



Secretary of State
For
Communities and Local Government
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BURNS

My Ref: PB01908
Your Ref:

Thursday, 14th February 2008.

**A Call for a Ministerial Enquiry
into
Lancashire Combined Fire Authority
a
Post Holder's Conflict of Interest.**

Post Holder - Mr James Anthony Harold – LCFA Solicitor.

Dear Secretary of State,

I am sure you will pay particular attention to my call for a prompt departmental enquiry for the following politically embarrassing reasons:

- The above named post holder resides in your constituency.
- The above named post holder is currently a Salford City Labour ward councillor for Ordsall within your constituency though he has just been deselected by his colleagues and has been reselected for Weaste & Seedley, also in your constituency.
<http://www.salford.gov.uk/councillors-memberdtls.htm?ID=33>
- The post holder occupies a politically restricted appointment within the meaning of Local Government and Housing Act 1989 with the Lancashire Combined Fire Authority.
- The post holder given the present circumstances is **disqualified** by the Local Government and Housing Act 1989 from standing for election and is also **disqualified** from holding his present public political office. No man may yet serve two masters.
- Conversely, if the post holder was holding public office, and he was, on the day he took up his appointment with the CFA then he **disqualified** himself from that appointment with the LFRS.
His terms of appointment given to him by the CFA would have included the fact that the appointment was 'politically restricted'. If the terms did not state this or if the list of politically restricted posts had never been prepared or updated to include this

appointment then the officer designated as head of the CFA “paid service” was acting unlawfully.

It is unclear who this ‘officer’ is but one assumes it will be either the Chief Fire Officer, a principal uniformed officer, or the Director of People and Development ?

- As a former senior ranking Officer with Lancashire County Fire Brigade, indeed a politically restricted post holder myself, I find it inconceivable that Cllr Harold was not aware of his legal responsibilities and duties as a solicitor and as a councillor. He sits on the Salford City employment and disputes panel and quite simply he could not have been unaware of his conflict of interest in employment terms.
- I find it inconceivable that the Chairman of the Combined Fire Authority County Councillor R.Wilkinson could not when he appointed Harold be unaware of Harold’s political activities. A Labour ward councillor appointed to a Labour controlled CFA?
- I find it inconceivable that the Chief Fire Officer P. Holland, Mr.K.Mattinson Director of Finance, Mr R.Warren Director of People and Development, and Mr B. Hamilton Head of Human Resources who were involved in Harold’s appointment and induction into the LFRS could not have been unaware of this deliberate conflict of interest.
The CFO and his executive team, for example, must surely have approved paid leave for Harold’s political activities?
- Should the tax payers of Lancashire be footing the bills for Salford City politicians?
- In my opinion this was a deliberate act of bad faith and deception on Harold’s part in pursuit of illicit income, aided and abetted by those whom I have identified and if this, as a consequence of your enquiry is proven to be so, then I will apply to the Law Society to have Harold struck from the Rolls and I shall demand that those of the LFRS executive team, who knowingly engaged in this deliberate public deception, should be disciplined by the CFA and/or contractually terminated for gross misconduct.
- If it is proven that Harold has engaged in calculated deception, and I believe a prima facie case already exists, then the matter of falsely obtaining councillor’s reimbursements arises in a criminal context.
- Did Harold inform his employer the CFA of his separate income from another Local Authority? Conversely, did Harold inform the Salford City Council of his role and employment with the Lancashire CFA?
- Has Harold a civil contract ‘obligation’ to inform the CFA of his material change of conditions? Does the Salford City Council code of conduct require Harold to comply with the need for openness and public scrutiny?
- Did Harold’s Labour political affiliations advantage him over other short list candidates at the time of his Selection Interview and subsequent appointment?
I intend copying this to the Equal Opportunities Commission for their investigation and I intend raising a FOIA request for copies of the documents which must be retained under the Equal Opportunities Act following such interviews.
I also have in mind to examine other appointments under these procedures.
- All these aspects must be examined and publicly reported upon by your enquiry and I urge you to act expeditiously as the May elections loom.

I shall copy this to the Clerk to the Fire Authority and to the Standards Board for England where I recently lodged a serious and series of complaints against the Chairman of the CFA for misconduct in public office.

This is just one more example.

Yours Truly,



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



Order of Excellent Fire-fighter
Russia



Oklahoma Medal of Honour
&
Honorary Citizen



CC

The Standards Board for England.

Clerk to the Lancashire Combined Fire Authority.

Mr. Trevor Phillips – Equality and Human Rights Commission.

Mr N. Keeling-Senior Reporter-Manchester Evening News.

Post Script

Minister, your Disabled Blue Badge Scheme; in spite of your genuinely laudable efforts in respect of the disabled blue badge scheme, which I salute, the following is a working example of abuse within in your constituency by someone who ought to know better :

- This post holder, a public office holder, seems unable to follow laid down government edicts and even less capable of following Labour Party policies.
- This is what you said:

"I believe that the Blue Badge Scheme should be fit for purpose. It must help those who need the Badge to improve their mobility and independence, but also be robust enough to prevent abuse of the scheme."

"I want those in Salford with experience of the Blue Badge Scheme to get involved in the consultation, tell us what you think and feed in any ideas and experiences you have had, to help us make the Blue Badge Scheme the best that it can possibly be."

- **This is what Councillor Harold did:**

Manchester Evening News...

Councillor parked in disabled bay.

By Neal Keeling

22/ 1/2008

A COUNCILLOR is facing a £60 fine after leaving his car in a disabled parking bay.

Solicitor Tony Harold, who is a Labour councillor for Ordsall, Salford, said he had 'made a mistake' and regretted it.

He was caught out after parking at Swinton Civic Centre.

His actions have been condemned by opposition councillors.

But Coun Harold has dismissed as untrue allegations by Liberal Democrats that he tried to get out of paying the fine.

He said: "It was a mistake on my part and I accept that. The circumstances are that it was council day and there were no car parking spaces to be had anywhere."

But Lib Dem councillor Stephen Cooke, who represents Swinton South, said: "I was in the office of the members' secretary at the civic centre when Coun Harold came in.

"He gave the impression when he spoke to the officer that he was asking if he could get the ticket cancelled. He should have arrived earlier to ensure a parking place."

But Coun Harold said: "I went to the council officer to ask for assistance on what to do after getting a ticket. I was not asking for it to be withdrawn, and will pay it."

Coun Harold must pay £60 which will be reduced to £30 if he pays within 14 days.



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BURNS

Monday, 18th February 2008.

Your Ref: MBW/BJH
My Ref: PB02008

**A Reiterative Call for a Ministerial Enquiry
into
Lancashire Combined Fire Authority
a
Post Holder's Conflict of Interest.**

Post Holder - Mr James Anthony Harold – LCFA Solicitor.

Dear Clerk,

Thank you for your letter of the 15th inst,.

Over many years it has been my privilege to deal with many Clerks to the Lancashire County Council.

Without exception, whether you agreed with their views or not, one came to respect the manner in which they conducted their business. A wisdom born of many years of experience, of impartiality, of a certain thoughtful aloofness, of a certainty of fact, of a certain compassion where its staff and pensioners were concerned, and of a calmness of solution in the turmoil of debate, but never as the progenitor of confrontation.

I regret you have chosen the latter characteristic by the threatening tone of your letter. I had thought to find in the Clerk to the Lancashire Combined Fire Authority, impartiality, wisdom, and compassion for the plight of Fire Service pensioners who through no fault of their own have had the tranquillity of their richly deserved retirement disturbed by this issue and as a consequence their confidence severely eroded in those who administer their pensions.

It seems my human aspirations were ill founded.

I find your letter to be uncertain of fact, confused, contradictory, and disappointingly lacking in comprehensiveness. Perplexing at the very least. It is unclear to me and neither do you make it clear to the Public, whether or not, the CFA's second communication on all these issues is at the behest, direction, and approved text of CC. R.Wilkinson the Chairman of the CFA?

Indeed, if I interpret your Reference above correctly it seems that this was typed by you, Mr. Winterbottom, though dictated by Mr. Brendan.J. Hamilton Head of Human Resources? If my interpretation of your file reference is correct this is a most peculiar state of affairs?

Nevertheless I will attempt to deal with it.

(1) Your Employee Status:

You will correct me if I am wrong no doubt, but you were appointed as a part time Clerk to the CFA in the latter half of 2005 because in the transition from the Lancashire County Fire Brigade to the LFRS. The LCC declined for financial reasons to provide further administrative services as they had been doing up until this point. This was indicated in a joint meeting held in June 2005 by the LCC.

(2) Harold's Employee Status in your letter:

You state in your letter that... "in which you assert that Mr J A Harold occupies a politically restricted appointment, within the meaning of the Local Government and Housing Act 1989, with the Lancashire Combined Fire Authority. Your assertion is incorrect. Mr Harold is employed not by the Lancashire Combined Fire Authority but by the Lancashire Fire and Rescue Service."

Given this statement I am bound to say that you, nevertheless, rush to his defence? This is a strange phenomenon of inconsistency when you have just completely disassociated him and the LFRS, from you and the CFA. Another curious business.

I regard your reply as either disingenuous, hair splitting, or simply ignorant of the facts. Allow me to quote to you the following:

"Employees'- Any employee of the Authority or Fire and Rescue Service whether uniformed or non-uniformed."

I am sure you know this, but if you will allow me, this is to be found in section headed "Definitions" which in turn is contained within the...

"LANCASHIRE COMBINED FIRE AUTHORITY SCHEME OF DELEGATION TO THE CHIEF FIRE OFFICER
THE CLERK TO THE COMBINED FIRE AUTHORITY
THE COMBINED FIRE AUTHORITY TREASURER
APPROVED BY AUDIT COMMITTEE 20TH JUNE 2007"

You will note the highlighted reference to yourself. Therefore in the light of your established knowledge I am perplexed by the uncertainty you create in your statement about who Harold actually 'belongs' to?

Harold is by the CFA's own definition an employee of the CFA and/or the LFRS, one and the same, and by remuneration qualified as a "Politically Restricted Post". These are your definitions, not mine...

(3) Harold's Status with respect to the CFA:

You state... "He provides no advice whatsoever to the Combined Fire Authority, its Committees or Sub Committees.", and yet, de facto, he directly contradicts your point by his reality of legal actions. It is clearly your intention, for the Public's benefit, to create blue water between yourself and Harold in respect of your individual roles but only in so much as it seems to serve your purpose, whatever that might be.

If you did not, nor do not, approve and authorise Harold to 'act' and make legal decisions for the CFA why is it that *he patently does so*? You state by implication that this is *your* job. I am sure the Public will find this all rather impenetrable. Allow me to present the evidence of pragmatic reality to them, part of which you have already presented to me in this dialogue without querying, in any manner, Harold's right to 'act' so.

Harold states, as you rightly observe ... "to advise you to refrain from repeating or further publicising allegations against Members of the CFA...".

How much more crystal clarity is needed to establish that Harold legally 'acts' for the CFA?

Further, you will recall the fact that my FOIA and DPA requests were made directly to the Chairman of the CFA in hand served papers, not the Chief Fire Officer. This was Harold's reply:

... "Your requests for information under either the Freedom of Information Act or the Data Protection Act are not regarded as legitimate and thus will not be complied with....".

Again he legally 'acts' for the CFA as a matter of record on the serious issues of the CFA's compliance with the Law.

Furthermore,

Harold continues... "Should you commence proceedings against the Authority they will be defended vigorously."

I need hardly draw your attention to the word "Authority" but I will, not you will note, the LFRS.

Once more he legally 'acts' for the "Authority", namely the CFA.

Whether or not he has usurped your role and duties as Clerk to the CFA is not a matter for me though it may well be for the baffled Public, for my part it simply demonstrates more corporate ineptitude.

Harold has legally acted for the CFA on at least three consecutive occasions in his dealings with me.

By definition and in regular practice, in spite of your assertions to the contrary, and noting that you do not state that Harold had no right to act unilaterally, nevertheless, *Harold has legally acted for the CFA.*

It can reasonably be presumed that Harold was only permitted to write to me on behalf of the CFA after he had proffered advice to the CFA Chairman, and that such advice has subsequently received the Chairman of the CFA's approval to write to me in the terms he has used.

Harold again advises and 'acts' for the CFA.

(4) Harold's Status as a "Politically Restricted Post" holder:

(a) Please have regard to The Local Government and Housing Act 1989. The following demonstrates how Harold is "qualified" for a Politically Restricted Post (PRP) though my analysis is by no means exhaustive. This ought, quite properly, to be left to a Ministerial Enquiry.

Unfortunately it is necessary to work back and forth through the Act to demonstrate 'qualification' and thence having proved the '**qualification**' to go back to the very beginning of the Act to confirm Harold's '**political disqualification**' using Section 1, which I will quote later.

(b) For the moment let us look at other sections of the Act to continue to build the case for Harold's 'PRP' having already established to the point of exhaustion that he legally advises and acts for the CFA:

Section 2 Politically Restricted Posts, sub section 3, Para (a):

(3) The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say—

(a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented;

It has been established thus far, that Harold is ultimately employed by the CFA; legally advises and 'acts' for the CFA; and, after approval, implements and/or contemplates legal action on the CFA's behalf in writing using the Authority's legal letter head.

(c) **Section 2 Politically Restricted Posts, Sub Section 7 Para (c):**

The Local Government and Housing Act 1989 .

7(c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

Harold has by his actions repeatedly demonstrated, he is directly accountable to the 'local authority', namely, in this case the Combined Fire Authority.

(d) **Section 2 Sub Section 1, Para (c):**

Harold is defined within the Act as a **non-statutory chief officer:**

(1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under a local authority—

(a) the person designated under section 4 below as the head of the authority's paid service;

(b) the statutory chief officers;

(c) a non-statutory chief officer;

Harold is a non statutory chief officer because he the only full time legal officer in both organisations who daily engages, as we have seen, in providing professional advice to the CFA and the LFRS.

(6) In this section "the statutory chief officers" means—

(b) the chief officer of a fire brigade maintained under the [1947 c. 41.] Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act;

Harold, a non-statutory chief, also directly advises the, Statutory Chief, the Chief Fire Officer on a daily basis and the CFA as we have seen. How can his post not be a PR Post?

(7) In this section "non-statutory chief officer" means, subject to the following provisions of this section—

(a) person for whom the head of the authority's paid service is directly responsible;

Let us assume for sake of argument that the "head of the authority's paid service" is the CFO, though it may be one of his principal managers, and this 'person' is responsible for Harold. In your brief note you do not deal with this issue at all, nor do you make clear who the "Head of Paid Service" might be, yet it is particularly relevant.

(b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority's paid service; and

Therefore, Harold is by definition a non statutory chief and 'qualifies' as a PRP holder for all the above accountable reasons.

(e) Section 3 Grant and supervision of exemptions from political restriction:

You do not demonstrate in any manner, in your reply to me, that Harold is exempted, has claimed, is likely to claim, or can in fact claim and demonstrate exemption from this Act no matter how unlikely this proposition might be.

Inescapable Conclusion:

(f) This all leads to the inescapable conclusion that Harold 'qualifies' himself within the meaning of the Act as a "Politically Restricted Post" holder, irregardless of what the LFRS may contend. He is a PRP holder by reason of his remuneration, his job specification, his responsibilities, his role and the comprehensive nature of his legal advisory duties within the LFRS to the "Head of Paid Service" and, if this is not one and the same, then to the Statutory Chief and finally by his demonstrable actions in providing advice and 'acting' on the Chairman of the CFA's approval by implementing his legally approved advice, all confirmed repeatedly by his actions in dealing with my issue.

I reiterate the point that given all these 7 'qualifications', it is inconceivable he is not on a "list" of "Politically Restricted Post" holders.

(g) It seems to me that without any degree of double check or independent scrutiny you have simply accepted from Harold and/or the LFRS, and/or the "Head of Paid Service", that Harold is not on such a PRP list. Well, if he is not on the PRP list with such comprehensive 'qualifications', 7 in number, who then might be? A 'mere' station manager? Because they are.

(2) It shall be the duty of every local authority to prepare and maintain a list of such of the following posts under the authority, namely—

(a) the full time posts the annual rate of remuneration in respect of which is or exceeds £19,500 or such higher amount as may be specified in or determined under regulations made by the Secretary of State;

You do not indicate to me in your far from comprehensive reply whether or not such a PRP list actually exists within the LFRS indicating its Year of Copyright; its Edition and/or Version number; and where it might be found in Public records which have to be available to the Public in respect of this specific issue.

(5) Disqualified by reason of 'Qualification'. :

Given all this lengthy exposé of 'qualifications' it then logically follows that Section 1 of the Act applies to Harold:

Local Government and Housing Act 1989 .

Disqualification and political restriction of certain officers and staff

(1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.

...quad erat demonstrandum.

(6) Jurisdictional Matters for the Clerk to the Combined Fire Authority:

To date I have received two replies, one which comes from the CFA via Harold, and one directly from you. It has to be said that it is *unclear* in your letter, whether or not, you write with the express approval of the Chairman of the CFA? It is a fact of correspondence record that as Clerk to the CFA you have signally failed to respond to, or to deal with, the following issues raised below, by me, with the Combined Fire Authority.

If I assume that you *had not* received instructions to reply to my 'service' from the Chairman of the CFA you are nevertheless the Clerk to the CFA, a Public servant, and are bound by common courtesy and Public duty to inform me that my communications had been received and that I may, or may not, expect a reply in the foreseeable future.

I have received no such communications from you.

Conversely, if you *have* received instructions to respond to me over the range of issues I have raised I still do not have your replies before me either?

(a) Data Protection Act 1998:

I served by hand (receipted) a 'cease and desist' Section 10 notice under the Data Protection Act 1998 upon the Member Services officer Mr.Keely which was directly intended for the Chairman to the CFA County Councillor R.Wilkinson on the 29th January 2007.

You as Clerk to the CFA have failed to acknowledge receipt of that legal document, and you have failed within the statutory 21 day period to indicate to me whether the CFA would, or would not, 'cease and desist', and, if in the case of the CFA's refusal, stipulating the CFA's reasons for so doing, quoting the DPAct of course in detailed justification.

However, for all the reasons I have indicated above I now accept, from Harold ,on behalf of the CFA, that you have refused compliance with the FOIA and the DPA without explanation.

I note that the CFA did not take the opportunity I presented to it; to deny that unlawful practices by LFRS employees have occurred under the DPA as I allege. Actions which were directly sanctioned by the CFA Committee on the 25th September 2007.

(b) Freedom of Information Act 2000:

As Clerk to the CFA you have failed to obtain direction from the CFA, and if you have received direction, failed to communicate this direction to me regarding this specific issue. As Clerk to the CFA you failed to acknowledge and comply with my legitimate Freedom of Information Act 2000 requests. In denying those requests as Harold did on behalf of the CFA, the CFA failed to stipulate in detail the legal justification for so doing, and/or why, without explanation, the CFA is not going to comply with this Act.

(c) Disability Discrimination Act 1995:

As Clerk to the CFA you have failed to obtain direction from the CFA, and if you have received direction, failed to communicate this direction to me regarding this issue. The CFA have not acknowledged and implemented the issuance of Complaint forms under the Disabled Disability Discrimination Act 1995 as served upon the Chairman of the CFA.

I note according to the CFA letter head that it is "Positive about disabled people"?

I also note that the CFA, in the opportunity I presented to it to rebut my claims of discrimination, does not deny that it *positively* discriminated against disabled people, to wit, 150+/- Fire Service pensioners.

(7)Defamation.

In my opening remarks I stated that it was unclear to me, nor did you make it clear to the Public, whether or not, your second communication on this specific issue of 'defamation' is at the direct behest, direction, and approved text of the Chairman of the CFA?

In respect of this specific issue this still remains a confusion in all our minds. Who are you actually speaking for?; Harold; yourself; or with the express approval of the Chairman of the CFA?

It will seem to the casual observer that every time I vigorously seek accountability and the truth, the CFA and the LFRS seeks refuge under the banner headline of 'defamation'; or simply that they are offended by my tone; or that I am being vexatious.

There is a better, simpler way, just answer the questions, or the Public will rightly conclude that this repeated wearisome panicky clutch of the straw of 'defamation' is simply a smoke screen of cover up for alleged unlawful activities.

Because of your stated obvious uncertainty even you state that you will seek advice. Is this not what the CFA pay you for in the first place? Yet again you do not indicate whether or not this contemplated action to seek advice is of your own volition or the Chairman of the CFA's 'authorised' version?

You do not stipulate which alleged acts of 'malice' have been perpetrated against whom, or against which individuals within which organisation, seeming just to be content to use a scatter gun approach. If it asks a question, just blast it...

Before you waste any more tax payers' money on aimless flights of fancy in this debacle can I draw your attention to a Law Lords ruling within the House of Lords in 1993:

The House of Lords ruled that government bodies cannot sue for defamation. This covers organs of local and central government including the Crown and government departments which have corporate status. They considered it was of the **'highest public importance that a democratically elected body or any governmental body, should be open to uninhibited public criticism'**.

I am sure you knew this, but I nevertheless, thought you should remind the CFA and the LFRS.

I am engaged in 'uninhibited public criticism' of the LCC and the Lancashire Combined Fire Authority. I have repeatedly put the same questions to the CFA in 21 letters and in response I have the grand total of 2 letters of febrile response so it is clear to me; the FS Pensioners; the Public; and the media, that the CFA and the LFRS have not the slightest intention of paying due diligent regard to the law or the discharge of their Public duty which is to assist, not hinder, Public scrutiny and accountability.

It is therefore essential for the health of local democracy within Lancashire particularly in respect of the Lancashire Combined Fire Authority and its Fire and Rescue Service that both organisations be forced by Ministerial Enquiry to respond properly and openly to Public scrutiny and accountability.

I shall therefore reiterate my request for such a Ministerial Enquiry by copying this letter forward to the Secretary of State.

Yours Truly,



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



Order of Excellent Fire-fighter
Russia



Oklahoma Medal of Honour
&
Honorary Citizen



CC

Rt Hon. H. Blears M.P.

Mr N. Evans M.P.

The Standards Board for England.

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Mr. Trevor Phillips

Mr N. Keeling-Senior Reporter

-Secretary of State for Central and Local Government.

-Constituency M.P. of the Complainant.

-Equality and Human Rights Commission.

-Manchester Evening News.