



Lancashire Combined Fire Authority
Chairman CC F.DeMolfetta
LFRS Headquarters
Garstang Road, Fulwood,
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Friday, 9th October, 2015.
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My Ref: PB01215.

Freedom Of Information Requests.

Dear Chairman,

Background Circumstances:

1. Mr. Brendan J. Hamilton Head of Human Resources – ‘Salary Scales’.

- a) Following the suspension of the above member of staff of the LFRS I made an *informal request* to your Press spokesperson Mr. Taylor requesting the salary scale on which Mr. Hamilton was remunerated.
- b) This information was freely available internally but immediately denied to me, a Taxpaying member of the Public, on the extraordinary basis, according to Mr.Taylor, that I had been placed on a persona non gratis blacklist *decided by Mr. Warren* who had issued written staff instructions that under pain of discipline they were not permitted to speak to or assist me even though this is a local authority and it is their Public duty. You approved these actions.
- c) Mr.Taylor misleadingly stated that this information was on the LFRS website though it was not. This public interest information is readily available in the other 48 Fire Authorities in the UK.
- d) I then made a formal FoIA request which Mr. Taylor passed to the *acting* Data Protection & Information Officer(non-uniformed), though he could not tell me who that was, because the present incumbent Mr.L. Gardiner like Mr. B.J.Hamilton was currently under suspension for alleged criminal offences.

I have not had a response to that request which has long exceeded its statutory limit granted to the LFRS and I now reiterate that formal request.

2. Mr. Brendan J. Hamilton Head of Human Resources – ‘Hate Crime’.

- a) You are aware that last November 2014 Mr. B.J.Hamilton was summarily suspended following a Complaint from a member the LFRS Medical staff who alleged both sexual and racist harassment, the latter being a ‘hate crime’;
- b) You are aware that such was the serious nature and evidence from this Complainant that Mr. Hamilton was immediately suspended and escorted from LFRS Service HQ premises by a senior uniformed manager;
- c) You are aware that these disturbing allegations were reported in detail to the Public/Taxpayers on the website ‘The Morning Bugler’;
- d) You are aware that Mr. Hamilton had ‘form’ in these matters in that he ‘left’ the Gt.Manchester Probation Trust as its Head of Human Resources under a mutual non-disclosure agreement, the use of which today is no longer a lawful act. The Courts recently determined that because misuse had regularly been used to ‘cover up’ criminal acts its use in such circumstances was made unlawful by Parliament;
- e) It is reasonable to expect that it might take a short period to arrange for two disciplinary hearings at which both Mr. Hamilton and Mr. Gardiner would be arraigned to have the disciplinary charges presented to them and their representatives;
- f) You are aware that Mr. Hamilton has now been in suspension for a period of 11 months during which time it is presumed that he has been on full remuneration with emoluments until his case has been adjudicated on.
- g) You are aware that this is Justice delayed which is Justice denied, not only for Mr.Hamilton, but more importantly for his alleged victim because this is a criminal ‘hate’ crime and one assumes the victim has, as yet, no closure from her trauma until/if Mr. Hamilton is found guilty;
- h) During this extended period I can find no Minutes where you have performed your public duty as Chairman of the CFA in that you have informed *all Members* of the CFA of these disquieting matters especially for those Taxpayers who are footing the bills for what is clearly an unexplained extortionate delay in bringing these issues to a satisfactory conclusion;
- i) Naturally this leads to public interest questions which as the elected politician responsible for the CFA’s political control and its public finance accountability I now require you to answer in justification to the Taxpayers.

3. Mr.L.Gardiner(former) Data Protection & Freedom of Information Officer – Fraud.

You are aware it was revealed in March 2015 that Mr.L. Gardiner had also been was suspended on an allegation of public expenses fraud similar to that of CC D.O’Toole.

You are aware that he, unlike Hamilton, after the briefest of periods resigned to start up in business, no doubt assisted by monies defrauded from the Public purse which are estimated to be in the region of £38K, or more.

This also leads to public interest questions which as the elected politician responsible for the CFA's political control and its public finance accountability I now require you to answer in justification to the Taxpayers.

4. Public Interest Questions:

Mr.Hamilton:

You are aware from the circumstances that the alleged victim reported this alleged offence as a 'hate' crime which is defined as... ***“Any criminal offence which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on a person's race or perceived race”.***

Q1. Did the alleged victim, in addition to reporting this 'hate' crime to the LFRS report it to the Police and was a crime number issued?

Q2. Did you and/or the CFO issue immediate instructions for the pastoral care of the alleged victim, and if not, why not?

Q3. What steps did you take to ensure that this alleged offence was immediately recorded in formal LFRS documentation?

Q4. What steps did you take to ensure in following your own policies and the criminal law that this 'hate' crime was reported to the Police, whether or not, the alleged victim had already also done so and, if not, why not?

Q5. Given the seriousness of the alleged criminality involved please provide a Public explanation why it has taken you, and/or the CFO, 11 months to bring Mr.Hamilton before a Disciplinary Hearing?; and for the Public Interest what point has been reached in Police investigations which might ultimately lead to Mr.Hamilton's interview under Police caution?

Q6. What steps did you take to ensure at an early point, recorded in CFA Committee Minutes, that this alleged 'hate crime' had been reported by you to an *all Members* full Committee of the Combined Fire Authority and if not, to which sub-committee, and please explain why such a grave matter was only reported to a sub-committee, not the full CFA Committee?

Mr. Gardiner:

You are aware that this alleged fraudulent activity was reported internally to the Chief Fire Officer and to you because ultimately you are accountable for all Public funds of the CFA.

You are aware from Mr.Gardiner's prompt resignation that a *prima facie* case of fraud existed against him. This raises substantial Public interest questions concerning the self-evident failure of routine monthly audit expenses claim checks during his 5 year term of employment, which you as the elected politician responsible for their political control and public accountability, are required to answer in justification to the Taxpayers, concluding with the detailed measures you have now approved to be set in place to prevent such fraud in the future.

One assumes that you are pursuing the same principles on 'recovery' to the Public purse, in this case by theft, as were applied to the 'recovery' of alleged 'overpayments' to FSVs including myself?

Q1. What formal steps did you take to ensure the ordering of an investigation into the allegations that Mr.Gardiner had knowingly defrauded the Taxpayers public purse in respect of his duties over the 5 year term of his employment?;

Q2. Who was formally appointed to investigate these allegations and what were their terms of reference?;

Q3. What were their formal written conclusions and recommendations?;

Q4. Did you submit this formal report to you from the Chief Fire Officer to the full, or sub-committee, of the Fire Authority?;

Q6. Did the CFA, you and/or the CFO authorise the implementation of these recommendations and, if not, why not?

Q7. At what early point did you ensure that this fraud was reported as a crime to the Police, and if not, why not?

Q8. Did you approve the formal acceptance of Mr. Gardiner's resignation, or who did with your authority?

Q9. Did you and/or the CFO issue instructions that this investigation was *still to proceed* to a conclusion even though Mr. Gardiner's admission of guilt by resignation was established, and if not, why not?

Q10. If you concluded that Mr. Gardiner had in fact defrauded the Taxpayers' public purse and the financial loss by fraud established, what steps did you and the CFO authorise, in conjunction with the Police, be taken before and/or after the acceptance of his resignation under the Proceeds of Crime Act 2002 to seek to recover these fraudulently obtained monies from Mr. Gardiner in restitution to the Public purse?

Finally, please provide detailed answers to all the above Questions *with supporting copies of the relevant CFA Minutes and all other documents* in which you recorded your decisions and actions in reporting all these matters to any, or all, *Members* of the Combined Fire Authority, or its staff, regardless of whether these issues were reported in Part 2 meetings(see below) or not?

Your answers should be in compliance with the requirements of the FoIAct and Statutory Instrument 2014 No. 2095 Local Government England; The Openness of Local Government Bodies Regulations 2014.

The Information Commissioner expects you to reply *promptly* and in any event within the 20 working days Statutory period for compliance, that is, until the 4th November 2015.

Your Truly,



Divisional Fire Officer (Rtd)

By Hand and by Email.