



Please ask for: Lee Gardiner
Direct Line: 01772 866903
Email: leegardiner@lancsfirerescue.org.uk
Your Ref:
Our Ref: LG/SAR [redacted]
Date: 9 November 2010

Dear Mr [redacted]

Subject Access Request

I am writing further to your letter of 21 October 2010 where you requested a copy of your PRF, complete.

We are treating your correspondence as a subject access request under Section 7 of the Data Protection Act 1998.

In order for us to process your request please send us a cheque for £10.00 made payable to Lancashire Combined Fire Authority along with proof of your identity such as a copy of your passport or driving licence. Once in receipt of the fee and identity documentation we will begin the process of locating your information.

Please note that a subject access request does not allow access to all information held in your personnel file and associated records such as pension files. You are only entitled to receive information which constitutes personal data. For information held to constitute personal data an individual must be the focus of that information.

Please note that as your request for information is a request under Section 7 of the Data Protection Act we have 40 days from receipt of your fee and proof of identity in which to respond to you.

Should you have any queries with regards to this letter or require any additional information, please contact me on the details listed

Yours sincerely,

Lee Gardiner
Data Protection & Freedom of Information Officer

Headquarters

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



Mr F M G [REDACTED]

16th May 2011

Case Reference Number RFA0369450

Dear Mr G [REDACTED]

When I last wrote to you, I explained that when we receive data protection complaints, our obligation is to make an assessment. An assessment is the Information Commissioner's view about whether an organisation has followed the rules of good practice for handling information in the Data Protection Act 1998 (the DPA).

I also explained that our aim is to ensure that organisations deal with personal information properly in the future. Our assessment decisions can help us to decide whether we should take action against a particular organisation.

Our decision

I wrote to Lancashire Fire and Rescue Service about this matter and have now received its response. On the basis of all of the information provided by you and Lancashire Fire and Rescue Service, we have decided that it is unlikely that Lancashire Fire and Rescue Service has complied with the requirements of the DPA in this case.

This is because the ICO consider the personnel filing system at Lancashire Fire and Rescue Service to fall under the DPA, and therefore the Lancashire Fire and Rescue Service obliged to comply with your subject access request.



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It should however be noted that Lancashire Fire and Rescue Service had sought to rely on some guidance issued by the ICO, and which appeared on our website. This guidance did not however accord with the ICO's view and has now been removed from our website and an updated version issued, a copy of which has been provided to Lancashire Fire and Rescue Service.

The Information Commissioner has decided that further regulatory action is not required at this time.

We have however advised Lancashire Fire and Rescue Service that we consider them to need to revisit your subject access request and provide you with a copy of the personal data you are entitled to receive from your Lancashire Fire and Rescue Service personnel file.

If they do not contact you directly I would suggest that you write to Lancashire Fire and Rescue Service 'restating' your subject access request and referring to your complaint to the ICO.

Next steps

However, most organisations want to put things right when they have gone wrong and learn from complaints that are raised with them. We have therefore asked Lancashire Fire and Rescue Service to consider the lessons learned during the course of this assessment and take steps to prevent the situation from happening again.

We will keep a record of your complaint and take this assessment into account if we receive further complaints about Lancashire Fire and Rescue Service. The information we gather from complaints may form the basis for action in the future.

Thank you for bringing this matter to our attention.

Yours sincerely,



Benedict Elliott

Case Officer – Complaints Resolution (Group 1)
Direct telephone 01625 545849





20 May 2011

Mr R Warren
Lancashire Fire and Rescue Service
Service Headquarters
Garstang Road
Fulwood
PRESTON

Dear Mr Warren

Further to my previous requests for sight of my PRF and subject data, I wish to restate that request. I have made reference to the Information Commissioner's Office (ICO) over this matter and have been informed that LCFRS are obliged to comply with that request and that you have been made aware of this fact, so:-

- a) please provide a copy of my personal record file and
- b) a copy of all correspondence between LCFRS and the LCC Pensions Department reference myself, and
- c) a copy of all correspondence between LCFRS and the DWP reference myself, and
- d) a copy of the minutes of the Injury Pension Award Sub-committee reference myself.

I have already paid the £10 fee for this at the time that I made my first request.

Yours

F M G 

Cc The Information Commissioner's office



Please ask for: Lee Gardiner
Direct Line: 01772 866903
Email: leegardiner@lancsfirerescue.org.uk
Your Ref:
Our Ref: LG/SAR/G [REDACTED]
Date: 8 August 2011

Dear Mr G [REDACTED]

Subject Access Request

I am writing further to the determination issued by the Information Commissioner's Office (ICO) on 16 May 2011 and subsequent correspondence from our Director of People and Development dated 27 May 2011.

Having reconsidered your request we remain of the view that our Personal Reference Files (PRFs) are not a *relevant filing system* as defined by the Data Protection Act 1998 (DPA) or by the Court of Appeal in the Durant Ruling (*Michael John Durant v Financial Services Authority [2003] EWCA Civ 174*) despite the ICO issuing revised guidance on the issue.

However, having considered all the guidance now available for responding to access requests as a gesture of goodwill to you I enclose a copy of your *PRF as requested by the ICO*.

Should you have any queries with regards to this letter or require further clarification which I can provide please contact me on the details listed.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Lee Gardiner".

Lee Gardiner
Data Protection & Freedom of Information Officer

Headquarters

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





10 August 2011.

Mr.R.Warren

Lancashire Fire & Rescue Service HQ

Fulwood, Preston, Lancs.

PR2 3LH

Daer Mr.Warren,

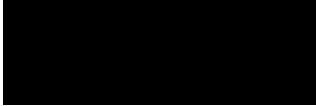
- Thank you for your letter of the 8th inst with its recorded delivery enclosure of my PRF.
- I am glad to note by your action that you have finally conceded to the Information Commissioner and to me that it is my legal entitlement to have all my subject data under the DPA.
- I assume that you will also be forwarding PRFs to all the other FSVs I know have applied to you for their PRFs?
- I am puzzled by the statement, 'gesture of goodwill', by your Mr.Gardiner.You have a duty to comply with the law it has always been as simple as that, goodwill is not involved.
- Mr.Gardiner does not state what the intent of this 'goodwill' is? It would have been more constructive if you and Mr.Gardiner had responded during the last 4 years to the 6 or 7 formal invitations you have received from the FSVs to meet under the auspices of the Leader of the LCC or the Courts Service to construct a resolution to the mess you have created by your maladministration.
- I am surprised if you think that I have shred of goodwill or trust in you or the LFRS after the bullying and hardship treatment you have deliberately meted out to myself, my family, and to all the others involved.
- In moving progress on my part I would like you by return to confirm and give me an assurance, which Mr. Gardiner omitted to state in his letter, that this bundle has in no manner or form been censored or weeded by you to the legal advantage in law of the LFRS?; and that no other records of mine exist which you have decided to be economical with in non compliance with the law?
- Consequently I would like your confirmation in writing that this bundle of documents contains every single record retained by you in respect of my total service, including and especially all the statutory records and most essentially all the DWP records and information I have brought to your attention during

my retirement and which you have a statutory duty to maintain and retain especially in respect of the administration of my pensions.

- If you are unable to confirm the completeness of these records then I expect that you will provide me with a detailed explanation why any records might be missing, where they went, and under whose jurisdiction they are now so that I may obtain them?
- An immediate glance through this bundle confirms that I do not see the other documentation I have requested from the ICO and you in respect of the LCC Pensions Services correspondence and the Minutes of the CFA Injury Sub-Committee. I am sure this is an oversight on your part but I would appreciate some prompt indication when I am likely to receive these?
- It has long been the opinion of myself and the other FSVs that you and the LFRS have engaged in the maladministration of our pension records by not retaining all those statutory records and information from all sources which you have a duty to retain including the DWP records and information I have brought to the attention of the LFRS during my retirement. This is why myself and others have requested copies of our PRFs.
- You will recall that in my case I have repeatedly drawn to your attention the similarity in my case with that of Mr. [REDACTED] and the special treatment which in my opinion he received. You have chosen to ignore my letters when I have repeatedly brought this your attention.
- I have now superficially looked at the contents of my PRF and I conclude even at this early point that my PRF supports my prior position and my contention fully. It is clear I have more records and information than you ought to have, records and information which I have brought to your attention but which in the failure of your statutory duty you have failed to record in my PRF.
- Later I will carry out a detailed examination of my PRF with my family not looking for records or information that are self evidently there but which records and information is not there and which because of your failure of statutory duty you have failed to retain in my PRF.
- Even at this early point it is my conclusion that your action and decision in interfering with and stopping the payment of my Injury Award was based on your statutory failure to retain my proper record and information and thus your decision was and is baseless in law.
This was because of your failure of statutory duty to maintain and retain my records and information properly which I and other agencies brought to your attention in the past years.
You simply did not have the correct and proper information upon which to base the unlawful decision which you took.
- The unlawful circumstances which you created by interfering with and suspending my Injury Award imposed direct financial hardship on me and my family all without having the courtesy to me of considering with me the impact your ill supported in law decision would and did have on me and my family.
- Even though you restored my Injury Award at one point you have failed to give me an accurate accounting of the monies you have removed from me, monies which I believe were in excess of the 'overpayment' you alleged. Neither have you responded to my correspondence which required you to consider returning those monies with County Court interest.

- Your actions have caused me both physical and emotional harm and in the longer term in the light of what my PRF will further reveal I intend to take action against you personally and the LFRS to recover what is justly mine and to seek damages from you for causing me this unnecessary harm and distress.

Yours Sincerely,



F. M. G. [REDACTED] MIFireE.

Assistant Divisional Fire Officer(Rtd)