

IFO

THE INDEPENDENT
FOOTBALL OMBUDSMAN



Chartered Trading
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The Independent Football Ombudsman is approved by Government under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015

IFO COMPLAINT REF: 18/31

A DISPUTED THREE YEAR BAN AT NOTTINGHAM FOREST

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 English Football League [EFL]) 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 is an Approved Alternative Dispute Resolution Body and its findings are non-binding. 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 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 that in investigating this complaint he has received the full cooperation of Nottingham Forest FC.

The Complaint

3. A Nottingham Forest season ticket holder complained that after he had attended the second match of the current season against Reading on 11 August, Forest had blocked his account on the grounds that the Club wanted to conduct their own investigation into alleged coin throwing at the home match against

Derby on 11 March, even though, following an interview, the police had subsequently decided not to charge him. The complainant also expressed his concern that other people had seen the Club's CCTV footage of him. In addition, he complained that at the time of his reference to the IFO (30 September) his account was still blocked, he had already missed nine matches and, despite promises, he had not been informed of the outcome of the Club's investigation.

The complainant's account

4. The Deputy IFO met with the complainant on 8 November. The complainant explained that he had planned to spend the Friday before the match with friends in Nottingham. The Derby match had been switched to the Sunday so he had ended up with a heavy weekend's drinking, which had continued on the Sunday morning. He said that he had virtually no knowledge of the match and could not remember what had happened afterwards; his father had left ten minutes before the end to catch his flight home to Northern Ireland. When he attended the interview with the police in June, he had viewed CCTV footage and realised that he had left his seat so he could "give it" to the Derby fans. He contended that there was no evidence on the footage that he had thrown anything, although others around him clearly had. Given that he could not remember what had happened, his solicitor had advised him to offer no comment, rather than guess at what had happened or say anything which later turned out not to be true. The police had advised him not to ask for a refund on his season ticket "as this is going nowhere". "No comment" was certainly not meant as an admission of guilt. He said that around four to six weeks after the interview the police had told him that there was no case against him. He already had his season ticket for the current season and was looking forward to attending matches with his father, who also has a season ticket, and who comes over from Northern Ireland for matches.

5. At the home game against Reading on 11 August the complainant had encountered a fan from one of the executive boxes, whom he did not know, who told him that he had seen the police tape of him throwing something. His account was blocked by the club around 18 August and he attended an interview at the Club on 30 August. At that meeting he had been asked to explain what had happened at the Derby match. He explained about the drinking and the Club official told him that unlike the police, the Club would be considering the burden of proof on the balance of probabilities. The Club seemed concerned that he appeared to have moved something from one hand to the other; he could not account for that, but thought it might have been chewing gum, as he is a perpetual user.

6. The complainant has a responsible job and said that he has never been in trouble, either at football or in other walks of life. He said that he never carries coins, using a contactless card for all purchases. He was adamant that excessive drinking was a one-off; he normally has a quick drink with his father. He understands that the police interviewed 15 fans and he was the only one not

charged. On 25 October the Club had written to him imposing a ban of three years which he could have reviewed after two years.

Evidence from the Club and the police.

7. The IFO and Deputy visited the Club on 13 November and met with the Head of Operations, the Safety and Security Manager, the Head of Supporter Services and the Club's Police Liaison Officer. The officials explained that the incident at the Derby match where a large number of fans were involved in throwing missiles at each other was the most serious incident at the stadium for many years. The Club take such behaviour very seriously and do all they can to eradicate it. The police subsequently reviewed CCTV footage and made a number of arrests. Some fans who admitted their guilt and had no previous criminal record were cautioned. Nine were charged and cases are going through the courts. The police officer said that the complainant's case was recommended for prosecution, but the Crown Prosecution Service had decided not to pursue it. On the balance of probability the Club judged that the complainant had thrown an object. The officials said that the complainant's intentions to get involved in the disturbance had been clear in that he had made his way right to the segregation line, when the natural exit from his seat was in the opposite direction. The Club said that the sanction imposed on the complainant was consistent with the football banning orders imposed by the courts and other bans imposed by the Club.

8. The IFO and Deputy viewed the excellent CCTV footage numerous times. The complainant made his way right to the segregation line and, with other fans, used clenched fists and pointing gestures towards the Derby fans. At one point the complainant seemed to move something from one hand to the other. He resumed the pointing gestures, then did what looked like a throwing action which ended with his hand open, before resuming the pointing. The complainant asserts that the visual record does not conclusively show him throwing a missile.

9. With regard to another supporter having told the complainant that he had seen him on the police video, the Head of Operations explained that after the match the police had taken the hard drive to review the footage; he could only assume that someone else who had been interviewed by the police had recognised the complainant. The Head of Operations had investigated the complaint and had written to the complainant on 19 September confirming categorically that nobody within the Club had had access to the footage, which could have been shown to the supporter concerned. The Club remains sceptical about the claim that the CCTV has been viewed by a supporter, while the complainant maintains that the supporter in question has relayed information to another fan.

10. With regard to the delays in the Club's investigation the Head of Operations said that, because of their respective absences, it had been difficult for him and

the Safety and Security manager to get together to discuss the investigation. They had also wanted to ensure consistency with other cases which were under consideration both by the courts and the Club

Findings

11. The IFO has seen nothing in the CCTV footage and heard nothing from the police which would persuade him to challenge the decision of the Club to impose the ban which they have. The complainant deliberately moved to be near to the segregation line and admitted that he had no clear recollection of events because he was inebriated. That hardly equates to a credible defence against the Club's charges. The Club also treated the complainant in a manner consistent with the treatment of others involved in the incidents. For example, those accepting a police caution (and thus admitting the offence) were also banned.

12. The complainant was interviewed by the Club on 30 August but not notified of the outcome of the Club's investigation until 25 October. Despite the Club's mitigation in paragraph 10 above, it was poor service for the Club to have delayed matters for so long after his interview on 30 August, especially since they led him to expect an early reply on several occasions. Indeed, on 5 October the Club told the IFO that the complainant would be notified of the outcome of their investigation "over the next few days", but that did not happen. The IFO can well understand the complainant's frustration at being kept in the dark and prevented from attending matches, expressed in his comment that the Club had been "unprofessional throughout the whole process". **The IFO recommends that the Club ensures that complaints are dealt with expeditiously and that complainants are kept apprised of the likely timescale for a substantive response.** In this context, it would be helpful if the Club developed and publicised a clear sanctions policy, which identified specific misdemeanours and the likely sanction they would attract.

13. Towards the end of this investigation the IFO was made aware of schemes adopted by some EFL Clubs (often in collaboration with the police), which combine suspension with community work. For example, at Portsmouth youngsters guilty of ant-social behaviour were banned for a year during which time they were required to volunteer within the Club's Community Scheme. The IFO believes that it would be worthwhile for Nottingham Forest to explore such schemes as an alternative to an outright three year ban. Given that the complainant had a previously unblemished record and is considered unlikely to pose a future threat, it may be that such a scheme would be appropriate for him, thus permitting an earlier return to the Club he has always supported.

Conclusion

14. The complainant admits that it was unwise of him to move from his seat to become embroiled in the disturbances at the segregation line. He still maintains

his innocence, but the IFO concludes that the Club had sufficient evidence to justify imposing the ban on the complainant, which was a sanction in line with the treatment meted out to others also involved. The Club has indicated that it will review the ban after two years, with the possibility of readmittance on signing an acceptable behaviour agreement. As discussed in the previous paragraph, perhaps this might happen earlier if the Club adopts the community initiative.

Professor Derek Fraser, Ombudsman
Alan Watson CBE, Deputy Ombudsman

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