



**THE INDEPENDENT
FOOTBALL OMBUDSMAN**



**Chartered Trading
Standards Institute
ADR Competent Authority**

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: 20/20

ALLEGED FAILURES AT THE FA

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 English 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 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 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 must make clear that in investigating this complaint he has received full cooperation from the FA. That includes having been given access to confidential documents and information, the precise content of which the IFO is unable to include in this report. The IFO's jurisdiction does not cover the actions or decisions of local football clubs or County FAs (CFAs). Mention of such bodies during this report is merely to put in context the actions of the FA, which are the subject of the complaint.

The complaints

3. The former manager of a youth football team, a banker by profession, complained about how the FA had handled his complaints about the way in which his local CFA had handled complaints he had made surrounding what he regarded as financial irregularities and other matters at a youth football club. He complained specifically that:-

i. The FA had not notified him of the formal procedures/policies regarding how his complaints against the club and the CFA would be handled.

ii. He had received no interaction, feedback or information from the FA explaining how the issues he had raised had been verified and no chance to see evidence provided in order to allay his concerns and suspicions, and he cannot challenge anything as the case is closed. He understood that a formal warning had been given to the Club, but did not know to what that related, and which policies/procedures were not followed or broken.

iii. The FA had not conducted, or overseen, an independent financial investigation into the club's records; they had asked the club's own accountants and financial sponsor to be involved, and had allowed the CFA to close their investigation when there were clearly conflicts of interest.

iv. The FA had given no explanation as to why the CFA were allowed to ignore his complaints.

v. The FA had failed to police Charter standards properly and had ignored basic breaches. There had been no consequences or confirmation of action taken against the club and no protection afforded to the people the Charter is supposed to protect.

vi. The FA had not resolved safeguarding issues he had raised in 2019.

The facts of the case

4. On 11 July 2018 the complainant emailed the CFA outlining the reasons why he had left the club. He said that there were no properly produced financial accounts, no financial transparency, openness or records, and there were items not accounted for properly. He had serious concerns as to the whereabouts of money handed to the club, including public fundraising. On 18 July he sent to the CFA a more detailed account of what he saw as discrepancies and attached copies of the club's accounts from 2014/15 onwards. Towards the end of August, the complainant reported to the FA that he had been unable to get any response from the CFA. On 28 August the FA opened an "Integrity Investigation".

5. On 25 October the complainant met with an FA investigator and went through all the information and evidence relating to his complaint to the CFA about the alleged financial irregularities at the club. On 11 December the investigator told the complainant that the club had supplied all the information he had requested

and the FA would be reviewing it. On 8 February 2019 the complainant emailed the investigator complaining about the time his investigation was taking. He asked for a planned timetable for further action. He also highlighted concerns which he had, and which he had raised with the CFA, about child safeguarding issues at the club. He said that the club had been gifted funds from the FA's Wildcats Programme, but the financial benefit was for individuals instead of the club; and he asked how the club could run something for children without the knowledge of their Welfare Officer. He queried whether the club had an up to date safeguarding policy. On 13 February the investigator told the complainant that he was still in dialogue with the club and was seeking further data to review. The club had employed an external company to audit the accounts and the investigator would be speaking to them. In April the complainant had a further meeting with the investigator. On 5 July the investigator told the complainant that he had discussed matters with the FA's legal team who would be issuing a formal warning to the club. The complainant asked the investigator what the club had been warned about, the reasoning behind it and whether the matter was public knowledge. He asked for confirmation that a finance expert had been used by the FA and that the club's own accountants had made their conflict of interest known to the FA.

6. Meanwhile, on 7 June the complainant had emailed the Safeguarding Manager asking for an update on the safeguarding issues he had raised. The Safeguarding Manager recorded that he had spoken to the CFA who had investigated the matter; there had been an issue because details of a newly appointed club welfare officer had not been included on the Wildcats sign-up site until the club's new licence provided the details. The CFA would respond to the complainant.

7. On 23 July the FA's Head of Judicial Services ("The Head") met with the CFA's Chief Executive Officer and a CFA Director to discuss the issues raised by the complainant. On 19 August the complainant complained to the Head that he was awaiting a report from him about the many failures in the CFA and the safeguarding issues he had raised. He said that the investigator had admitted not having financial expertise, yet his complaint surrounded serious financial matters and the FA had accepted the club's word without proper investigation. They had even asked a financial sponsor of the club to look at the finances rather than an independent expert. The complainant added that the criteria for the club's Community Charter status was not being met; he accused the FA of not policing the scheme properly.

8. By arrangement, the Head met with the complainant on 2 September. On 19 September the complainant emailed the Head saying that he considered that none of the football authorities had the desire to take the action necessary against the club and the CFA; his many unanswered questions had highlighted how flawed the FA's Charter system was. He said that he would appreciate the FA finalising his complaint against the CFA, and details of the outcome of the FA's investigation and to which of the many issues he had raised the formal warning related. He said that instead of investigating the financial irregularities properly, the FA had asked an accountant with a conflict of interest to produce

accounts in which he was already involved. He added that there were two outstanding safeguarding queries to which he had not had a response.

9. On 6 October the Head emailed the complainant. He said that it was a matter of poor financial practice by the club and they had been advised of the requirements under FA Rules. Communications between the FA and the club were private. There had been shortcomings in the CFA and the Head had met with them and advised them accordingly. The Head would be carrying out ongoing checks to ensure compliance with FA Rules. The complainant replied at length expressing his disappointment at the outcome and again asking for details of the FA's findings and information relating to his complaints about safeguarding issues. On 23 October the Head replied to the complainant. He said that he had already covered the position from the FA's perspective and the complaint was concluded as far as the FA were concerned. On 24 October the complainant emailed the Head accusing the FA of a cover up by not revealing their findings in detail.

10. On 16 May 2020 the complainant emailed the FA's Chief Executive outlining the events in detail. He asked for confirmation that a specified number of financial situations at the club and the Charter Standard status of the club had been covered by the FA investigation. He asked why his numerous emails to the FA Safeguarding Team had received no response. He complained that the FA appeared to support and condone the problems at the club and the CFA. On 7 July the FA's Head of Operations emailed the complainant offering apologies for the delay in replying. He assured the complainant that his letter and the issues raised in it had been taken seriously and had been given due consideration. He said that the complainant's concerns had been reviewed by members of the FA's Grassroots Division, as it was clear that there had been significant engagement previously with both the FA's Football Regulatory and Judicial Services Departments. They had reviewed the issues raised based both on the information provided, and the process which had been undertaken previously. It was clear that the findings of the prior investigation had been relayed to him by the Head of Judicial Services, who had outlined the requirements of the FA with regard to financial statements, and also that the matter had been followed up with the CFA. There was one outstanding action, which was to ensure that the CFA review the club accounts as part of the affiliation process for the 2020-21 season, which the FA would follow up. In summary, the FA were satisfied that the detailed investigation carried out previously had been robust and appropriate. The FA would be prepared to consider any new evidence, in the absence of which they would consider the matter to be closed.

11. On 13 November the Head of Operations had a telephone conversation of over an hour with the complainant in which he reiterated the FA's position. On 17 November the complainant emailed the Head of Operations with what he regarded as clear evidence of financial irregularities at the club. He also said that there remained outstanding two matters relating to safeguarding. On 20 November the Head of Operations said that the investigations team had confirmed that there was nothing flagged in his email which required their follow up. He said that the complainant would not be aware of the outcomes of the

original investigation in terms of the follow up with the club, and was therefore potentially reaching conclusions without being aware of the facts. He reminded the complainant of what he had said in his letter of 7 July, that he could not keep entering into correspondence about a case which had been heard. He would follow up the safeguarding matter the complainant had raised, but the correspondence was otherwise closed. On 25 November the Head of Operations told the complainant that the FA's Safeguarding Team had confirmed that there was no additional information in his email that warranted their further action. The complainant remained dissatisfied and on 8 December complained formally to the IFO.

The FA's response to the complaint

12. In their comments to the IFO, the FA said that they had opened an "Integrity Investigation" on 28 August 2018 to investigate the complainant's allegations regarding financial irregularities in the club's accounting. That, in essence, constituted a misconduct investigation and was assessed in accordance with the applicable FA rules and regulations. That meant that the investigation focused on the conduct of the club; other aspects of the complaint, such as Charter standards and safeguarding issues, fell outside the scope of the Integrity Team's remit. In accordance with FA Disciplinary Regulations, all integrity investigations are conducted in a private and confidential manner and there is a limit to the information that the complainant is entitled to receive as he was not a party to, nor the subject of the proceedings. It is also necessary for the FA to remain compliant with their obligations under data protection law, in order to safeguard the personal data rights of other individuals named within the proceedings.

13. On the first occasion they had met, the investigator explained the investigative process to the complainant including the scope of the FA investigation, and the evidence gathering and decision-making processes, in relation to whether any further action might be taken in due course. He had explained that the FA would make enquires of the club and that all relevant evidence would be assessed by the FA's Regulatory Advocates Department, who are delegated with the responsibility of assessing evidence and determining if there is a case to answer. The investigation had concluded in July 2019. As the complainant was not the subject of the investigation, he did not have had any standing in any disciplinary proceedings; the FA had, nevertheless, informed him both orally and in writing on 5 July 2019, that the investigation had resulted in the Club having been given a formal warning. The FA pointed out that the complainant had not provided any legal basis by which he is entitled to request non- personal, or other information obtained by the FA, as part of its investigation or decision making process. The FA also pointed out that, although affiliated to the FA, the CFA is a distinct corporate entity, with their own complaints processes and procedures.

14. With regard to whether the FA had conducted, or overseen, an independent financial investigation into the Club's financial records and had allowed the CFA to close their investigation when there were clearly conflicts of interest, the FA said that the complainant's position was misconceived; those matters were referred to the FA, rather than the CFA, to investigate, partly to mitigate against any risk of a conflict of interest impacting on any investigation. The FA's

investigation was conducted independently of the CFA and although enquiries with the club's auditors were pursued, the FA had conducted their own independent assessment of **all** the evidence, in reaching their determination of the matter. That included, but was not limited to, the information provided by the auditors. The FA said that, for the avoidance of doubt, the CFA did not have any influence over the determination of the investigation by the FA. The FA also emphasised that the issuing of a written warning is a significant disciplinary outcome and is capable of having a material impact on the club in the future.

15. With regard to the complaint that the complainant has had no interaction or feedback during the FA's investigation, and no chance to see evidence provided to counter his concerns and suspicions, the FA stressed that although he was the source of the complaint, he has no legal basis or entitlement by which to inspect the evidence gathered as part of the investigation. Pursuant to FA Disciplinary Regulations, the investigation was conducted on a private and confidential basis, where information is shared at the discretion of the FA with the aim of determining the relevant facts. Furthermore, the FA also have a legal obligation to protect the personal data rights of the other parties mentioned within their investigation. Providing the complainant with unfettered access to such information would put the FA at risk of breaching their duties and obligations in that respect. In addition, there is no right under the relevant regulations for a complainant to review and/or assess evidence gathered by the FA. The FA refuted the claim that the complainant received no interaction or feedback from the FA during the life of the investigation. Channels of communication, both oral and in writing, were kept open with him throughout and face to face meetings were held with him explain their decision.

16. The FA said that, as a matter of course, FA Charter Standard clubs are subject to annual health checks and assessments, which require the approval and endorsement of their affiliated CFA. The Charter Standard is renewed on an annual basis and assesses clubs against a range of on and off-field criteria, including coaching, safeguarding, player welfare, respect and other aspects of football administration. Matters relating to the FA Charter Standard fell outside the scope of the FA's Integrity Investigation and did not form part of the allegations originally put forward by the complainant to the FA Investigator. The FA Charter Standard is supervised by the relevant CFA and therefore queries regarding how it is monitored should be directed to the CFA.

17. With regard to the safeguarding issues, the FA were unable to provide any evidence to show that their Safeguarding Manager had contacted the complainant directly. On 3 March 2021 he had, however, spoken with the CFA's CEO and was satisfied that there were no safeguarding concerns present that warranted the FA's involvement; following concerns raised by the complainant, a safeguarding validation visit to the club had been made. The CFA found that while there had been a change of Club Welfare Officer (CWO), the individuals attached to the club and details on the Whole Games System held the relevant qualifications/DBS checks. That included those involved with the 'Wildcats' Centre. However, the club will be subject to a further safeguarding validation visit when football resumes, following the lifting of government restrictions. The FA were satisfied that the safeguarding issues had been purely administrative and had been addressed by the CFA and the club, and the CFA would be monitoring the club going forward as part of the FA's Safeguarding Operating

Standard Validation Visits. As a consequence of the IFO investigation, the FA's Safeguarding Manager spoke by telephone to the complainant on 31 March. By the Safeguarding Manager's own account, he apologised for the lack of communication with the complainant and provided assurances that the safeguarding concerns raised with the CFA and the FA with regard to the CWO and the coaching staff involved with the Wildcats centre had been looked into and resolved by the CFA. The CFA had done further validations of staffing and were satisfied that those persons are correctly attributed to the club and have the appropriate safety checks and education. The Manager explained that the concerns raised were administrative and potentially could have led to poor practice, but there was no safeguarding issue found by the CFA which met the threshold for FA action. The Manager reported that, while the complainant accepted his answers, he continues to consider that the club does not operate as it should, and he does not feel able to trust the CFA.

18. In summary, the FA maintained that due process had been followed in the Investigation. The outcome had been duly considered by their Regulatory Advocate team and disciplinary action had followed. The outcome of the investigation had been duly communicated to the complainant in line with usual practice, while upholding their obligations to conduct investigations in a private and confidential matter.

The investigation

19. The IFO carefully reviewed the evidence supplied by both the complainant and the FA.

Findings

20. In adjudicating these complaints, the IFO must stress at the outset that, for the reasons outlined in paragraphs 11 and 12, he accepts that the FA are limited to the sort of information they can reveal to the complainant about their investigations. As part of this investigation, the FA have nevertheless given the IFO access to relevant confidential information and evidence relating to the investigation of the club's finances, but that information must remain confidential to the IFO investigation and cannot be outlined in this report.

21. The IFO finds that the FA took the complaints seriously and quite correctly began an Integrity Investigation. Although it took just over ten months for the investigation to conclude, the IFO does not find that excessive, given the circumstances of the case. During that period, as well as collecting and assessing evidence, and consulting with the FA's legal team, the FA investigator met the complainant twice and corresponded with him on a number of other occasions. Following the conclusion of the investigation, the FA's then Head of Judicial Services (the Head) met with the CFA's CEO and a CFA Director to discuss their handling of the complaints and the outcome of the FA investigation. The Head then met with the complainant, but he remained dissatisfied because, although he knew that the club had been given a formal warning in relation to poor financial practice, the Head was unable to reveal to him specific details, nor what he had discussed with the CFA officials regarding any shortcomings in the CFA's performance. The complainant subsequently engaged with the FA's Head of Operations, including a telephone conversation of over an hour's duration. He told the complainant that the FA had carefully reviewed the complainant's

concerns and were satisfied that their detailed investigation had been robust and appropriate.

22. The main thrust of this case was the complainant's scepticism around the FA's investigation, the fact that they had used accountants with links to the club and the fact that they would not reveal to him their findings or details of the formal warning issued to the club. In that respect, the IFO has sympathy with the statement by the Head of Operations that the complainant "was potentially reaching conclusions without being aware of the facts". That is not a criticism of the complainant; it simply reflects the fact that the FA are unable to provide him with specific details of their investigation and findings. The IFO is satisfied from the evidence and information shared by the FA in confidence that they took the complaints seriously, that they took action, with both the CFA and the club, appropriate to their findings and that they were entitled not to reveal to the complainant specific details of subsequent actions taken with the club and the CFA.

23. With regard to the complaint that the FA had not notified him of the formal procedures/policies as to how his complaints against the club and the CFA would be handled, the IFO is satisfied that, in his meetings with the complainant, the FA investigator outlined the procedures to be followed. The complainant has subsequently complained to the IFO that he was never advised of the FA's complaints procedure "in any official capacity" and informed about the IFO only after the FA had issued a warning to the club and closed the case. Although there is no evidence to show that the complainant received anything in writing which laid out a formal structure for the FA's complaint handling, he met with and corresponded with the Head of Judicial Services, and spoke with and corresponded with the Head of Operations, all in relation to his complaints. With regard to having been given information about the IFO only after the case was closed, reference to the IFO is appropriate only after the body complained against has completed action on a case.

24. With regard to the complaint that the FA had failed to police Charter standards properly, the IFO is satisfied that responsibility in this area falls to the CFA who conduct annual health checks and assessments.

25. With regard to the complaints surrounding safeguarding issues there were clearly failures to respond to the complainant's approaches, for which the safeguarding Manager has now apologised to the complainant. The issues seem to have been overlooked while emphasis was on the complaints surrounding financial irregularities. However, the Safeguarding Manager has spoken with the CFA's CEO and is satisfied that no safeguarding issues were by then present which would warrant the FA's involvement. The FA were satisfied that issues which had been present had been addressed by the CFA and the club, and that the CFA would be monitoring the situation. Although the FA agreed that the CFA should respond to the complainant, it would have been courteous as well as informative to have let the complainant know that. The IFO welcomed the fact that the Safeguarding Manager explained matters to the complainant on 31 March 2021.

Conclusion

26. The main problems in this case have been caused by the limitations on the sort of information the FA have been able to reveal to the complainant about actions taken with the club and the CFA during, and subsequent to, their investigation of his complaints. Although he remains of the view that his concerns have not been addressed properly, the IFO is nevertheless satisfied, from information and evidence shared by the FA in confidence, that they took his complaints seriously and took action with both the club and the CFA appropriate to their findings.

Professor Derek Fraser, Ombudsman

17 May 2021

Alan Watson CBE, Deputy Ombudsman