards the pitch. Although picked up by CCTV, his action had not been seen by anyone in the crowd because of his back row position. He offered his sincere apologies for the incident and assured the Club there would be no recurrence. He said that the magistrate had deemed that the matter was too minor to warrant a banning order and had agreed that it had been an uncharacteristic moment of juvenile behaviour from someone of his character and professional manner. He hoped that the matter could be resolved so he could continue to support his Club.

6. The complainant enlisted the help of the Football Supporters' Federation who corresponded with the Premier League about his case, as a result of which the complainant wrote to the League. He complained that the Club had disclosed to the League more information about his ban than they had to him and that the Club's investigation had been one-sided. He had submitted a Data Protection Act request to enable him to see CCTV recordings and other data held on him. He complained that he was not entitled to a refund for the games he had missed and that a lifetime ban was not fair, reasonable or proportionate. He asked for his complaint to be referred to the IFO, which the League did on 24 January. The League supported the Club's stance.

### **The investigation**

7. The IFO considered carefully all the correspondence between the complainant, the Club and the Premier League. On 6 February the Deputy IFO visited the Club and met with the Customer Care Manager and the Deputy Stadium Safety Officer. They explained that the complainant was one of a group whose anti-social behaviour has been monitored for some time, particularly since a smoke bomb had been set off in their vicinity last August. The Deputy IFO viewed CCTV footage of the complainant at the Southampton game, which clearly showed him sharing a cigarette with the fans on each side of him. He was approached by a "quick response team" comprising four security staff and two police officers. When asked to go with them, he appeared to argue and refuse and as he was led down the steps, he struggled in an aggressive manner. Two more police officers were called to assist with the ejection. The original intention had been to eject all three smokers, but concern over potential disorder had led the Safety Officer to select only the complainant, who was seen to be something of a leader of the group. The Deputy IFO saw a report from Greater Manchester Police that the complainant had been "arrested for breach of the peace after becoming aggressive when asked to leave for smoking. Released when no further risk of breach of the peace". On 22 October the Club wrote to the complainant pointing out that, under paragraph 35 of his season ticket terms and conditions, the Club reserved the right to suspend or withdraw his ticket if he breached the conditions again, and that they were not obliged to make any refund. Any further breach could result in the cancellation of his ticket. The Deputy IFO also viewed CCTV footage of the incident at the Sociedad match which resulted in the complainant's arrest and conviction. On that occasion he left peaceably when asked to do so. After that game the Club received a number of complaints, which they investigated, about the complainant and his group

of friends. At the court hearing the police asked for a banning order but it was not granted.

8. The Club officials said that they impose lifetime bans only in what they regard as the most serious cases, and then only after escalation of the matter to the Safety Officer, his Director and the Club's Chief Operating Officer. Each case is judged on its individual merits and bans can vary from a number of matches, a specific time frame, an indefinite period and lifetime. The officials made the Deputy IFO aware of other concerns over the complainant's behaviour at matches which for reasons of confidentiality cannot be included in this report. The Club's view is that the lifetime ban should stand. Within the previous few days they had received from the complainant a subject access request under the Data Protection Act which was being considered by their solicitors.

9. On the same day the Deputy IFO later met the complainant, who was accompanied by his brother. When told of the CCTV evidence seen by the Deputy IFO, the complainant admitted that, although he is no longer a smoker, he had shared a cigarette with others at the Southampton match. He said that he had been drinking and had not remembered smoking until he had discussed the matter with friends after receiving the ban. He maintained that on the occasion of his first eviction, there had been no problem until a steward had taken him by the arm in an aggressive grip, which had bruised him. He could not recall having been arrested on that occasion. He said that the smoke bomb mentioned by the Club had been set off in the vicinity of his seat, but had had nothing to do with him. He was aggrieved that the ban is for life because he is passionate in his support for the Club. He accepted that his action at the Sociedad match had been foolish, coming so soon after his eviction at the Southampton match, but he had got over-excited and deeply regretted it. He was also aggrieved that he has not been given the opportunity to view the relevant CCTV footage and to discuss his situation with Club officials. He later told the Deputy that he refuted the Club's claim that he was "something of a leader".

## **Findings**

10. The complainant now accepts that he was smoking at the Southampton match, but still disputes what happened when he was asked to leave the stand. However, it is clear from the CCTV footage that he was reluctant to leave and struggled aggressively

all the way down the stairs. Having been released by the police, that would have been the end of the matter had the complainant heeded the warning given to him by the Club on 22 October. It was, therefore, foolish in the extreme for him to have transgressed again a mere two days later. Although he now deeply regrets his actions, and has offered his sincere apologies to the Club, the Club said that they were not, in the light of other evidence which they have gathered, prepared to reduce the lifetime ban. The IFO accepts that the case was considered carefully, with the final decision taken only after input from senior officers of the Club, taking into account the apologies, the fact that the complainant has been fined heavily and the fact that the court chose not to impose a football banning order. Nevertheless, **the IFO recommends** that in a case where the proposed punishment is so severe, there should be an opportunity first to answer the accusations; a temporary suspension could be put in place for the duration of that process. **The IFO also recommends** that there should then be a right of appeal. As a privately owned organisation the Club are, of course, entitled to apply the sanctions deemed appropriate. **The IFO recommends** that the Club considers amending the complainant's ban to the still severe punishment of "indefinite", or "indefinite with no review possible for a specified period of time".

11. The complainant was also aggrieved that he cannot claim a refund for the matches he has missed. The IFO is satisfied that the Club has acted in accordance with the terms and conditions of season tickets, particularly since the complainant was specifically warned about that situation in the letter of 22 October 2013. The Club has however informed the IFO that it will refund the complainant for the games he has missed as a result of his ban, so long as the Club had been able to resell the tickets. The complainant is advised to contact the ticket office at the end of the season to arrange for a refund.

12. It is not for the IFO to determine whether information should be released as a result of the complainant's subject access request, but it would help the complainant to understand the reasons for his ban (and might act as a salutary lesson), if he was given the opportunity to view the relevant CCTV footage of the smoking incident eviction.

## **Conclusion**

13. In the light of the clear evidence of unacceptable behaviour by the complainant, **the complaint is not upheld.** However, **the IFO recommends** that the Club does incorporate into its procedures the recommendations in paragraph 10 above where severe disciplinary punishments are involved. The IFO welcomes the indication given by Manchester United that there will be a review of its disciplinary procedures and it will consider introducing a right of appeal for lifetime bans. While not upholding the present complaint, the IFO recommends that the Club will consider varying the ban to something which gives the prospect of *possible* reinstatement at some time in the future.

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

**13 March 2014**