



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: 22/05

Ejection at Luton Town

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 Luton Town FC.

The complaint

3. A mother complained that her son had been unjustifiably ejected at Luton Town on 2 November 2021, when attending as a Middlesbrough supporter.

The complainant's account

4. On 9 November the complainant wrote to the Club explaining that her 18 years' old son (M) is a well-behaved young man, who had recently started an apprenticeship at their local council. He had been travelling independently to away matches since he was 16. She said that M had taken a day's annual leave to travel the 435 mile round trip on a coach to Luton. Shortly after Middlesbrough scored, he was approached by three stewards and told, without any explanation, to leave his seat to speak to them. He was taken to the concourse where Luton and Middlesbrough police officers were waiting. When a police officer asked what he had done wrong, M said that he had no idea; the officer said he must have done something wrong. The stewards did not know what he was being accused of, but had been instructed to eject him. M asked the stewards if they had footage that made them believe he had done something wrong. A steward showed M a photo on a mobile phone and said "anti-social behaviour". The complainant said that the photo showed M standing still in the crowd with his hands by his sides. M had asked how that constituted anti-social behaviour. The stewards said that those around him were swearing (sticking their fingers up). M asked why he was being thrown out, rather than the people shown doing that, but got no answer. M asked the police officer if he saw anything wrong in the photo. The officer replied "I don't know mate, it's up to the stewards". The police told M privately that they had no control over the situation as it was up to the stewards, but they thought that he was being treated unfairly. M really did not think that, based on that photo, they were going to give him a police caution and throw him out but, ridiculous as it was, that is exactly what happened.

5. The complainant accepted that stewards have a job to do but, if someone has done something wrong, the stewards should inform the person what they are being accused of and should be able to provide evidence. She maintained that by putting M (who clearly has a Teesside accent) outside the stadium in the dark, in what he felt was a very rough area with the possibility of Luton supporters being in the vicinity, the stewards had put him in danger. The complainant said that M had had to provide the police with his details and had been given a warning slip, purely on the basis of an unsupported accusation by the stewards. M's apprenticeship was dependent on him having a DBS check so the Club had put his future at risk. She asked that the Club review the training of the stewards so if they are removing someone in future, they provide clear reasons and evidence for their actions. She also thought it advisable for them to do a risk assessment before removing people from safety. The complainant asked for the Club's records of the incident and a copy of the photo that formed the sole basis for removing M from the ground. The complainant asked the Club to refund M's day's pay of £48.68, his £12 ticket and his coach travel of £32.

Subsequent events

6. On 9 November the Club's Safety Officer replied saying that the complainant's concerns and complaints had been passed to him, but would take time to investigate. On 22 November the complainant asked when she could expect a reply from the Club. She said that having seen that a Luton fan had been attacked after a match, only served to highlight what a vulnerable position M had been placed in. On 24 November the Safety Officer replied that seeing one of their supporters in such a situation had left them all shaken. He said that he had carried out an investigation into the occurrences that took place on 2 November. He explained that for a person to be asked to leave the ground

and/or be ejected, they would have needed to have conducted themselves other than in line with the EFL ground regulations, which he highlighted. He said that a small number of Middlesbrough supporters had been asked to leave due to high levels of abuse, obstructing of the gangways, and refusal to comply with the instructions of stewards; some had subsequently been ejected for refusing to comply with those requests. That situation, coupled with a crowd surge against the segregation line, breaching it at one point and subsequently putting staff and other supporters at risk, had left the Club with no alternative but to remove those that were identified as either in breach of ground regulations or whom they reasonably believed were likely to breach the ground regulations based on their observations. M was one of those identified.

7. The Safety Officer said that as far as the Club were aware, M had not committed an indictable offence; a breach of ground regulations and summary ejection is not the same as an arrest and conviction. He recommended that she take up with Cleveland Football Policing her question about a DBS check. Regarding safety outside the ground after ejection, the Safety Officer said that adjacent to the away end is a well-lit residential street with CCTV coverage. In addition, both police and stewards had been in the vicinity throughout the fixture. The Club's priority is to keep all those attending the ground safe and do not consider that anyone ejected is placed at any increased level of risk. He said that he had discussed with the staff involved her complaint about the poor level of communication. He had found that the information provided to M had been incomplete and that they could have eased the situation significantly by providing greater depth in their explanation so that M would have known why he was being asked to leave. The Safety Officer apologised for that and said that training will be given in that area. The Safety Officer said it was unfortunate that anyone needed to be ejected, but the ground regulations were in place to ensure the stadium is a safe and secure place for all those attending to enjoy the match. While the Club appreciated that a football match can be watched and supported with passion, there is no place for abuse and disorder.

8. On 26 November the complainant replied. She had read the ground regulations and contended that M had not breached any of the criteria. By removing him as being "believed to be likely to breach the guidelines" was a breach of the Club's own regulations, as that reason for removal was not listed. She could not see that difficulties with crowd surge and obstruction of gangways had anything to do with M. She said that she could only conclude from the fact that the Club had not supplied the photo, that as M had said, it showed nothing other than him watching the match. She strongly disagreed that M had been safe outside the stadium. She was pleased to hear that communications training will be given. She said that she would like the club to confirm that M did not do anything wrong as it appeared that the stewards had removed him for some unfounded suspicion and then, when backed into a corner, they made some wild claim of anti-social behaviour that they were unable to substantiate.

9. On 1 January 2022 the complainant told the Club that it was disappointing to feel ignored when in the midst of a complaint, but it had provided time for her to seek legal advice and to speak to the police, who had confirmed that the pink slip given to M was not in relation to any criminal offence. She asked again for a copy of the photo of M that the steward had claimed evidenced anti-social behaviour. The legal advice had explained that the purchase of the ticket is a

contract whereby M agreed to abide by the Club's policies. As she had twice asked for M to be compensated, but had been ignored, she informed the Club if, within 14 days, a payment had not been agreed for what had happened to M, she would make a claim by proceeding with a money claim online via the Government Gateway website.

10. On 4 January the Club told the complainant that they were glad to hear that she had been reassured that no permanent damage had been caused to anyone's record. In relation to compliance with the ground regulations, without prejudice the reason for anyone being asked to leave the ground would have been due to them behaving otherwise than in compliance with the regulations. That would have been the case for any individual asked to leave or ejected from the ground, including M. The Club were not able to share the photo due to other individuals being visible. The Club would not be offering recompense for any suggested/implied losses due to the aforementioned conditions of attendance. The Club considered the matter to have reached its conclusion and would not discuss it further. The complainant remained dissatisfied and on 4 February asked the IFO to consider her complaint.

The investigation

11. In their comments to the IFO, the Club explained that for a fan to be ejected from the stadium, they would need to have conducted themselves in a way that went against the EFL ground regulations. The ground regulations stated (section 1.1) that any 'authorised steward may refuse entry to (or eject from) the Ground any person: that fails (or in the Club's reasonable opinion is likely to fail) to comply with these Ground Regulations and/or the Supporter Code of Conduct and/or any reasonable instruction issued by a police officer or authorised steward or officer of the Club'. The Club were confident that the decision taken on the night of 2 November was within reason, and justifiable; M had been identified as one of a group who had been observed behaving antisocially and stewards had been asked to eject each of the group when safe to do so. In relation to the complainant's concerns regarding communication with the stewards, the Safety Officer had explained that the information supplied by the stewards had been incomplete, and that a better explanation should have been provided. The Safety Officer had apologised for that and had assured the complainant that the matter would be taken forward to provide additional training, which had since taken place.

12. The IFO obtained from the Club their match day report, their incident report and access to the photo shown to M. The IFO also obtained a photo of M from the complainant. The match day report said that [named steward] was made aware that a small group of Middlesbrough supporters had been identified for ejection due to unacceptable behaviour since entering the ground. The incident report, timed at 20.05 hours, recorded:

"Control advised of 5 or 6 Middlesbrough supporters identified to be ejected. [Steward] approached and we stood by until safe to eject one by one. At the 15th minute of the game Middlesbrough scored and the seg line was almost breached. My team went in and held the ground and at the same time ejected 3 guys for being violent. One of the identified 6 was seen by me in the seating area and I ejected him."

The steward's description of the person ejected from the seating area appears to fit M. The photo shows the six supporters selected for ejection by the Club's control point. One of them appears to match M's description. None of the six appears to have been doing anything untoward at the time the photo was taken. The Club have told the IFO that the photo was taken and passed to stewards for identification purposes only; it did not purport to be evidence of wrongdoing. The six individuals had been selected because of previous antisocial behaviour contrary to the ground regulations. There was no relevant CCTV footage.

Findings

13. It is clear from the Club's account and their match day records that their control point selected six individuals for ejection, based on their conduct since entering the stadium. A photo identifying the six was passed to stewards for them to effect the ejections when safe to do so. As the Club themselves have already conceded to the complainant and the IFO, the stewards should have been briefed to explain why ejection was deemed justifiable. That deficiency was exacerbated by the stewards showing M the photo from which he could see that he was doing nothing untoward; they should have explained that the photo had been taken for identification purposes only, rather than as showing the reason for ejection. The IFO welcomes the Club's acceptance that additional training was required in this area. **The IFO recommends that stewards are briefed properly in relation to ejections and that match day and incident reports contain more specific information regarding breaches of the ground regulations and reasons for ejection.**

14. Were the Club were justified in ejecting M? The photo suggests that he was one of the six identified as having been behaving antisocially since entering the stadium, but there is no concrete evidence to support that. In addition, at the time of his ejection, he was in the seated area, with no indication that he was doing anything wrong. In the circumstances, given the lack of evidence provided to M on the day and subsequently to the IFO, the IFO cannot be satisfied that M was in breach of the ground regulations; it is simply not possible for the IFO to be able to adjudicate with any certainty on the matter of justification. Although, on the evidence available, the IFO is unable to recommend that the Club compensate M for the money he spent in relation to the match, the IFO is far from satisfied with the Club's records and communications surrounding the ejection **and recommends that the Club make M a goodwill gesture of £50 for the unprofessional and confusing way in which the ejection was handled.**

15. In response to that recommendation, the Club said that they appreciated the suggestion that M should be compensated for the way in which his ejection had been handled but, while they had previously acknowledged that the incident could have been handled better and communicated with greater clarity, they had already reviewed their internal processes and practices, and had updated their internal training. They did not consider that those changes would have changed the outcome of the incident as they had acted appropriately within the ground regulations as set by the EFL and did not, therefore, feel it appropriate to offer any compensation.

16. The complainant was also concerned that M had been put at risk by being removed from the stadium. At paragraph 7 the Safety Officer has explained why

he did not consider that M had been placed at extra risk and the IFO has no evidence to counteract that view.

Conclusion

17. It has not been possible for the IFO to determine with any certainty whether M's ejection was justified. What is clear is that there were shortcomings in the Club's records and the way in which the ejection was effected, in recognition of which the IFO recommended a goodwill payment of £50. While the IFO welcomes the improvements to the Club's processes and training, he is disappointed at the Club's refusal to make the goodwill payment.

Kevin Grix, Ombudsman

25 April 2022

Alan Watson CBE, Deputy Ombudsman