

IFO

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: 22/11

A ONE YEAR SUSPENSION AT MANCHESTER 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 Manchester United in replying to enquiries.

The complaint

3. A Manchester United supporter complained that the Club had unjustly imposed a suspension on him for allegedly advertising tickets.

Background

4. The Club's original sanctions policy was:

Level 1 (written warning) - Advertising tickets for sale at, or below, 'face-value'.

Level 3 (one year suspension) – Ticket touting e.g. tickets are, or are suspected of, being transferred or re-sold (or advertised or offered for re-sale) above 'face-value'.

That policy changed on 15 August when all advertising of tickets became a Level 3 sanction. The Club changed the policy again on 14 December so that where a ticket has been sold above face value or advertised via an unauthorised channel, the Club will now ask for observations prior to any decision/sanction on the case. Where tickets are sold or advertised at face value or below, the Club will issue a reminder letter outlining authorised ways in which to use/share a ticket. (This replaces the one year Level 3 suspension.)

5. Under section 15 of the Club's ticketing terms and conditions, it is not permitted, without the express permission of the Club, to transfer, advertise or sell any **away ticket**.

The facts of the case

6. On 28 September 2022 the complainant received notification from the Club that he was suspended for one year for selling tickets. He replied immediately denying he had done anything wrong and asking for evidence so he could appeal the sanction. The following day the Club told him that, having reviewed the evidence whereby his ticket was advertised online for the Liverpool home game and the away game at Leicester and having taken his response into account, they found his explanation unsatisfactory; the suspension would be upheld.

7. The complainant explained to the Club that he had passed his ticket for the home match against Liverpool, free of charge, to a friend through the Club's official membership ticketing system, and he had messages to prove that. He had personally attended the away match at Leicester using the paper ticket sent to him, and he had been ID checked before entering the stadium. He believed that the Club were referring to a Facebook posting where someone had established a fake account in his name to scam people. Fortunately, the complainant stated, someone on the page had messaged the complainant's real account and thereby helped to prevent anyone from being scammed. The complainant appreciated that it might look as if he was selling tickets, but that was not the case. He asked that his season ticket be reinstated. He asked for evidence that he had advertised tickets, that he had sold tickets above face

value and that he had not attended the Leicester match, so he could appeal the sanction.

8. On 5 October the Club replied saying that the next appeal panel would be held on 7 October. They said "This is your opportunity to submit any information you would like the panel to review." The complainant stated that it was unfair that his case was going to appeal before he had received the information requested. He said that he had a "chat transcript" between him and his friend which made clear that he did not want money for the Liverpool ticket. He had told his friend that he wasn't sure if selling was permitted but he knew that advertising was definitely not allowed. The complainant pointed out to the Club that Leicester took paper tickets and it was not possible for a member to transfer or sell an away ticket because of the ID checks. He said that he had stayed overnight in a hotel in Leicester and would attach his invoice which showed the dates. He also attached a photo he had taken inside the stadium. The complainant said that he had had several issues over a fake account trying to scam his family and friends. He had told his friend in the chat account that he was aware of fake accounts and had contacted the police. He attached an image of his personal Facebook account which showed very limited activity over the previous two years.

9. On 10 October the Club notified the complainant that the appeal panel had been presented with evidence that "you had advertised multiple tickets online", which was a clear breach of the season ticket terms and conditions, and the panel had upheld the sanction. They said that if he wished to see the evidence he should complete a subject access request form. The complainant remained dissatisfied and on 16 October complained to the IFO.

Investigation

10. In their comments to the IFO on the complaint, the Club said that the complainant had advertised home and away tickets. The panel had been very disappointed with the advert for the away ticket as the Club had worked hard to prevent such activity, especially as away tickets were in such high demand. The Club forwarded a screenshot headed "Manchester United Spare Tickets Share and Swap" with the complainant's name and location shown. The advert said "1 x dippers 1 x Leicester away". (Dippers is a slang term for Liverpool.)

11. The complainant told the IFO that the screenshot was not from him. He supplied a picture of his personal Facebook account, a photo from inside the Leicester stadium, evidence of his Leicester hotel stay from 1 to 2 September and the transcript of his online conversation with the friend to whom he gifted the Liverpool ticket. The transcript, dated 14 August 2022, read:-

Friend: "[complainant] Have you been hacked? Or someone pretending to be you selling tickets?"

Complainant: "Nah mate someone pretending to be me. I know who it is. They doing it on loads of pages trying to scam people. I'm ***** fuming. I even rang

the old bill about it and they told me that unless he actually scams someone or says something they won't do [anything]"

Friend: "[Personal information regarding the complainant] so thought you wouldn't be going to Liverpool anyway. But looks like they trying their luck with other games too."

Complainant: "[Personal information] so I won't be there for the Liverpool game. Are you going?" Not sure what else they advertised yet but gonna look into it. They even tried to sell my telescope and car hahaha."

Friend: "I was going to go but didn't get ticket in ballot. Hope you sort it soon."

Complainant: "Well mate, take my ticket. I still owe you for sorting my lift to Watford last season. You will need to send me your membership numbers. Know what united are like now, gotta do it all properly cover each other."

Friend: Aah you legend. Yeah well I'll give you a bell now. How much you want for it?"

Complainant: "Nothing you edda. I don't even think you can sell them now anyway. I know you deffo can't advertise but not sure about selling. Anyway I don't want anything for it, as I said I owe you for last year. Give me a bell. I got the same number. I'll transfer it to you then."

12. The IFO forwarded all this information to the Club and asked them to review the sanction. They replied that they were not disputing the fact that the complainant had attended the Leicester match; the sanction was for advertising the tickets. They said that Facebook pages can be changed and it seemed more than a coincidence that the person who posted the advert went by the complainant's name and location. The Club have further pointed to the fact that over and above the location and name being the same as the Complainant, given that the allocation of away tickets is by ballot, it would be unlikely that anyone else would have the relevant information about the ticket allocation to be able to advertise it. The Club have sought to rely on this as circumstantial evidence, questioning, how would the alleged fraudster know that he was both unable to attend the Liverpool match and had secured a ticket in the ballot for the Leicester match?

The Club have therefore submitted that on balance, the coincidence is such that they remain of the opinion that the sanction should remain in place.

13. The IFO sought further information from the complainant, who said that he had made an action fraud report about the fake account several months before the post in question. He demonstrated how easy it is to choose any location

when advertising on Facebook. The complainant supplied a copy of a Facebook status posting dated 2 December 2020 warning people about the fake account. It read:

“If anyone gets a friend request or a message from another account with my name ignore it. It isn’t me. They are trying to sell tickets on groups and using my details. Please report it if they do. Police are involved.”

14. The IFO and then Deputy visited the Club on 17 November to discuss this and other cases. The Club remained of the view that, on the balance of probabilities, the complainant had placed the advert, a position which had been confirmed by the appeal panel. It is the advertising of the tickets to which the ban relates. The IFO subsequently reviewed all the evidence and suggested to the Club that on the basis of what he had submitted, the complainant may not have been responsible for the placing of the advert and this is the crux of the matter given that the advertising has led to the ban. The Club replied that although they would not be reviewing cases retrospectively but, in a willingness to co-operate, had reviewed the complainant’s case. On the basis that they remained of the opinion that the Complainant had advertised an away ticket, they did not feel that the suspension could be lifted at that time. However, the Club would be willing to review the suspension at the end of the current season when he could contact appeals@manutd.co.uk, where possibly the sanction could be lifted, allowing him to renew his season ticket.

15. The complainant subsequently told the IFO that the police had referred him to Action Fraud. He supplied a screenshot headed “National Fraud Intelligence Bureau” giving his name and address and a 16 figure reference. The message said “I am sorry you have been the victim of crime. Thank you for taking the time to refer to Action Fraud. Your report has been sent to the National fraud Intelligence Bureau for review.” The message went on to say “Based on the information currently available, it has not been possible to identify a line of enquiry which a law enforcement organisation in the United Kingdom could pursue.”

Findings

16. It is important at the outset to stress that the IFO strongly supports the Club’s efforts to combat ticket touting and the unauthorised use of tickets. The question for the IFO to consider is whether, on the balance of probabilities, it is satisfied that it was the complainant who placed the advert for tickets. At the time of the advert, the sanction for advertising a home ticket at or below face value (the advert did not mention a price) would have been a written warning, so the only point really at issue, had the complainant posted the advert, was the ticket for Leicester away. The Club are not disputing the fact that the complainant attended the Leicester match personally, and there is some

evidence to suggest that the complainant did book accommodation in Leicester and go to the match himself.

17. The Club have said that, on the balance of probabilities, they are satisfied that the complainant placed the advert. and the Club has relied upon the advert, containing the complainant's name and location, and the fact that he had been successful in the ballot for a ticket to the Leicester match which it is unlikely anyone else using a fake account would have known. The complainant has also provided some evidence which included a posting in December 2020 warning people of the existence of a fake account in his name; and a screenshot of his referral to Action Fraud. In relation to the conversation with his friend who queried whether his account had been hacked, since this is a not unrelated individual, who benefitted from the transfer of the ticket, the IFO is limited as to amount of weight it can ascribe to this.

18. Subsequently, the complainant confirmed that his report to Action Fraud had been on 5 December 2021. He also supplied a screenshot dated 29 November 2021 from Facebook headed "You reported someone for pretending to be you", which had led to him complaining to Action Fraud. The IFO put this additional information to the Club, but they did not consider it relevant to the complainant's case as it pre-dated the advert for the match in question, which was in 2022. The Club did not consider that there was suitable additional information to put to the Appeals Panel and were, therefore, maintaining their stance on the complainant's suspension. The complainant, when providing the additional evidence on 16 January 2023, notified that IFO that he had actioned a chargeback from his credit card provider.

Conclusion

19. In accordance with the burden of proof required in cases such as these, it is usual for the person who asserts their claim to prove the facts in issue. In this case, therefore it is the claimant who is required to provide evidence that they did not actually advertise the Leicester ticket and to uphold this case in the claimant's favour the IFO must be satisfied on the balance of probabilities that their evidence carries more weight than that of the Club. However, we can see that this would be problematic for the claimant to prove a negative or an omission. This can be a difficult hurdle for a supporter to navigate. Therefore we must also consider the evidence provided by the club.

It is acknowledged that the claimant took steps to report the issue with their Facebook account, however, the IFO is persuaded that this action pre-dates the current ticketing issues by a significant margin. If the account had been hacked again, it is the Club's contention that they would expect similar action to be taken and if this was a continuing situation, the IFO cannot see that this was followed-up again by the Claimant who, therefore, by extension could be argued to have let the situation continue thereby taking the risk that circumstances such

as these may arise. The IFO finds it somewhat surprising how little effort the Complainant has put into stopping the copycat Facebook site . In particular, he took no action for a year after making the complaint about the fake account. Further, it does not appear to have been monitored and if it had been, there were no further reports that ticket were being advertised via a fake account.

The IFO have also noted the evidence provided by the Club that the name and location attached to the advertisement were identical and that the circumstances surrounding the allocation of the away ticket via ballot would not have been more widely known to enable someone else to advertise it. Given that it is the act of advertising itself that is key, as opposed to attendance, this is the crux of matter to be determined.

Both parties have provided arguable versions of events. Put simply, there is evidence on which the Club can come to this decision, and there is not sufficient evidence to overturn it.

In coming to a decision, therefore, acknowledging the difficulty in providing the required level of evidence, the IFO have noted that the Claimant has provided evidence that they did report suspicious activity on their Facebook account. However, this was not followed up in relation to the most recent occurrence as would be expected, action having been taken the first time and upon being alerted by his friend to the fact it appeared as this was something that the Claimant was aware of. It is this and the lack of mitigating action that persuades the IFO that there is, on the balance of probabilities, insufficient evidence to enable it to recommend that the suspension is over turned. The club has confirmed that it would be willing to review the suspension at the end of the current season when the Claimant could contact appeals@manutd.co.uk, where possibly the sanction could be lifted, allowing him to renew his season ticket. This appears to be a fair and reasonable stance in all the circumstances.

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