



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 12/13

The withdrawal of a season ticket at Everton

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 Everton FC and the Premier League.

The complaint

3. An Everton supporter complained that the Club had withdrawn his season ticket even though none of the allegations made against him related to incidents within Goodison Park and he had not breached any of the Ground Regulations.

Background

4. Everton in the Community is a charitable arm of Everton FC covering such areas as social inclusion, education, health and physical activity. Everton in the Community opened a Free School in September 2012 following a statutory consultation period. It is run by the Everton Free School Trust and provides an alternative learning experience for youngsters aged 14 to 19 who were not benefitting from mainstream education.

The events

5. Everton in the Community held public consultation meetings on 16 and 21 June 2012 in relation to the opening of their Free School. On 28 June the Chief Executive of Everton in the Community wrote to the complainant referring to his attendance at those meetings and the "significant amount of time" he had been given to raise issues with herself, the School Principal Designate and wider members of the project team. On 3 July the complainant wrote to the Club's Chief Executive asking a series of questions in relation to vacancies advertised at the Free School, the salaries on offer, and pension arrangements. He referred to a call he had received the previous day from the Club's Director of Communications asking him to put his concerns in writing. He said that he had already done so but had not received replies to most of his questions. The Director had also told him that it was not appropriate for him to visit Goodison Park; he had done so to warn the Club about the potential damage caused by any association with the Free School. He also complained about the consultation process; he had had two lengthy conversations with the Chief Executive of Everton in the Community, but she had not taken contemporaneous notes and it would be impossible to have a detailed recall of all the points he had made.

6. On 17 September, following a visit which the complainant had made to the Free School on 11 September, uniformed officers from Merseyside Police Football

Intelligence Unit, acting on a complaint from Everton, visited the complainant and gave him a recordable verbal warning under the Protection from Harassment Act.

7. On 2 October 2012 solicitors acting on behalf of the Club wrote to the complainant about concerns the Club had in relation to his behaviour, which they saw as an aggressive form of harassment towards members of their staff. The solicitors said that the Club recognised and valued freedom of speech and did not wish to stop him from reasonably expressing any view he might have. However, events showed that his passion had given way to aggressive, intimidating and unlawful behaviour. The solicitors summarised statements made by a number of staff.

Police witness statement given by the Free School Principal on 27 September 2012

At an open forum consultation meeting on 16 June the complainant had spoken with the School Principal for about half an hour. The complainant's manner, while not overly aggressive, had involved repeating the same questions over and over again and invading the Principal's personal space. The complainant had refused to sit and his body language had made the Principal feel uncomfortable.

Statement by the Chief Executive of Everton in the Community

At a further consultation meeting on 21 June the complainant had been out of control, shouting in the face of the Chief Executive and invading her personal space. She had been concerned his behaviour could escalate into a physical attack.

Statement by Club Receptionist

On 27 June the complainant had visited the Club asking to speak with the Chief Executive of Everton in the Community. The receptionist had said that she was not in the building. The complainant had been aggressive, leaning over the desk trying to see the receptionist's computer.

Statement by Club Security Officer

After leaving reception on 27 June the complainant had gone to the Club's Megastore and asked for the Chief Executive of Everton in the Community. The Security Officer had asked the complainant to leave the premises. The complainant's behaviour had been irrational and aggressive to the point of causing the sales ladies to be fearful of what he would do next.

Statement by Club Business Improvement Administrator

On 29 June the complainant had asked to speak with the Chief Executive of Everton in the Community. When the administrator had said that she was not on site, the complainant had been aggressive, angry and abrupt.

Statement by Personal Assistant to Free School Principal

On 11 September the complainant had entered the school without authority and had made his way to the third floor with the intention of speaking to the Principal. When the PA said that the Principal was attending a meeting, the complainant had been aggressive and had adopted a threatening stance.

8. The solicitors said that, in addition, the complainant had made a stream of telephone calls to both the school and the Club and had posted several statements on social media sites which had caused concern to pupils at the school and staff. The solicitors said that their clients had a right to ensure that their staff were protected from harassment such as they had detailed. The complainant's behaviour had caused the Club to contact the police, who had issued a warning to the complainant. In the light of his behaviour, neither the Club nor the Free School would communicate with him in relation to his alleged concerns. The Club reserved its position with regard to applying for a restraining injunction but would desist from further action if he agreed not to attend the school without permission from the Principal, not to post on social media any comment calling into question the integrity of the school, and not to behave in an intimidatory manner toward any staff member of the Club or the school.

9. On 11 October the complainant replied. He said he had no intention of visiting the school unless he was invited by the Principal, but would continue his Facebook campaign against Free Schools. He said that should he need to speak with any staff member of the Club or the school he would "do so in a monotonal whisper, from a respectful distance, so there is no possibility that anyone could feel 'intimidated'." He contended that the solicitors' letter contained inaccuracies and false allegations: he had not visited the Megastore for 12 years and his campaign had at all times been open, democratic and peaceful.

10. Later that day the solicitors emailed the complainant. They said that there was no need for him to have personal contact with their clients and asked that he put any matters in writing only. The witness statements obtained by the solicitors were in stark contrast to his contention that his campaign had been peaceful at all times.

11. Meanwhile, on 5 October the complainant had emailed the Club's Chief Executive expressing his delight that the Club had appointed a Supporters' Liaison Officer (SLO). He said that he looked forward to meeting her and asked for details of her terms of

reference, how those terms would comply with UEFA guidelines, her qualifications for the job and the process surrounding her appointment. On 10 October the Club's Director of Communications replied saying that the Club conforms with all regulations relating to UEFA licensing. He said that the Club was committed to dialogue with supporters who wish to engage in a constructive manner; the complainant did not come under that category as his behaviour had shown in recent months. He said that the SLO had a right to operate without harassment and he did not expect the complainant to contact her for any reason. On 12 October the complainant wrote to the Club's Chief Executive saying that to block fans from communicating with the SLO or from answering basic questions was a clear breach of UEFA guidelines, which could have serious consequences for the Club.

12. On 18 October the complainant emailed the Club's Chief Executive, other Club staff, an MP, the Football Supporters' Federation, Supporters Direct, the Premier League, Fans Europe, and nine members of Everton Fans' Forum. He said that he had been told that any fan who had held a season ticket for over ten years could apply to attend the Club's Fans' Conference on October 19, with tickets issued on a first come first served basis. Although he had applied straightaway, he had been unsuccessful. Some fans who had applied later than him had been successful. He asked if the Club operated an exclusion policy for fans who ask awkward questions. He pointed out the Club were required to answer his emails within seven days; as his request for information about the appointment of the SLO had not been answered, the Club were in breach both of their Customer Charter and of UEFA guidelines on the appointment of SLOs.

13. On 26 October the Director of Communications wrote to the complainant saying that, despite the warnings in the solicitors' letter of 2 October, he had during the month sent a series of emails to the Club and copied them to a wide variety of people outside the Club. The Director was concerned that the complainant had wanted to attend the Fans' Conference, despite having been told that the Club were not willing to communicate with him. His actions in recent weeks had confirmed to the Club that he was not prepared to be constructive and, given the opportunity, was likely to harass staff. His actions over the months amounted to inappropriate behaviour as referred to in the Club's terms and conditions for receiving match and season tickets. As a consequence the Club had cancelled his season ticket and "intends to exercise its entitlement under our Ground Regulations to refuse you admission to Goodison Park".

Even though he had attended three home matches, they refunded the whole cost of his season ticket. The Club also deleted both his customer numbers and an instruction was given that he was not allowed to access the stadium; if he contacted the box office, staff should respond by saying "We have been instructed by the Club's solicitors that we cannot assist you".

14. On 3 November the complainant asked the Premier League to mediate. He said that none of the incidents cited by the Club related to events within the ground and he had not breached any of the Ground Regulations. He said that Everton in the Community and Everton Free School were autonomous organisations which did not have a direct link with the Club. He had vigorously disputed the allegations and was challenging them through the IPCC. Although he had received a recordable verbal warning for 'harassing' the Principal, he had met him only once "for about ten seconds". The allegation about illegally entering the school was ridiculous; he had knocked on the door to see if the school had received his letter. He had not been in the Megastore for 12 years. As for harassing Club staff, he had visited the stadium once, "for about two minutes". Since the solicitors' letter, he had restricted himself to written communications, as instructed.

15. On 21 December the Premier League emailed the complainant, having discussed the case with the Club. They said it was clear that the Club had not taken their decision lightly and was one they would rather have avoided. His actions, whether intentional or not, had left a number of staff feeling quite fearful and intimidated; the Club had a right to protect their staff. The League supported the Club's stance. On 14 January 2013 the complainant asked the IFO to investigate his complaint.

The investigation

16. On 21 January the Deputy IFO visited the Club and met with the Chief Executive of Everton in the Community. She described in more detail the events outlined in the solicitors' letter of 2 October. She had personally witnessed the complainant's altercation with the Principal on 16 June and had intervened in the situation. Although not a nervous person, she had been somewhat scared by the complainant's behaviour

toward her at the second consultation meeting on 21 June. At a further meeting she had asked the complainant to moderate his behaviour; he had apologised for being passionate and had pleaded as an Evertonian for the school to be stopped. He had again turned aggressive and when she had tried to move him out of the hall he had refused to leave until he knew what the Principal was earning. After that meeting, the Club's Security Officer had been alerted to watch for the complainant. On the complainant's subsequent visit to the Club (see paragraph 6) the Security Officer had asked him to leave the premises. He had continued to bombard the Club with emails and data subject requests. During her discussions with the complainant, and in discussions after the event, the Chief Executive of Everton in the Community had directed him to the statutory website which had been designed to record comments, where he could record his concerns formally. She said that the Club had answered all the complainant's questions with the exception of those covered by exemption under the Data Protection Act.

17. When the complainant had shifted his attention to a newly appointed member of the Club's front line staff (the Club's SLO role, as identified by UEFA, is covered by a number of staff who support different elements of the role), the Club's Senior Executive Team had met and had decided to withdraw the complainant's season ticket. The position was that, despite what was said in the letter of 26 October (see paragraph 13) the complainant was not banned from watching home matches and could purchase tickets on a matchday basis, but he was not allowed any of the privileges of a season ticket holder. The Club would keep the complainant's situation under review and were prepared to meet with him to discuss the way forward.

18. On 22 January the Deputy IFO spoke by telephone to the Club's Director of Communications, who confirmed what the Chief Executive of Everton in the Community had said.

19. On 31 January the Deputy IFO wrote to the complainant pointing out that, whether intentional or not, his actions had often come across to the Club as aggressive, harassing and intimidatory. The Club recognised that the complainant was entitled to his opinions and the opportunity to voice them, but must do so in a responsible and acceptable way. They had regarded his behaviour as inappropriate behaviour as referred to in the terms and conditions associated with being a season ticket holder. The Deputy IFO said that the reference in the Club's letter of 26 October

to refusing him permission to enter Goodison Park was intended to refer to non-match activities as a season ticket holder; he was welcome to attend home games on a matchday basis. The Deputy IFO hoped that the complainant would take up the Club's offer of a meeting and approach it in a manner in which respective differences could be put aside. In the belief that a resolution was in the offing, the IFO suspended action on the case.

Subsequent developments

20. On 10 February the complainant emailed the Club's Chief Executive asking for a date for a meeting. On 12 February the Director of Communications asked the complainant for his availability in week commencing 25 February. On 14 February the Director confirmed 1 March as the date for the meeting and agreed that the complainant could be accompanied by a friend. On 16 February the complainant cancelled, offering dates after 4 March. The Director then offered 13 and 14 March. The complainant agreed 13 March, asking for an outline of the proposed agenda, items to be discussed and the time set aside for the meeting. On 4 March the complainant emailed the Club's Chief Executive. He had tried to buy tickets for the Wigan cup tie, but reported that was told that he was "permanently banned from buying tickets", which was not the case according to the CEO. He asked for his customer reference number to be reactivated "as per IFO agreement".

21. On 6 March the Director of Communications emailed the complainant. He said that the complainant had either misunderstood, misinterpreted or misconstrued what the IFO had said. The Club had told the Deputy IFO that if he moderated his behaviour they would be prepared to meet with him; after making that offer in good faith there had been a deterioration in his attitude towards the Club and he had shown no contrition or willingness to move forward. It would be inappropriate and incongruous for the Club to engage with him until he had exhausted all of the numerous routes of complaint he was attempting to levy at the Club. If he wished to buy tickets for home games he could do so (without any purchase credits or history being recorded) through the Director of Communications, giving seven days' notice. The Club would consider reactivating his customer reference number only when they were satisfied that he would not use it for malign purposes, as he had done in the past.

22. On 2 April the IFO and his Deputy met with the complainant, who was accompanied by a member of the Blue Union Supporters' Group. The complainant denied all the charges levied against him by the Club, believed that perjury had been committed and was disputing matters through the IPCC. He was aggrieved that the Club refused to give him copies of the witness statements quoted by the solicitors. He was adamant that on 16 June he had spent only about ten seconds with the Principal and that when he had visited the school he had spoken with the receptionist for only 30 seconds, simply asking if the Principal had received a letter he had sent. He conceded that on 21 June he had had a heated conversation with the Chief Executive of Everton in the Community, but he had wanted to know the Principal's salary. He believed that everything he had done was in line with a legitimate campaign against the Free School. He contended that his questions about the "SLO" were legitimate and he had asked to meet her. He stressed that because none of the incidents of which he had been accused, even if they were true, had taken place within Goodison Park, and he had not broken any of the Ground Regulations, his season ticket should not have been withdrawn. He said that the Director of Communications had cancelled their proposed meeting as the complainant was continuing his campaign.

23. On 20 June the Deputy IFO made a further visit to Everton and met with the Director of Communications and the Chief Executive of Everton in the Community. (The Director had, in fact, left his employment with the Club but nevertheless honoured his commitment to the meeting in light of his part in what had taken place.) The Deputy put to them the complainant's contention that the allegations against him were groundless. They re-affirmed the evidence they had given previously. The catalyst for withdrawing the season ticket had been when the complainant had asked to meet with the SLO and to attend the Club's Fans' Conference, despite the warnings given to him about not having contact with staff. There had been problems over the offer of a meeting for the complainant. They believed he was prevaricating and they were not satisfied that he was moderating his behaviour, hence the Director had insisted that the complainant dealt only through him if he wished to buy tickets. The complainant had not done so, but the Club were aware that he had been attending home matches. The Director maintained that the letter of 26 October had been badly worded; it had not been the Club's intention to impose a matchday ban on the complainant. The Information Commissioner had cleared the Club over any wrongdoing in the release of documents to the complainant. Although the Club have not closed the door entirely on the complainant, they feel that he has rejected an

olive branch and has also cost the Club an enormous amount of money and staff time. The Deputy IFO reviewed relevant correspondence in the Club's voluminous file.

Findings

24. The IFO must make clear at the outset that the question of the veracity of the statements in the solicitors' letter of 2 October, when considered against the account given by the complainant, is not something on which the IFO will make a determination, because the events leading to the issue of a police recordable warning to the complainant are the subject of an ongoing complaint under consideration by the IPCC.

25. The complainant believes that the Club wish to crush dissent and to use underhand tactics against anyone who attempts to question them. For their part, the Club made clear to the complainant that he was entitled to his opinions and the opportunity to voice them provided he acted in an acceptable and responsible way. Their view was that he was not doing so, and his unannounced visit to the school led them to involve the police, and for the solicitors to warn him specifically not to have personal contact with staff. However, it was only when he started asking questions in relation to the appointment of the "SLO", and asking to meet her, and applying to attend the Fans' Conference, where six Everton staff were to be present, that they decided to withdraw his season ticket. The IFO is satisfied that that was a decision the Club took with some reluctance, and only because they had concerns for the safety of staff having contact with the complainant; and it was only after the matter had been discussed at a meeting of the Club's senior executives. The IFO accepts that none of the allegations against the complainant related to matchday activities and that he did not breach the Ground Regulations, but that does not override the Club's responsibility for safeguarding their staff where they have concerns about a person's behaviour. The Club regarded the complainant's actions as inappropriate behaviour as referred to in the terms and conditions for holding a season ticket. The IFO finds that that was a decision the Club were entitled to take and as a private organisation the Club have the power, of course, to withdraw a season ticket.

26. There was some confusion over whether the complainant was totally banned from the ground. The Club's letter of 26 October certainly implied that, and the instructions given to staff were that he should not be allowed access to the stadium, and box

office staff should not assist him. The Club are adamant that all they intended was that he should not have the privileges associated with being a season ticket holder and he was still free to attend matches. That view is hard to reconcile with the instructions. Although the situation was clarified in January after the Deputy IFO's visit to the Club, when the complainant tried to buy tickets in March he reported that he was told that he was permanently banned from buying tickets, which the Club says was not actually the case. Whatever the truth of the matter, this aspect was not handled well by the Club. The position was made clear that any request for tickets had to be made through the Director of Communications as the Club wanted the complainant to have only a single point of contact. The complainant chose not to use that route for the remaining matches in 2012/13, but the Club know that he did attend matches, a situation with which they were content. In light of the departure from the Club of the Director of Communications, the IFO recommends that the Club advise the complainant of the route by which he can buy matchday tickets during the coming season.

27. The IFO finds it was unfortunate that the complainant and the Club were not, for whatever reason, able to meet to try to reconcile their differences. Although reconciliation now seems some distance away, the Club have not closed the door on the complainant entirely, but the onus lies on him to behave in what the Club sees as an acceptable and responsible manner.

Conclusion

28. The IFO is aware that the misdemeanours and behaviours which the Club believes justified its action technically occurred outside Goodison Park itself. However, the IFO finds that it is not unreasonable for the Club to take account of actions and behaviour within its wider sphere of influence. The complainant was not deprived of his season ticket because he had breached the ground regulations, but because his over forceful and aggressive demeanour gave rise to fears for the safety of Club employees. The Club is willing to renew a dialogue with the complainant, subject to him moderating his attitude, and the IFO hopes that it may be possible for one who is a loyal Everton fan to be fully readmitted to the Everton community.

Professor Derek Fraser
Mr Alan Watson CBE

24 July 2013