



Please ask for: Mrs H Patten
Telephone: (01772) 866903
Fax: (01772) 866905
Email: HelenPatten@lancsfireandrescue.org.uk
Your Ref: PB08208
Our Ref: FOI0054/08
Date: 28 November 2008

Dear Sir

Re: Freedom of Information Request 0054/08

Further to your recent request for information under the Freedom of Information Act 2000 dated November 6th 2008, I would like to reply as follows:-

LFRS Complaints Procedure

Under Section 1 of the Freedom of Information Act 2000, I confirm that this information exists. Please find attached a copy of Lancashire Fire and Rescue Service's Complaints procedure which sets out the process.

Subject Example – Complaint which alleges the personal misconduct in public office of the Chief Fire Officer Mr Holland

Under Section 1 of the Freedom of Information Act, I neither, confirm nor deny, that this information exists. Any such information is personal information and therefore exempt from disclosure under Section 40 of the Freedom of Information Act 2000.

If you wish to appeal against this decision, please do so in writing to Mr R Warren, Director of People and Development and if you are dissatisfied with the outcome of this you should appeal to:-

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours faithfully

Helen Patten
Information Manager

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH



CUSTOMER SERVICE EXCELLENCE



Prince's Trust





Mr P Burns GIFireE
7, Kings Drive,
Preston
Lancs
PR2 3HN

Please ask for: Mrs H Patten
Telephone: (01772) 866903
Fax: (01772) 866905
Email: HelenPatten@lancsfireandrescue.org.uk
Your Ref: PB08208
Our Ref: FOI0054/08
Date: 16 December 2008

Dear Sir

Re: Freedom of Information Request 0054/08

Further to your recent request for information under the Freedom of Information Act 2000 dated November 6th 2008, I would like to reply as follows:-

LFRS Complaints Procedure

Under Section 1 of the Freedom of Information Act 2000, I confirm that this information exists. Please find attached a copy of Lancashire Fire and Rescue Service's Complaints procedure which sets out the process.

Subject Example – Complaint which alleges the personal misconduct in public office of the Chief Fire Officer Mr Holland

Under Section 1 of the Freedom of Information Act, I neither, confirm nor deny, that this information exists. Any such information is personal information and therefore exempt from disclosure under Section 40 of the Freedom of Information Act 2000.

If you wish to appeal against this decision, please do so in writing to Mr R Warren, Director of People and Development and if you are dissatisfied with the outcome of this you should appeal to:-

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours faithfully

Helen Patten
Information Manager

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH





Chief Fire Officer
Lancashire Fire & Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH
FAO:
Ms.H.Patten- Information Manager.

7, Kings Drive,
Preston. Lancashire.PR2 3HN.
ENGLAND.
Tel/Fax: +44 (0) 1772 715963.
symbolseeker@tiscali.co.uk

BURNS

Tuesday, 13th January, 2009.

My Ref: PB00209.

Your Ref:

**Freedom of Information Act 2000 - Request.
LFRS Public Complaints Procedure.**

Dear Information Manager,
Thank you for your re-issued letter of the 16th ult, with its attachment.

Your Decision.

I do not accept your preliminary decision which is to DENY my FOIA request.

The Law & The Reality.

[1] In Para 2 you have confirmed that this Public information exists.

Under the FOIA 2000, Section 1 Sub-Section 1 Paras (a) & (b) **having confirmed that this information exists you have a legal compliance duty to supply all this documentation and information to me.** In not so doing you have failed to comply with the law.

[2] In Para 3 you, neither 'confirm nor deny', that this Public information exists. I regard this statement as not only contradictory but frankly ludicrous.

[3] The fact of the matter is that these records do indeed exist as you confirmed initially. In addition 3 living witnesses attribute to the existence of these Public records viz:

- (a) the Complainant;
- (b) the contemporaneous Complaint handler, Manager Chappell;
- (c) and no less than the Chief Fire Officer himself Holland who ordered Manager Chappell to enter the Complaint in the Public Complaints Ledger or 'system' held at Service HQ.

Therefore you have a legal duty of compliance under the Act to supply me with all those Public records.

Your Supplied Documentation.

The LFRS Complaints procedure document you have issued to me is inapplicable because it deals with how a Public Complaint is handled. I am unable to

determine where in my correspondence under my FOIA request I have lodged a Complaint against the LFRS to invoke this procedure?

Personal Information.

[1] You continue, by denying me disclosure of these records (which you now confirm exist) under the FOIA by seeking refuge under S40 of the Act on the basis that the information sought is 'personal information'.

[2] I do not accept this erroneous basis for denial which is of course a fatuous refusal.

The simple question arising here is what is Public information and what is 'personal information'. Once more I am unable to determine where in my correspondence under my FOIA request I have sought 'personal information'?

My Reasons for Refusal to Accept your Decision.

I do not accept your preliminary decision for the following reasons:

(a) It cannot be claimed by the LFRS in any dimension that any document associated with this Complaint and its due process is 'personal information'; and even though this may, or may not, have been so the Chief Fire Officer by his actions in choosing to treat this Public Complaint with the full panoply of the LFRS Public Complaints procedure and ordering his subordinates to treat it so automatically abrogates any future defence that this Complaint contains 'personal information'.

(b) Further by this positive action he has chosen positively to place this Complaint within the Public domain and thus accessible to the Public under the FOIA. In my FOIA request you will note I have *not yet sought* disclosure of other documents, for example, mileage claim logbooks, which may or may not confirm, whether or not, the Chief Fire Officer has indeed engaged in personal misconduct in public office.

(c) Such records, may or may not, be regarded as 'personal information' within the meaning of the Act though as financial records it is unlikely, and even if that is the case and access is denied to the Public, the Information Commissioner has special Statutory powers to seek both 'personal information' and financial records as you must know.

(d) I have therefore at this point deliberately *not sought* such 'personal information' records. The objective of my investigation being to test the efficacy and robustness of the LFRS Public Complaints procedures which fortuitously uses a sample Complaint raised against the Chief Fire Officer.

(e) A Chief Fire Officer, who it is recognised, within the terms of his actual contractual appointment, is never off duty, could have claimed that this Complaint was a matter affecting his private life and thus not relevant to his public duties. At that point his decision could have been to treat it so but your Chief Fire Officer commendably chose to do otherwise and, whether or not, this original position of 'personal life/information' itself held merit has, by his free will chosen not to put this defence of 'private life' to the test and therefore

'personal information' is not a consideration from this point forward in my investigation.

(f) It is also implicit in his action of placing this firmly in the Public domain that the CFO has positively chosen to acknowledge that any clandestine activities alleged by the Complainant which, may or may not, have taken place whilst he was on duty are thus now, and in the future, open to Public scrutiny, though *at this time* this is a secondary issue to my investigation.

(g) The purpose of my investigation *at this point* remains unchanged, namely, to check the robustness and completeness in this case of the existing LFRS Public Complaints procedure set against a recent example of a sample public Complaint.

Continuance of My Investigation.

This investigation is of particular importance because the correct handling of this Complaint, made against the CFO by a member of the Public will determine, from the perspective of the Public, whether or not, the LFRS procedure works correctly, regardless of rank, and whether or not the LFRS Complaint 'system' is ultimately publicly accountable and thus worthy of Public confidence in those matter which may be of greater importance to the Public, than this particular sample Complaint with its allegation.

Reconsider Your Decision.

Accordingly, in exhausting the FOIA procedure within the LFRS, I recommend that you reconsider your decision to deny me access to these records and documents and *communicate your final decision to me in writing*.

Please acknowledge receipt of this communication also by surface mail.

Yours Truly,



Paul P. Burns. GFireE
Divisional Fire Officer (Rtd)

CC: County Councillor G.Driver
County Councillor R. Wilkinson
Chief Fire Officer
Information Commissioner

- Conservative Group Leader.
- Chair Combined Fire Authority.
- Lancashire Fire & Rescue Service.
- Compliance Section.



BURNS

Chief Fire Officer
Lancashire Fire & Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH
FAO:
Ms.H.Patten- Information Manager.

**7, Kings Drive,
Preston. Lancashire.PR2 3HN.
ENGLAND.
Tel/Fax: +44 (0) 1772 715963.
symbolseeker@tiscali.co.uk**

Friday, 20th February, 2009.

**My Ref: PB00309.
Your Ref: FO10054_09**

**Freedom of Information Act 2000 - Request.
LFRS Public Complaints Procedure.**

Dear Information Manager,

Thank you for your recent letter-see attached. I am unable to determine when this was originated because as you will note there is no date of origin.

I also note your intention of responding to me by the 12inst which you will also observe has now passed without a response.

I must therefore assume that this failure to respond *is your response* which is the usual response of the LFRS which is to deny the existence of this particular Act.

Your are not in compliance with the Act and I shall therefore seek the Information Commissioner's assistance to enforce your compliance with 'his' Act without further notice.

Please acknowledge receipt of this communication by surface mail.

Yours Truly,

Paul P. Burns. GIFireE
Divisional Fire Officer (Rtd)

CC: County Councillor G.Driver	- Conservative Group Leader.
County Councillor R. Wilkinson	- Chair Combined Fire Authority.
Chief Fire Officer	- Lancashire Fire & Rescue Service.
Information Commissioner	- Compliance Section.



Lancashire Fire
and Rescue Service

Mr Burns
7 Kings Drive
Preston
Lancashire
PR2 3HN

Please ask for: Bob Warren
Direct Line: 01772 866805
Email: bobwarren@lancsfireandrescue.org.uk
Your Ref: -
Our Ref: BW/LK
Date: 27 February 2009

Dear Mr Burns

FREEDOM OF INFORMATION ACT 2000 - REQUEST LANCASHIRE FIRE AND RESCUE SERVICE PUBLIC COMPLAINTS PROCEDURE

Further to your letter of 20 February 2009 in respect of your appeal against the decisions made by the Service's Information Manager in respect of your Freedom of Information Act request of 6 November 2008. I would advise you that Helen Patten has now left the employment of Lancashire Fire and Rescue Service and so your documentation has been passed to myself for a response.

I would advise you that in accordance with our procedure your appeal (outlined in your letter of 13 January 2009) was considered by Mr Max Winterbottom, Clerk to the Authority and myself on 21 January 2009.

In considering your appeal relevant documents were considered in particular the following letters:

- Your letter of 6 November 2008 to the Lancashire Fire and Rescue Service Information Manager
- The Information Manager's response of 28 November 2008
- Your letter of appeal dated 13 January 2009 together with the relevant acts.

The conclusion of the appeals panel was as follows:

Whilst it was noted that the appeal was submitted to the Information Manager rather than in the correct manner as outlined in the decision letter of 28 November 2008, the appeal was accepted.

Cont. ...

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH



The appellant seems to be under the erroneous impression that the reference in Lancashire Fire and Rescue Service's letter of 28 November 2008, to information existing, refers to an alleged recent example of an incident quoted by the appellant. Whereas the reality of the statement is confirmation that Lancashire Fire and Rescue Service has a complaints procedure, a copy of which was attached to the letter of 28 November 2008.

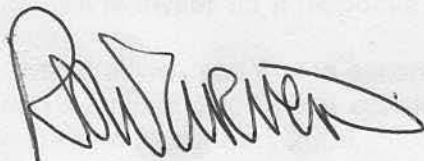
In Lancashire Fire and Rescue Service's letter reference is made to a subject example which the Information Manager on behalf of Lancashire Fire and Rescue Service clearly neither confirmed nor denied existed and outlined that any such information would be personal information and would therefore be exempt from disclosure.

The appeal panel considered this construct and agreed with the rationale and therefore your appeal fails.

If you are dissatisfied with the outcome you can if you wish appeal to:

The Information Commissioner
Wycliffe House
Water Lane
Wilslow
Cheshire
SK9 5AF

Yours sincerely



B WARREN
DIRECTOR OF PEOPLE AND DEVELOPMENT



Chief Fire Officer
Lancashire Fire & Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH
FAO:
Mr.Warren - Information Manager.

7, Kings Drive,
Preston. Lancashire.PR2 3HN.
ENGLAND.
Tel/Fax: +44 (0) 1772 715963.
symbolseeker@tiscali.co.uk

BURNS

Friday, 8th May, 2009.

My Ref: PB00609.

Your Ref:

**Freedom of Information Act 2000 - Request.
LFRS Public Complaints Procedure.**

Dear Information Manager,

I acknowledge your communication of the 27th February 2009. I have been delayed in responding to you due to correspondence with the Information Commissioner.

I presume in continuing to write to you that you continue to be the point of contact for my original Freedom of Information request?

It seems to me from a recent decision of an Industrial Tribunal and its consequences that the LFRS ability to keep records is questionable to say the least. In order to avoid such a situation arising in respect of my FOIA I am attaching for you records of all previous correspondence with the LFRS for your retention and information.

I turn now assiduously to the matter in hand.

In your letter you make reference to your LFRS FOIA 'Appeals Panel' though you do not state the LFRS constitutional basis for its existence nor produce the 'Rules' within which this particular 'panel' carried out its function? It is usual to do so.

Your failure leaves me no alternative but to ask you to supply me with the Rules for its Constitution and Procedures so that I may investigate further that not only has your 'Appeals Panel' been properly convened within the terms of its own Constitution but that my appeal has been properly considered within those Rules.

Your 'panel' seems to consist of just 2 persons, 1 from the LFRS and unusually 1 from the CFA, which could hardly be described within Court Procedure as 'coming to the issue with a fresh mind'. Nor could your scrutiny be regarded, by stretching credulity, as 'independent', or indeed capable of bearing the weight of public or political scrutiny.

As a matter of fact you even fail to indicate who chaired this 'appeal panel'? Who did so?

One would consider if the Clerk to the Authority was a member of this panel then one must ask on what basis he was there? Was he there acting under delegated powers

from the CFA and if so what are those constitutional powers to act on this matter? Please state them and copy me the relevant authority of his delegated powers in respect of FOIA matters; when and by which Committee of the CFA he was formally delegated this authority.

It should naturally follow that the Chief Fire Officer would also be on this 'AP' at this level, yet you fail to indicate whether or not the CFO was involved or even consulted.

In the event he was consulted this would be constitutionally improper because he is the example subject within the framework of my investigation of the integrity of the LFRS Public Complaints procedure.

You have failed to state whether or not the CFO was involved/consulted and whether or not he acknowledged a conflict of interest, declared his interest, and then withdrew.

In the event he did all those things then you are duty bound to inform me who it was who substituted for him on this panel? All this *before* you considered my appeal and *then* finally announced its conclusions.

Try as I may I fail completely to comprehend your paragraph1 on page 2. Is that the intention to obstruct and obfuscate my investigation?

Clearly not authored by yourself though one presumes by Mr.Harold with whom I seem to have perennial comprehension difficulty.

After dwelling on this paragraph at some considerable time wasting length the author seems to be saying the following, though I could be wrong. This author states my information is 'erroneous'.

Is he trying to tell me that the sample Complaint(the correct procedural handling of which I am investigating) which was made by a member of the public alleging gross misconduct in public office by the CFO, which was directly handled by a living witness (manager Chappell), does not exist?

If that is so, then this must be stated unequivocally by your 'Appeals Panel' to me supported by an explanation of how I have reached such an erroneous conclusion based on the evidence I have in my possession which I have repeatedly placed before you?

Your paragraph 2 page 2 is simply hilarious and reminds me rather of the chocolate teapots at Alice in Wonderland's party. Please excuse my levity but it is the only option I have for the retention of my sanity which I can find in addressing this paragraph.

As I study this 'unhinged' statement can I draw the following conclusions? I do so hope you can follow this normal logic:

Conclusion#1

You state this information does not exist yet your CFO contradicts you and confirms by his action in writing a public record to his subordinate that it does exist when he ordered this Public Complaint against him to be placed by manager Chappell on the Public Complaints Register.

Are you stating unequivocally that this never occurred?; that the CFO never took this action?; and that as a consequence no public records exist?

A simple, yes, or no on each of these points, will suffice.

Conclusion #2

You confirm that this information does exist but would be regarded as personal information and thus DPAAct exempt.

The CFO may have been entitled at that point to claim this 'defence' but he did not do so. He chose to place the Complaint on the Public Register and by his action in doing so he fettered his own future 'defence', but this does not concern me here. My concern is that this Complainant's complaint has been handled with integrity and due process and furthermore is transparent to the Public, regardless of who the subject of the Complaint was.

Are you stating unequivocally that the CFO and never took this action?

A simple, yes, or no, will suffice.

As you will note by now we arrive at exactly the same terminal point.

Your paragraph 3 on page 2 is puzzling.

You state the 'appeal panel' considered this 'construct'.

Which 'construct'?

That the information does exist or does not?

Your 'appeal panel' agreed with 'the rationale'.

Which 'rationale', the first or the second?

N.B. OED-Rationale-fundamental reasoning; logical basis.

I cannot in all conscience formally forward, at this stage, this particularly embarrassing gibberish to the Information Commissioner because he will conclude, rightly, that the LFRS lacks corporate logic of any description.

To make progress:

- (a) Please send me a copy of the full Constitution and Rules of your 'Appeal Panel'.
- (b) Is the CFO normally a member of this 'Appeal Panel'? Was he consulted and did he declare an interest in this matter and withdraw? How did he notify the 'AP' of so doing. If in writing, as he ought to, please supply a copy under the FOIA.
- (c) Who replaced the CFO in the Appeals Panel?
- (d) Who carried out the formal investigation of this Member of the Public's Complaint?
- (e) Where is the resultant report? Please supply a copy under the FOIA.
- (f) Answer the questions contained in my 'Conclusions #1 & 2.

(g) In exhausting the Appeal Procedure can you confirm(which you have failed to do) whether or not there is a procedure to appeal to the CFA?

Please acknowledge receipt by surface mail.

Yours Truly,



Paul P. Burns. GIFireE
Divisional Fire Officer (Rtd)

CC: County Councillor G.Driver - Conservative Group Leader.
County Councillor R. Wilkinson - Chair Combined Fire Authority.
Chief Fire Officer - Lancashire Fire & Rescue Service.
Information Commissioner - Compliance Section.



Mr P P Burns
7 Kings Drive
Fulwood
PRESTON
PR2 3HN

Please ask for: Bob Warren
Telephone: 01772 866805
Email: bobwarren@lancsfireandrescue.org.uk
Your Ref: PB00609
Our Ref: BW/JLW
Date: 18 May 2009

Dear Mr Burns

**FREEDOM OF INFORMATION ACT 2000 - REQUEST
LFRS PUBLIC COMPLAINTS PROCEDURE**

I acknowledge receipt of your email of 8 May in respect of the above. For the sake of clarity, I am responding as the Chairman of the Appeals Panel not as the Information Manager which is not my function. Prior to responding to you I have re-read my letter of 27 February which is self-explanatory and I would urge you to do the same.

I note from your email that you have been in correspondence with the Information Commissioner but no detail of that interaction is contained with your correspondence.

This is especially relevant as, following the consideration of your Freedom of Information Act appeal, in my letter of 27 February advising you of the Appeal Panel's deliberations I also advised you that if you were dissatisfied with the response then you could appeal to the Information Commissioner.

I assume from your opening sentence this is the course you have taken. It is my understanding that if the Information Commissioner is dissatisfied by the actions of the data holder they would contact us direct. This they have not done.

I would advise you that, as a consequence, LFRS will not correspond with you further in respect of this matter whether by email or letter until the Information Commissioner has made his views clear.

Yours sincerely

R J Warren
Director of People and Development

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH

G:\Bob Warren\Letters\090508burns.doc





Chief Fire Officer
Lancashire Fire & Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH
FAO:
Mr.Warren.

7, Kings Drive,
Preston. Lancashire.PR2 3HN.
ENGLAND.
Tel/Fax: +44 (0) 1772 715963.
symbolseeker@tiscali.co.uk

BURNS

Monday, 8th June, 2009.

My Ref: PB01109.

Your Ref:

**Freedom of Information Act 2000 - Request.
LFRS Public Complaints Procedure.**

Dear Chairman of the FOIA Appeals Panel,

Thank you for your letter of the 18th ultimo.

Although you state you are the Chairman of the Appeals Panel, once more you fail to provide me with the details of when this panel heard my Appeal, who was present, and the Minutes of that meeting as I have formally asked you to do.

I can only conclude that this 'Panel' is either entirely a figment of your imagination and thus I doubt entirely the veracity of your statements, or, you have acted in an ultra vires manner as both 'judge and jury'. In fact, either way, not to put too fine a point on it, you seek to publicly deceive both myself, the Public, and ultimately the Information Commissioner.

It is your personal legal duty to comply with the minutiae of the Act both in detail and the spirit which you are deliberately and signally failing to do.

I conclude that you are deliberately protecting Chief Fire Officer Holland and his policies(in this case his Public Complaints policy), and in the process covering up your own role in this affair and thus deliberately obstructing my enquiries and the Public's right to Information and its inalienable right to scrutinise your corporate activities.

You are indeed correct to note that I have been in contact with the Information Commissioner and that presently you will not be privy to that 'interaction' as you put it. Though of course you have the right under the FOIA to make a request to see my correspondence.

Suffice to say that I am following, to the letter, his advice and guidance proffered to me in this and other LFRS matters.

At this moment I have not preferred a complaint against you personally, nor the LFRS corporately. Preferring, as advised, to entirely exhaust *your opportunities* for

you to *reappraise* the course you have set the LFRS on and to comply with the law and my formal FOIA request generated through that law.

You suggest rather impertinently that I re-read your letter of the 27th. I have done so and neither its comprehension nor literacy improves with a second reading. It is a literary fact that such letters are always entirely "self explanatory" to their incompetent authors... they would be ...would they not?

For the record:

#1 Are you continuing to refuse entirely to release any information regarding this issue to me, a member of the Public?

A simple yes or no will suffice.

#2 Are you continuing to refuse entirely to answer a single legitimate question on the LFRS Complaints Procedure and/or this sample Complaint?

A simple yes or no will suffice.

You will note that this communication is being circulated to the Leader of Lancashire County Council CC Driver with all its political ramifications for the CFA/LFRS. CC Driver is also my Divisional CC and thus empowered to act directly on my behalf in this, and other, matters.

Can I remind you that you have a personal duty to me as a member of the electorate to courteously, dutifully, and promptly reply to my correspondence as a civil servant, whether or not, it is to your personal taste to do so...please acknowledge receipt by surface mail.

Yours Truly,



Paul P. Burns. GIFireE
Divisional Fire Officer (Rtd)

CC: County Councillor G.Driver
Chief Fire Officer
Information Commissioner

- Leader Lancashire County Council.
- Lancashire Fire & Rescue Service.
- Compliance Section.



Mr P P Burns
7 Kings Drive
Fulwood
PRESTON
PR2 3HN

Please ask for: Bob Warren
Telephone: 01772 866805
Email: bobwarren@lancsfireandrescue.org.uk
Your Ref: PB00609
Our Ref: BW/JLW
Date: 18 May 2009

Dear Mr Burns

FREEDOM OF INFORMATION ACT 2000 - REQUEST LFRS PUBLIC COMPLAINTS PROCEDURE

I acknowledge receipt of your email of 8 May in respect of the above. For the sake of clarity, I am responding as the Chairman of the Appeals Panel not as the Information Manager which is not my function. Prior to responding to you I have re-read my letter of 27 February which is self-explanatory and I would urge you to do the same.

I note from your email that you have been in correspondence with the Information Commissioner but no detail of that interaction is contained with your correspondence.

This is especially relevant as, following the consideration of your Freedom of Information Act appeal, in my letter of 27 February advising you of the Appeal Panel's deliberations I also advised you that if you were dissatisfied with the response then you could appeal to the Information Commissioner.

I assume from your opening sentence this is the course you have taken. It is my understanding that if the Information Commissioner is dissatisfied by the actions of the data holder they would contact us direct. This they have not done.

I would advise you that, as a consequence, LFRS will not correspond with you further in respect of this matter whether by email or letter until the Information Commissioner has made his views clear.

Yours sincerely

A handwritten signature in black ink, appearing to read "R J Warren".

R J Warren
Director of People and Development

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH

G:\Bob Warren\Letters\090508burns.doc





Chief Fire Officer
Lancashire Fire & Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH
FAO:
Mr. Warren - Information Manager.

7, Kings Drive,
Preston. Lancashire. PR2 3HN.
ENGLAND.
Tel/Fax: +44 (0) 1772 715963.
symbolseeker@tiscali.co.uk

BURNS

Friday, 8th May, 2009.

My Ref: PB00609.

Your Ref:

**Freedom of Information Act 2000 - Request.
LFRS Public Complaints Procedure.**

Dear Information Manager,

I acknowledge your communication of the 27th February 2009. I have been delayed in responding to you due to correspondence with the Information Commissioner.

I presume in continuing to write to you that you continue to be the point of contact for my original Freedom of Information request?

It seems to me from a recent decision of an Industrial Tribunal and its consequences that the LFRS ability to keep records is questionable to say the least. In order to avoid such a situation arising in respect of my FOIA I am attaching for you records of all previous correspondence with the LFRS for your retention and information.

I turn now assiduously to the matter in hand.

In your letter you make reference to your LFRS FOIA 'Appeals Panel' though you do not state the LFRS constitutional basis for its existence nor produce the 'Rules' within which this particular 'panel' carried out its function? It is usual to do so.

Your failure leaves me no alternative but to ask you to supply me with the Rules for its Constitution and Procedures so that I may investigate further that not only has your 'Appeals Panel' been properly convened within the terms of its own Constitution but that my appeal has been properly considered within those Rules.

Your 'panel' seems to consist of just 2 persons, 1 from the LFRS and unusually 1 from the CFA, which could hardly be described within Court Procedure as 'coming to the issue with a fresh mind'. Nor could your scrutiny be regarded, by stretching credulity, as 'independent', or indeed capable of bearing the weight of public or political scrutiny.

As a matter of fact you even fail to indicate who chaired this 'appeal panel'? Who did so?

One would consider if the Clerk to the Authority was a member of this panel then one must ask on what basis he was there? Was he there acting under delegated powers

from the CFA and if so what are those constitutional powers to act on this matter? Please state them and copy me the relevant authority of his delegated powers in respect of FOIA matters; when and by which Committee of the CFA he was formally delegated this authority.

It should naturally follow that the Chief Fire Officer would also be on this 'AP' at this level, yet you fail to indicate whether or not the CFO was involved or even consulted.

In the event he was consulted this would be constitutionally improper because he is the example subject within the framework of my investigation of the integrity of the LFRS Public Complaints procedure.

You have failed to state whether or not the CFO was involved/consulted and whether or not he acknowledged a conflict of interest, declared his interest, and then withdrew.

In the event he did all those things then you are duty bound to inform me who it was who substituted for him on this panel? All this *before* you considered my appeal and *then* finally announced its conclusions.

Try as I may I fail completely to comprehend your paragraph1 on page 2. Is that the intention to obstruct and obfuscate my investigation?

Clearly not authored by yourself though one presumes by Mr.Harold with whom I seem to have perennial comprehension difficulty.

After dwelling on this paragraph at some considerable time wasting length the author seems to be saying the following, though I could be wrong. This author states my information is 'erroneous'.

Is he trying to tell me that the sample Complaint(the correct procedural handling of which I am investigating) which was made by a member of the public alleging gross misconduct in public office by the CFO, which was directly handled by a living witness (manager Chappell), does not exist?

If that is so, then this must be stated unequivocally by your 'Appeals Panel' to me supported by an explanation of how I have reached such an erroneous conclusion based on the evidence I have in my possession which I have repeatedly placed before you?

Your paragraph 2 page 2 is simply hilarious and reminds me rather of the chocolate teapots at Alice in Wonderland's party. Please excuse my levity but it is the only option I have for the retention of my sanity which I can find in addressing this paragraph.

As I study this 'unhinged' statement can I draw the following conclusions? I do so hope you can follow this normal logic:

Conclusion#1

You state this information does not exist yet your CFO contradicts you and confirms by his action in writing a public record to his subordinate that it does exist when he ordered this Public Complaint against him to be placed by manager Chappell on the Public Complaints Register.

Are you stating unequivocally that this never occurred?; that the CFO never took this action?; and that as a consequence no public records exist?

A simple, yes, or no on each of these points, will suffice.

Conclusion #2

You confirm that this information does exist but would be regarded as personal information and thus DPAAct exempt.

The CFO may have been entitled at that point to claim this 'defence' but he did not do so. He chose to place the Complaint on the Public Register and by his action in doing so he fettered his own future 'defence', but this does not concern me here. My concern is that this Complainant's complaint has been handled with integrity and due process and furthermore is transparent to the Public, regardless of who the subject of the Complaint was.

Are you stating unequivocally that the CFO and never took this action?

A simple, yes, or no, will suffice.

As you will note by now we arrive at exactly the same terminal point.

Your paragraph 3 on page 2 is puzzling.

You state the 'appeal panel' considered this 'construct'.

Which 'construct'?

That the information does exist or does not?

Your 'appeal panel' agreed with 'the rationale'.

Which 'rationale', the first or the second?

N.B. OED-Rationale-fundamental reasoning; logical basis.

I cannot in all conscience formally forward, at this stage, this particularly embarrassing gibberish to the Information Commissioner because he will conclude, rightly, that the LFRS lacks corporate logic of any description.

To make progress:

- (a) Please send me a copy of the full Constitution and Rules of your 'Appeal Panel'.
- (b) Is the CFO normally a member of this 'Appeal Panel'? Was he consulted and did he declare an interest in this matter and withdraw? How did he notify the 'AP' of so doing. If in writing, as he ought to, please supply a copy under the FOIA.
- (c) Who replaced the CFO in the Appeals Panel?
- (d) Who carried out the formal investigation of this Member of the Public's Complaint?
- (e) Where is the resultant report? Please supply a copy under the FOIA.
- (f) Answer the questions contained in my 'Conclusions #1 & 2.

(g) In exhausting the Appeal Procedure can you confirm(which you have failed to do) whether or not there is a procedure to appeal to the CFA?

Please acknowledge receipt by surface mail.

Yours Truly,



Paul P. Burns. GIFireE
Divisional Fire Officer (Rtd)

CC: County Councillor G.Driver - Conservative Group Leader.
County Councillor R. Wilkinson - Chair Combined Fire Authority.
Chief Fire Officer - Lancashire Fire & Rescue Service.
Information Commissioner - Compliance Section.



Mr Burns
7 Kings Drive
Preston
Lancashire
PR2 3HN

Please ask for: Bob Warren
Direct Line: 01772 866805
Email: bobwarren@lancsfireandrescue.org.uk
Your Ref: -
Our Ref: BW/LK
Date: 27 February 2009

Dear Mr Burns

FREEDOM OF INFORMATION ACT 2000 - REQUEST LANCASHIRE FIRE AND RESCUE SERVICE PUBLIC COMPLAINTS PROCEDURE

Further to your letter of 20 February 2009 in respect of your appeal against the decisions made by the Service's Information Manager in respect of your Freedom of Information Act request of 6 November 2008. I would advise you that Helen Patten has now left the employment of Lancashire Fire and Rescue Service and so your documentation has been passed to myself for a response.

I would advise you that in accordance with our procedure your appeal (outlined in your letter of 13 January 2009) was considered by Mr Max Winterbottom, Clerk to the Authority and myself on 21 January 2009.

In considering your appeal relevant documents were considered in particular the following letters:

- Your letter of 6 November 2008 to the Lancashire Fire and Rescue Service Information Manager
- The Information Manager's response of 28 November 2008
- Your letter of appeal dated 13 January 2009 together with the relevant acts.

The conclusion of the appeals panel was as follows:

Whilst it was noted that the appeal was submitted to the Information Manager rather than in the correct manner as outlined in the decision letter of 28 November 2008, the appeal was accepted.

Cont. ...

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH



The appellant seems to be under the erroneous impression that the reference in Lancashire Fire and Rescue Service's letter of 28 November 2008, to information existing, refers to an alleged recent example of an incident quoted by the appellant. Whereas the reality of the statement is confirmation that Lancashire Fire and Rescue Service has a complaints procedure, a copy of which was attached to the letter of 28 November 2008.

In Lancashire Fire and Rescue Service's letter reference is made to a subject example which the Information Manager on behalf of Lancashire Fire and Rescue Service clearly neither confirmed nor denied existed and outlined that any such information would be personal information and would therefore be exempt from disclosure.

The appeal panel considered this construct and agreed with the rationale and therefore your appeal fails.

If you are dissatisfied with the outcome you can if you wish appeal to:

The Information Commissioner
Wycliffe House
Water Lane
Wilslow
Cheshire
SK9 5AF

Yours sincerely

A handwritten signature in black ink, appearing to read 'B Warren', written in a cursive style.

B WARREN
DIRECTOR OF PEOPLE AND DEVELOPMENT



Mr Paul P. Burns. GIFireE
7, Kings Drive,
Preston
Lancashire
PR2 3HN

Dear Mr Burns,

I would like to acknowledge your appeal against our decision in regards to your Freedom of Information request. In adherence to guidelines we aim to respond to your appeal by the 12 February, 2009. Your reference number for the appeal is : **FOI0054_09**.

Yours sincerely,

Helen Patten,
Information Manager
Lancashire Fire and Rescue Service

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH





Chief Fire Officer
Lancashire Fire & Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH
FAO:
Ms.H.Patten- Information Manager.

7, Kings Drive,
Preston. Lancashire.PR2 3HN.
ENGLAND.
Tel/Fax: +44 (0) 1772 715963.
symbolseeker@tiscali.co.uk

Tuesday, 13th January, 2009.

My Ref: PB00209.

Your Ref:

**Freedom of Information Act 2000 - Request.
LFRS Public Complaints Procedure.**

Dear Information Manager,
Thank you for your re-issued letter of the 16th ult, with its attachment.

Your Decision.

I do not accept your preliminary decision which is to DENY my FOIA request.

The Law & The Reality.

[1] In Para 2 you have confirmed that this Public information exists.

Under the FOIA 2000, Section 1 Sub-Section 1 Paras (a) & (b) **having confirmed that this information exists you have a legal compliance duty to supply all this documentation and information to me.** In not so doing you have failed to comply with the law.

[2] In Para 3 you, neither 'confirm nor deny', that this Public information exists. I regard this statement as not only contradictory but frankly ludicrous.

[3] The fact of the matter is that these records do indeed exist as you confirmed initially. In addition 3 living witnesses attribute to the existence of these Public records viz:

- (a) the Complainant;
- (b) the contemporaneous Complaint handler, Manager Chappell;
- (c) and no less than the Chief Fire Officer himself Holland who ordered Manager Chappell to enter the Complaint in the Public Complaints Ledger or 'system' held at Service HQ.

Therefore you have a legal duty of compliance under the Act to supply me with all those Public records.

Your Supplied Documentation.

The LFRS Complaints procedure document you have issued to me is inapplicable because it deals with how a Public Complaint is handled. I am unable to

determine where in my correspondence under my FOIA request I have lodged a Complaint against the LFRS to invoke this procedure?

Personal Information.

[1] You continue, by denying me disclosure of these records (which you now confirm exist) under the FOIA by seeking refuge under S40 of the Act on the basis that the information sought is 'personal information'.

[2] I do not accept this erroneous basis for denial which is of course a fatuous refusal.

The simple question arising here is what is Public information and what is 'personal information'. Once more I am unable to determine where in my correspondence under my FOIA request I have sought 'personal information'?

My Reasons for Refusal to Accept your Decision.

I do not accept your preliminary decision for the following reasons:

(a) It cannot be claimed by the LFRS in any dimension that any document associated with this Complaint and its due process is 'personal information'; and even though this may, or may not, have been so the Chief Fire Officer by his actions in choosing to treat this Public Complaint with the full panoply of the LFRS Public Complaints procedure and ordering his subordinates to treat it so automatically abrogates any future defence that this Complaint contains 'personal information'.

(b) Further by this positive action he has chosen positively to place this Complaint within the Public domain and thus accessible to the Public under the FOIA. In my FOIA request you will note I have *not yet sought* disclosure of other documents, for example, mileage claim logbooks, which may or may not confirm, whether or not, the Chief Fire Officer has indeed engaged in personal misconduct in public office.

(c) Such records, may or may not, be regarded as 'personal information' within the meaning of the Act though as financial records it is unlikely, and even if that is the case and access is denied to the Public, the Information Commissioner has special Statutory powers to seek both 'personal information' and financial records as you must know.

(d) I have therefore at this point deliberately *not sought* such 'personal information' records. The objective of my investigation being to test the efficacy and robustness of the LFRS Public Complaints procedures which fortuitously uses a sample Complaint raised against the Chief Fire Officer.

(e) A Chief Fire Officer, who it is recognised, within the terms of his actual contractual appointment, is never off duty, could have claimed that this Complaint was a matter affecting his private life and thus not relevant to his public duties. At that point his decision could have been to treat it so but your Chief Fire Officer commendably chose to do otherwise and, whether or not, this original position of 'personal life/information' itself held merit has, by his free will chosen not to put this defence of 'private life' to the test and therefore

'personal information' is not a consideration from this point forward in my investigation.

(f) It is also implicit in his action of placing this firmly in the Public domain that the CFO has positively chosen to acknowledge that any clandestine activities alleged by the Complainant which, may or may not, have taken place whilst he was on duty are thus now, and in the future, open to Public scrutiny, though *at this time* this is a secondary issue to my investigation.

(g) The purpose of my investigation *at this point* remains unchanged, namely, to check the robustness and completeness in this case of the existing LFRS Public Complaints procedure set against a recent example of a sample public Complaint.

Continuance of My Investigation.

This investigation is of particular importance because the correct handling of this Complaint, made against the CFO by a member of the Public will determine, from the perspective of the Public, whether or not, the LFRS procedure works correctly, regardless of rank, and whether or not the LFRS Complaint 'system' is ultimately publicly accountable and thus worthy of Public confidence in those matter which may be of greater importance to the Public, than this particular sample Complaint with its allegation.

Reconsider Your Decision.

Accordingly, in exhausting the FOIA procedure within the LFRS, I recommend that you reconsider your decision to deny me access to these records and documents and *communicate your final decision to me in writing*.

Please acknowledge receipt of this communication also by surface mail.

Yours Truly,



Paul P. Burns. GFireE
Divisional Fire Officer (Rtd)

CC: County Councillor G.Driver
County Councillor R. Wilkinson
Chief Fire Officer
Information Commissioner

- Conservative Group Leader.
- Chair Combined Fire Authority.
- Lancashire Fire & Rescue Service.
- Compliance Section.



Mr P Burns GIFireE
7, Kings Drive,
Preston
Lancs
PR2 3HN

Please ask for: Mrs H Patten
Telephone: (01772) 866903
Fax: (01772) 866905
Email: HelenPatten@lancsfireandrescue.org.uk
Your Ref: PB08208
Our Ref: FOI0054/08
Date: 16 December 2008

Dear Sir

Re: Freedom of Information Request 0054/08

Further to your recent request for information under the Freedom of Information Act 2000 dated November 6th 2008, I would like to reply as follows:-

LFRS Complaints Procedure

Under Section 1 of the Freedom of Information Act 2000, I confirm that this information exists. Please find attached a copy of Lancashire Fire and Rescue Service's Complaints procedure which sets out the process.

Subject Example – Complaint which alleges the personal misconduct in public office of the Chief Fire Officer Mr Holland

Under Section 1 of the Freedom of Information Act, I neither, confirm nor deny, that this information exists. Any such information is personal information and therefore exempt from disclosure under Section 40 of the Freedom of Information Act 2000.

If you wish to appeal against this decision, please do so in writing to Mr R Warren, Director of People and Development and if you are dissatisfied with the outcome of this you should appeal to:-

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours faithfully

Helen Patten
Information Manager

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH





Chief Fire Officer
Lancashire Fire & Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH
FAO: Ms.H.Patten.

7, Kings Drive,
Preston. Lancashire.PR2 3HN.
ENGLAND.
Tel/Fax: +44 (0) 1772 715963.
symbolseeker@tiscali.co.uk

Friday, 12th December, 2008.

BURNS

My Ref: PB08508.

Your Ref: FOI0054/08

**Freedom of Information Act 2000 - Request.
LFRS Public Complaints Procedure.**

Dear Madam,

I have received the attached letter from you with your reference on it.

This letter as you will note does not carry any proper form of location address.

Am I to presume that this is intended for me?

If so, in observing the correct legalities, will you re-issue your document correctly so that I may proceed, if indeed it is intended for me?

Copied forward to the Information Commissioner's Compliance Section.

Yours Truly,

Paul P. Burns. GIFireE
Divisional Fire Officer (Rtd)



Order of Excellent Fire-fighter
Russia



Oklahoma Medal of Honor
&
Honorary Citizen





Please ask for: Mrs H Patten
Telephone: (01772) 866903
Fax: (01772) 866905
Email: HelenPatten@lancsfireandrescue.org.uk
Your Ref: PB08208
Our Ref: FOI0054/08
Date: 28 November 2008

Dear Sir

Re: Freedom of Information Request 0054/08

Further to your recent request for information under the Freedom of Information Act 2000 dated November 6th 2008, I would like to reply as follows:-

LFRS Complaints Procedure

Under Section 1 of the Freedom of Information Act 2000, I confirm that this information exists. Please find attached a copy of Lancashire Fire and Rescue Service's Complaints procedure which sets out the process.

Subject Example – Complaint which alleges the personal misconduct in public office of the Chief Fire Officer Mr Holland

Under Section 1 of the Freedom of Information Act, I neither, confirm nor deny, that this information exists. Any such information is personal information and therefore exempt from disclosure under Section 40 of the Freedom of Information Act 2000.

If you wish to appeal against this decision, please do so in writing to Mr R Warren, Director of People and Development and if you are dissatisfied with the outcome of this you should appeal to:-

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours faithfully

Helen Patten
Helen Patten
Information Manager

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH





Mr Paul P. Burns.
7, Kings Drive,
PRESTON
Lancashire
UNITED KINGDOM
PR2 3HN

Please ask for:
Direct Line: 01772 86903
Email: helenpatten@lancsfirerescue.org.uk
Our Ref: PB08208
Your Ref: FOI0054 08
Date: Friday, 7th November, 2008

Dear Mr Burns

Thank you for your request dated 6th November, 2008, under the Freedom of Information Act.

Your request is currently being assessed and you will receive a response within 20 working days according to the act.

Yours Sincerely

Helen Patten
Information Manager

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH





Chief Fire Officer
Lancashire Fire & Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH
FAO: Information Manager

7, Kings Drive,
Preston. Lancashire.PR2 3HN.
ENGLAND.
Tel/Fax: +44 (0) 1772 715963.
symbolseeker@tiscali.co.uk

Thursday, 6th November, 2008.

BURNS

My Ref: PB08208.

Your Ref:

**Freedom of Information Act 2000 - Request.
LFRS Public Complaints Procedure.**

Dear Information Manager,

My Investigation.

I am investigating the robustness of the existing LFRS Public Complaints procedure set against a recent example of a public Complaint.

To complete my investigative work it is necessary to have full documentary access to a sample Complaint, of which I have knowledge, in order to reach a conclusion on the general efficacy and public integrity of this procedure.

LFRS Complaints Procedure:

The Public Complaints procedure is relatively simple and it is my understanding that upon receipt of a Complaint from a member of the Public the following procedure is automatically initiated, though I stand to be corrected:

#1. The Complainant contacts the LFRS.

#2. If the Complaint is received at a Station then the Station Manager is tasked with dealing with the Complaint and the Complainant, identifies him/herself to the Complainant, obtains and records in writing details of the Complaint and the outline nature of the Complaint.

#3. The SM immediately, or as soon as administratively possible, contacts Service Headquarters and is given a Complaint Reference Number(RN) which is entered in the Complaints ledger at SHQ.

#4 At SHQ a senior uniformed member of staff is allocated the investigation RN and the investigation is run by this Manager to its natural conclusion.

#5 SHQ writes to the Complainant, who, if satisfied, signs and returns the attached slip.

#6 If the Complainant is not satisfied then the Complaint moves to the next level and so and so forth.

Efficacy and Integrity of the LFRS Public Complaint Procedure:

The subject example is a Complaint which alleges the personal misconduct in public office of the Chief Fire Officer Mr.Holland.

Analyses of this Complaint will determine whether or not it has been processed properly under LFRS standing and published procedures; who the Manager was who was allocated the RN and the investigation task; the actual allocated and recorded Reference Number; and finally, the recorded written conclusions of the Complaint investigator.

The following are the unverified brief circumstances of this subject example Complaint as I understand them. Though until the full factual LFRS documentation is released to me under my FOIA request I must stress that the preliminary information as my disposal may well be incomplete or inaccurate in detail but are sufficient for the moment to enable me to commence my administrative investigation.

- On or about Friday 5th September or Saturday 6th 2008 during evening duty an agitated Complainant (age uncertain) phoned Preston Fire Station and repeatedly insisted on speaking to "Chief Fire Officer Holland".
- The LFRS call handler was a manager named Chappell.
- Manager Chappell seems to have followed the set procedures.
- The Complainant dictated and left a message for CFO Holland.
- Manager Chappell immediately composed an email which included the Complainant's dictated message for CFO Holland which Manager Chappell despatched by intranet to CFO Holland.
- Manager Chappell was instructed by immediate return, by CFO Holland, to record the incident in the LFRS Complaints Ledger which he did.

Because I am unable to determine from this point forward a logical conclusion to this Complaint and to satisfy myself as an interested member of the public that the standing procedure have been fully adhered to at SHQ it is necessary to study the factual documentation routinely produced in the administrative handling of this Complaint in order to conclude the following:

- that a Reference Number was indeed issued for this Complaint;
- that an SHQ manager was allocated this investigation and who that manager was and if suitably qualified;
- that an investigation to verify the circumstances as outlined/actioned by Manager Chappell has indeed taken place;
- that at the conclusion of this investigation, no matter how brief, a conclusion of any action contemplated or taken by this investigator has been recorded in the Complaints ledger at SHQ.

FOIA Request.

Under the FOIA please supply copies of all documentation and contemporaneous notes produced as a result of the lodging of this public Complaint.

Preliminary Conclusions:

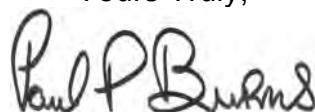
Set against the above criteria of procedures I note from my preliminary scrutiny the following:

- the LFRS does not it seems, publish the contents of its Complaint ledger on its web site, or elsewhere;
- the LFRS does not it seems, invite the members of the Public to have unbridled access to, or scrutiny of, this Complaints ledger;
- the LFRS does not it seems, present this Complaints ledger to an appropriate Committee of the Combined Fire Authority for annual efficiency appraisal and public accounting.
- it is noted that the CFA makes the following policy statement ... "Lancashire Combined Fire Authority is committed to making information accessible to everyone in our community"...it is further noted... "We can translate, on request, any information on our website or any of our documents into foreign languages"... Presumably this would include making a Public Complaint ledger available to ethnic minorities and how they should make a Complaint?
- The LFRS does not it seems, make this clear in Gaelic(Irish Celtic Version) a UK and EU recognised minority, in this published document though it seems to in other European and Asian languages. The question is why not?

FOIA:

You have the statutory 20 working days, or less, in which to reply/action.
Please acknowledge receipt by hard copy surface mail.

Yours Truly,



Paul P. Burns. GFireE
Divisional Fire Officer (Rtd)

CC: County Councillor G.Driver
County Councillor R. Wilkinson
Chief Fire Officer
Information Commissioner

- Conservative Group Leader.
- Chair Combined Fire Authority.
- Lancashire Fire & Rescue Service.
- Compliance Section.