



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 10/06

THE COMPLAINTS PROCEDURE AT TOTTENHAM HOTSPUR AND THE FOOTBALL ASSOCIATION

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. In investigating this complaint, the IFO has received full cooperation from Tottenham Hotspur Football Club and the FA.

The complaint

3. A long-standing Tottenham Hotspur supporter was disciplined by the Club following her alleged improper behaviour while acting as a carer at the Spurs v Fulham cup tie on 23 March 2010. The complainant's season ticket was suspended for the rest of the season. Following an appeal and a review by the FA (the governing body for this fixture) the ban was rescinded, an apology issued and a refund granted for the missed match.

Although the complainant expressed satisfaction at the outcome of her complaint, she remained dissatisfied with the Club's complaints procedure and how her complaint was handled and also expressed reservations about the FA's complaints procedure.

The events in question

4. The complainant attended the Spurs v Fulham cup replay on 23 March 2010. Although she and her daughter are season ticket holders, on that date she attended in the role of carer for a disabled supporter. She became involved in an altercation with Fulham fans seated behind the Spurs disabled supporters after what she alleged was "foul mouthed personal abuse which amounted to disability hatred" towards some supporters in the wheelchair section. Although the Club sought to identify stewards or Fulham officials who heard the remarks, no such evidence was forthcoming. However, having taken witness statements from other disabled supporters in the vicinity, the Club accepts that something offensive was said which provoked the extreme response from the complainant, who admits to using inappropriate language towards the Fulham fans.

5. In the light of this mitigating evidence, on appeal the Club changed its original ban to a suspended one. The complainant remained dissatisfied and referred her case to the FA for review. Following a visit from the FA's Head of Safety, the Club moved further and agreed to revoke the original ban, apologise to the complainant and compensate her for the match she and her daughter had missed while the ban was in place. These facts form the background to the current complaint and the relevant dates are that the ban was suspended on 31 March and was rescinded on 14 May, when a letter of apology was sent by the Club to the complainant. That letter explained that a refund would be sent separately and a cheque was issued on 8 June, to compensate the complainant and her daughter for the match they had missed. Although this appeared to resolve the substantive issues, the complainant referred the case to the IFO on 16 June 2010, via the Football Supporters Federation (FSF) who, along with the National Association for Disabled Supporters (NADS), had been involved in the case from an early stage.

The Investigation

6. The IFO investigation focussed initially on the original incident and its consequences in order to clarify the nature of the complaint and to put in context how the procedures worked. The IFO reviewed all the correspondence involving the Club, the FSF, NADS and the FA. Exchanges between the two Clubs and witness statements were also examined. However, although the IFO finds the behaviour alleged by the complainant totally unacceptable and abhorrent, this complaint does not centre on the substantive events, but on the Club's complaints procedure and to a secondary extent that operated by the FA, both of which are alleged by the complainant to be "unfit for purpose". In order to explore this allegation the Ombudsman visited the Club on 24 June and met with the Customer Services Manager and the Safety Officer.

The Findings

7 The IFO believes that this complaint relates not just to the constitution of the complaints procedure but also how it worked in practice. The first key point is that the Club's procedure has a built-in appeal stage. The Club took the view that the

complainant's behaviour, witnessed and admitted, would have led to ejection if it had occurred in any other part of the ground. However, mindful that ejection would have led to a disabled supporter being without a carer, the stewards opted to leave the complainant with her charge and deal with the matter after the match. As the Club explained to the complainant, they could not ignore the unacceptable behaviour, whatever the provocation, and it would have created an unfortunate precedent to have taken no action. So treating the complainant fairly along with any other supporter who had behaved similarly, the season ticket was rescinded. At the same time the Club began to seek evidence from stewards, from other supporters and from Fulham FC to understand what had provoked the incident. When the complainant exercised her right of appeal, the Club took account of the evidence collected and accepted that something had been said to provoke her and accepted this in mitigation. The stadium ban was suspended on 31 March which allowed the complainant to attend matches for the rest of the season. When the complainant responded, expressing her continued dissatisfaction, the procedure allowed her to take her case to the FA as the relevant governing body. The FSF referred the case to the FA on behalf of the complainant on 5 May 2010.

8. The senior FA safety official visited the Club, examined the section of the ground where the incidents took place and discussed the case with the responsible Club representatives. As a result of this review stage, the Club was willing to respond more positively and, in the words of the FA, "as a gesture of goodwill, the club is prepared to go some way to meeting the remedies asked for". It appears to the IFO that in fact the combined complaints procedures had worked quite well. At the Club appeal stage the stadium ban was suspended and at the governing body review stage the ban was rescinded, an apology offered and compensation agreed. The IFO agrees with the FA conclusion "that the club did deal with this in a proper way".

9. Since the complainant had achieved through the complaints procedure all that she had been seeking, it seems somewhat strange that the case has reached the IFO stage. The main alleged shortcoming of the procedure is that it does not guarantee the right of a personal hearing by either the Club or the FA. The IFO finds that given the number of communications a club and, more obviously, the FA receives, it is simply impractical for such a right to be guaranteed. Such an option, where appropriate and necessary, is not ruled out by the procedures. Indeed, the Club's Customer Services Manager did offer to meet the complainant and such a meeting took place, albeit in an unplanned context. Nevertheless, the complainant did have the opportunity to put her case personally to the key Club official and it seems churlish to complain that this occasion did not fit the FA's description of it as a "sit down meeting". The IFO has found cases where individuals have been invited into a club, for example to view video evidence relating to ejections. The central question is whether a complainant has been disadvantaged by not having a personal hearing, for example by not being able to present personal evidence. In this complaint that is patently not the case. After gathering further evidence, the Club was able to accept that there were mitigating factors and acted accordingly. Nor was the complainant's case impaired by her not meeting the FA, whose officer clearly gave her evidence and case a sympathetic hearing. The IFO can envisage complaints where the inability to have a personal hearing might damage the complainant's interest and not thereby accord with natural justice, but finds that this is not one of them.

10. In relation to the events surrounding the complaint, the IFO welcomes the fact that the Stadium Manager has assured NADS that Spurs will be providing stewards and other

staff with additional training, including further disability awareness training, during the summer of 2010. With NADS support and the backing of the Club, a pan-disability user-led Disability Supporters Association group now sits with NADS on the forum Spurs have set up for consultation on the planned facilities for a new stadium. In the meantime, NADS will be monitoring the situation at Spurs during the 2010-11 season.

11. Conclusion

The successful outcome of the complainant's club appeal and FA review suggest that the joint complaints procedures worked well, although the complainant feels that she had to be assiduous and persistent, supported effectively by the FSF. The handling of this complaint does not lead to the conclusion that either the Club or the FA's complaints procedures are flawed and **the IFO does not uphold the complaint.**

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

22 July 2010