

IFO

THE INDEPENDENT
FOOTBALL OMBUDSMAN



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IFO COMPLAINT REF: 20/17

A TICKETING SANCTION AT TOTTENHAM HOTSPUR

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 Tottenham Hotspur FC.

The complaint

3. A Spurs season ticket holder complained that the Club had imposed on him an excessive sanction for an inadvertent breach of the ticketing regulations. He was particularly aggrieved that the sanction seriously reduces his ability to attend away matches.

The facts of the case

4. The complainant is a Spurs season ticket holder of 25 years standing who has built up a significant bank of loyalty points, which enable him to purchase tickets for away matches. He qualified for the Chelsea v Spurs match at Stamford Bridge on 22 February 2020. The evening before the match he found that he could not attend and "gave" his ticket to a friend, who was also a Spurs ticket holder but who had insufficient points to purchase a ticket for this match. The person who used the ticket ended up in police custody and this alerted the Club to the fact that the complainant had passed on his ticket. On 27 February Spurs informed the complainant that, in line with the Club's Sanctions and Banning Policy, he was being issued with a sanction. The Club stated that his action had breached the ticketing terms, "but also poses a security risk". The Club policy, promulgated in December 2019, specified the sanction as a written warning and the loss of 50% of his loyalty points. On 16 March the complainant submitted a formal appeal. While admitting that he had made an error of judgment, and appreciating that pleading ignorance was not a defence, he said that he had believed the sanctions policy was aimed at those who sold tickets above face value (touting). He claimed that in the circumstances where it was too late to return the ticket to the Club, he had acted in good faith to avoid the ticket going to waste by giving it to a genuine supporter. He believed that the sanction was excessive and would have a detrimental effect upon his father who always travelled with him to away matches. The complainant cited delays in the process (later admitted by the Club) and his appeal was not heard until 14 August. The virtual meeting was attended by the complainant and his father before an appeal panel comprising two Club officials and an independent member. In their letter of 17 August the Club admitted that it had been a challenging discussion and that that complainant's apology and his conduct (and that of his father) were appreciated. The panel unanimously agreed that the existing sanction in the 2019/20 membership and ticketing terms and conditions, which had been acknowledged by and agreed to by the complainant at the point of purchase, justified the original sanction. In response to concerns about the impact of the points deduction, the panel informed the complainant that his reduced total would still have enabled him to have attended nine Champions League, Premier League and FA Cup matches during the 2019-20 season. After some confusion over an incomplete submission in September, the complainant referred his case to the IFO at the beginning of November.

Investigation

5. The IFO carefully reviewed the complainant's submission, together with a statement from the Supporters Trust. Tottenham Hotspur submitted a dossier of 8 documents relating to the regulations, the progress of the case and the outcome. The Club explained that the original 2019-20 terms and conditions had been updated by a specific Sanctions and Bans Policy in December 2019, which had been widely publicised. It was also pointed out that the Club had been under pressure to take strong action on this matter from supporters who were unable to get away tickets and were angry when they saw such tickets advertised for sale on the secondary market. When mis-selling was brought to the Club's attention it had an obligation to act "for the benefit of other eligible fans who otherwise will miss out."

Findings

6. For understandable reasons all Premier League clubs are particularly concerned about the improper sale or transfer of away tickets. Such tickets are of limited number and demand usually exceeds supply, which experience suggests leads to financial temptations to sell these tickets on the secondary market. Under Governing Body regulations clubs are responsible for the behaviour of their supporters when travelling away, while public safety and security concerns require that tickets are strictly personal to the purchaser and may not be improperly sold or transferred. Tottenham Hotspur's policy over away tickets is fully in line with practice across football and its sanctions imposed for the unauthorised transfer of tickets may be considered in the context of experience at other clubs as revealed in complaints investigated by the IFO. Among the many cases which the IFO has considered, sanctions have included indefinite bans (for very serious and persistent cases); time limited bans (usually 1 to 3 years); loss of season ticket or membership; full or partial restrictions on the purchase of away tickets (for one or more seasons); and loss of loyalty points or demotion within the scheme.

7. The complainant admits that he breached the regulations (once only) and the IFO accepts that his motives were honourable and certainly not with the intention of financial gain. He regards the sanction as excessive. He claims that he was unaware of the new policy implemented in December 2019, which he alleges was not properly publicised. This is also stressed in the supporting document provided by the Tottenham Hotspur Supporters Trust, who wrote "we believe the Club had a responsibility to better ensure fans were aware of the sanctions and banning policy". This might have been a mitigation factor, except for the fact that the original regulations gave the Club *unlimited* discretion, whereas the revised policy actually *limited* and specified the sanction. The policy statement issued in August 2019 listed the sanctions for the offer, sale or transfer of tickets as:

Including, but not limited to, a deduction of Ticketing Points, a season long ban on applying for match tickets for away fixtures..., or a permanent cancellation of a season ticket and all associated benefits without refund

In short, a range of sanctions similar to that cited from IFO investigations above. Whereas, the December 2019 policy specifies the sanction for the breach committed by the complainant as what was imposed, ie. a written warning and the loss of 50% of points, in practice far less severe than the maximum that could have been imposed under the earlier protocol. Compared to what the IFO has found elsewhere, the complainant has retained his ticket and sufficient points to entitle him to attend a range of fixtures, including high profile matches at Liverpool or Manchester United. In the light of this, the IFO cannot support the complainant's contention that the sanction is excessive.

8. In response to the draft report the complainant submitted further arguments in support of his position. He claimed that the Club had underestimated the impact of the sanction, because it had not taken account of the enlarged season ticket base as a result of the move to the new stadium. This would lead to an increased demand for a finite number of away tickets, with the inevitable consequence of an increase in the number of loyalty points required for each game. Also, the newer members would over the 4 years cycle "catch up" with him and so his relative position within the scheme would be eroded. He challenges the view that the new sanction was "widely publicised" and the Club does admit that it could have been given more prominence, while reminding that the original sanctions had been in place for many years. He believes that a fairer sanction would have been "a short fixed term block on buying tickets or a points deduction of 20%". Moreover, he does not consider practice at other clubs has any relevance to his case. The IFO always considers every complaint on its own individual merits. On the other hand, if the IFO is to come to any objective view of whether the supporter has been treated in a fair and reasonable manner, it is important to relate a case to custom and practice across the football world. In the context of similar cases investigated and considering that the sanction imposed was less severe than might have been the case under the original provisions, the IFO concludes that the sanction imposed by Tottenham Hotspur was not excessively severe.

9. The procedural shortcomings identified by the complainant are more worthy of support. He complained about the delays in responding to messages and in arranging his appeal, which were not in line with the Club's stated procedure. No doubt this was due to the impact of the lockdown (though this was not stated), but even where delays are beyond

the Club's control, there is an obligation to keep complainants apprised of the progress in their cases. The Club apologised and recognised that although nobody was attending matches, the delay was stressful for the complainant. He argued that the appeal panel was not properly constituted since it involved the officer who had dealt with the complaint at an earlier stage. The IFO is persuaded that the outcome of the appeal was not influenced by any alleged irregularity in the composition of the panel. It remains the case that good practice in the processing of appeals involves the principle of *escalation* – that cases considered at an appeal stage should be dealt with at a higher level than the original case review. It is also usual practice for the original officer not to be a voting member of the appeal panel, though such a person often attends to present the evidence. [*The Club maintains that is its current practice, but this was not made clear to the complainant.*] The IFO recommends that the Club reviews its practice in these matters. On the other hand, the IFO commends Tottenham Hotspur for allowing appellants to appear in person and for including an external independent member, features which are by means common within football. Finally, the complainant has identified an omission in the Club's re-selling arrangements, which do not permit the return of tickets within 7 days of the match. Hence the complainant is right that in a sense he had no option the day before the fixture other than to give his ticket away or to leave it unused. The Club has indicated that it will address this issue which was highlighted in this complaint.

10. **Conclusion**

The IFO has some sympathy for the complainant who has put up a cogent defence. However, it is clear that his action in transferring his ticket was in breach of the regulations, which justified a sanction in line with the December 2019 policy. He retains his season ticket and will be able to attend away matches, albeit perhaps in fewer numbers in the future. As such, the IFO cannot uphold his assertion that his penalty was severe. The complainant can continue to attend matches and support the club he has followed for 25 years.

Professor Derek Fraser, Ombudsman

23 November 2020

Alan Watson CBE, Deputy Ombudsman