



BURNS

Monday 21st November, 2016.

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Lancashire County Council
PO Box 78
County Hall
Fishergate
Preston
Lancashire England
PR1 8XJ
Labour Leader-CC J. Mein;
Labour Deputy Leader CC D. Borrow;
Lib-Dem Leader- CC.B. Winlow.
LCC - CEO Ms.J.Turton.

My Ref: PB01216 CEO.

**Lancashire County Councillor Mr. F.De Molfetta(Labour)
Gross Misconduct in Public Office.**

Mr.I. Young County Solicitor & Monitoring Officer.

Dear Chief Executive,

It is over two months since I lodged my formal complaints of gross misconduct against County Councillor Mr. F.De Molfetta(Labour) and Mr.I. Young County Solicitor & Monitoring Officer. You have failed to respond, and/or as far as I can determine, you have not taken the slightest action.

1.You will recall that I hand delivered the attached formal letter of Complaint to County Hall on the 15th of September 2016 and by electronic transmission the same day. The latter which the LCC server auto acknowledged.

2.The least courtesy I might have expected was a personal acknowledgement from you and an indication of the Statutory action you proposed to initiate or indeed have initiated in the extended time you have now had at your disposal.

3. In carrying out your Statutory duty, a legal duty which is both personal and corporate, I would have expected that you would have routinely informed the LCC Coalition Leaders, CC Mrs. J. Mein (Labour Leader) and CC B. Winlow (LibDem Leader) of these serious complaints unless of course they routinely receive Complaints with such a serious content.

4. To ensure that they in any event could not claim subsequently that they were unaware of my Complaints both Party Leaders were individually copied into all this correspondence.

5. It may well be that they have both directed you to take no action but such an instruction would be unlawful because it would instruct you to breach your Statutory duties and would not in any event, per se, exonerate you from the professional and legal consequences of failing to carry out that individual Statutory duty.

6. If however they have indeed both authorised/instructed you to take no Statutory action which the law requires you to implement and you have agreed to comply with this instruction then both Leaders and you have colluded in what can only be described as a complicit, knowing, criminal act.

7. The Electorate can, as a consequence, quite reasonably conclude that both CC Mein and CC Winlow as Leaders of their respective Parties reached a conclusion, without carrying out the requisite Statutory investigation set against the prima facie evidence presented to them, that there are no cases to answer. In effect secret judge and jury in this matter.

8. That being so, it logically follows that the Electorate, with the CC Elections advancing next May 2017 can only conclude that CC Mein and CC Winlow and their respective Parties approve of open corruption and criminality not only in the Councillors under their jurisdiction but in the LCC civil servants whom they instruct.

9. To reach such conclusions it inevitably follows that both you and the Coalition Leaders must have had secret discussions and meetings at the conclusion of which you all decided to take no further action which is a complicit conspiracy to breach the Statutory Law.

10. One assumes that in order to professionally protect yourself to some degree from a criminal decision of the Coalition Leaders you will surely have insisted that any such an ultra vires decision by them would have been issued to you in writing?

11. I would like to have a copy of such an unlawful instruction.

12. But to reiterate the point even this does not exonerate or excuse you from breaching the Statute Law.

13. That being so I request under the Freedom of Information Act 2000 and because it centres on my subject data, namely, my Complaints under s7, the Data Protection Act 1998 you provide me, within the applicable Statutory periods, the following information and that the Lancashire County Council and their agents shall, 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 complaint(s)** in which I am alluded or referred to;

NB.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.

NB.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.

NB.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.

NB.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.

14. Finally, there is the assumption that all these matters have been routinely reported by you to the lead LCC Scrutiny Committee and if indeed you have not performed such a duty then you should take due note that it is my intention to copy all my original complaint correspondence and this current correspondence to them individually. There can be no excuse of ignorance of these events on their parts either.

15. It is important to record that should you fail to respond once more then I shall without further notice seek a Ministerial Inquiry into these corrupt activities at the LCC.

Indeed I shall seek, through personal contact with her office and The Prime Minister's Committee on Local Government Rules of Conduct to encourage the Rt Hon Mrs T. May MP to call this matter in for her personal attention as an example of the completely corrupt failure of local government in one of the largest local authorities in the UK under her jurisdiction.

Yours Truly,



Divisional Fire Officer (Rtd)



Thursday 15th September, 2016.

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LCC - CEO Ms.J.Turton.

My Ref: PB01116 CEO.

**Lancashire County Councillor Mr. F.De Molfetta(Labour)
Gross Misconduct in Public Office.**

Mr.I. Young County Solicitor & Monitoring Officer.

Dear Chief Executive,

In the absence of either an acknowledgement or response from the LCC Coalition Leaders within the 7 days I stipulated previously I must assume that that they are not prepared to assist or guide me in bringing a Complaint of breach of the LCC 'Code of Conduct' against Lancashire CC Mr. F.DeMolfetta and I needs must proceed by following the Statutory route.

1.00. Statutory Officers General Duties:

1.01. Under the Local Government and Housing Act 1989 S4(a) you are one of a number of LCC 'officers' holding politically restricted posts. In addition you are designated as the 'head of the LCC's paid services' and thus with Statutory duties within the meaning and provisions of the Act.

1.02. Mr.I.Young, Director of Governance, Finance and Public Services is also a Statutory chief officer who in addition is the LCC County Solicitor and the officer designated as the LCC's Monitoring Officer.

1.03. It is recognised that you both have the relevant authority to discharge the Statutory duty to report to the LCC Full council and its elected Members any matter that may be illegal, in breach of a code of practice, e.g., 'Code of Conduct' or an action likely to result in maladministration, injustice, or in questions involving corporate legal propriety.

2.00. The Monitoring Officer(MO).

2.01. As the designated monitoring officer Mr.I.Young has a specific 'personal' Statutory duty pursuant to Sections 5 and 5A of the 1989 Act and its general provisions which is to ensure that the council, its officers, and its elected members maintain the highest standards of conduct.

2.02. In summary Mr.I.Young's three main roles are:

- to be responsible for matters relating to the good conduct of councillors and LCC officers, including himself;
- to report to the Full Committee of the LCC on matters he believes are, or are likely to be, illegal, or amount to maladministration, injustice, impropriety, legal probity, or unlawful, particularly in this case in respect of CC F.DeMolfetta actions;
- to be responsible for the assiduous operation of the LCC's Constitution.

2.03. As a key guardian of the LCC's local government corporate legal propriety Mr.I.Young, and in the case of the LCC, who is also the County's Solicitor, is expected as an 'officer of the court', namely a practising solicitor, to discharge his duties with absolute *impartiality and honesty*, which is an essential skill for any monitoring officer, whilst ensuring that the appropriate processes are followed *transparently*.

It is important that Mr.Young is able to maintain and uphold these inviolable standards in public office, free of the influence of those who may wish to circumscribe his actions, whilst maintaining a personally credible position of public fairness and transparency which has the Public's trust and confidence.

2.04. Unfortunately, reflected in correspondence, Mr.I.Young has, in dissimulation from the outset, knowingly failed to grasp the significance of my Complaint which was laid in comprehensive outline before him making it abundantly clear that this Complaint was not about a pension matter *per se* but about the misconduct of a Lancashire County Councillor, County Councillor F.DeMolfetta, who happened to be

responsible for these matters on the LCFA where his assigned duties by the LCC Coalition Leaders' placed him.

- 2.05. This led Mr.I.Young to a further deliberate failure of Statutory duty in that he failed to indicate to me what LCC procedure I could adopt to bring CC F.DeMolfetta's misconduct before him and the elected Members of the LCC, or its delegated sub-committee. Nor did he indicate to me how he intended to fulfil his Statutory duties.
- 2.06. Mr.I.Young did not, in yet another deliberate failure of Statutory duty, indicate to me that it was nevertheless his intention to not only investigate the Complaint, even at a preliminary stage, for which the LCC are required under S28(6) of the Localism Act 2011 to make provisions; nor even to prepare a report of these investigations set against my allegations for the benefit of elected Members, and indeed the accused, and for which he has a personal Statutory duty.
- 2.07. Indeed I found it perplexing that Mr.I.Young failed to inform me that he was both the County Solicitor and also acting as the LCC's monitoring officer though this is perfectly lawful.
- 2.08. Nor did Mr.I.Young indicate to me his ultimate intention which ought to have been to prepare a monitoring officer's report or even engage the 'Independent Person', which is once more a Statutory provision of the Localism Act 2011 leading to a presentation document for the LCC's Full Committee or the appropriate sub-Committee/s.
- 3.00. **Due Process – Lack of Confidence.**
- 3.01. As a consequence I cannot therefore have either least confidence in Mr. I. Young's competency, honesty, transparency or integrity; nor in his ability or commitment to discharge his Statutory function and the other essential functions which one has a right to expect in the LCC's Monitoring Officer.
- 3.02. In my mind at this very early stage, and in the mind of those I represent, this failure to engage properly in the Statutory process, which he is required to, has caused consequential and irreparable damage to Mr.I.Young's professional legal reputation of impartiality and honesty and surely must call in question his continued suitability as a Statutory Monitoring Officer, all of which has, as a consequence, further eroded the public confidence of Fire Service Veterans, their Widows, and Beneficiaries in the LCC.
- 3.03. How the practicality of the replacement of Mr.I.Young, because of the lack of personal and Public confidence in him, and his general unsuitability to deal with my Complaint against CC.F.DeMolfetta, and how these matters are to be addressed is a matter for you as his CEO and the political Coalition you both serve; but nevertheless in serving my Complaint on you it does bring with it the same Statutory

duties which the law requires you in substitution to discharge.

4.00. **'Code of Conduct' - Breaches - CC.F.DeMolfetta.**

4.01. County Councillor F.De.Molfetta when placed in elected office did act contrary to The Local Authorities(Model Code of Conduct) Order 2007 No.1159 in that he,

a) Did *knowingly in breach of the LCC 'Code of Conduct'* fail to provide urgent pastoral care to his disabled FSVs, their Widows, and Beneficiaries by addressing, with a 'fresh mind', the Pension Management Debacle of 2007, which he had inherited as the Pension Scheme Manager, a debacle which for decades prior blighted the lives and income of those afflicted by enforced early retirement due to operational Fire Service Injury;

b) Did *knowingly in breach of the LCC 'Code of Conduct'* fail to investigate and curtail the imposition of the "Hardship Route" on disabled FSVs and their families. A failure which was regarded by senior LFRS staff as tacit approval for their continuing inhuman actions. Actions which were directly contrary to the expressed and Minuted wishes of the Full Committee of the LCFA and its compliance with Human Rights at the commencement of their Pension Management Debacle in September 2007;

c) Did *knowingly in breach of the LCC 'Code of Conduct'* without the knowledge, or express, or retrospective approval of the Full Committee of the LCFA authorise, Mr.L.Gardiner Data Protection & Freedom of Information Officer, to corruptly cover up this Debacle by repeatedly breaching both the Freedom of Information Act 2000 and the Data Protection Act 1998 by denying access to copies of disabled Fire Service Veterans; FSV-PB; FSV-WH; FSV-JSH; FSV-RRB; FSV-PJ; FSV-JH; FSV-FG, LFRS Personal Record Files for their personal pension audit purposes; this is in contravention of the Pensions Act 1995(as amended) concerning Pension Scheme Members rights;

Such misconduct has repeatedly brought the LCFA into direct conflict with the Information Commissioner who threatened, and continues to threaten, Contempt of Court action for unjustifiable repeated violations of the two applicable Acts of law;

d) Did *knowingly in breach of the LCC 'Code of Conduct'* without the knowledge, or express, or retrospective approval of the Full Committee of the LCFA authorise the denial of the release, and thus the breach of the Freedom of Information Act 2000 of the expenses records of former CFO Holland and former Chairman of the LCFA CC D.O'Toole whilst engaged in LFRS duties. Expenses Records which had been released without demur by

the LCC in respect of CC D.O'Toole's expenses claims with them;

e) Did *knowingly in breach of the LCC 'Code of Conduct'* without the knowledge, or express, or retrospective, approval of the Full Committee of the LCFA authorise Mr.Warren the delegated Pensions Scheme Manager to endemically and routinely engage in dissimulation, obfuscation, obstruction, and simple falsehood in dealing with Statutory pension complaints culminating in deliberate acts of deceit in the case of disabled FSV-PB; FSV-WH; FSV-JSH; FSV-RRB; FSV-PJ; FSV-JH; FSV-FG, and others including Widows which was intended to, and did mislead The Pensions Ombudsman into making incorrect legal Determinations based on false documents and statements deliberately supplied to his Court by Mr.Warren;

f) Did *knowingly in breach of the LCC 'Code of Conduct'* on or about the 5th September 2013, without the knowledge, or express, or retrospective authorisation of the Full Committee of the LCFA breach the Statutory Pension IDRPs in respect of disabled FSV-PB Statutory Stage II Application by mendaciously '*giving the impression*' to the Applicant that his Application had been placed before the Full Committee for Statutory determination when in falsehood it had not.

A falsehood supported in writing by the then Clerk to the Fire Authority Mr.M.Winterbottom D.L., a Deputy Lieutenant and Officer of the Court of Lancashire;

"2.(b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.";

g) Did *knowingly in breach of the LCC 'Code of Conduct'* on or about the 5th September 2013, without the knowledge, or express, or retrospective approval of the Full Committee of the LCFA, with the complicit and conspiring support of others, yet to be identified, interfere with, obstruct, and unlawfully intercept my electronic communications, contrary to 'The Regulation of Investigatory Powers Act 2000, S1', with elected Members both at the LCC and the constituent Local Authorities of the Lancashire Combined Fire Authority to prevent the service and distribution of Statutory documents in connection with Statutory IDR Procedures thus placing the LCFA in contravention of the applicable Statutory Instrument.

h) Did *knowingly in breach of the LCC 'Code of Conduct' and in dissimulation mislead*, with the complicit agreement of the Clerk to the Fire Authority and Pension Scheme manager Warren on 15th January 2016 by failing to place the Complaint of Conspiracy to Defraud of disabled FSV-RRB complete and

unabridged before the Full Committee of the Fire Authority so that they could, in Statutory duty, make a determination on the full facts and evidence placed before them;

i) Did *knowingly in breach of the LCC 'Code of Conduct'* in January 2016 without the knowledge, or express, or retrospective approval of the Full Committee of the LCFA authorise Mr. Warren, in the case of disabled FSV-RRB, to deliberately mislead The Pensions Ombudsman in alleging that disabled FSV-RB had failed to fully implement the Statutory IDRPs Stage I and Stage II procedures an allegation which was completely mendaciously false;

j) Did *knowingly in breach of the LCC 'Code of Conduct'*, fail to inform the Full Committee of the LCFA of the receipt of a 2 month time limited Statutory Stage II Application (Complaint) from Lancashire disabled FSV-FG which required Statutory examination and adjudication by the Full Committee of the LCFA;

k) Did *knowingly in breach of the LCC 'Code of Conduct'*, and by dissimulation, mendacity, and simple falsehood '*give the impression*', twice in writing, to this Applicant that his Application had been placed before and adjudicated on by the Full Committee of the LCFA on the 20th June 2016 at its AGM when he knew that statement to be a false misrepresentation later confirmed by County Councillors who were present who stated that this Application *had not* been so presented to them;

"2.(b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.";

l) Did *knowingly in breach of the LCC 'Code of Conduct'*, as a consequence of his unlawful actions place the LCFA on the 17th August 2016, once more, in contravention of their Statutory duty and in breach of the 1995 Pensions Act (as amended) and its provisions.

Another contravention in which it remains;

m) Did *knowingly in breach of the LCC 'Code of Conduct'*, on or about the 20th June 2016, without the knowledge, or express, or retrospective approval of the Full Committee of the LCFA, with the complicit and conspiring support of others, yet to be identified, interfere with, obstruct, and unlawfully intercept electronic communications, contrary to 'The Regulation of Investigatory Powers Act 2000, S1', with elected Members both at the LCC and the constituent Local Authorities of the Lancashire Combined Fire Authority to

prevent the service and distribution of Statutory documents by disabled FSV-FG in connection with his Statutory IDR Procedures thus placing the LCFA in contravention of the applicable Statutory Instrument.

n) Did *knowingly in breach of the LCC 'Code of Conduct'* in complicity with CFO Kenny and the LFRS Finance Manager Mr.K. Mattinson without the knowledge, or express, or retrospective approval of the authority of the Full Committee of the LCFA expropriate and pay the Head of Human Resources Mr. B. Hamilton, whilst he was under suspension for criminal racism and a breach of the Equality Act 2010 for bullying female members of his staff, a sum of Public monies amounting to 2 years salary with emoluments believed to be in the region of £200,000.0;

o) Did *knowingly in breach of the LCC 'Code of Conduct'* in complicity with the aforesaid Finance Manager make misleadingly false accounting entries in the annual accounts of the LCFA to hide these facts from LCFA Auditors; the Local District Auditor; and Public scrutiny;

p) Did *knowingly in breach of the LCC 'Code of Conduct'* without the knowledge, or express, or retrospective approval of the Full Committee of the LCFA authorise the acceptance of Mr.Hamilton's resignation without the completion of due legal process of the criminal charges to be laid against him thus denying fundamental Justice to those Mr.Hamilton had bullied;

q) Did *knowingly in breach of the LCC 'Code of Conduct'* fail to inform the Full Committee of the LCFA that Mr.L. Gardiner, Data Protection & Freedom of Information Officer(Currently employed at Cheshire FRS in this position) was suspended for knowingly making false entries in his service mileage logbooks fraudulently claiming mileage reimbursement in the region of £40,000.0;

r) Did *knowingly in breach of the LCC 'Code of Conduct'* fail to inform the Full Committee of the LCFA, or to initiate any action with the Police, and/or CFO Kenny, to recover these substantial fraudulent sums of Public money and did further approve the acceptance by CFO Kenny of Mr. Gardiner's resignation without any form of reimbursement, reparation, or restitution;

s) Did *knowingly in breach of the LCC 'Code of Conduct'* without the knowledge, or express, or retrospective approval of the Full Committee of the LCFA, appoint in direct contravention of S7(Appointment on Merit) of the Local Government and Housing Act 1989 and the Equality Act 2010 Mr.M.Nolan(Solicitor) Clerk to the Fire Authority without publicly advertising a vacant public appointment; without forming and publishing a short list of suitable candidates; without publicly convening a short list panel of

appointment of elected Members of the Fire Authority as required by Statute Law and without publicly announcing the successful candidate thus, in breach of the law, denying suitable candidates of their lawful and equal opportunity but giving them the 'impression' that public appointment procedure had been followed;

t) Did *knowingly in breach of the LCC 'Code of Conduct'* without the knowledge, or express, or retrospective authorisation of the Full Committee of the LCFA approve the placing of a false complaint by the Clerk to the Fire Authority Mr.Nolan(a Solicitor), before the Chief Constable against disabled FSV-PB in an express abuse of power, intimidation, and oppression whilst in the knowledge that the complaint was false in law; was an abuse of due process; was an abuse of his position as Clerk to the Fire Authority with the knowing intent to cause disabled FSV-PB domestic distress by reason of two separate late night visits to his property by 4 Police Constables in 2 marked vehicles with the intent to publicly humiliate him and to prevent the further publication in a free press of CC DeMolfetta's and his 'associates' criminal activities;

u) Did *knowingly in breach of the LCC 'Code of Conduct'* fail in his County Councillor duties to comply with his Attestation to execute his duties in compliance with the LCC 'Code of Conduct' and has by his failure of his assigned duties, particularly in respect of his corrupt failure of leadership at the LCFA did bring the LCC, the LCFA, and their respective 'Codes of Conduct' into Public disrepute and contempt.

Please acknowledge receipt by return.

Yours Truly,



Divisional Fire Officer (Rtd)



Order
Excellent Firefighter



Soviet Union

LSGCM
Exemplary Fire Service



United Kingdom

Oklahoma Medal of Honor
Honorary Citizenship



Oklahoma USA

CC

Minister of State for Security Home Office Mr.B. Wallace M.P.(Constituent).

Nigel Evans M.P.(For Constituents) Public Administration and Constitutional Affairs Select Committee.

Minister of State for Policing and the Fire Service Mr.B.Lewis BSc,LLB (Hons) M.P.

Under-Secretary of State for Pensions Mr.R.Harrington M.P.

Shadow Minister-Cabinet Office Mr.T.Watson M.P., Deputy Leader Labour Party.

Shadow Chancellor Mr.J.McDonnell M.P.(Firefighters' Champion) Labour Party.

Leader of the Liberal Democrats Mr.T.Farron M.P. Leader-Liberal Democrats.

Chairman Work and Pensions Select Committee Mr. F.Field M.P.

Information Commissioners Office.

The Pensions Ombudsman. Mr.A.Arter.

Pensions Regulator. Ms.L.Titcombe.

All elected Members of the Lancashire Combined Fire Authority.

CEO Ms.J.Turton – By Hand this date.