

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: 23/02

AN INCIDENT AT WEMBLEY

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 the Football Association (the FA) in replying to enquiries.

The Complaint

3. The Complainant was arrested for allegedly headbutting a steward at the League 1 Play Off Final which took place at Wembley on 21 May 2022. The Complainant was not permitted entry to the stadium, missed the match and incurred other expenses

for the weekend which they state was spoilt. The Complainant alleges that the steward tried to steal their Rolex watch and is seeking compensation in an unspecified sum and an apology.

4. The IFO has received a full account of the incident on behalf of the Complainant from a representative at the Football Supporters' Association (FSA) which confirms his full account of the incident, a summary of which is set out below:

5. The complaint was brought on behalf of a "Sunderland AFC Complainant of good character who has never been in any football related trouble with the police or stewards" regarding an incident when attending the play-off final with their son, meeting other family members in London. The Complainant is seeking to rely on CCTV obtained from Wembley and has photographs of their bruised arms. The Complainant also obtained body-cam footage from the Police who attended the incident.

6. The issue arose after the Claimant's son and nephew drew the attention of sniffer dogs that apparently were looking for pyrotechnics and were being deployed by matchday stewards. The Complainant was not stopped but waited for the searches to be concluded. It is accepted that it is likely the dogs had stopped them as they had handled pyrotechnics earlier that day in central London and a cap from a device was in one of their pockets.

7. While the younger men were being searched the Complainant was asked to produce their ticket by a steward. The Complainant was not part of the initial searches of the young men and the dogs had not 'stopped' the Complainant. The Complainant stated that that they were waiting for the searches to be concluded. It is alleged that the steward continued to demand the ticket and then events played out as per the CCTV footage, which is considered by the IFO below.

8. The FSA explained that the Complainant owns an expensive watch worth £8000, fitted with an extra secure clasp which was being worn on the day of the match. The Complainant believes that that the watch was deliberately removed during the incident and that the steward handed the watch to the Complainant's son, saying that it was on the floor.

9. The police attended the scene and the Complainant was placed under arrest for affray. An officer informed the Complainant that a steward had accused the Complainant of headbutting the steward. The FSA and the Complainant, having reviewed the CCTV, can see no evidence of a headbutt and state that the Complainant's sunglasses remained on their head at all times which would not likely have been the case had a headbutt been attempted.

10. It is understood that the Complainant was detained and taken to a local police station and later released (well after the conclusion of the match) with the police confirming there would be no further action.

11. The FSA have spoken with individuals at Wembley and suggested a meeting, which they state was declined. The FSA have stated that it is the Stadium Safety Officer's assessment that the stopping of the Complainant's son and nephew were the catalyst for the incident; the Complainant believes the catalyst for the flow of events was the steward asking the Complainant to produce their ticket.

12. As part of the complaint, the FSA have asked that it be clarified with Wembley: (1) on what grounds the steward demanded [the Complainant] produce his ticket and (2) on what grounds the stewards justified their use of force against him.

The FA's Response

13. The FA have provided a full response to the incident, noting specifically that the Complainant refers to the following specific points:

- The stewards lied to the police; and
- The stewards attempted to steal an £8000 Rolex watch.

14. The FA have confirmed that the decision to not uphold the complaint was based on the following factors:

'Two incident reports supplied by the stewards stating that the incident escalated to a point where altercations ensued. CCTV via Camera 318 captured the incident.

The incident started with a young male (White T-Shirt with black check markings/Dark overtop over the shoulders/blue Jeans and dark trainers), who was being searched due to a dog indication of a pyrotechnic device. This takes place at 14:29 on the CCTV time stamp. The young male was found to be in possession of a pyrotechnic device. He was, because of this, informed he would be refused entry into the stadium. Being in possession of such a device is both illegal (whilst attending a football match) and contrary to Ground Regulations.

It was also at this time that the Complainant had started to engage with the stewarding staff and could be seen to intervene with the duties being carried out by the stewarding staff.

The young male can then be seen to be responding in an aggressive manner, which caused the stewards to escalate in their response to physically intervene to prevent any further escalation.

The Complainant had at this point decided to intervene physically in the situation, which I can perhaps understand why, as a relative was being controlled by security staff. However, one cannot excuse this interaction, which required physical intervention on the Complainant from the stewarding teams. In addition, two further males attempted to intervene in an aggressive manner in support of the young male

and the Complainant. Causing more staff to intervene and attempt to control these two further males.

Police arrived in the location at 14:31, taking over the control of the young male found with a pyrotechnic device and placing the young male in handcuffs. At 14:32 a female police officer took over the control of the Complainant. In dealing with the two points of complaint:

- The steward lied to the police.

The footage is clear enough to indicate that there was aggressive behaviour from the Complainant towards the stewarding staff. There are two incident reports from the stewards involved also referencing aggressive behaviour. Whilst there is no clear indication of a headbutt or attempted headbutt from the available footage, it is equally unclear that the steward did or did not interpret a movement that led them to believe a headbutt was an intention or attempt made.

- The stewards attempted to steal a £8000 Rolex watch.

There is no evidence on the CCTV footage that supports this allegation. A point recognised by [the FSA Case Worker] in an email correspondence with the Stadium Safety Officer, dated 15th September at 17.23hrs. Whilst of course nothing can be ruled out 100% - it can be equally alleged that the watch more than likely would have come off as a result of the physical intervention interaction. There are a number of points to raise on this allegation. Firstly, having an additional security clasp fitted to the watch, as indicated by the Complainant, would have made it even less likely to easily remove the watch in an attempted theft one could reasonably assume. Secondly, the incident gathered a bit of a crowd who can be seen to be paying close attention to the incident, so for a steward to then take that opportunity then and there to attempt to steal a watch again is unlikely. The risk with such numbers of a crowd being onlookers and witnesses and chances of being caught should be considered. Thirdly, the police were on the scene of the incident and had the Complainant under their control within a two minute window and there was ample opportunity to mention to police both at the time and post the incident of what he perceived as a theft/attempted theft. It would be a normal course of action, one would reasonably assume, for such an expensive watch and its attempted theft to be reported to police to be investigated. We would have supported such a police investigation.

In summary, If the Complainant had not intervened himself into the incident and hindered the steward's duties of refusing access to the young male in possession of a pyrotechnic device, then this incident would not have taken place. He would have been able to partake in the days event. This has to be the first consideration.

There is no clear evidence that the steward lied either on CCTV or in their statement. I therefore, without anything factual to the contrary, have to support the decisions taken by the stewarding teams on the day. The CCTV corroborates the aggressive

behaviour depicted in the statements. So therefore, the Complainant was in breach of Ground Regulation 7 - Threatening, abusive or violent behaviour, and foul or abusive language is strictly forbidden and will result in arrest and/or ejection from the Ground. WNSL may impose a ban from the Ground as a result.

The Police arrested the Complainant; this act would not have been done without due cause for the officer. We see the allegation of theft as again unsubstantiated, a lack of CCTV evidence, a lack of report of a crime, high chance that the steward would have been witnessed attempting to steal and crowd watching perhaps reacting to this.

As a result, we will not be issuing any form of compensation as per the Complainant's request and now consider the matter to be closed.'

The Investigation

15. The IFO requested the CCTV footage upon which the FA are seeking to rely and reviewed this with the Complainant. The Complainant provided some background, confirming that the dogs initially picked up the scent of a cigar in their son's pocket and the cap from a flare which had been discarded in Covent Garden in their nephew's pocket. This led to the initial stop and search. The Complainant can be seen from the footage wandering around and at one point the Complainant got their mobile phone out and could be seen taking a picture of a concrete conveyor belt which they stated looked like a rusty Wembley arch and which had caught their attention. The Complainant states they were asking what was happening and how long it would take. At this point the steward started to ask the Complainant for their ticket, which the Complainant confirms they did not hand over. The rationale for this is included in the summary of the FSA's statement in paragraph 7 above.

16. Regarding the allegation of the headbutt, the Complainant reiterates that this did not take place and that their sunglasses can clearly be seen on their head at all times which would not have been the case even with a threatened headbutt. It is this alleged headbutt that the Claimant believes led to the arrest for affray. The Complainant also described the manner in which they were being pulled around, the bruising that was evident as a result and the fact that the watch ended up several feet away and was retrieved by their son. The Complainant is adamant that the reason for arrest and hence their missing the game was due to the alleged headbutt which clearly did not occur. They also question why their son was not arrested.

17. The IFO also asked the FA to provide the witness statements from the stewards involved and have reviewed these. The witness statements corroborate the account provided in the Response section above. One steward also explains that having seen the Claimant's cousin arrested for possessing a flare, the individual '*starts being very violent. So we took his ticket and put him in a hold. Police came up and*

arrested individual'. This statement appears to relate to one of the other men involved, however, it is noted that the second statement confirms that in reaction to this: *'his cousin and his dad get involved and start to get violent. The Police came and provided assistance. The individuals were arrested and then the police took over.'* It is unclear at what point the Complainant's ticket was confiscated.

18. The IFO reviewed the statements made on the Complainant's behalf by the FSA Caseworker, the accounts provided by the FA and the footage supplied by the Complainant and from Wembley CCTV. The IFO have also reviewed the statements made by the stewards. It should be noted that the bodycam footage obtained from the police does contain sound, but as this only covers the incident from the time of the police involvement. There is no sound on the CCTV footage obtained from Wembley which shows how the incident arose. The IFO has also interviewed the Claimant.

19. The IFO has not requested to see the incident notes from the police, as their involvement was after the incident was triggered. This is evidenced by the bodycam footage which does not show the reason for the complainant's intervention or at what point and how the ticket request manifested. It was therefore not considered proportionate to seek this.

The IFO's Findings

The incident and the conduct of the stewarding staff

20. The IFO have considered the information and noted the limitations on the CCTV footage which led up to the incident. The Complainant has provided their version of events by way of a commentary to the footage which contains no sound. However, this is not discernible from the footage and therefore the IFO has no way of corroborating what was said.

21. Broadly, the parties agree that following detainment of the Complainant's son and nephew, an incident occurred in which the Complainant was also detained and then subsequently arrested. The Complainant believed that the steward lied to the police about the alleged headbutt and this led to the arrest. The accounts of the stewards both outline a physical intervention made by the Complainant which is borne out on the footage, albeit without any sound to ascertain what was said in the build up to this. Based upon the evidence provided, the IFO does not have sufficient evidence to ascertain whether the decision to restrain the Complainant in the manner that occurred was warranted. The FA seek to rely on the fact that an arrest was made, however, it is the Complainant's account that this was made on the basis of a false allegation, and the catalyst for the flow of events was the steward asking the Complainant to produce their ticket. It is the Complainant's position that if the steward had no grounds to request the ticket, subsequent events may not have occurred.

22. The Complainant is therefore, via the FSA case handler, seeking confirmation as to why the ticket was requested and on what grounds.

23. The Complainant is also seeking confirmation on what grounds the stewards justified their use of force against him. The witness statements from the stewards and the statement from the FA have confirmed that it was the actions of the Complainant, being physical interventions which were construed as aggressive that led to the action being taken.

24. The IFO has sought clarification from Wembley on the above points and have confirmed that, looking at the statements of the stewards, the Complainant was asked to produce his ticket because he 'starts being very violent'. However, they have also stated that at the point a steward intervenes *'part of their duty is to ascertain if the person is a ticket holder to the event. This is to capture the details on the ticket to make a record of that intervention. That intervention may then result in that ticket becoming blocked so that it cannot be used to enter the stadium. It is reasonable to assume that ASB type behaviour shown externally may manifest itself inside the stadium and to mitigate that risk we would block that ticket from being able to provide access to the event. The ticket at all times remains the property of WNSL or the Event Owners.'* The FA further confirmed that the decision to permit entry will then be made on a case by case basis, where possible, upon consultation with the Deputy Safety Officer, although it is noted that was superseded by the intervention of the police and subsequent arrest. It therefore remains unclear as to whether the Complainant's intervention and the manner in which this took place predicated the ticket request or resulted from it, and it may not be possible to verify this, there being no sound on the footage that records this part of the incident and the trigger for the steward's intervention. What is apparent is that the Complainant does interject following the detainment of their son and nephew and that upon viewing the CCTV, this could be construed as being aggressive and/or threatening in nature.

25. Further, notwithstanding the above, the IFO has had regard to the Ground Regulations as to which regulation 5 states:

'All persons seeking entrance to the Ground acknowledge WNSL's right to search any person and their belongings whether outside or inside the Ground and to refuse entry to or eject from the Ground any person refusing to submit to such a search.'

Further, regulation 7 states:

'Threatening, abusive or violent behaviour, and foul or abusive language is strictly forbidden and will result in arrest and/or ejection from the Ground. WNSL may impose a ban from the Ground as a result.'

Finally, regulation 23 states: *'At all times whilst present in the Ground, persons must comply with any and all instructions of any steward or officer of WNSL and/or any*

police officer. Failure to comply with any instruction may lead to immediate ejection from the Ground.'

Whilst there is no definition of the 'Ground' and it could be argued that the Complainant was not actually in the 'Ground' when the incident occurred, when read in conjunction with regulation 5, the IFO considers it to be a reasonable interpretation of the Ground Regulations that the Complainant should have handed their ticket over when asked.

26. In terms of the use of force policies and the question put to Wembley as to how they were applied in this instance, the IFO has had sight of these and the training that must be undertaken by individuals who are so authorised. It may not be possible though, to conclude as to whether this was proportionate in terms of the trigger for the incident as per paragraph 7 above.

The Watch

27. With regards to the removal of the watch, the CCTV footage does show this on the Complainant's wrist prior to their being restrained, and then it does appear on the ground, retrieved by the Complainant's son. It is understood that the watch was damaged and has now been repaired. The footage does show that the Complainant does physically intervene and also that stewards do move in to restrain them, with their arm being pulled at certain times. That said, this could have been as much a consequence of the intervention and any matters relating to theft would be a matter for the police. Whilst the FA have stated that this was not raised at the time, the Complainant has also indicated that the police were not interested in pursuing this. The IFO can therefore make no additional comment on this aspect of the complaint.

28. Having had regard to the CCTV footage, it is apparent that the watch did come off the Complainant's wrist and sustained damage after having been retrieved by the Complainant's son. The IFO have been provided with no evidence of the damage, such a photographs, but understands that the watch has now been repaired. However, this occurred during the altercation and whilst it is noted that the Complainant has stated the watch had a secure clasp, it is not clear how this became removed. The IFO has considered that the FA have explained the actions taken by the steward and the reasons for these and the CCTV footage does show the struggle by both parties. Regardless as to the reasons why the intervention was deemed necessary by the stewards as is considered above, the IFO has insufficient evidence, on the balance of probabilities to hold the FA responsible for this damage to the watch and does not therefore consider it has grounds to seek evidence from the Complainant as to the nature of the damage or cost of repair.

Summary

29. There is disagreement about the order in which things happened and the level of aggression/violence used by both sides. Without audio, this makes it almost impossible to determine the true picture of what happened from an assessment of the CCTV footage. Regardless of whether the complainant was asked for their ticket because they were with those who were being searched, or because they were being aggressive, they should have complied with the request and they were in breach of Ground Regulation 5 to not do so. The IFO therefore agrees that the stewards were within their rights to ask for the ticket and that the complainant should have complied.

30. With regards to the headbutt, the steward claims that there was a headbutt or an attempt. The FA admit there is no clear evidence of this, however, a headbutt is a fairly obvious form of attack and would be seen on the CCTV through the Complainant's body position and movement. Similarly, if one is the victim of a headbutt, or an attempted headbutt, there would be evidence of either facial injury and/or the steward's head moving backwards and out of the way. Without evidence of such bodily movements, the IFO considers that a headbutt was definitely not landed and more than likely not attempted. However, it is not possible to conclude, given the limitations of the available evidence to what extent this was an instrumental factor in triggering the arrest and, indeed, whether this was the only factor.

31. Further to the initial investigations (and with specific reference to the evidence that could be sought from the police as per paragraph 19 above) the IFO has considered requesting the contemporaneous notes from the police. However, in light of the conclusions drawn that the fact that the Complainant did not comply with the request to supply their ticket and the fact that this was in breach of Ground Regulation 5, the IFO remains of the opinion that even if the notes obtained from the police did confirm that the arrest was made on the basis either in full or part of an attempted headbutt, we would be unable to conclude as to whether this was maliciously done, whether the steward lied, or was indeed under a misapprehension. The IFO remains of the opinion that this line of enquiry is therefore disproportionate.

32. In summary therefore, the IFO has insufficient evidence to determine whether the steward maliciously lied to the police about the Complainant's conduct, specifically that they thought they intended to headbutt them, but is satisfied that the footage shows that whilst there was a physical intervention that could be construed as aggressive, there appeared to be no attempt to headbutt the steward.

33. The IFO is unable draw any conclusions regarding the alleged attempted theft of the watch which would in any event be a criminal matter and thereby fall outside the remit of the IFO. In terms of the damage to the watch, the IFO is unable to

conclude, on the balance of probabilities, that this was due to the disproportionate use of force by the stewarding staff since both parties were involved in the struggle.

Conclusion

34. Based upon the assessment of the evidence as outlined above, regardless of the reason why the request for seeing the Complainant's ticket was made, it was valid in the circumstances and should have been complied with. The IFO is satisfied based upon an assessment of the CCTV and the accounts of both parties after the event that there is no evidence that a headbutt was performed or attempted, however equally, whilst the steward may have been mistaken, there is no evidence that the steward lied deliberately or maliciously to the police about a headbutt or attempted headbutt. There is no evidence of attempted theft of the watch which would, in any event fall outside of the remit of the IFO. The IFO is, therefore, unable to uphold a case in the Claimant's favour in this instance.

May 2023