

IFO

THE INDEPENDENT
FOOTBALL OMBUDSMAN



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IFO COMPLAINT REF: 21/07

A DISPUTE OVER THE AWAY LOYALTY SCHEME AT LEEDS UNITED

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 [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 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 Leeds United.

The complaint

3. A Leeds United supporter of some 40 years standing complained that, although he has attended 100 away games in the requisite period to qualify him

as a "Super Away Attendee" and guarantee him an away ticket, the Club do not regard him as a "Super Away Attendee" where for the majority of those games he attended as a carer for his disabled son.

Background

4. Under the heading of "Away tickets", the Club's website states:-

"Away season ticket holders are guaranteed a ticket along with those supporters who have achieved a high attendance record (Super Away Attendees) attending over 80% of away games in the last five seasons (100 games or more between 2015/16 and 2019/20)."

The Club's comments on the complaint

5. The Club said that they had reviewed their away ticketing policy for 2021/22, taking into account the significantly reduced allocation for away fixtures and the increased demand. In light of the fact that their maximum allocation for any away match is 3000 tickets, they had developed an updated policy founded on rewarding away loyalty, while also allowing the wider fan base to attend a small number of matches. The policy continues to give primacy to supporters who have regularly attended away games, with away season ticket holders and Super Away Attendees guaranteed tickets. The remainder of the tickets will be available to three further categories; supporters with a tracked record of away attendance in the 2019/20 season (these supporters have a 50% chance of success); season ticket holders and members on a first come first served basis. The Club said that the complainant does not meet the criteria for guaranteed tickets, but would still have opportunities to purchase away tickets within the revised arrangements. After much correspondence and multiple long telephone conversations, the Club had told him that there was nothing further they could advise which would change the facts.

The facts of the case

6. On 22 July having learned that he was not to be regarded as a Super Away Attendee even though he had attended 100 away games in the relevant period, the complainant made several lengthy telephone calls to the Club. (By his own account the Club told him that he had attended 98 as a carer for his disabled son and 8 as a paying supporter.) The complainant's son had not attended 100 away games and did not qualify as a "Super Away Attendee" and, as a result, the complainant did not qualify, since his attendance was based on his son's attendance. The Club discussed the matter with Level Playing Field (LPF), who then emailed the Club. LPF said that if a disabled supporter requires a personal assistant (PA) to access a game, that is an access requirement, much in the same way as a parking space might be. It can be thought of as one person – the disabled fan – attending a match and another person there to provide the necessary support. If the PA is a Leeds fan and wanted to obtain loyalty points, LPF saw no problem in allowing the PA to pay for a ticket. The Club told the

complainant that there was nothing they could advise which would change the facts.

7. The following day the complainant emailed the Club. He maintained that, having attended 98 games with his disabled son, together with 8 when he had attended alone because his son was not well enough to attend, he should qualify. He complained that despite following the Club since 1980 and spending thousands of pounds in the process, the Club were not classing him as a supporter when he took his son. He said that he had brought up three sons to support the Club and had joined United Bond to help build the east stand. He said that he had not read anything in the Club's policy on away tickets which said that he was not a supporter. On the next day the Club replied saying that if a person has accrued 100+ away games as a PA using complimentary tickets, they do not qualify as a Super Away Attendee, unless the disabled supporter is in attendance and also qualifies by having attended 100+ away games. PA accounts do not accrue their own personal loyalty. To do so PAs have the option of paying for tickets.

8. On 28 July, following a telephone discussion the previous day, LPF emailed the Club. They said that in general ticketing policies are a local decision and clubs can decide on whichever policy they see as fairest. PAs attend games to support disabled fans, not as paying customers, and so should not expect to accrue loyalty points. Clubs are entitled to award loyalty points to PAs, but that would not be LPF's recommendation. LPF said that all PAs should be treated with dignity and respect; many were also fans of the Club. They said that it is good practice for clubs to consider fans, particularly disabled fans, on a case-by-case basis, taking their individual circumstances and access requirements into account. Club policies should have some flexibility for reasonable adjustments to be made where necessary eg if a supporter has been to 98 away games but has missed a few games through illness resulting from their disability, then a club may decide to take this into account when deciding on their future eligibility for away tickets.

9. On 30 July the complainant emailed the Club saying that LPF had told him that there was no reason why the Club could not take account of his disabled son being unwell, and him therefore paying for the ticket, to put him over the 100 matches.

10. On 5 August the Club told the complainant that he did not qualify as his son had not attended 100 games, and PA tickets do not accrue their own attendance loyalty, as such tickets are issued to assist the disabled supporter. They said that the son had attended 94 away games and the complainant had attended 7 games without him. They said that PAs can pay for their own tickets in order to build up loyalty attendance.

The investigation

11. The IFO carefully considered the complainant's submission, the Club's comments and the relevant correspondence between the complainant and the Club. The Deputy IFO telephoned the complainant who explained that his second son has cerebral palsy, which causes a loss of balance and makes him particularly vulnerable. The son had missed matches after being knocked down steps by some drunken fans, which had caused a loss in his confidence for a while. The complainant said that he has been taking his first two sons to matches since 2004/05 and has had season tickets for them all since 2010/11, but it was only in 2015/16 that the Club told him he could be a PA for his disabled son. As a loyal supporter of some 40 years standing, he was particularly aggrieved that the Club treat him as a supporter when he attends with his able-bodied sons, but not when he takes his disabled son. The complainant said he had not attended many matches in 2019/20 because he had been caring for his mother who had had a triple heart bypass. The complainant maintains that he is being discriminated against through acting as a carer to take his disabled son to matches. The complainant realised that in order to ensure loyalty points he may have to pay for his away tickets in future, even when acting as a PA.

The findings

12. Although the Club have the right to set the conditions for loyalty schemes and ticketing arrangements, they should ensure that the conditions for such schemes are comprehensive and clear. The IFO finds that in their communication of their new away ticketing scheme, the Club have not been specific enough if their intention was to exclude PAs from the arrangements. The terms and conditions clearly state that "supporters who have achieved a high attendance record 100 games or more between 2015/16 and 2019/20 ..." are guaranteed an away ticket. There is no doubt that the complainant is a loyal supporter and that he attended 100 games in the relevant period. He was, therefore, led to expect that he would be classed as a Super Away Attendee. **The IFO recommends that the Club review the wording of the conditions for the away loyalty scheme.**

13. The IFO recognises that any scheme which sets a limit such as 100 games is bound to result in disappointment for those who miss the cut, and the demand from Leeds fans exceeds the supply. In adopting their stance with the complainant, the Club sensibly sought advice from LPF whose view was that PAs should not expect to accrue loyalty points as they attend matches to support disabled fans, not as paying customers and, even though clubs are permitted to award loyalty points to PAs, that would not be LPF's recommendation. That suggests that the only thing that the complainant has suffered is a loss of expectation, and a lot of frustration and effort, caused by the Club's failure to make the conditions clear. However, LPF also suggested that clubs should look at things on a case-by-case basis and should have flexibility if, for example, a disabled supporter has been to 98 away games, but has missed a few games

due to illness resulting from their disability, then a club may take that into account when deciding eligibility for away tickets.

14. Given that the disabled son's absence from the small number of games resulted from a loss of confidence caused by having been knocked down some steps at a game, exacerbated by his physical limitations, the IFO initially was minded to recommend that the son's case be reviewed. However, the Club informed the IFO that there were many supporters, including fans with disabilities, who were on 94-99 matches and it would be unfair to give him any preferential treatment. Moreover, the Club reminded the IFO that the son, and in turn the father, would have opportunities to buy away tickets either on the tracker or as season ticket holders. Although tickets would not be guaranteed (eg on the tracker there is a 50% chance of success) the Club would expect the complainant's son to rack up at least 7 away matches during the 2021-22 season and thus break through the 100 match barrier for the following season. The complainant will have opportunities during the current season to attend away matches as his son's PA. On 17 August the complainant notified the IFO that, because he is not allowed to upgrade his PA's ticket if his son is not able to attend, he has purchased his own season ticket at a cost of £398 to ensure that he can attend all home matches, thereby forgoing his use of the free PA ticket.

Conclusion

15. The IFO has great sympathy for the complainant, whose loyalty and long-standing support for Leeds United cannot be doubted, as evidenced by his purchase of a season ticket in his own right, to ensure that he does not miss matches if his son is unable to attend. Unfortunately, he and his son found themselves just shy of the qualifying barrier of 100 matches, along with other equally loyal supporters, some of whom, like his son, suffer from disabilities. There were always going to be disappointed supporters, whatever allocation system the Club had adopted, since the demand for tickets will massively exceed the supply. The IFO is satisfied that the Club's actions have not been discriminatory against the complainant. The revised scheme, which was agreed after widespread discussions with supporters' groups, has the merit of allowing more supporters the chance to attend away matches. In the early stage of the complaint, it did appear that the complainant was under the impression that he was being deprived of the opportunity to attend any away matches. He now accepts that this is not the case and, although he does not find himself in the Super Away Attendee category, he should be able to get to some away games and his son is highly likely to meet the criteria during the season.

Professor Derek Fraser, Ombudsman

25 August 2021

Alan Watson CBE, Deputy Ombudsman