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THE INDEPENDENT  
FOOTBALL OMBUDSMAN

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## **IFO COMPLAINT 12/06**

### **A REQUEST FOR A CASH REFUND FROM WEST HAM 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 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. In exercising its jurisdiction, the IFO does not seek to question the merits of judgements made by properly constituted Regulatory Commissions and Appeal Boards, unless there were shortcomings in the administrative processes which led to those judgements. It is not the role of the IFO to retry cases, but it is its role to explore and review the procedures under which complaints have been decided 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 this complaint, the IFO has received the cooperation of West Ham United FC and the Football League.

### **The complaint**

3. A woman supporter, who had bought tickets for a West Ham United home game, learned that the kick-off time had been brought forward, which meant that she and her partner were unable to attend the match. A refund was granted not in cash, but as an electronic credit to her "e-purse" account. The woman was unable to find another game to attend nor did she wish to make a purchase through the club shop and requested a cash refund. The Club maintained that this was against its policy. The complainant believes it is unreasonable for the Club to keep her money until next season and has asked the IFO to investigate her complaint.

### **The facts of the matter**

4. The complainant bought three tickets on 24 January 2012 for the West Ham v Crystal Palace fixture to be played on 25 February. The total cost including booking fees was £105. On 3 February the complainant wrote to the Club requesting a refund to her credit card, following the announcement that the kick-off time had been brought forward. On 6 February the Club responded, saying that the tickets had been cancelled and a credit had been registered to her e-purse account. The complainant did not find this acceptable and sought to contact the Ticket Officer Manager, without success. On 8 February and again on 21 February, she wrote to the Club Vice-Chairman to complain about how her request for a cash refund had been dealt with. She received no reply. Frustrated by the inability to get any further response from the Club, she contacted the Football League on 20 March. Because the Club delayed its response, the League was not able to send a substantive reply until 23 April. This set out the Club's position that the policy on refunds was clearly stated and that the e-purse credit had been consistently applied to all supporters. Meanwhile on 19 and 20 April, there was a strongly worded exchange of views between the complainant and the Ticket Office Manager, who was accused of being "rude and unhelpful" and of conducting a "personal vendetta". The manager denied this and said that he was operating the policy laid down by the Board and publicised both on the tickets and on the website. The complainant submitted her case to the IFO on 30 April and the Football League confirmed on 14 May that the governing body stage of the complaints procedure had been completed.

## **The Investigation**

5. The IFO carefully reviewed the correspondence submitted by the complainant, which included her dealings with the Club and the Football League. The IFO made contact with the League and received further correspondence, together with the Complaints Resolution Form summarising the case. The IFO investigation was hampered by the one month delay in receipt of West Ham's response to the request for comment and documentation. On this occasion it was not judged necessary to meet with the Club or the complainant, since there was no dispute over the facts of the case. This adjudication was completed by means of a thorough review of all the documentation.

## **The Findings**

6. West Ham United's ticket terms and conditions state (Clause 8) "Any refund requests are only considered in exceptional circumstances and on a discretionary basis", while on the back of the ticket it states "Match ticket refunds are only considered in exceptional circumstances and on a discretionary basis". Hence, the first question to explore is whether the complainant's situation constituted an "exceptional circumstance". The kick-off time of the match was moved from the originally advertised time of 3.00pm to 12.45pm on the same day, in order to broadcast the match live on television. On both the ticket office flyer and on the match ticket itself, it states "Match dates and/or kick off times may be subject to change at short notice for reasons beyond the Club's control". Under the terms of the sale of the TV rights for Football League matches, West Ham would have little effective control of which matches are chosen to televise. Indeed, like all other clubs, West Ham would normally welcome the televising of their matches live because of the extra revenue generated. As a long-standing supporter, the complainant will be well aware of the frequency of match times being changed in order to accommodate the requirements of television. It has to be noted that moving the kick off time forward by just over two hours is far less drastic than some instances where matches have been moved, for example, from a weekend afternoon to a weekday night. Even though this modest change did affect the complainant's ability to attend the game, it cannot be judged to be an exceptional circumstance in the context of current football practice and experience.

7. It should be made clear that this dispute was not about recompense per se, but the form it has taken. The Club did not regard the complainant's situation as constituting an exceptional circumstance, a view which, as indicted above, the IFO finds not unreasonable. Nevertheless, the Club was still willing to recompense the complainant through a credit to her e-purse account, a form of refund in kind and similar to a retailer giving a credit note rather than a cash refund. How reasonable is this approach? The Club defends its position by saying that it is board policy which has been applied consistently to all supporters throughout the season. Moreover, the credit is not restricted to match tickets and may also be used for purchases in the Club shop, for travel, stadium tours, even for non-football events at the Boleyn Ground and has no expiry date. A strict application of the clearly stated refund policy would have meant no compensation at all, so the Club feels that the e-purse credit is a flexible way to allow the supporter to make use of their funds. No doubt, where the credit can be used relatively quickly, the e-purse system would cause little concern. In this case, the complainant was unable to find an alternative match to attend, nor was she willing to make other Club purchases. She enquired whether her son could use the credit to purchase tickets for the Championship Play-Off final, but while this was deemed to be possible, the Club refused to give any priority and did not respond to the son's email message. This was an opportunity to resolve the complaint which was not exploited. The result is that she feels a grievance that a multi-million pound business is sitting on her funds which she cannot access, a hardship in the current economic climate.

8. The IFO finds that the Club has operated its well-publicised refund policy consistently and that the complainant has not been treated differently from other supporters. However, the IFO **recommends** that the Club reviews its policy, where the e-purse credit cannot be used by the end of a season, so that cases of hardship can be accommodated and a cash refund granted during the close season. In the light of this recommendation, the IFO hopes that the Club would be willing to make a no-fault goodwill gesture to a woman who has been supporting the Club for more than 30 years. The IFO notes that while the refund policy is prominently stated, he could find no public reference to the e-purse credit, either on the website or in the documentation supplied. The IFO, therefore, **further recommends** that the Club publicises the e-purse credit system, where requests for refunds do not meet the "exceptional circumstance" criterion.

9. There is a further matter which the IFO needs to highlight and that is how the complaint was handled. The original request for a refund was dealt with quickly and efficiently. Subsequent correspondence either went unanswered (in the case of letters to the Vice-Chairman) or was subject to long delay, **for which West Ham United should apologise**. For example, emails sent enquiring what progress had been made did not receive a substantive reply until over a month had elapsed. Moreover, this pattern of delay was repeated in the dealings with the regulatory bodies. It took several calls and emails before the Club responded to the Football League's request for comment and information. Similarly, it took a whole month for the Club to reply to the IFO, which delayed the start of the investigation. This is both inefficient and discourteous and reflects badly on West Ham United as a club. The IFO notes that in the ticketing documentation there is a reference to complaints being dealt with "by a member of the customer services team who will reply personally **within 28 days**". The progress of this complaint from the complainant, through the Football League and to the IFO suggests that the 28 day target has become not an upper limit but the minimum time to generate a reply. This is unacceptable and should be remedied.

### **Conclusion**

10. Because the terms under which the ticket was purchased were clearly stated, **the IFO is not able to uphold the complaint**. However, where a credit has not been used by the end of a season, the IFO believes it would be reasonable to make a cash refund on request. After all, this is not a case of the Club being asked to spend money, merely giving the supporter delayed access to their own funds. In the light of this Adjudication Report, it is hoped that West Ham United will respond favourably to the suggestion made by both the Football League and the IFO that a goodwill gesture be made to a long-standing and loyal supporter.

**Professor Derek Fraser.**  
**Alan Watson CBE**

**13 July 2012**