

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: 19/18

12 MONTHS BAN AT STEVENAGE

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 Stevenage FC.

The complaint

3. A Stevenage supporter complained that the Club had banned him unfairly.

Background

4. Being in possession of a pyrotechnic device (flare, smoke bomb or firework) at a football match, or attempting to take a pyrotechnic device into a football stadium, is a criminal offence under the Sporting Events (control of alcohol etc) Act 1985. On 3 November 2017 all 72 EFL Clubs signed up to a new Chairman's Charter to help put an end to the dangerous use of pyrotechnics. Under the Charter Clubs will take strong action against anyone attempting to take a banned item into a ground or discharging one within the stadium environment. Any supporter found to be in breach of the Charter will face a minimum three season club ban, but clubs do have flexibility to reduce the ban should an offender recognise the danger of their actions.

The facts of the case

5. On 24 December 2014 the Club wrote to the complainant saying that, following allegations and pre-match intelligence received by the Club, they were enquiring into his behaviour while supporting the Club. In the meantime, the Club did not wish him to attend any match, home or away. On 25 January the Club wrote to the complainant following an interview which he had had with the Club Secretary and the Club's Football Liaison Police Officer on 19 January. The Club said that he was to be excluded from all matches involving the Club for the remainder of the calendar year on the grounds that he was in possession of pyrotechnic devices en route to the ground. The complainant appealed and attended a meeting with the Club's Chief Executive and Secretary. The complainant admitted to having attended the Club's away match at MK Dons and cited legislation which, he said, entitled him to attend away matches. The Chief Executive adjourned the meeting to seek guidance on that and subsequently let the complainant know that he was entitled to attend away matches.

6. On 13 April the complainant attended his appeal hearing with the Club's Chief Executive and their Head of Special Project. On 29 April the Club wrote telling the complainant that, although he had demonstrated a level of contrition, they did not consider that that outweighed the actions he had freely admitted having undertaken (attempting to take pyrotechnics into a football stadium). The Club were upholding the 12 months' exclusion and would be notifying the EFL and member clubs who would have the right to exclude him from their grounds. The complainant remained dissatisfied and on 15 May, through the Football Supporters' Association, he complained to the IFO.

The investigation

7. The IFO carefully reviewed the documentation submitted by the complainant and a report provided by the Club. The Club said that during season 2018/19 they had been faced with pyrotechnic use at both home and away matches. Intelligence received by the Club suggested that a group of youth supporters would be travelling for the fixture at Northampton on Saturday 14 December

intent on anti-social behaviour and use of pyrotechnics. The Club forewarned Northampton's Safety Officer and the relevant police forces. On the day there were reports of anti-social behaviour by Stevenage supporters on trains, and in Northampton Town, including pyrotechnic use. En route from Northampton station the police had stopped a group of Stevenage supporters who matched the description of those reportedly causing problems. The police conducted a search and the complainant was found to be in possession of two red smoke grenades. The complainant had maintained that he was holding them for a friend, but did not disclose whom. The police arrested the complainant, but after interview and a bail procedure to facilitate investigation, they decided, in consultation with the CPS, not to prosecute the complainant. The Club had then dealt with the complainant in accordance with their own procedures and the EFL pyrotechnic charter.

8. On 18 July the Deputy IFO met with the complainant. He said that he has been a Stevenage fan from a young age and attends matches both home and away, sometimes with friends, sometimes alone. He has never previously been in trouble. He alighted the train in Northampton in a group of about 25 fans, but only two or three were friends. One of the group had asked him to hold the smoke bombs while he rolled a cigarette and, unthinkingly, he had put them in his pocket. Someone had set off a pyrotechnic and three policemen had approached them, followed by more in vans. The police had asked if anyone had pyrotechnics; he realised he still had them and raised his hand. He was arrested and spent 10 hours in a police cell, without his medication, before being released. He said that the experience had been deeply unpleasant and more than enough to prevent him from inadvertently breaking the law again. He has a responsible job in social care and was worried that action by the police could cost him his position. The police had subsequently decided not to charge him for lack of evidence/not in the public interest.

9. The complainant admitted that he had been stupid to take possession of the smoke bombs and regretted it immensely. He said that it had never been his intention to take them into the ground or to use them; they did not belong to him. He said that it is "killing him" not to be able to go to home games, as the Club is such a large part of his life. He said that he has been treated for anxiety and depression and at the time of the events was taking Sertraline, which can cause the recipient to make rash decisions, or impair thinking or reactions. (According to the Club, the complainant did not mention his medical condition at any of the meetings which they had with him.) Since the incident, he has made it known to other supporters what can happen if caught in possession of pyrotechnics.

10. He said that the Club had tried to ban him from away games, which had caused the adjournment of the first meeting for his appeal, which had then been delayed to 13 April. He maintained that because he had been arrested two miles

from the Northampton stadium, he should not have been banned under the terms of the EFL charter, which applies to offences inside a stadium or attempts to access a stadium with a device. Such action had never been his intention.

Findings

11. Because of the dangers attached to the use of pyrotechnics, the IFO can well understand the introduction of the EFL Charter and the need for Clubs to take strong action to prevent and combat their use. This applied particularly to Stevenage where the use of pyrotechnics at both home and away matches was a problem. By his own admission, the complainant was in possession of two smoke bombs when confronted by police. Whether or not the smoke bombs belonged to him, or he was holding them for someone else, that was distinctly unwise. However, he maintains that they did not belong to him and he had no intention of taking them into the stadium or using them, a fact which the police had accepted in deciding not to charge him. The incident with the police occurred over two miles from the stadium and the breach of the EFL Charter is for attempting to take a banned item into a ground. To believe that his intention was to take the devices into the ground can only be an assumption as there is no evidence either way.

12. The IFO commends the Club for arranging to meet with the complainant, on two occasions, to hear his side of the story and to discuss his appeal. What should have been the appeal meeting was adjourned for the Chief Executive to seek advice on the ban on away matches. That was responsible for some delay, as was the number of matches and events held in the final few weeks of the season, but the appeal should still have been concluded before the end of April.

13. The IFO can well understand why the Club would want to make an example of anyone found with pyrotechnics; the resulting smoke is carcinogenic and people must be deterred from using them. In this particular case the IFO accepts that spending ten hours in a police spell without his medication, followed by a ban since January on watching the Club he loves, clearly has had a traumatic effect on the complainant, particularly given his background of anxiety and depression. The IFO is satisfied that the complainant realises how stupid he has been and how dangerous pyrotechnics can be, and a positive effect for the Club is that he has been warning others about the dangers of being caught in possession of pyrotechnics. The IFO is also satisfied that if the complaint was to be allowed back into the stadium, he would not pose a risk, and in that context, it is interesting that the Club are not preventing him from attending away matches (subject to the away club not doing so). In the circumstances, **the IFO recommends that the Club suspend the balance of the ban and allow the complainant to purchase a season ticket for 2019/20, subject to him completing a good behaviour agreement.** Any future transgression would see the ban re-imposed, together with any sanction found warranted by that transgression. The Club's initial reaction to the recommendation was that the

ban of one year, rather than the potential minimum three years outlined in the EFL Charter, was appropriate, thereby reflecting the location of the complainant when stopped by the police.

Conclusion

14. The complainant has readily acknowledged the folly of being in possession of pyrotechnic devices and recognises the dangers of such devices, but has steadfastly maintained that he had no intention of taking them into the stadium. The IFO has found that the incident had a traumatic effect on him, both in having to spend ten hours in a police spell, then being banned from watching the Club he loves. The IFO does not consider that the complainant poses any future risk and recommends that the ban be suspended, subject to him completing a good behaviour agreement.

Professor Derek Fraser, Ombudsman

9 August 2019

Alan Watson CBE, Deputy Ombudsman