



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 15/02
THE EVERTON FANS FORUM

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.

2. The IFO confirms that in investigating this complaint he has received the full cooperation of the Everton Football Club and the Premier League.

The complaint

3. An Everton supporter who unsuccessfully applied to be a candidate for election to the Everton Fans Forum complained that the process was “flawed and completely undemocratic”. He argued that the process was not independent, that there were no clear criteria for selection and that full voting figures have not been published.

The facts of the case

4. During 2014 the Everton Fans Forum conducted a review involving a consultation with Everton fans. The consultation revealed that fans thought that members should stay on the Forum for a defined term and also that, in future, members of the Forum should be voted on by other fans. As a result of this feedback, a process was undertaken to recruit new members. In announcing the result of the consultation the Forum reported,

“A review has been undertaken of the supporter initiative over the last nine months to ensure it is operating effectively for both the fanbase and the Club – and with the future of the Fans' Forum now finalised, there is an opportunity to introduce six new passionate and loyal Evertonians to the influential panel”.

In October the Forum publicised the process for election stating, “All supporters are able to submit their application and explain why they want to get involved and help to shape key decisions made by the Club”. In anticipation of a large response, the Forum was to select a list of candidates who would stand for election for the six vacancies. The press release announcing the changes to the Forum stated, “The existing Fans Forum will oversee the search for new members and will recommend a shortlist which can then be voted on by any Evertonian with a customer number”. Following an application process, interview and ultimately a fans’ vote, overseen by Electoral Reform Services, six new members were appointed to join the Forum when four other members came to the end of their term in January 2015.

5. The complainant submitted his application to be a candidate in October. On 29 November he received a message from the Everton Fans Forum informing him that his application was not being taken forward. He was informed that “the Forum were delighted with the range of applicants received in the recruitment drive and it was a challenging task for us to produce a shortlist for the fans’

vote". He was invited to be "one of the first members of a newly designated online fans' panel". On 1 December the complainant appealed against his rejection, citing a number of reasons why he believed the process was flawed. He believed that a credible selection process "must be fair, open and transparent, none of these descriptions apply to the Everton Fans' Forum election procedures". He received an immediate response in which the Club stated, "We have followed the steps we set out at the start of this process...the Club and the Forum are happy that this process has been followed and that it will result in a good solution." On receipt of this response the complainant referred the matter to the Premier League.

6. On 11 December the Premier League responded, summarising the process and advising that it would for the Forum to decide when and whether to give detailed feedback to unsuccessful candidates, who were all offered places on the new online panel. The League concluded that "there is nothing to suggest that the Club has not acted in good faith and in consultation with fans when deciding the structure of the Fans Forum and this process." Further correspondence followed and the Premier League offered to contact the Club to ascertain whether more information on the selection process could be communicated to the complainant. In January 2015 the Premier League informed the complainant that his points had been referred to the Forum and that he would get a response shortly. On 2 February the complainant received a letter from the Club informing him that it had been the Forum who had concluded that "there were applicants who would be more suited to be taken forward to the next stage". It was the Club's view that "a fair process had been followed" and the Forum's judgment that the 12 candidates for the final vote "represented a cross-section of Evertonians". The letter included a renewed invitation to join the online panel. The complainant immediately asked for the Premier League to refer his case to the IFO. On receipt of this referral the IFO requested the complainant to confirm his wish for the IFO to investigate and to provide a summary of his complaint. This was eventually submitted on 2 March 2015.

The Investigation

7. The IFO carefully reviewed the correspondence submitted by the complainant, together with evidence submitted by the Club. The Forum itself

provides a wide range of information on the Everton website, including minutes of all its meetings, comments on current Club issues and the various public statements on the review and the election. This provided an important part of the evidence considered by the IFO. In line with the procedure the Premier League supplied a Complaint Resolution Form, which included a full summary of the case and the issues raised. The League supported the Club's stance with regard to the Forum's procedures and were confident that the resulting election had been held in a fair and transparent manner. The IFO has been able to complete the investigation on the basis of the documentary evidence.

The Findings

8. The main burden of the complainant's case is that the whole process was flawed. There are many variants in the way Fans Forums are constituted, appointed and organised. The Premier League confirmed that while its regulations (R20.1 and R20.2) require all clubs to have effective supporter consultation and liaison arrangements, it does not specify a particular format or procedure. The Premier League made clear to the complainant that none of its rules was broken in the way the election to the Everton's Fans Forum was conducted. The IFO (and the Independent Football Commission before that) has seen many different examples of fans forums being equally effective in representing supporters' interests, even though being constituted in quite different ways. For example, a club with a large rural hinterland might choose a representational model based on its local villages, where an inner city club might require a quite different model which reflected its discrete urban population. As the earlier description made clear, the reform to the Forum's appointment procedure grew directly out of a fans consultation exercise. The process was clearly stated before any invitations to stand were issued and the IFO has seen no evidence to challenge the Club's conclusion that the process was carried out as previously announced to all fans. The IFO is not aware that others have expressed concerns about the electoral process. The Club points out that the complainant expressed his dissatisfaction with the process only after he was unsuccessful in his application, though he had been quite content to apply within the terms of a clearly stated procedure. Of course the complainant is right that there were other ways that the election could have been conducted. However, the IFO finds that the two stage selection process, a shortlist followed by a vote

among all registered Everton fans, was a reasonable way of dealing with the large number of applicants.

9. The complainant asserts that the process was undemocratic, citing mainly the unwillingness to publish the election results. The IFO notes that the Club announced that "the voting process will now be conducted independently" and that the elections were overseen by Electoral Reform Services, which was conducive to public confidence in the integrity of the results. The complainant has submitted no evidence of ballot rigging or multiple voting, for example, to support his case that the process was undemocratic. He has a point that election results are normally published and this is an issue which the Forum and the Club should consider for future elections. In the special circumstances of the ballot the IFO is persuaded by the Forum's case that since they had to work together it would not be helpful to have a hierarchy of members based on their position on the poll. Also it is understandable that the Forum might not wish to publicise the actual scores for the unsuccessful candidates so as not to upset fellow Everton supporters. It may be true that those putting themselves forward for election to any office have to be willing to accept that their results should be in the public domain and perhaps this should be stated to future candidates. This shortcoming in no way proves that the process was undemocratic.

10. The absence of criteria for the selection of candidates is also highlighted by the complainant. He complains that candidates were given only 100 words to explain their candidature and this was insufficient to expand on his strengths and achievements, such as his national representational role. He implied that his suitability was superior to those elected and that he was unreasonably overlooked. It is certainly not for the IFO to comment on his merits compared to other candidates. He, as well as all Everton supporters, can review the successful candidates who have all placed their photographs and a personal statement on the website. This information suggests that the Forum has been successful in attracting, as they wished, a cross section of supporters. The public statements made it clear that the shortlisting process was the responsibility of the Forum itself. The existing members were well placed to know what would be required of future members and in drawing up the shortlist they exercised their judgement within a discretion clearly given to them. The

complainant is unhappy that this gave scope for partial rather than impartial decision making and the “vetoeing” of his candidature. This is mere assertion and it is important to stress that the selection process was in the hands of the Forum and not the Club. The complainant would certainly have been unhappy had the Club tried to constrain the Forum’s freedom of action. Indeed, in one of the documents he copied to the IFO he was highly critical of what he saw as improper previous behaviour by the Club in influencing appointments to the Forum.

Conclusion

11. It is understandable that, like any unsuccessful candidate for an appointment, the complainant is disappointed with the outcome. He has channeled that disappointment into dissatisfaction with the process itself, which he did not challenge when putting his name forward. The Forum adopted an election process which was clearly publicised beforehand and which was reasonable in the particular circumstances. That process made the fans themselves, and not the Forum or the Club, the ultimate arbiter of who got elected. The complainant is of course entitled to his views about what he perceives as flaws and in the matter of the publication of results he has raised an issue which the Forum should consider. He has an opportunity through the online panel and in direct submissions to the Forum to address ongoing concerns about the future elections which will introduce six new members each year.

The complaint is not upheld.

Professor Derek Fraser, Ombudsman
Alan Watson CBE, Deputy Ombudsman

14 April 2015