



**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: IFO597**

## **Victim challenge to the reduction of a ban in appeal at Brenford**

### **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, 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.

### **The complaint**

2. The Claimant's complaint relates to a ban a third-party assailant (the "Assailant") received from the Club for their role in a physical altercation involving the Claimant and their father during the match against Manchester United, on 30 March 2024 (the "Incident"). The Claimant was unhappy that the Assailant's ban was reduced from an initial three-years to eight months, after being considered by the Club's Independent Adjudicator (the Adjudicator) upon appeal.

3. The Claimant's complaint is threefold:

- That the Adjudicator was a Club director and therefore not independent,
- That the Club's policy concerning the nature of the Incident was incorrectly applied, and
- That the Claimant's father was not given the opportunity to attend the appeal or provide their account.

4. As a resolution, the Claimant is seeking the reinstatement of the Assailant's three-year ban, the Adjudicator's resignation as director if they continue to act as Adjudicator, and a written apology from the Club to their father.

### **The Club's response**

5. The Club explained that the matter was first reviewed by the Club's Sanctions Panel, on 10 April, in which the Assailant's behaviour was classified as a 'level 4' incident. In particular, the Claimant wishes for it to be noted that this includes violent behaviour towards supporters, staff or police (including assault), based on the Club's Incident and Sanctions Matrix and a review of the evidence.

6. The Club explained that the sanction was initially set to three years, which the Assailant appealed against, in accordance with their right under the Acceptable Behaviour Policy (the "Policy").

7. The Club stated that the appeal was passed to the Adjudicator, who is a solicitor, a non-executive director at the club and the fans' representative on the board of directors.

8. The Club explained that in the appeal review, the Adjudicator disagreed with the Club's assessment of the Incident and instead determined that a 'level 2' offence was more appropriate. The level 2 category offence was 'general disorderly behaviour (including fighting)'. The Assailant's ban was reduced to a period of eight months, with a two-year ban from watching home Brentford matches against Manchester United. The Claimant has requested that it is noted that three of the eight months were during the closed season.

9. The Club stated that they believe the Policy was followed correctly at all stages.

### **The investigation**

10. The IFO has reviewed the documentation supplied by both parties in support of their respective position.

### **The chronology**

11. The Incident took place during the Brentford v Manchester United match on 30 March 2024.

12. On 03 April, the Claimant reported the Incident to the Club via email. The email contained the Claimant's account of the Incident and a request for the Club to deal with the matter.

13. The Club acknowledged the Claimant's incident report the same day, noting that the matter would be investigated and CCTV footage secured. The Club explained that, while it would be sharing the allegation with the Police, it had also asked the Claimant to report the matter, which the Claimant duly did. The Club also stated that once evidence was secured, they would be working to identify the person involved.

14. Later, on 03 April, the Club informed the Claimant that the CCTV footage had been procured. The Claimant subsequently identified themselves from a CCTV still shared with them by the Club. In an additional email from the Claimant to the Club, a side-on view of the Assailant was shared.

15. Between 03 April and 04 April, the Club and the Claimant exchanged emails about the process of reporting the matter to the Police and the identification of the Assailant.

16. Within an email to the Claimant on 05 April, the Club noted that the matter would be referred to the Fan Behaviour Panel.

17. The Claimant responded to the email, asking that the Fan Behaviour Panel consider their account of the Incident, and that the Assailant did not offer to apologise. The Claimant invited the Club to consider the likelihood of the Assailant repeating their actions.

18. On 10 April, the Club informed the Claimant by email that the Incident was reviewed by the panel and a sanction was agreed. The Club confirmed that the Assailant would be notified and that as the Assailant had the right to appeal, it would not be appropriate to share the exact details with the Claimant and their father.

19. The Claimant replied on 13 April, requesting the Club disclose the sanction. The Claimant also noted that they understood the Assailant attended the match earlier on 13 April.

20. In response, the Club explained that the notice of sanction letter may not have gone out in time to affect the Assailant's attendance at the match on 13 April. The Club reiterated that the sanction was subject to the Assailant appealing, which was why they had not shared the length of ban with the Claimant.

21. The Club explained that the letter was sent to the Assailant on 15 April.

22. A three-year Club ban was issued to the Assailant on 01 May.

23. The Assailant lodged an appeal, triggering a review by the Adjudicator.

24. The Adjudicator reached a decision on 05 June, following a review of the appeal. The Adjudicator decided that a ban until 31 December 2024 and a two-year ban from attending home matches against Manchester United, was appropriate.

25. The Claimant emailed the Adjudicator on 29 November. The Claimant noted that they had become aware that the ban was reduced upon appeal and set out the reasons why they disagreed with the outcome.

26. In response, dated 11 December, on behalf of the Adjudicator, the Club explained the process:

*'The incident that you referred to was reviewed by the Club in accordance with our Acceptable Behaviour Policy. The Club decision was then subject to an appeal conducted by the Club's Adjudicator. We are required to follow the Policy and according to that, any further appeal would be subject to referral to the Independent Football Ombudsman. If you would like to talk the process for appeal through with someone here, the General Counsel of Brentford FC, [named] is happy to have a conversation with you about that.'*

27. The email was re-sent by the Club, as they stated that it appeared the Claimant did not receive the original email, the day prior.

28. The Claimant emailed back, on the 13 December. The Claimant asked to speak to the General Counsel about the appeal process and stated that the response failed to address the concerns raised in their email.

29. The Claimant emailed again later the same day with specific points about the application of the Club's Policy.

30. The Claimant sent an additional email on 20 December, which they stated followed consultation with others. The email was also addressed to the Adjudicator's work email address, in addition to the Adjudicator's Club inbox and another member of staff at the Adjudicator's employment.

31. The Adjudicator responded to the Claimant from their Club email address on 23 December, noting that their role as Adjudicator had no connection with their employment and they would be responding as such. The Adjudicator also confirmed that they would endeavour to respond before the end of January 2025, due to annual leave.

32. The Adjudicator provided a substantive response to the Claimant by email, dated 13 January 2025. The Adjudicator addressed the following points: the Claimant's claim that there was a conflict of interest between the Adjudicator's role and their directorship at the Club, the adherence of the process to the Club's policies and processes that deal with claimant incidents, and the rationale behind the Adjudicator's decision.

33. The Claimant emailed the Adjudicator on 18 January. The Claimant felt that the Adjudicator's email did not address their concerns and provided commentary around several points around the Incident, the application of Club Policy and the Assailant's sanction.

34. The Adjudicator emailed the Claimant on 19 January to note that they had provided their response and did not intend to enter further correspondence with the Claimant. The Adjudicator signposted the Claimant to the IFO if they remained unhappy.

35. The Claimant acknowledged the Adjudicator's email and provided commentary on the reasons they were dissatisfied. The Claimant also noted that the IFO had already been contacted.

### **The IFO's findings**

36. The IFO has considered the evidence and representations provided by both parties and will deal with each issue raised under separate headings, below. Further, since the role of an Adjudicator is an unusual addition to an appeals process, the IFO met with the Club and the Adjudicator to discuss the role in the context of the appeals process. For the avoidance of doubt, the way in which the decision was reached was not discussed since this falls outside of the IFO's remit for the reasons set out in paragraph 37 below. The outputs from this meeting will be considered in more detail and where relevant below.

37. Although the Assailant was a key part of the Incident, they are not a party to the IFO complaint. The IFO will not provide an evaluation of the sanction itself or the appeal outcome. The IFO's role is to consider whether the Club followed their process and to ascertain whether the voices of the Claimant and their father were considered.

### **The Incident**

38. The Incident occurred in the South (home Claimant) Stand at the Club's stadium during a match. CCTV provided clear footage of the Incident.

39. The IFO infers from the footage that the trigger of the Incident was a goal scored by the visiting team. Following the goal, the Claimant's father appears to celebrate the goal by pumping his fist close to his own face, while seated. The individual sitting immediately to the right notices the gesture and pushes the person next to them with their forearm into the Claimant. It is unclear whether the parties were engaged in discussion before the push. The Claimant and the Assailant engage in a tussle with their hands, while the Claimant's father remained seated. The two were jostling for around 20 seconds before returning to a seated position. It appears all three were conversing while seated. The three continued to talk for a few more seconds, until their attention returned to the match.

40. Just over two minutes later, the home side scored. The Assailant did a double fist pump which did not appear to be directed at anyone, before standing up and clapping. The Claimant and their father remained seated for a few seconds before both standing and deciding to leave, in doing so, going past the Assailant. After the Claimant's father passed the Assailant, the Claimant entered into conversation with the Assailant and was seen pointing a finger towards the Assailant's chest and continuing the discussion immediately in front of the Assailant. As the Claimant went to walk past the Assailant, the Assailant gave them a shove with their hands in the direction of the exit. The Claimant and their father continued to the exit.

41. Whilst the application of the sanction is outside of the IFO's remit, not least because this has not been appealed to the IFO by the Assailant, the IFO has noted the reasons for allowing the appeal and rationale for reducing the length of the sanction were explained to the Claimant. The Adjudicator has stated that the representations of the Claimant and their father are not borne out by the CCTV footage and also noted that the police did not ultimately take action. The Club has

pointed to correspondence provided to the Claimant and remains of the opinion that the claim has originated due to the decision reached as opposed to the process undertaken. The IFO will turn to the process in the section below.

## **The process**

42. The Club's Acceptable Behaviour Policy sets out the expectation of behaviour at the stadium, the reporting mechanism, the investigation and appeal, as well as a section on Claimant sanctions. The Adjudicator has explained to the IFO that the Chair of the Supporter's Trust has a right to appoint a non-executive director to the board of directors. This appointment is specifically independent, not remunerated and made on the basis that the individual appointed is the "conscience of the Club" providing comfort that the Club is not marking its own homework.

43. The Policy contains a section relating to communication during the investigation process:

*'During the investigation process, the Club will endeavour to provide regular updates to any person who reports an incident and to the Respondent, although it may not be possible to share the specific details of any actions being taken.'*

44. The Club's process is broadly: to undertake an investigation and gather evidence, decide whether any further action will be taken, allow the respondent right to reply, undertake a review of any response and take a decision on the matter, via the Club's sanction panel. The sanctioned person will then have a right to appeal, which will be decided by the Club Adjudicator. The Policy reads:

*'Where the right of appeal is exercised, the appeal will be held in a format to be determined by the Club as further described below and will be decided by a more senior officer of the Club (the "Club Adjudicator") than the panel who considered the case in the first instance.'*

45. The Policy goes into detail about the appeal process:

*'The Appeal may consider whether the correct process was followed, the decision as to whether the Charge was proven on the balance of probabilities and the nature and extent of the sanction applied. The process is outlined below and summarised in the flowchart.'*

*The Club Adjudicator will review the details of the incident provided by the Club and decide whether an Appeal Panel is required or if the appeal can be determined by the Club Adjudicator alone. An Appeal Panel may be required for the most complex cases or where the nature of the incident is unlike any previously dealt with.'*

46. The Policy provides the Adjudicator with the discretion to choose between an in-person or remote appeal. There is no reference to the presence in any appeal hearing of others involved in the Incident. Given that the sanction is a punitive measure issued to an individual or group of individuals, it would not reasonably be expected that any others involved would be invited to any disciplinary or appeal

hearing, given that evidence can be and indeed was submitted without attendance.

47. As referenced in paragraph 42, the Policy sets the expectation that regular updates would be given to the person that reported the Incident. The IFO does not consider that the Policy gives an indication elsewhere that they would witness or otherwise provide live evidence during the process. The IFO notes that the Claimant was kept apprised at various stages of the investigation and sanction process, as noted in 'the chronology' section. However, it does not appear as though the Claimant was informed by the Club of the length of the original ban or the appeal outcome. The Club have provided reasons as to why the Claimant was not notified as to the length of the original ban, as is set out above. The Claimant noted in their email to the Club dated 23 December that the police had notified them of the length of the ban.

48. The Claimant noted in the email of 23 December that no Football Banning Order or criminal conviction had been obtained in relation to the Incident. The Claimant stated that this was due to the police missing a deadline.

49. The Club have obligations under the data protection legislation with regards to the personal data of others, which the Claimant, nor the Claimant's father would necessarily be entitled to. The IFO therefore concludes that there was no automatic right for them to attend the Assailant's hearings nor does it appear that this was requested by the Claimant who does, in correspondence ask for certain matters to be considered but does not request to make in person submissions at the hearing.

50. The IFO has been sighted on the sanction panel deliberations and considers there was sufficient evidence to show that the voice of the Claimant was considered by the panellists at the meeting. For example, the information provided by the witness was provided to the panel and discussed alongside the CCTV evidence and the Steward's Report.

### **The Adjudicator and appeal process**

51. In their email to the Claimant dated 13 January, the Adjudicator explained that they are an unpaid, non-executive director that is not involved in the day-to-day running of the Club. In its IFO complaint response, it clarified that the Adjudicator is the fans' representative on the board of directors.

52. From the information provided, the IFO is satisfied that the Adjudicator was not on the sanctions panel or involved in the initial decision, however the IFO notes that the Adjudicator is provided with all the information seen by the Sanctions Panel in reaching its decision, along with the response from the Claimant and the reasons for the appeal. The Adjudicator confirmed to the IFO and the Claimant (in the email dated 13 January 2025) that they had seen all the information relied upon by the Sanctions Panel to reach its decision, which included the correspondence between the Club and the Claimant.

53. It is noted that the Adjudicator is a non-executive director on the Club's board of directors and in this instance was the sole decision-maker in the final stage of the Club's process. Under the Policy, the Adjudicator has the discretion to appoint other senior members of the Club staff (that are head of department level or above) to

the appeal panel, as required. The IFO acknowledges that the appropriateness of doing so will vary from case to case. The Adjudicator has confirmed that a panel has not been convened to date, partially due to the rationale that the matter will have naturally already have been heard by the Sanctions Panel. That said, the Adjudicator also expressed that it is their intention to convene a panel going forwards, partially in light of the lessons learned from this appeal. The IFO is happy to engage with the Club in order to ensure that the independence of the appeals process is not compromised in doing so.

54. The IFO considers that there are various facets to independence within the decision-making process, which include (but are not restricted to), the proximity of the individuals to the event, the involvement in any prior aspect of the case and the absence of any conflicts of interest.

55. Given the position of the Adjudicator as a non-executive director and fan representative on the board, the IFO considers there to be a degree of independence and separation to both the executive and operational management in the Club within the appeal process. The IFO does not feel that the Adjudicator's role as non-executive director has impaired the fairness of the appeal process. Indeed, the role of a non-executive director, not uncommon in not-for-profit entities such as the IFO, is expressly to provide an independent voice and provide important governance elements that are separate from the executive management of the organisation. Indeed, the Institute of Directors provides some guidance, stating: *Essentially the non-executive director's (NED) role is to provide a creative contribution to the board by providing independent oversight and constructive challenge to the executive directors*<sup>1</sup>.

56. The IFO considers that the presence of a Claimant representative (typically from the FSA or an official Claimant group) may add further strength to the process. Notwithstanding the above, the IFO acknowledges that this may reduce the efficiency of the process and consume additional resource. It has been observed that the Policy itself states that the panel may be comprised of the Adjudicator and *'Senior members of Club staff at Head of Department level or above (as required by the Club Adjudicator).'*

57. The English Football League ("EFL") produced a guidance document for Claimant sanctions. The IFO acknowledges that the matter in hand involves a Premier League club, however this Guidance can be a useful reference point in cases such as these. On the structure of panels, the document states:

*'The appeal will be made directly to the club. The appeal should be assessed by a panel not involved in the original Sanction Panel or investigation. It is best practice that the panel should constitute a senior club official and a minimum of two other club employees with a breadth of knowledge and experience of the club. In assessing the appeal, clubs are encouraged to seek guidance from the following organisations to reach a fair and proportionate decision:*

- EFL
- Premier League

---

<sup>1</sup> [What is the role of the non-executive director? | Factsheets | IoD](#)



- Sports Ground Safety Authority,
- FSA.'

58. The Claimant has also questioned the basis of the Adjudicator's decision to reduce the length of the ban. The IFO has reviewed this along with the information provided by the Assailant upon appeal and has noted the way in which both aggravating and mitigating factors have been addressed. Whilst it is noted that the Claimant believes there are no mitigating factors, witness statements were provided, and both the Sanction Panel and Adjudicator took account of the fact that the Assailant appears to react to the celebration to the away goal which can be seen on the CCTV footage, and which was considered to have been a contributing factor. However, it was also noted that there was some physical escalation, albeit that it was concluded that this was not to the extent described by the Claimant, and it was made clear in the explanations provided that no degree of physical escalation is condoned. Notwithstanding this, the IFO does not believe that it was unreasonable for the celebration of an away goal outside of the parts of the ground designated for away fans to have been considered by the Sanctions Panel and the Adjudicator. The IFO must also take account of the rights of the Claimant in relation to a challenge to the sanction. Whilst it is important for the voice of the victim to be taken into account in matters such as these, the IFO must also consider that it is not the right of the Claimant, per se, to challenge the length of the ban. The IFO also notes that this does not form part of the appeals process.

59. The IFO is also satisfied that the impact on other fans, not just on the Claimant and their father was considered. The minutes of the Sanction Panel, for example, specifically reference someone else within the vicinity who they noted was visibly uncomfortable which they viewed as an aggravating factor, and as noted above, the Adjudicator also had sight of this information.

## **Summary**

60. The IFO found that the Club's Policy - in respect of the Claimant and their father's complaint - were largely adhered to. The Club could have contacted the Claimant to advise them of the outcome of the appeal hearing. However, the IFO is satisfied that the impact of not doing so was minimal, given that the Claimant confirmed that they found out via other means. The caveat to that point is that the Policy advises that *'it may not be possible to share the specific details of any actions being taken.'*

61. The IFO is satisfied that the Claimant's voice was considered during the process by virtue of the email accounts provided. The appeal appeared to have been considered without a meeting and there was no invite for the Claimant and/or their father to attend, although there was no entitlement to do so, as per the Policy. Nor would the Claimant's attendance be reasonably be expected for a Club sanction hearing.

62. The IFO noted that the role of the Adjudicator in the Club's appeal process was not commonly found in the football pyramid. Although, the Adjudicator has expressed their intention to convene a panel going forwards, often, as with ADR, the

discretion on how to approach matters is useful and the IFO also recognises that the introduction of an Adjudicator is a more formal mechanism that exists elsewhere.

63. Based upon the above, the IFO is not minded to make any recommendations to the Club in this case.

64. In reaching its conclusions, the IFO has reviewed the comments made by both parties and have sought counsel from members of its Advisory Panel, Alan Watson CBE and Mark James, Professor of Sports Law at Manchester Metropolitan University.

### **Comments received on draft Adjudication**

65. The Claimant has commented extensively on the draft adjudication. The Club has not commented on the draft adjudication. The parties are informed that any comment should be limited to challenges in respect of error of fact. Whilst, therefore, the Claimant's dissatisfaction with the outcome and comments regarding their opinion as to how the decision was reached by the Adjudicator are noted, they will not be commented on further within this adjudication where they may reasonably be construed to relate to their opinion as opposed to an error of fact. The IFO is satisfied that the role of the Adjudicator and the process followed has been carefully considered and dealt with above in a way which is proportionate and in line with the IFO's remit in this regard. Where clarifications have been made, these have been incorporated into the text above. The IFO has considered the following points made by the Claimant require a specific response.

66. Role of Adjudicator as fan representative: The Claimant had previously expressed concern that the Adjudicator was a non-executive director of the Club and therefore not sufficiently independent. The Claimant has now also requested further clarification in relation to the role of the Adjudicator as fan representative. The IFO has considered the former challenge in paragraph 55 above. In relation to the Adjudicator also representing supporters within this role, the IFO notes that it is not uncommon for the voice of the fan to be represented where there are independent elements within the appeals process. The IFO remains of the opinion that "given the position of the Adjudicator as a non-executive director and fan representative on the board, the IFO considers there to be a degree of independence and separation to both the executive and operational management in the Club within the appeal process".

67. Criminal Justice Considerations and definition of assault: The Claimant has made references to the Criminal Justice Act 1988, the role of the police and the definition of the assault. The IFO must clarify that its role is not to ascertain whether an assault took place and further that it has no remit under the stated Act. Further, as set out in paragraph 41, it is noted that the police ultimately did not take any action. Whilst the Claimant has outlined the reasons for this, citing their correspondence with the

Police, the IFO also acknowledges that the Club's process is separate to any criminal prosecution and different factors may be under consideration.

68. Reasons for the decision: The Claimant continues to dispute whether reasons were provided to sufficiently justify the Adjudicator's decision to reduce the ban. The IFO disagrees that the reasons were not provided for the reasons outlined above. The IFO must also note that whilst the Claimant and their father are undoubtedly "interested parties", they have no specific rights in relation to the Club's process or in influencing the outcome, nor does the IFO consider that the Club's process should be used as a means of obtaining a criminal sanction where due legal process may have failed due to factors not linked to the Club.

69. Interpretation of the CCTV: The Claimant has expressed their disagreement as to how the CCTV has been represented by the IFO, with particular reference to paragraphs 39-41. The Claimant disagrees with the IFO's interpretation of events and has offered a meeting to discuss the CCTV footage. Whilst the limitations of such footage are acknowledged, for example as there is no sound it will not now be possible to verify what was said, the IFO is satisfied that its account is a reasonable and objective summary of the footage and that it was not unreasonable for the Adjudicator to place emphasis on the actions of both parties.

70. Notification of outcome of the appeal: The Claimant has highlighted why they consider it important that the Club notified them of the outcome of the process, namely that, as regular attendees of the Club, they and their father could have been confronted by the Assailant again without knowledge that they were permitted in the ground. The IFO notes that there is a balance to be struck here and whilst the Claimant has confirmed that no personal data was requested, there are inevitably multi-party concerns in circumstances such as these. That said, in this case, the Claimant was ultimately informed of the outcome and the IFO considers that any such potential harm was thereby mitigated.

71. Right to respond: The Claimant has made reference to their right to respond to the evidence presented by the Assailant in the appeal, by reference to the right of the parties in such processes. However, the IFO considers that the Claimant was not a party to the process per se. Further, they did have the opportunity to present their account which the IFO is satisfied received due consideration, as referenced above.

## **Conclusion**

72. Overall, the Claimant raises serious concerns about the fairness and independence of the appeal process, particularly the role of the Adjudicator and the lack of victim input. They argue that the Club's policy is flawed and that the reduction of the ban was unjustified and inadequately explained. The IFO acknowledges some procedural shortcomings, for example in not informing the Claimant as to the outcome of the appeal, but ultimately has concluded that the

Club adhered to its policy and does not recommend changes. The IFO notes that the Claimant strongly disputes this conclusion, emphasising the need for greater transparency, independence, and expertise in handling criminal matters at football matches. By way of additional clarification, the Claimant is not bound by the deliberations of the IFO and remains free to investigate other avenues by which to pursue any claim against the Club. The IFO does not make any recommendations in this case.