



Home Office

Guidance on Football-Related Ticket Touting Legislation

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1. Introduction

Section 166 of the Criminal Justice & Public Order Act 1994 (“CJPO Act 1994”) makes it an offence to tout tickets for football matches.

This legislation was introduced to help improve public order issues at football matches. Lord Justice Taylor’s final report into the Hillsborough tragedy highlighted the importance of segregating rival fans in order to reduce the potential for disorder.

The legislation also helps to ensure tickets are not available to persons subject to banning orders and other risk purchasers (including known ticket touts).

The CJPO Act 1994 was updated by way of the Violent Crime Reduction Act 2006, (VCR Act 2006) which came into effect on 6 April 2007.

The amendment to s166 extends the ban on touting to specifically cover touts trading on the internet and other practices associated with the unauthorised sale and distribution of tickets including offering, advertising or exposing such a ticket for sale.

It makes clear that any disposal of, or steps preliminary to a disposal of, a ticket not authorised by the match organiser (as set out in the match organiser’s ticket terms and conditions) is a touting offence.

These new measures were introduced following discussions between Home Office, the UK Football Policing Unit (UKFPU) and the ‘Football Authorities’ (the Football Association (FA), the Premier League, the Football League, UEFA and FIFA) about the need to strengthen the ability of both relevant enforcement agencies and the Football Authorities to respond to touts developing ways around the 1994 legislation.

They are a further step in the successful partnership between the Football Authorities, Government and police to improve safety and security at matches in England and Wales, and when our National and domestic teams play overseas. They complement on-going work on a range of issues including investment in new stadia, CCTV, stewarding and the introduction of football banning orders, all of which have helped to create a safer and more secure environment at English and Welsh grounds.

This Guidance sets out how the legislation applies, including reference to specific terms and conditions established by the Football Authorities that have been designed to assist with the appropriate application of the Act.

2. Section 53 of the Violent Crime Reduction Act 2006

On 6 April 2007, s53 “*Sale and disposal of tickets by unauthorised persons*” of the VCR Act 2006 came into force, amending s166 of the CJPO Act 1994.

Under s166 of the CJPO Act 1994, it has always been a criminal offence for an “unauthorised” person (see section 4) to sell, or otherwise dispose of, a ticket for a “designated” football match.

Ticket touts’ practices had evolved to find ways around this law. For example;

- offering an item of nominal value (such as a pen or scarf) at an inflated price with the inclusion of a 'free' match ticket;
- offering unauthorised hospitality style packages with a ticket included - effectively ticket touting with a further expensive service tacked on;
- offering tickets in exchange for other goods or services.

The VCR Act 2006 therefore updated the CJPO Act 1994 so that the legislation provides that it is a criminal offence to dispose of or take any steps to dispose of a ticket, including:

- trading on the internet. If any part of a transaction occurs within England & Wales (the limit of the Act's territoriality) an offence has been committed (this does not include purchasing a touted ticket);
- making it an offence for newspapers, websites, and search engines to carry advertising for ticket touts;
- preventing touts trying to claim that they are giving a ticket away free with another product;
- applying the legislation to those who offer tickets within a wider hospitality/travel package; and
- applying the legislation to those who supply touts with tickets.

The price a ticket is sold (touted) at is of no consequence to the offence. Touts regularly sell tickets below face value. Any unauthorised sale can jeopardise public order by compromising the segregation of supporters.

The previous reference to sale in the course of a trade or business was removed, as this was not a concern from a public order perspective; any disposal is covered by the Act.

3. Regulated Football Matches

In 2006, the definition of a "regulated match" to which ticket touting legislation applies was extended to cover all tournaments in which a team from, or representing, England or Wales is eligible to compete. This includes all matches in the UEFA Champions League, UEFA Cup, UEFA European Championship and FIFA World Cup.

The Ticket Touting (Designation of Football Matches) Order 2007 sets out that regulated football matches includes (but is not limited to):

- (i) any match involving one or more teams who are members of the Premier League, the Football League or the Football Conference;
- (ii) every match in England or Wales in which an international team or a club side from outside of England and Wales will play;
- (iii) every match outside of England and Wales in which a national team representing England or Wales will play;
- (iv) every match in the UEFA Cup (or UEFA Europa League);
- (v) every match in the UEFA Champions League; and
- (vi) every match in UEFA European Championships;
- (vii) every match in FIFA World Cup Tournaments;
- (viii) the FIFA World Club Championship.

The Order replicates the coverage of matches for football banning order legislation, as designated under the Football Spectators Act 1989.

In practice, designation covers all matches in which an English or Welsh club side or national team could participate. This is necessary to avoid ticket touting for matches which would otherwise only become regulated matches once the competing teams are known and to prevent known troublemakers securing tickets for major international matches and competitions.

The Designation Order sets out that if a national team representing England or Wales, or an English or Welsh club side is participating in, or has participated in and been eliminated from, a FIFA or UEFA regulated competition or tournament, all matches in that tournament or competition are regulated matches.

During the drafting of the 2006 Order UEFA and FIFA were consulted regarding the definitions of their competitions. They confirmed that qualifying rounds and finals stages form part of the same competition. FIFA's World Cup tournaments and UEFA's European Championship tournaments are effectively two-year competitions. For example Euro 2008 commenced with a qualifying round between 2 September 2006 and 21 November 2007. From the qualifying round successful national teams progressed to the finals which include a group phase, quarter-finals, semi-finals and final which were held in Austria and Switzerland during June 2008.

4. Authorisation (Football Authorities Terms and Conditions)

It is an offence for any "unauthorised" person to sell a ticket for a regulated football match.

S166 of the CJPO Act 1994 takes as the starting point that the "host club" or "match organiser" determines who is authorised to sell a ticket. They do this through the terms and conditions attached to the ticket.

The requirement for authorisation makes it possible to distinguish between those carrying out sales activity on a legitimate basis from those who are not.

It may well be that the host club or match organiser will be the only sources of sales to the public, and if so, will be the only bodies authorised to sell.

However, in many cases, the host club or organiser of a match does not have the capacity to market or distribute tickets, or will wish to retain the services of an external agency to carry out ticketing activities. This is recognised and supported by the "authorisation" process.

In such circumstances, clubs and match organisers do authorise a small number of third party organisations to sell tickets, but this is never at a price above the 'face value' of the ticket, plus a transaction fee.

Enforcement agencies can easily check with the Football Authorities whether a website or company is an authorised ticket supplier. Members of the public should be aware that there are very few authorised third parties who sell tickets, but clubs do change this from time to time. The only guaranteed way of getting an authorised ticket is to buy directly from

the clubs, and they can do that through the club's home page, or through the Premier League or Football League websites, which will direct fans accordingly. If in doubt, ask the club.

The arrangements for FIFA World Cup finals provide an example. FIFA appoint the Local Organising Committee (LOC) to make the arrangements for the tournament, including arranging the public sale and distribution of tickets. Generally, the LOC and FIFA will appoint, under contracts that grant written authorisation, the following to act on their behalf:

- A ticketing service provider to sell tickets to the general public;
- A service provider to conduct the sales process for hospitality and travel packages that incorporate a ticket;
- National Associations who will be allocated a number of tickets to sell to their team's supporters (written authorisation will generally be contained in the regulations for the tournament);
- Sponsors and other commercial affiliates will also receive tickets. They are not authorised to sell tickets, but may invite guests, or use a number of tickets for promotion and competition prizes. The arrangements in relation to tickets will be recorded in the sponsorship and other commercial contracts.

5. Purchasing Tickets for Friends or Family

In making the law clearer, through the inclusion of "*or otherwise to dispose of such a (unauthorised) ticket to another person*", the Act does not change the status quo in respect of genuine supporters sharing or purchasing a group of tickets for friends or family.

To support the application of this legislation, the Football Authorities have promoted best practice ticketing conditions (which are incorporated into the sale of each ticket), which provide that tickets are non-transferable save in very limited circumstances.

The only circumstances in which a person is authorised to transfer a ticket are where either (a) the ticket is brought for a person who attends with the purchaser, i.e. a family member or someone known to him, who may or may not pay for the ticket at no more than the face value plus booking fee, or (b) where the original purchaser cannot attend the match in question and he transfers his ticket at or below face value to a natural person (rather than a corporate entity) who is known to him and who would be entitled to buy such a ticket themselves, provided that that such transfer takes place in consideration of no payment or benefit in excess of the face value of the Home Match Ticket and such transfer does not take place in the course of any business or for the purpose of facilitating any third party's business.

Ticketing Terms and Conditions make it clear that a ticket may not be offered as a prize in any promotion or competition or transferred, lent or sold to any third party as part of a hospitality or travel package, save as expressly authorised by the Football Authorities.

Copies of the applicable terms and conditions are available from each of the Football Authorities.

The police and other enforcement agencies are encouraged to continue to apply common-sense to the application of ticket-touting law and focus on activities that are clearly placing public order at risk by seeking to sell tickets for commercial gain.

6. Internet Sales

Ticket touting on the internet is explicitly covered by the law following the VCR Act 2006 amendment.

An offence takes place when one or more parts of the chain of an internet ticket touting transaction occur within the Act's coverage (within England and Wales).

For example, the ticket could be advertised for sale in the UK, the website registrant could be in the UK, the ticket seller could advertise a UK based telephone number or fax number, the transaction could take place by telephone in the UK, the seller could receive emails in the UK, the financial transaction could be processed in the UK and/or the tickets could be dispatched from the UK. All of these, and similar instances, indicate an offence has occurred.

Internet ticket touting was not previously covered because the internet was not in general use when the CJPO Act 1994 was introduced. To ensure that the amendment covering internet ticket sales (within England and Wales) is compliant with European legislation on electronic commerce it was necessary, in accordance with the EU Directive on Electronic Commerce, to incorporate the provisions set out in s166A which clarify the circumstances in which a service provider may be guilty of an offence. As such s166A is consequential to s166.

Reputable websites have a history of acting within the spirit of the law in removing listings for unauthorised ticket sales. S166A gives protection to Information Society Services if they are unaware they are displaying contravening material (in this case that the tickets are the subject of an unauthorised sale) and remove the information when notified of its presence. This does not have effect where the service provider knows that the content it is displaying contravenes the law. The Football Authorities spend a considerable amount of time notifying infringing websites (that often look extremely official and use intellectual property of the Football Authorities) that they are not authorised to sell, are committing a criminal offence, and should cease and desist from such activity.

Street touting and internet touting are inextricably linked. The experience of the Football Authorities suggests that if an internet seller does not sell its quota before match day, it hands over remaining tickets to the street touts.

7. Internet Ticket Touting Outside of England & Wales

The territoriality of s166 of the CJPO Act 1994 extends only to England and Wales. Ticket touting is not illegal in many countries. However, for matches outside of England and Wales the match organiser (e.g. FIFA / UEFA) could initiate civil legal action against any individual, agent or company infringing the specific ticket terms and conditions that prohibit their resale. Prior to Euro 2004, FIFA took legal action against more than 100 infringers of ticket terms and conditions. Other enforcement actions that have been taken include: Cease and Desist notices, logo removal and working with credit card companies to remove merchant services.

Of course the purchaser has no guarantee tickets bought from any unauthorised source will be received or genuine, and there is no guarantee of entry to the stadium.

8. Advertisements

Any person, newspaper or internet site that places an advertisement or a link to a website that is selling unauthorised tickets commits an offence, as they are advertising that a ticket is available for sale and/or making a ticket for available for sale by another person.

The Football Authorities and the UK Football Policing Unit work together to ensure that awareness of this is understood at all key media/new media/internet information companies.

9. Preventative Measures, Sentencing and Penalties

Conviction for ticket touting carries a maximum penalty of a £5,000 fine, a penalty that is on the same as scale as other comparable public order and other football-related offences.

Following conviction for a ticket touting offence as a preventative measure the court has a duty to impose a football banning order to prevent the subject from attending matches. Where it does not do so the court is required to state in open court why it has not done so. Football banning orders are customised and designed to prevent misbehaviour. An order for a ticket tout can be tailored to prevent the individual from entering within a certain distance of any football stadia on matchdays, and to prevent their purchasing football tickets.

10. Recordable Offence

The National Police Records (Recordable Offences) (Amendment) Regulations 2007 amended the Schedule to the National Police Records (Recordable Offences) Regulations by adding to the list of recordable offences the offence of ticket touting in respect of designated football matches under s166 of the CJPO Act 1994.

This means that all ticket touting convictions are recorded on the Police National Computer.

11. Enforcement Guidance and Targeted Action

The powers bestowed by s166 have always been used in a proportionate and targeted way by the police and other enforcement agencies. It is a matter for local police to decide what (if any) action is taken against individuals or companies involved in ticket touting.

The police, Football Authorities and other agencies will continue to work closely together to ensure a co-ordinated intelligence-led approach to the wide ranging issues presented by ticket touting. Police action and prosecution is only likely to be in the public interest when it can be evidenced that prosecution is necessary to prevent violence and disorder or to improve safety issues in connection with relevant football matches. However, this does not mean action will not be taken if other substantive offences are identified.

The UK Football Policing Unit is the primary point of police contact as detailed in ACPO and Crown Prosecution Service (CPS) joint guidance on the Prosecution of Football Related Offences. This will ensure opportunities for prosecution and football banning order applications are maximised under certain circumstances.

The Football Authorities take a close interest in this subject and are available and keen to provide support and assistance to enforcement action.

Appendix

Criminal Justice and Public Order Act 1994

Ticket touts

166.— Sale of tickets by unauthorised persons.

- (1) It is an offence for an unauthorised person to—
 - (a) sell a ticket for a designated football match, or
 - (b) otherwise to dispose of such a ticket to another person.

- (2) For this purpose—
 - (a) a person is “unauthorised” unless he is authorised in writing to sell or otherwise dispose of tickets for the match by the organisers of the match;
 - (aa) a reference to selling a ticket includes a reference to—
 - (i) offering to sell a ticket;
 - (ii) exposing a ticket for sale;
 - (iii) making a ticket available for sale by another;
 - (iv) advertising that a ticket is available for purchase; and
 - (v) giving a ticket to a person who pays or agrees to pay for some other goods or services or offering to do so.
 - (b) a “ticket” means anything which purports to be a ticket; and
 - (c) a “designated football match” means [a football match of a description, or a particular football match, for the time being designated for the purposes of this section by order made by the Secretary of State.

- (2A) An order under subsection (2)(c) may designate descriptions of football matches wherever played or when played at descriptions of ground or in any area specified in the order.

- (2B) The power of the Secretary of State to make an order under subsection (2)(c) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (4) [...]

- (5) Section 32 of the Police and Criminal Evidence Act 1984 (search of persons and premises (including vehicles) upon arrest) shall have effect, in its application in relation to an offence under this section, as if the power conferred on a constable to enter and search any vehicle extended to any vehicle which the constable has reasonable grounds for believing was being used for any purpose connected with the offence.

- (6) The Secretary of State may by order made by statutory instrument apply this section, with such modifications as he thinks fit, to such sporting event or category of sporting event for which 6,000 or more tickets are issued for sale as he thinks fit.

- (7) An order under subsection (6) above may provide that—

(a) a certificate (a “ticket sale certificate”) signed by a duly authorised officer certifying that 6,000 or more tickets were issued for sale for a sporting event is conclusive evidence of that fact;

(b) an officer is duly authorised if he is authorised in writing to sign a ticket sale certificate by the organisers of the sporting event; and

(c) a document purporting to be a ticket sale certificate shall be received in evidence and deemed to be such a certificate unless the contrary is proved.

(8) Where an order has been made under subsection (6) above, this section also applies, with any modifications made by the order, to any part of the sporting event specified or described in the order, provided that 6,000 or more tickets are issued for sale for the day on which that part of the event takes place.

166A Supplementary provision relating to sale and disposal of tickets on internet

(1) Nothing in section 166 makes it an offence for a service provider established outside of the United Kingdom to do anything in the course of providing information society services.

(2) If—

(a) a service provider established in the United Kingdom does anything in an EEA State other than the United Kingdom in the course of providing information society services, and

(b) the action, if done in England and Wales, would constitute an offence falling within section 166(1), the service provider shall be guilty in England and Wales of an offence under that section.

(3) A service provider is not capable of being guilty of an offence under section 166 in respect of anything done in the course of providing so much of an information society service as consists in—

(a) the transmission in a communication network of information falling within subsection (4), or

(b) the storage of information provided by a recipient of the service, except where subsection (5) applies.

(4) Information falls within this subsection if—

(a) it is provided by a recipient of the service; and

(b) it is the subject of automatic, intermediate and temporary storage which is solely for the purpose of making the onward transmission of the information to other recipients of the service at their request more efficient.

(5) This subsection applies at any time in relation to information if—

(a) the service provider knew when that information was provided that it contained material contravening section 166; or

(b) that information is stored at that time (whether as mentioned in subsection (3)(b) or (4)) in consequence of the service provider's failure expeditiously to remove the information, or to disable access to it, upon obtaining actual knowledge that the information contained material contravening section 166.

(6) In this section—

‘the Directive’ means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce);

‘information society services’–

(a) has the meaning set out in Article 2(a) of the Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations, as amended by Directive 98/48/EC of 20 July 1998); and

(b) is summarised in recital 17 of the Directive as covering ‘any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service’;

‘EEA State’ means a state which is for the time being a member State, Norway, Iceland or Liechtenstein;

‘recipient of the service’ means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;

‘service provider’ means any person providing an information society service.