



COMPLAINT REFERENCE IFO 15/07

Request for compensation following the Blackpool v Huddersfield Town Match on 2 May 2015

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 form 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. In investigating these complaints the IFO has had the full cooperation of the officials of the Football Association and of the Football League.

The Complaints

3. A number of Huddersfield Town supporters complained that they were due compensation in the form of the refund of their ticket price following the abandonment of the Blackpool v Huddersfield Town match, due to a pitch invasion by some Blackpool supporters. They claimed that neither the Football Association nor the Football League had properly considered their compensation claims. There were three complainants, two individual supporters and the Secretary of the Supporters' Association on behalf of its members. The majority of the evidence was provided by the Association, including submissions from

members, but all three complaints referred to the same events and the IFO investigated the complaints as a joint exercise, with this single Adjudication.

The Facts of the Case

4. The Blackpool v Huddersfield Town match took place on 2 May 2015, which was the final match-day for the 2014-15 Championship season. Soon after half time between 100 and 200 apparently Blackpool supporters (including one man in a wheel chair) congregated near the centre circle as part of a protest against the Club's family owner. The Chairman of the Club had been in a long standing dispute with supporters and the sorry state of Blackpool affairs was the subject of a recent IFO Adjudication (IFO Ref 15/03, also involving a demand for refunds). The protest was the culmination of a season long campaign. Neither the stewards nor the police were able to persuade the supporters to leave the pitch and so the referee felt obliged to abandon the game after 48 minutes. Within a few days the Football League Board decided that the score at the time of the abandonment would stand as the official result and that the match would not be replayed. The decision took account of the fact that no serious outcome hinged on the game (Blackpool having already been relegated). No doubt, if a promotion or relegation had been dependent on the result or the abandonment had been mid-season, the match would have had to have been replayed or played to a conclusion.

5. In the next days many Huddersfield supporters began contacting Blackpool and then the Football League to demand refunds, some for the price of the ticket others for travel and accommodation costs. The Club was charged with serious offences by both the Football Association and the Football League and so the demand for compensation became part of the disciplinary process. It was agreed that the Football Association should take precedence and that the Football League charge would not be heard until the FA had concluded its case. There was thus some delay before these dual processes were completed and the fans learned the outcome of their claims. Some supporters complained that the Governing Bodies were not responding to their enquiries nor providing enough information. However, during the summer months while the disciplinary processes were continuing there was little that could be said pending the judicial decisions.

6. The FA charged Blackpool under Rule E20 which states, "no spectator or unauthorised persons are permitted to encroach onto the pitch, save for reasons of crowd safety". It is possible for a club to offer a mitigating defence under Rule E21 if it can be shown that the misconduct by supporters was "the result of circumstances over which it had no control...and that its responsible officers or agents had used all due diligence to ensure that its said responsibility was discharged." The charge was considered by the FA Regulatory Commission on 7 July 2015 and after further written representations the Commission's findings were issued on 29 July. Blackpool was found guilty of misconduct with no acceptable E21 mitigation and the Club was fined £50,000 plus the costs of the Commission. There was a reference in the report that Huddersfield supporters "had travelled quite some distance to watch and enjoy a football game in safety", but their experience did not figure in the judgment handed down.

7. Once the FA case had been decided it was possible for the Football League to take forward its own disciplinary proceedings. Blackpool was charged with

“misconduct in failing to fulfil its fixture obligations” and that “the Club was in breach of Regulation 31.1”. The case was heard by the Football Disciplinary Commission (FDC) on 4 August 2015, the Commission comprising an independent chairman together with a nominee of the League and of the Club. The findings of the FDC were published on 24 August. In the light of the report of the FA Commission, the Club had admitted its guilt in the Football League charge, thus avoiding a contested hearing. Hence the proceedings were largely concerned with mitigation and sanctions. The Club contended that no further sanctions were required in view of the heavy penalty already imposed by the FA and that it would be wrong to punish the Club twice for essentially the same offence. It also maintained that a sporting sanction, such as a points deduction, would not deter a group of determined protestors. The FDC accepted that no further financial penalty was needed but did impose a potential points deduction should Blackpool be in breach of Regulation 31 in the future.

8. The most contentious aspect of the FDC findings was that dealing with the question of possible reparation for Huddersfield supporters. In the context of this Adjudication Report and the complaints which have been investigated, the case submitted by the Football League is sharply relevant. The League is explicit in its submission that Huddersfield supporters were entitled to reparation and recommended that the FDC either make a compensation order or impose a financial penalty which would be used by the Football League to “provide a refund to those supporters”. [The IFO finds this a compelling piece of evidence and underlies the views expressed in the Findings section below.] The FDC reported that the question of compensation “was considered in detail and at length”. In the event it decided not to make a compensation order, citing a number of reasons. It had been admitted that Huddersfield Town FC had suffered no financial loss and its supporters were technically not a party to the proceedings; the FDC was uncertain whether it had the requisite powers, but even if it had it would have been invidious to compensate the away fans and not the many thousand home fans who took no part in the protest; there was no precedent for such a compensation scheme and it would have been difficult to administer, leaving some of the fund unspent. The Football League decided not to appeal against the FDC findings and that concluded the judicial disciplinary process.

9. Huddersfield supporters were understandably disappointed with the FDC report, especially since the Football League had supported their case. The complainants renewed their request for an IFO investigation, undeterred by the Ombudsman’s initial view that the correct procedure has been followed. Large numbers of further comments were now submitted to the IFO and the following extracts give the flavour of the arguments adduced:

- If I had known about the possible protests (which the club did) I would not have bought a ticket
- It is incomprehensible that the £50,000 fine should go into the coffers of the football authorities who were not materially affected but those who did suffer such an impact are ignored
- It is surely inequitable that supporters are not considered parties to such matters. Supporters are the lifeblood of the game and surely should be party to such decisions

- It would simply be necessary to award compensation to all those who could substantiate a claim....any legitimate claim from whatever source should be met and that would overcome the weak reasoning given in the FDC report
- Is it fair that monies paid by (totally blameless) Huddersfield fans can be used by Blackpool to settle their fine?...in effect Huddersfield supporters have provided the wherewithal to pay for the Blackpool's club's failings
- I tried unsuccessfully as a neutral to purchase a ticket in advance. I was refused, the reason given being that the club were expecting trouble
- There is no option but to refund travelling supporters their matchday tickets as a minimum. It would be criminal not to do so....the most important thing to ensure the loyal travelling support are reimbursed as none of this was their fault
- The FA , the FL and Blackpool FC don't really care about ordinary supporters like us, even though the game relies on ordinary supporters
- We have had no refund from Blackpool, in spite of the fact that the abandonment of the match was very clearly due to their club and their fans...please right this extremely unfair injustice to Huddersfield Town fans

Among many examples citing significant associated costs were those of a team who had cycled from Huddersfield to Blackpool as a charity endeavour and a couple who reported not only hotel costs but also kennel charges while they were away from home. There was much comment about the penalties Blackpool should endure, such as the award of all 3 points to Huddersfield and a severe points deduction at the start of the next season, matters which do not fall within the IFO remit.

The Investigation

10. The IFO carefully considered the large body of evidence submitted by the complainants, which included a 20 page dossier of comments made by members of the Supporters' Association. The IFO also studied the relevant rules and regulations contained within *The Football Association Handbook / Season 2014-2015* and *The Football League Handbook Season 2014-15*. The IFO and Deputy met with the FA to discuss the role of FA Commissions and their powers. They also met with Football League officials on three occasions to explore the League's disciplinary procedures and the issues raised by this case.

The Findings

11. The FA dimension to the complaints is relatively straightforward to deal with. The supporters claim that the FA could have used the £50,000 fine imposed on Blackpool to compensate supporters. The FA Regulations do empower Commissions to make compensation orders, though under stringent conditions. Compensation can be paid to "participants" who have previously submitted authenticated claims for demonstrable loss. Clearly Huddersfield Town and its supporters were not "participants" in this disciplinary case. Indeed, the Club was not present at the hearing which was concerned solely with Blackpool FC's failure to make appropriate security arrangements. The severity and level of the fine meant that Blackpool was deprived of the income associated with the sale of tickets to Huddersfield supporters. It is not within FA procedures to use fines imposed for disciplinary offences as compensation payments to disgruntled complainants. Such fines enhance FA total funds which are then redistributed back into the game through the projects, themes and initiatives which the FA subsidises. In that sense English football as a whole is a beneficiary of the FA's disciplinary regime. **The IFO finds that the supporters have no claim against the FA.**

12. The case against the Football League is much more complex. At the kernel of the supporters' complaints is a straight consumer dispute – the supporters paid for a ticket to watch a whole football match, but were provided with only half of what was promised, through no fault of their own. Moreover, the curtailment of the match was not due to factors over which the host club had no control, such as a power cut or adverse weather. The FA punishment clearly laid at Blackpool's door the responsibility for what had occurred. If the claim was grounded on the loss of enjoyment in not seeing the whole match, then the Football League's charge against Blackpool of failure to fulfil a fixture is the basis for any compensation, rather than the FA's identification of shortcomings in the Club's preparations. Having reviewed all the supporting evidence and the relevant regulations, **the IFO believes that the supporters had a sound case and the IFO is surprised that a compensation order was not made by the Commission.** Indeed, had the procedure been different and the IFO had been the designated tribunal for determining the outcome, then the IFO is confident that it would have found in the supporters' favour. However, it is not the role of the IFO to rerun hearings, or to substitute its wisdom for that of the Commission, and the IFO stage in the complaints process is not an opportunity to change the outcome, unless there have been serious flaws in the procedure or the decision is judged to be perverse. The IFO finds that the case was handled properly within the correct procedure and the Commission, as an independent tribunal, was clearly empowered to come to the conclusions it reached.

13. The evidence submitted to the IFO by the complainants identified flaws in the reasoning of the Commission and the IFO agrees that there were weaknesses in the arguments presented. It should be stressed that the Football League in its evidence to the Commission argued that Huddersfield supporters *were* entitled to compensation (Para 8 above). The Commission did not accept this recommendation, arguing that it would have been invidious to distinguish between Huddersfield supporters and the law-abiding home supporters who were not involved in the demonstration. The IFO finds three reasons for disputing this argument. First and most obviously, the away supporters incurred travelling and subsistence costs which were not borne by home supporters; second, local gossip in social media and the press gave Blackpool supporters clear warning that there was likely to be disruption, awareness that was not generally available to Huddersfield fans; and third, the crowd was swelled by a significant number of home fans who may well have attended in anticipation of witnessing trouble. [It should also be added that the Blackpool Supporters Trust waived any claim for compensation] The Commission expressed doubts about whether it had the powers to issue a compensation order (adding later in its ruling that even if it had had such powers it would not have done so). This is a somewhat perplexing statement since Football League regulations clearly set no limits on what punishments may be imposed. The relevant Regulations state that a Disciplinary Commission may

- Order the payment of compensation to The League, any Club...or other person
- Impose a financial penalty payable to The League
- Order any other sanction as the Disciplinary Commission may think fit

The IFO believes the Commission was unduly swayed by the "double jeopardy" argument, that Blackpool should not be punished twice for the same offence.

Having been heavily fined by the FA, the Commission was reluctant to impose a further financial penalty on the Club. However, it could be equally argued that this was a separate charge and should have been determined on its own merits, uninfluenced by the prior decisions of another Governing Body.

14. It will be clear from the previous discussion that the IFO believes that a differently composed Commission could easily have come to a different judgment on the same evidence. It would be interesting to speculate whether the Commission would have been so reluctant to issue a compensation order had the League hearing preceded the FA's – if a judgment had been issued before rather than after the £50,000 fine. The IFO considers that the administrative difficulties in operating a compensation scheme were over stated, given that Huddersfield FC had offered to implement the scheme and had the data on who had purchased tickets. One cannot escape the conclusion that an opportunity was missed to recognise the legitimate interests of supporters as against the financial well-being of the Club. The IFO has no power to reverse the decision or even to require the case to be re-examined. It can only make a recommendation which acknowledges a kind of moral victory for the complainants, though with no immediate practical outcome. **The IFO recommends that the next time Blackpool hosts Huddersfield Town in a Football League fixture, it offers complimentary tickets to all travelling Huddersfield supporters.**

15. There is one further aspect which should be considered, which is the decision of the Football League not to appeal against the Commission's findings. Senior League officials strongly believe in the principle of independent judgment when a charge is brought. The League is so to speak the prosecution and it would not be right for it to be judge and jury in its own case. Hence having brought a charge, it is important for the integrity of the process for the League to be able to demonstrate the independence of the process, which might be undermined if the League were to appeal every time its own recommendations were not upheld. Moreover, there were two elements in the League submission. In the short term Huddersfield fans suffered loss on that one occasion and were entitled to compensation. But in the longer term and arguably of more importance for the greater good of the game, it was vital to provide a deterrent to stop fans causing disruption, for example if their team were losing heavily in a game. The Commission did provide the deterrent of the sporting sanction, which should enable fixtures to be fulfilled in the future. The League is reluctant to appeal unless there is an overwhelmingly perverse judgment. Though the League was disappointed with the judgment (as is the IFO) the decision was in the literal sense "rational", since a reasoned statement was provided for the conclusions the panel reached. They were not based on an inadequate consideration, or prejudice or blatant disregard of the facts. Hence the League did not feel that there were sufficient grounds to appeal and reluctantly accepted the decision as the price to be paid for an independent tribunal exercising its own judgment. The IFO finds no fault with the Football League's logic and sees no reason to criticise the League for declining to submit an appeal.

Conclusion

16. The reports of the two disciplinary Commissions clearly assign responsibility for the unfortunate events to Blackpool FC. The Club could present no prior risk assessment, made inadequate security and stewarding arrangements and took no effective action to end the pitch invasion and enable the match to continue. The level of the FA fine (amongst the highest the FA had imposed) is evidence of the seriousness of the Club's breach of proper behaviour. The contingent impairment of the enjoyment of Huddersfield supporters, while recognised, was not so well served by football's judicial processes. The IFO believes that the travelling Huddersfield fans had a sound case for compensation which fell on deaf ears. Like other Ombudsman schemes, a resort to the IFO does not preclude a complainant from taking subsequent legal action. The Huddersfield supporters still have the option, either individually or collectively, to seek compensation from Blackpool through an action in the Small Claims Court.

Professor Derek Fraser, Ombudsman
Alan Watson CBE, Deputy Ombudsman

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