

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: 18/06

LOYALTY POINTS DEDUCTION AT BRIGHTON

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. 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 the full cooperation of Brighton and Hove Albion FC.

The Complaint

3. A Brighton season ticket holder complained that sanctions imposed on him by the Club were unreasonable and disproportionate, and he questioned both whether the Club's appeal process was meaningful and whether the mitigation he had offered had been considered properly.

The facts of the case

4. On 31 August 2017 the Club wrote to the complainant saying that following his recent purchase of a student ticket, they had reviewed his purchase history and found that in addition to student tickets, he had purchased five age

concession tickets to which he was not entitled and had gained the respective loyalty points by doing so. As a consequence they had imposed the following sanctions:-

- * Deduction of the loyalty points awarded from the relevant games.
- * A further 100 loyalty points deduction for defrauding other clubs.
- * A ban of five home games.

5. On 5 September the complainant appealed. He apologised for his actions, but gave no reasons for them. He said that he considered himself to be a full-time student, although he was employed full-time. He accepted he should lose the loyalty points for the matches where he had abused the system but, rather than lose the 100 loyalty points, he offered the alternative punishments as follows:-

- * Double the cost of the revenue lost for the incorrect tickets to be given to charity.
- * Loss of points from the five games.
- * 38 hours of Albion in the Community service, or a suitable alternative.

6. The appeal and the complainant's proposals were considered by a Panel comprising the Club's Head of Safety and Security, the Head of Ticketing and Support Services and the Supporter Services Manager. The Club gave the complainant the benefit of the doubt over the student tickets, even though they did not classify him as studying full-time. They, therefore, disregarded the student rate tickets, so only the question of underage tickets was considered at appeal. The Panel upheld the sanctions imposed because the complainant had knowingly and willingly persistently committed fraud, and had not given any kind of acceptable reason for that. On 7 September the Club notified the complainant of the outcome of his appeal.

7. On 18 September the complainant replied expressing his disappointment about the deduction of loyalty points, particularly in light of the many alternative reparatory actions he had suggested. On 21 September the Club invited the complainant to meet with a different Appeal Panel. On 6 October the complainant appeared before the Panel, which comprised the Ticket Operations Manager, the Finance Director and the Stadium Manager. After the hearing the Finance Director wrote to the complainant. He noted that the complainant had accepted that he had bought underage tickets deliberately, and not naively, and that his actions were wrong. The Panel were fully satisfied that the sanctions imposed reflected the seriousness and repeated nature of the complainant's fraudulent activity. The Club could have reported the matter to the police but took account of the complainant's longstanding support of the Club. The Club looked forward to welcoming the complainant back and hoped that there would be no recurrence of such issues in the future. The complainant remained dissatisfied and on 21 November asked the IFO to investigate his complaint.

The complainant's account

8. The complainant said that across two seasons – 2015/16 and 2016/17 – he had purchased five tickets for away games at an age category to which he was not entitled. He had not disputed that, had accepted that it was wrong and that it was appropriate for him to receive a sanction. He said that the investigation into those purchases had been triggered into his purchase of student priced tickets, to which he believed he was entitled due to his studies and a valid NUS card. The Club had since clarified their position on students and made clear the differentiation between students and full-time students. For two games he had purchased student tickets which he returned at the Club's request, after they told him he was not eligible. The ticket money was donated to Albion in the Community. He did not dispute the outcome, but believes it set a precedent which formed part of his appeal to the Club.

9. The complainant contended that the sanctions imposed for buying wrong age category tickets was disproportionate when over the same period he had purchased tickets for 28 away games. He said that he understood he had done wrong, but believed that the punishment did not fit his "lapse in judgement". He accepted that there had been a risk of bringing the Club's name into disrepute, but he loves the Club and his indiscretions were the desperate result of wanting to watch them when money was tight. He said that the 100 points deduction effectively bans him from away games for the rest of the season, and potentially for future seasons as he is unlikely to be able to purchase away tickets to build up his points. He said that as part of his appeal he had proposed alternative punishments, none of which had been acknowledged by the Club. He said that at no stage of the appeals process had the Club acknowledged his proposition, or offered evidence that they had considered it. The appeal hearing had lasted only ten minutes and his impression was that it was a tick box exercise. He said that he had been unable to find a published tariff of sanctions, similar to that used by Manchester United, which can be found on line.

The investigation

10. The Club provided the IFO with a dossier of evidence and comments on the action they had taken. This was supplemented by a visit to the Club by the IFO and Deputy, where they met to discuss the complaint with the Head of Ticketing and Supporter Services, the Supporter Services Manager and the Head of Legal and Commercial. The Club told the IFO that in August 2017 one of the complainant's friends was banned following an incident at Queen's Park Rangers and it became clear that the friend had been purchasing full-time student away tickets, despite working full-time. That had prompted the Club to look into the purchasing history of the group with whom the friend regularly purchased tickets. As a result, they found that several members had repeatedly purchased student and age concession tickets to which they were not entitled. In addition to paying less than they should, the individuals had also gained loyalty points which in turn had given them a points priority they had not rightfully earned. That had helped to give them access to popular fixtures at the expense of honest supporters. The Club found that the complainant (who at the time was aged 28) had purchased five age concession tickets in addition to student tickets for which he was ineligible.

11. The complainant's home ban lifted at the Crystal Palace game on 28 November 2017 and he successfully purchased tickets for the Newcastle away match on 30 December.

Findings

12. As the complainant has admitted fraudulent activity in relation to buying underage tickets, the only matters for the IFO to consider are whether the appeal process was meaningful and whether, as the complainant contends, the sanctions imposed were unreasonable and disproportionate. First, the IFO welcomes the fact that the complainant was given every opportunity to state his case, in particular by having been given a personal hearing by the second Appeal Panel. In that regard, the IFO has seen no evidence either that the appeal process was not meaningful or that the mitigation the complainant offered was not considered properly. Both Appeal Panels had the opportunity to consider not only the evidence, but also the complainant's grounds for appeal, his mitigation and his alternative proposals for sanctions. Indeed, the letter notifying the outcome of the first appeal referred specifically to the complainant's suggested alternative punishments. In addition, the indications are that, in allowing the complainant the benefit of the doubt over his use of student tickets, the Club acted somewhat generously rather than punitively.

13. The IFO can well understand why both the Panels considered that, because the complainant had gained an unfair advantage at the expense of honest fans, a points deduction was the appropriate reparatory action. His deliberate illegal activity could hardly be regarded as the "lapse in judgement" which he contends. In such circumstances the IFO is satisfied that the Club were entitled to take the decisions they did and that the sanctions are both reasonable and proportionate. Not to have imposed a points deduction would have allowed the complainant's unfair advantage over others, gained through deliberately buying underpriced tickets, to have continued.

Conclusion.

The IFO is satisfied that the complainant abused the concessionary ticket arrangements regularly and that the Club was entitled to apply the sanctions imposed.

Professor Derek Fraser, Ombudsman

28 February 2018

Mr Alan Watson CBE, Deputy Ombudsman