



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 11/01

**THE FOOTBALL ASSOCIATION'S HANDLING OF A COMPLAINT ABOUT A FAILURE TO
ENFORCE FA RULES**

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. In exercising its jurisdiction, the IFO does not seek to question the merits of judgements made by properly constituted Regulatory Commissions and Appeal Boards, unless there were shortcomings in the administrative processes which led to those judgements. It is not the role of the IFO to retry cases, but it is its role to explore and review the procedures

under which complaints have been decided 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 at the outset that he has received full cooperation from the FA. The annexe to this report gives details of the various FA rules surrounding this complaint. The FA rules are incorporated into the rule books of County FAs (CFAs).

The Complaint

3. The acting secretary of a local football club complained that in his dealings with his local League and his CFA there had been an almost complete lack of enforcement and a lack of comprehension and application of statutory FA Rules relating to the qualification of players; and that when he referred the matter to the FA's Registration Department, the FA's Disciplinary Department wrongly took on the matter and wrongly associated it with the Football Debt Recovery (FDR) system.

4. In the course of correspondence before accepting the complaint for investigation, the IFO explained to the complainant that the actions of the local League and the CFA are not within his jurisdiction and that he would be able to consider only the way in which the FA had handled his complaint. Although this investigation relates to the FA's handling of the matter, at the crux are the FA Rules relating to debt recovery and player qualification, and how the League and the CFA acted in relation to those rules. In order to put in context the actions of the FA, it is necessary to outline the relevant events surrounding the actions of the League and the CFA. There has been a substantial amount of correspondence in this case, all of which has been seen by the IFO. Although

not all of it is documented in this report, the IFO is satisfied that nothing of significance to the complaint has been omitted.

The Investigation

5. On 23 July 2010 the complainant wrote to the CFA's Discipline Manager and the local League Secretary enclosing copies of letters he had sent to 14 former players regarding debts owing to his club. In each letter he had said "On the advice of [the CFA] we are required to give you 14 days notice that this debt must be repaid to the club within this period. Failure to do so will result in us notifying [the CFA] of the outstanding debt, which may result in a further fine and/or other action as they set fit." The earliest debt related to 29 September 2007, the latest to 10 May 2010. The complainant said that former players owed the club in excess of £1,000 and the club could not continue to operate carrying such a level of debt; he could not recover the money without the support of the CFA, or by recourse to a debt collection agency, which he hoped to avoid. He could not see why the players should continue to play with such debts outstanding.

6. On 3 August the Discipline Manager replied saying that under the FDR System for season 2009/10 the complainant had 28 days from the date payment was due to write to the players concerned, and 56 days to request a suspension order. (For 2010/11 the 56 days time frame was extended to 112 days.) She said that the CFA were not permitted to suspend players for unpaid match subscriptions or discipline money relating to a previous season. She suggested that the complainant made applications to the small claims court or asked his local League to assist by using CFA Rule 22 (b)(iv) (see annexe to the report). On 4 August the complainant replied saying that Rule 22(b)(iv) seemed to relate to the transfer of players, but the reference in it of the

discharge of liabilities to clubs with which the player was known to have been registered in current or previous seasons appeared to enable his club to obtain reimbursement from the player before a new registration could be accepted. He asked why, if the Rule was relevant, the CFA could not enforce it. The Disciplinary Manager replied saying "That is an FA Rule but does not come under Discipline – some rules cross over others don't so the league could assist by not permitting these players to register for another club this season until they have paid you". The complainant responded by asking why, if it was an FA Rule, the CFA had decided not to enforce it. He asked if, on the basis that the Rule applied to transfers, he would have to wait for his former players to move on from their new clubs before the Rule could be invoked. The Discipline Manager replied saying that she dealt with discipline issues for which discipline monies quite clearly fall under the FDR System. To assist him she had referred to Rule 22(b)(iv) which related to his local League Rule 8(e) (now 8(d)) (see annexe to the report) which the League would enforce; he should speak to his League.

7. On 23 August the complainant emailed the Discipline Manager saying that he had spoken to the Secretary of the local League who felt that enforcement action was the responsibility of the CFA. He complained of lack of support. On 27 August the FA's Discipline Administrator responded to contact from the complainant. He said the FDR System was in place to assist clubs with discipline monies owed to them and certain procedures had to be adhered to for the process to work. He said that the procedure adopted by the complainant was high risk by allowing players to continue playing while owing the club money and incurring further debts. As a result the club were in a situation where the debts could not be recovered through the FDR system. The only option open was the small claims court.

8. On 31 August the complainant wrote asking the local League to enforce FA Rule 8(d). He said that the simple enforcement of the rule would mean that clubs signing his former players could not accept the signatures in the event that the players were unable to prove that they had discharged debts to his club. He pointed out that Rule 8(d) did not specify any timeframe relating to debts. He enclosed a schedule detailing all the individual amounts of debts owed by former players.

9. In early September the complainant had discussions with the CFA's Chief Executive and emailed both him and the League Secretary. The complainant said he intended to adhere to the rules and would internally suspend any player who did not comply with his financial obligations. He proposed amendments to the Rules which would include a time limit for debts included in Rule 8. He supplied a draft letter which he intended to send to the clubs who had registered his former players, outlining the provisions of Rule 8. In the absence of any adverse comment on the draft from the CFA Chief Executive or the League Secretary, he sent letters to the clubs concerned. On 17 September the Chief Executive of the CFA emailed the complainant. He had been in discussion with the League Secretary and advised that the situation surrounding the club's complaint should be discussed at the League's next Management Committee meeting. The Chief Executive said that it was not a disciplinary issue for the CFA – it was a registration qualification issue regarding the settlement of financial obligations of the former players. The League subsequently decided to write to the players asking for observations on the debt situation. On 11 October the complainant wrote to the Chief Executive saying that he must have missed the part of Rule 8(d) which provided that players are asked what they owe or want to do about it. Of all the players to whom he had written, one had paid up but none of the others had replied. On 19 October the League Secretary wrote to the complainant saying he had written to all the players.

The League Management Committee had agreed that match day fees and outstanding fines for discipline should be recovered dating back one season.

10. On 18 October the complainant emailed the Chief Executive. Among other things, he said “I am not claiming that players owe [the club] money. I have simply advised the League that a number of players do not meet the qualification criteria under the League’s Rule 8. The fact they owe [the club] money is a by-product of the rule”. He said that the fact that some debts went back a long way was irrelevant, and the rule did not give the League leave to investigate - it was for the new club to investigate and ensure that any debt had been discharged before signing a player. He asked for the rules to be enforced. On 26 October the Chief Executive replied. He said “I accept that your issue has always been around player eligibility under the current rules and discharging of financial obligations to a previous club. However, the fact is you are looking for the League to determine these players ineligible until such time as you are re-imbursed- which loosely relates back to debt recovery”. The Chief Executive thought the League had been fair in what they considered to be “reasonable financial obligations” (paragraph 9).

11. On 1 November the complainant sent to the League Secretary a revised list of 6 players who had valid outstanding debts to his club from 2009/10, having taken account of the League’s decision on what should be recoverable (paragraph 9). He said that although he did not agree with the definitions, he had reluctantly accepted it. Despite having received letters from the club, none of the players had made contact and therefore could not satisfy Rule 8.

12. On 3 November the complainant wrote to the FA's Registration Manager complaining that the League and the CFA had failed to enforce Rule 8. The Manager replied saying that the issue was strictly a matter for the CFA. The complainant responded to the FA setting out in detail the history of his complaint and the failure to abide by the provisions of Rule 8. He maintained that the rule had nothing to do with debt recovery and everything to do with the requirement for players signing for new clubs having to discharge debts to previous clubs if they wished to continue playing. The FA's Registrations Manager replied saying that he had discussed the situation with the FA's Disciplinary Manager who was fully conversant with the FA's Standard Code of Rules by virtue of his wide ranging previous positions within the FA. The FA would do all they could to assist the club and the CFA in drawing matters to a mutually beneficial conclusion

13. On 6 January 2011 the complainant, having spent several weeks in correspondence primarily with the League trying to sort out whether certain players were qualified to play, the complainant emailed the FA's Disciplinary Manager outlining the events. He complained that neither the League nor the CFA seemed able to separate the FDR system and the player qualification rules; he had been asking all along for the League to ensure that players were properly qualified to play and to enforce the provisions of Rule 8(d) where appropriate. He maintained that debt recovery rules and player qualification rules should be kept separate. On 11 January the FA's Registration Manager replied by email to voice mails from the complainant. He said that his personal view that the CFA, as the sanctioning FA, needed "to get a grip"; the FA would get back to him as soon as possible.

14. On 13 January, having discussed the issues with the FA's Registrations Manager, the Disciplinary Manager emailed the complainant. He gave the definition of "reasonable debts" as outlined in the FDR system (Annexe – paragraph 15.2). He said that the matter was "clearly a FDR issue, and not a registration issue. The issue about registration is about the financial obligation (debt) that is suggested not to have been fulfilled". The FA did not accept the complainant's contention that the matter was not a debt issue. The FA's Sanctions and Registrations Committee had met to clarify the matter and had concurred that the debts referred to in Rule 8 related solely to the debts referred to in the FDR system. That meant that the club needed to satisfy the terms of the FDR system in order to "enforce the point of suspension". He outlined the provisions of the FDR system. He said that where clubs cannot be satisfied that a debt has been discharged (Rule 8) it is down to the CFA to determine the situation in accordance with the FDR Regulations. The Manager said that the rationale behind the system was that a club has a responsibility to ensure they do not continue to use players who build up debts, then use that as a reason to stop them from moving to other clubs; such a high risk strategy could not be encouraged. If a club allows debts to escalate without taking "responsible action", then action to assist in recovery outside the recognised procedures would in itself be unreasonable and unfair. Clubs should take all reasonable steps to recover monies within the specified timeframes and where eligible debts have not been discharged, they can be recovered only through the FDR procedures. Such action includes writing to the players individually and stopping the player from playing for the team until they have fulfilled their obligation to the club. The Disciplinary Manager asked the CFA to ascertain which of the debts owing to the club fell within the Regulations and to take the necessary action to recover them. While the CFA's investigation was in progress the players should be allowed to continue playing.

15. Later that day the complainant replied. He said that the club were not trying to recover debts under the FDR System as they were outside the “unrealistic” timeframe of that System. He said the club were not trying to enforce a “point of suspension”, but were trying to ensure that players were properly qualified to play. He maintained that the FA’s references to Rule 15 were not relevant to Rule 8, save for clarification of what constitutes “reasonable debts”; there was nothing in the instructions to say that Rule 8 was subject to FDR guidelines. The complainant disputed the FA’s stance regarding the recovery of debts through the FDR System and maintained that the FA were condoning allowing players to play where they do not meet the qualification criteria under statutory FA Rules. On 14 January the FA Disciplinary Manager emailed the complainant. He said that the purpose of the FDR System was to assist clubs at an early stage; had the club utilised that course of action in the first place, the matter would not have escalated. He did not share the view that the players would not have paid and the club would have had insufficient players to fulfil fixtures. The Manager said the FA’s view was that Rules 8 and 15 were related; it was for the FA to decide how the Rules were interpreted. Following further correspondence from the complainant, the FA Disciplinary Manager emailed him saying that the reason he saw no point in prolonging discussions was the complainant simply disagreed with the FA’s position on the matter, a position which had been adopted not only by the Manager, but confirmed by other Senior FA Executives and at FA Committee level. If the complainant wished to complain about the way in which his case had been handled he could report the situation to the IFO.

16. On 20 January the complainant asked the IFO to intervene. He contended that the matter was a registration issue regarding player qualification and had nothing to do with the FA's Discipline Department or the FDR System; and that there had been a failure to enforce Rule 8.

17. On 20 January the complainant wrote to the League Secretary. He pointed out that in the League's letter of 19 October they had agreed that debts could be recovered dating back one season, and he had advised them of players to whom their ruling applied. He asked why the League had not enforced the Rule. On 11 February the League Secretary replied saying that the League Management Committee had discussed the matter at their February meeting and had decided that, because the FA Disciplinary Manager had advised the complainant to take his grievances to the IFO, the League would not be taking further action until they heard from the IFO.

18. The Deputy IFO met with the complainant, who presented him with a substantial dossier of all his dealings with the League, the CFA and the FA. The documents dated from July 2010 when he had started action regarding debts owed by the former players. The complainant described in detail the events and made the following points:-

- In the actions he had taken he was guided by the CFA handbook.
- The CFA had provided little substantive guidance, having preferred to allow the League to deal with the matter.
- There had been a lot of "buck passing" between the CFA and the League and he had been given little practical assistance.
- The League had eventually agreed in October 2010 that football debts could be recovered back one season, but had not taken action to do that.

- Rule 8 had no timeframe attached to the payment of money owed.
- The FA Disciplinary Manager should not have been involved – the issue was one of player qualification.
- The only link to the FDR System is the definition of “reasonable financial liabilities”.
- If he had suspended players as the FDR System required, he would not have been able to field teams and his club would have been fined for failing to fulfil fixtures.
- He wanted the Football Authorities to enforce their own rules.

19. On 18 February, following the meeting, the Deputy IFO wrote to the League Secretary saying that the fact that the IFO was conducting an investigation should not prevent the League from continuing with their own action on the case (see paragraph 17). The Deputy IFO also wrote to the CFA’s Chief Executive asking what action had been taken by the CFA to ascertain which of the debts owing to the club fell within the Regulations and to take action to recover them (see paragraph 14). On 23 February the CFA Chief Executive replied saying: “I can confirm that while [the FA Disciplinary Manager] did suggest that an investigation take place, there had been significant correspondence between my office and [the complainant] and we feel that our responsibilities have been self-explanatory. We are also satisfied how our local League has managed the situation”.

20. The Deputy IFO visited the FA and had discussions with the Registration Manager and the Disciplinary Manager. They stood by the advice given to the complainant on 13 and 14 January. The Disciplinary Manager said that the FA Rules and Regulations override the Standard Code of Rules and unless a club has gone through due process as

provided by the FDR System, it would not be reasonable for a League or CFA to suspend a player or refuse to accept a registration. The whole process was within the control of the club, but the complainant's club had adopted a high risk policy by allowing debts to accrue over a prolonged period; it is not the role of a CFA to act as a debt collecting agency on behalf of a club. It is also important to avoid the situation where tactically a club allows debts to accrue to prevent a player from registering elsewhere. (The FA Managers were not suggesting that the complainant had been trying to use such a ploy.) The FA Managers said that technically, from a regulatory viewpoint, it had not been necessary for the FA to become involved, but from a customer service perspective the FA had tried to help and had spent a considerable amount of time on the matter. The FA Managers conceded that the CFA could have dealt with the matter quicker and better and that communications from both the CFA and the League had not always been satisfactory. The Disciplinary Manager intends to meet with the CFA Chief Executive to review the handling of the case and the way in which the CFA processes complaints. The Deputy IFO asked whether in their handbook the FA intend to make clear the link between Rules 8 and the FDR system. Apparently this is programmed as part of a major revamp of the Rules, but may not be complete until season 2012/13. The FA are also working towards a National Participants Database whereby players will need a (free) FA licence, which should result in greater control over grass roots football activities.

Findings

21. Although, as outlined in paragraph 4, it is not strictly for the IFO to comment on the actions of the League and the CFA, it is only fair to note that there were elements of confusion and failures to reply or answer in full the complainant's correspondence, albeit that the sheer volume of it did not help. An early meeting of the respective

parties and clear, definitive interpretation of the Rules would have prevented the situation from escalating as it did. As things stand, the complainant has still not had a response to the proposed rule amendments which he put to the League and the CFA, nor to his request for the League to implement their decision of 19 October 2010 (see paragraph 9).

22. The complainant has insisted that the matter is one of player qualification and not debt recovery. However, in his initial attempt to enlist the support of the CFA he said that the club could not recover the debts without the assistance of the CFA and he hoped to avoid using a debt collection agency. The emergence of the provisions of Rule 8 seems to have shifted the emphasis to player qualification and that argument probably gained impetus when the CFA Chief Executive told the complainant that the issue was not disciplinary, but a registration qualification matter (paragraph 9). In addition, the Chief Executive accepted (paragraph 10) that the issue was around player eligibility, although he did point out that the matter loosely related back to debt recovery. The IFO has no doubt that the matter began as debt recovery and changed only when the provisions of Rule 8 emerged.

23. As far as the FA are concerned, it was quite proper for the Disciplinary Manager to be consulted and he, in turn, obtained endorsement of his view from other Senior Executives and the FA Sanctions and Registrations Committee. The FA responded promptly and courteously to the many contacts from the complainant and provided the clear, definitive interpretation which the case so badly needed, albeit a stance with which the complainant continues to disagree. The IFO finds that, as guardians of the Rules, it is the FA's responsibility to interpret them. The IFO has found no fault in the process by which the FA made their decision; in making it they carefully considered the

circumstances and events surrounding the complaint. The only option remaining available to the complainant to challenge the FA's decision would appear to be legal action. As far debt recovery is concerned, the complainant followed the CFA handbook by contacting those who owed the club money, but most of that fell outside the FDR timeframe and he cannot now use the football authorities to recover what is owing because all debts are now outside 112 days. That leaves him with the options of the small claims court or a debt recovery agency.

24. The IFO welcomes the fact that the FA will be making clearer the link between the FDR system and Rule 8, and that the FA Disciplinary Manager will be meeting the CFA Chief Executive to review the handling of the case and the way in which the CFA processes complaints.

Conclusion

25. Although the IFO sympathises with the situation in which the complainant and his club have found themselves in trying to operate effectively at grass roots level, he has found no fault in the actions of the FA. It follows that **the IFO is unable to uphold the complaint**. The IFO hopes that the measures which the complainant has put in place to try to prevent a recurrence of the debt situation will prove successful and that he can re-build effective working relationships with the League and the CFA.

Professor Derek Fraser, Ombudsman

April 2011

Mr Alan Watson CBE, Deputy Ombudsman

FA Rules

1. Rule 8(d) of the FA's Standard Code of Rules

Qualification of Players

"A player having taken part in matches for any Club affiliated to any County Football Association shall not be allowed to join, be transferred to, or sign for a Club in the Competition without first proving to the officials of the intended Club that the player has discharged all reasonable financial liabilities to the previous Club or Clubs, and a Club official may not accept such player's signature without first ascertaining whether such claims have been discharged to the satisfaction of the Club, or Clubs, for which the player last played. "

2. Rule 15 of the FA's Memorandum of Procedures

Football Debt Recovery

"Limited to £50 minimum total claim, except for the recovery of Disciplinary Monies.

15.1 Associations are required to operate a system to collect football debts on behalf of Affiliated Clubs, Affiliated Leagues and Other Associations. Associations cannot use their football debt recovery system in respect of under 18 players of teams participating in under 18 competitions, but may do so in respect of any adult Club Official of any such team's Club.

15.2 Save for disciplinary fines and costs, football debts are defined as those costs where actual monies have been expended arising directly from football activity, and as such would include (but not be limited to), match costs (e.g. Match Fees), playing expenses (e.g. pitch hire) and League costs (repair to Cups etc). Incidental costs (e.g. fund raising activities, Club Subscriptions) do not fall within the scope of Football Debt Recovery. League fines do not fall within the scope of Football Debt Recovery where a Club remains in membership of the League to which they owe money, or disbands without having played a competitive fixture in that League in the season that any fine accrues.

15.3 Associations may take action against individuals or groups of individuals. Individuals may be pursued where they are refusing to reimburse an individual

club for a qualifying debt. Where a club has folded its qualifying debts may be apportioned against its registered members and officers, and action taken against them individually to recover the club's debt.

15.4 Where a club's debts are apportioned to individuals they must then be treated as individuals, and any disciplinary action must not be linked to the recovery of the total debt.

15.5 It is incumbent on the creditor to take reasonable steps to recover the debt before asking their parent Association to take action. This would normally include approaching the debtor personally as well as contacting them in writing to seek payment.

15.6 The Parent Association should be approached as soon as it is clear there is a problem. In all cases this should be within 28 days of formal payment being requested, and 112 days of the debt being incurred.

15.7 The creditor, on presenting a claim for recovery, must pay on advance an administration fee of £25 per debt to be recovered. This figure is added to the total debt to be recovered and forms part of the £50 minimum limit. In addition, the creditor must supply the Full Name, Date of Birth and last known address of the individuals responsible for the debt. The County Football Association must not place a participant under suspension under the Football Debt Recovery scheme without this information.

15.8 Upon receipt the Association must immediately take steps to verify whether the debt is valid and notify the creditor and debtor of its decision.

15.9 Upon being satisfied that a Qualifying debt exists the Association must apportion the debt on a pro-rata basis and notify the individual or individuals concerned. The Association may add an additional Administration Fee of £1 to each individual's pro-rata debt.

15.10 Upon being notified, an individual must pay the debt within 21 days of the issue of the notification letter or appeal in accordance with the appeal procedures. If payment or appeal is not received the individual will be suspended sine die until the debt is paid and he is notified that the suspension has been lifted. This suspension will commence from (and include) the 22nd day after the date the notification was issued.”

3. **Rule 22B(4) of CFA Handbook (FA Rule C2B(iv))**

“A currently registered Player shall not be allowed to register with another Club without first satisfying the Club officials of the intended Club that all reasonable financial and other liabilities have been discharged to the Club or Clubs with which the Player is or was known to be registered in the current and previous playing seasons.”