



5<sup>th</sup> August 2016.

County Councillor Mr.F.DeMolfetta  
Chairman-Lancashire Combined Fire Authority  
LFRS HQ Fulwood, Preston,  
Lancs. PR2 3LH

**1998 Data Protection Act .  
Section 7- Subject Access Request.**

Dear Chairman,

1. You have written to me twice recently, firstly on Monday 20<sup>th</sup> June 2016, the day that the Full Committee of the LCFA met for its AGM, and secondly, on Wednesday 6<sup>th</sup> July 2016.
2. Within your correspondence you have given the unequivocal impression that your proposal not to proceed with the Fire Authority's Statutory duty in respect of my Statutory Stage II Application was fully endorsed by the Full Committee of the Combined Fire Authority:
  - *On the 20<sup>th</sup> June 2016(the day of the AGM) you wrote... "On behalf of the Fire Authority,";*
  - *On the 6<sup>th</sup> July 2016 you wrote... "I have been asked by the Combined Fire Authority...on behalf of the Members of the Fire Authority".*
3. I must accept that what you have stated is factually true in both letters and that the Full Committee have endorsed your proposals, twice, after having had the facts of my Statutory Stage II Application presented to them by you.
4. Your first letter of the 20<sup>th</sup> June 2016, which was clearly written immediately after the Full Committee met on that day would be the logical consequences of their deliberations and endorsed decision.
5. In your second letter of the 6<sup>th</sup> July 2016 once more you are clearly writing on behalf of the "Combined Fire Authority" and its "Members of the Authority".
6. I have to say I find the Full Committee's actions puzzling. Because Chairman, in fulfilling your duty to them which was to place my Statutory Application before them, which you clearly did, it appears that the Committee, in spite, one assumes, of being advised of their Statutory duty by the CFA Clerk, Mr. Nolan a qualified solicitor, the Committee have chosen **not to fulfil their legal Statutory duty** and have therefore placed themselves both, individually and severally, in conflict with, and contravention of the Statute law.
7. As you are clearly aware any such committee determination(s) can only be concluded after the exercise of Constitutional Rule 6.5 by the Full Committee whereby my Application would of necessity in the first stage have had to be treated as 'Urgent Business', and after moving, seconding, debate and show of hands, placed on the Agenda on that day.

This is simply because of the time factor involved whereby the Statutory 2 months permitted for the Stage II procedure would have been exceeded by the time of the next Full CFA Committee Meeting on the 19<sup>th</sup> September 2016.

8. Rule 6.5, in the second stage, then requires that this new additional 'Urgent Business' motion be moved, presumably by you? That it be debated; voted on by a show of hands; endorsed; and finally Minuted, by the Full Committee of the Fire Authority.
9. I assume that Rule 6.5 was correctly implemented under Part 2 of the AGM(Press & Public excluded – 12a LGA 1972), which in the normal circumstances would be Statute barred from publication.  
  
However, because my Application and the consequential specific debate by the Full Committee was, and remains, my 'subject data', **such disbarment cannot apply.**
10. This Minuted debate, which surely must have taken place, will have been recorded under the full exercise of Rule 6.5 and in the circumstances I have outlined also become my 'subject data', and thus I am legally entitled to a *copy of these specific Minutes* under Section 7 of the 1998 Data Protection Act.  
  
In these circumstances S 27 & 35 of the Data Protection Act 1998 have primacy in law(See NotaBenas below) and all my 'subject data' must therefore be released to me.
11. In preparing my response to these puzzling circumstances it is essential that I have all the information available to me to prevent my misreading of this situation, hence my DPA request.
12. Formal Request – See Appendix 'A'.
13. I enclose the Statutory fee of £10.00(ten pounds) in cash with my request which is delivered by hand to you and a receipt is required.
14. You have 40 days, until Tuesday 13<sup>th</sup> September, 6 days prior to the next Full CFA Committee Meeting on Monday 19<sup>th</sup> September 2016 within which to release my 'subject data', though the Information Commissioner in a public comment has made it plain that it is *his expectation* that such simple requests will be expedited long before this time frame expires.
15. I will assume for the sake of the ICO's 'expediency' that you have retained on file my previously used identity documents from my other DPA Requests.
16. Please acknowledge by return.



Yours Sincerely,

F. M. G. [Redacted] MIFireE.  
Asst Divisional Fire Officer(Rtd)  
FG30 DPA Request

## Appendix 'A'.

The Fire Authority and their agents shall within 40 days of this service, inter alia, deliver up to me relevant copies of all records – my subject data- in their possession, power, custody, or control *relating directly or indirectly to my pension(s)*.

### My Subject Data:

- *All minutes, contemporaneous notes, and communications of all relevant documents* whether political, quasi-legal, or administrative, relevant to my pension dispute in which I am alluded or referred to, whether held in CFA Public (Part 1) or in Press & Public excluded(Part 2) Minutes.

### CFA Chairman:

- *All* relevant reports and emails received;
- *All* relevant internal bilateral communications within the LFRS;
- *All* relevant internal bilateral communications with the LCC;
- *All* relevant bilateral communications with elected Members both on the CFA and the LCC;
- *All* relevant instructions issued to the LFRS by the Chairman; the full Committee and/or the Injury Award Sub-Committee;

### LFRS:

- *All* relevant reports submitted to the CFA;
- *All* relevant bilateral internal communications within the LFRS and *its* departments and individuals staff members;
- *All* relevant bilateral communications within the LCC, and *its* departments;
- *All* relevant internal communications both within the LFRS and the LCC;

Without prejudice to the generality of the above *all* relevant pension dispute records(or copies) and a full summary of such records held.

### NotaBena.01:

#### **'Communications'.**

For the purposes of this Request 'communications' is defined in its broadest sense which includes correspondence; phone text messages; emails; contemporaneous notes; Minutes; telephone conversations; reports; and recordings of vox conversations whether by electronic means or otherwise. The foregoing examples are not meant to be exhaustive, nor exclusive;

'All', as defined in the OED.

### NotaBena.02:

#### **1998 Data Protection Act - Section 27 Preliminary:**

(5) Except as provided by this Part, the subject information provisions shall have effect notwithstanding any enactment or rule of law prohibiting or restricting the disclosure, or authorising the withholding, of information.

### NotaBena.03:

#### **1998 Data Protection Act - Section 35 Disclosures Required by law or made in connection with legal proceedings etc:**

(1) Personal data are exempt from the non-disclosure provisions where the disclosure is required by or under any enactment, by any rule of law or by the order of a court.

(2) Personal data are exempt from the non-disclosure provisions where the disclosure is necessary—

- (a) for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings), or
- (b) or for the purpose of obtaining legal advice, or

***or is otherwise necessary for the purposes of establishing, exercising or defending legal rights.***

**NotaBena.03:**

**1998 Data Protection Act - Section 61 - Liability of Directors etc**

Sub Section 1, of the DPA establishes corporate liability thus:

- (1) Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

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