

IFO

THE INDEPENDENT
FOOTBALL OMBUDSMAN



Chartered Trading
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IFO COMPLAINT REF 18/14

AN ALLEGATION OF RACIAL DISCRIMINATION AT LIVERPOOL

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 acknowledges that in investigating this complaint he has received the full cooperation of Liverpool FC.

The Complaint

3. A man complained of racial discrimination by being unfairly singled out while photographing Liverpool players. He further complained of difficulty in

registering his complaint and that the Club had not handled his complaint properly.

The Facts of the Case

4. On home match days it is the practice of Liverpool players to stay at a city centre hotel. It is common for supporters to gather near the hotel to take photographs and get autographs. The complainant, a Black Afro Caribbean male, lives in the vicinity and often takes street photographs. On Sunday 4 February 2018 the complainant, along with many others, was taking photographs of the players and, at the time the police detail arrived to escort the team bus to the ground, was approached by a police officer. The officer explained that he was speaking to the complainant on the advice of a security agent who was concerned about the way he was taking photographs. In the police response to the complainant it was explained that "the officer removed you from the crowd you were in in order to maintain your privacy" and that once your details were provided, "he was happy with you and your presence there and advised you to carry on taking photographs". On the following day the partner of the complainant contacted the Club to complain and officials obtained a report from the security company. After other calls, the Head of Fan experience contacted the partner and spoke by phone for some 50 minutes. It was agreed that it would be best to talk the issues through face to face and on 15 February the complainant and his partner met with the Head and one of her team. The discussion, which lasted for one hour, was informal without specific outcomes and the complainant was invited to submit a formal case listing the issues which he wished the Club to address. On 1 March the complainant submitted his case via Kick It Out addressed to the Diversity and Equality Officer. The Head of Fan Experience acknowledged receipt of the complaint on 2 March and on 12 March responded officially on behalf of the Club, having consulted the legal department. On 20 March the complainant referred his case to the IFO, explaining that he did not believe that Liverpool FC had addressed his concerns.

The investigation

5. The IFO carefully reviewed the submission made by the complainant and subsequent comments which he sent to the IFO during the investigation. On 17 April the IFO visited Anfield and met with the Head of Fan Experience, together with two legal officers. The officials explained that they had taken the complainant's concerns very seriously, as evidenced by the willingness to meet the complainant face to face. On the basis of their discussion with the security company, they were satisfied that the action of the agent was based on his security concerns, not on any form of racial discrimination. The Club was proud of its equality and anti-discrimination policies and initiatives. Indeed, in May 2017 Liverpool had been the first club to achieve the Premier League Advance Level Equality Standard. The officials asserted that if there had been any discriminatory action, neither the agent nor the company would have continued to act on behalf of the Club. The officials pointed out that the security company

had confirmed that they had an equality and diversity policy, in addition to which all of the guards they provided for the Club held the requisite Security Industry Association (SIA) licence. The SIA training (independently provided by licensed third party training providers) also covers equality and diversity. The company was vastly experienced and acted in other high profile environments, such as major pop concerts. The officials claimed that they had remedied the shortcomings in the complaints processes as identified by the complainant.

The findings

6. The main focus of this report must of necessity be on the response of the Club, because the IFO has no locus or remit for the actions of either the security company or the police. However, the events of 4 February are essential background to the complaint and worthy of some consideration. At the time the reason given for involving the police was that the complainant was taking photographs in an unusual manner. There is some merit in the complainant's view that this is hardly a justifiable reason to refer the complainant to the police. However, the security agent reported that he had other concerns which worried him and, in the light of heightened security in the wake of well publicised incidents, he judged it prudent to ask the police to talk to the complainant. He had noticed that the complainant seemed to show a disproportionate interest in the back of the team bus and the doorway through which the players would leave the hotel. He believed that the complainant was surreptitiously photographing the agent himself (which the complainant denied) and concluded that the complainant may have been conducting some sort of surveillance. The IFO understands how the complainant drew the conclusion that he was singled out because he was the only black person in the crowd. On the other hand, the Club maintains that he singled himself out by behaving in an unusual manner and thus it was his unique behaviour, not his skin colour, which raised possible security concerns. The complainant strongly disputes the agent's version of events and retains his conviction that "the only thing different about me was my race and the colour of my skin".

7. Turning to the response of the Club, the IFO sympathises with the complainant's claim that he found difficulty in accessing the complaints procedure. In a previous Adjudication the IFO found that the Club's procedures were not wholly clear and understands that these are under review. In upholding this aspect of the complaint, **the IFO recommends that the Club makes the signposts and pathways clearer for supporters wishing to submit a complaint.** The Club has already acted to remedy the deficiencies identified by the complainant. Notwithstanding what the complainant perceived to be procedural shortcomings, he was able to register his concerns promptly through the initiative of his partner. The Club is to be commended for recognising the seriousness of the concerns and for the quick escalation to a senior level, culminating in a long phone call from the Head of Fan experience to the partner. The complainant is disparaging about the Club's statement that it is

not usual for a complainant to be granted a personal meeting with a senior official. By way of context, it can be confirmed that most complaints submitted to the IFO include protests that the complainants were not able to put their views personally to their Clubs. Hence it does reflect the seriousness with which the Club addressed the complainant's concerns that a personal meeting with him and his partner was arranged early in the process. The complainant expressed disappointment that the Race Equality Officer and the Head of Security were not present at the meeting, since they were unavailable. The IFO agrees that it made sense not to delay the meeting and does not believe that their absence affected the outcome of the meeting.

8. In the event the meeting did not lead to a resolution of the matter and a formal complaint was submitted. The IFO is not a legal tribunal and is not competent to judge the strength of the complainant's contention that the Club is in breach of the 2010 Equalities Act. If he believes the law to have been broken it is open to the complainant to take legal advice and have the matter tested by a different tribunal. The Club is adamant that the events of 4 February do not justify the claim that the complainant was the subject of racial discrimination and that is the basis of their response to the complaint. The Head of Fan experience agreed at the meeting with the complainant that matters might have been handled differently had the security agent spoken to the complainant directly. However, the Club pointed out that the security guards do not have authority to stop and question members of the public and only the police have such powers. The team departure for the match is the most challenging from a security perspective and, with that departure imminent, the security agent chose to make his concerns known to the police, after consulting with his supervisor. The Club believes the security agent acted professionally and appropriately in the circumstances in reporting the matter to the police.

9. The IFO does not support the complainant's contention that his concerns were not investigated fully or taken seriously, since the complaint was reviewed at a senior level, including by the Club's legal officers. The Club advised the complainant to take his complaint forward to the security company itself and the complainant drew the not unreasonable inference that the Club was in some way seeking to distance itself from the actions of the company, who were clearly, in the IFO's view, acting as the Club's agents. In the circumstances **the IFO recommends that the Club should write to the complainant again confirming that, within the limits of its legal liability, it accepts responsibility for those acting on its behalf and reiterates its regret that circumstances arose which led the complainant to feel that he had been unfairly treated.**

10. Although the complainant was able to refer his complaint to the IFO, he was not advised formally by the Club of his right to do so. The IFO reminds the Club that the IFO is designated by the Premier League (and the other governing

bodies) as the final stage in football's complaints procedure and that when they have completed their internal review they should always advise complainants of the IFO's role and contact details.

Conclusion

11. The IFO understands how the complainant drew the conclusion that his status as the only black person outside the team hotel explained the actions of the security agent in singling him out for police attention. The Club takes the view that the agent had a credible explanation and that he acted reasonably and appropriately by raising his concerns. Whether the events of 4 February constitute a breach of the law is outside the IFO remit. Within the mandate the IFO concludes that, despite a lack of clarity in the complaints process, Liverpool FC took the complainant's concerns seriously and investigated them fully.

Professor Derek Fraser, Ombudsman
Alan Watson CBE, Deputy Ombudsman

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