



Mr F G [REDACTED]

Please ask for: Bob Warren
Telephone: 01772 866804
Email: bobwarren@lancfirerescue.org.uk
Your Ref:
Our Ref: BW/JLW
Date: 20 June 2016

Dear Mr G [REDACTED]

IDRP – STAGE II APPLICATION FOR CONSIDERATION BY LCFA COMMITTEE

On behalf of the Fire Authority, I acknowledge receipt of your letter dated 16 June 2016 and attachments which were handed on your behalf to the Chairman of the Authority by Mr Burns.

Unfortunately the restrictions and processes you are trying to impose on the IDRP process are not accepted and would make the process unworkable. Your stipulations seem to be based on incorrect assumptions, out with the provisions of not only the Lancashire CFA IDRP process but also the IDRP provisions.

In addition you make very serious allegations concerning criminal acts. The responsibility for investigating criminal activity is vested with the Lancashire Constabulary and must take primacy. If you genuinely believe or have evidence of criminal activity then you should report such matters to the Constabulary. Until this is resolved the process cannot be enacted.

If the Police consider your allegations have any credibility then they will no doubt commence an investigation. This would undoubtedly involve individuals involved in the IDRP review being interviewed, possibly under caution.

Therefore it is not possible for the same individuals to participate in the IDRP process. Consequently until the criminal allegations have been examined the IDRP process cannot be progressed, especially as if there is any foundation to your allegations, the CFA might inadvertently find itself interfering with criminal procedures.

Headquarters

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



I have accordingly placed your application in abeyance until the Police investigation is concluded.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Bob Warren', with a stylized, sweeping flourish extending to the right.

Bob Warren
Director of People and Development



25 June 2016.

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

IDRP – Stage II Application.

Dear Chairman,

I acknowledge receipt of your letter of the 20th June 2016 signed on your behalf by the Lancashire Firefighters Pension Scheme manager Mr. R. Warren.

I draw your attention to the following in my final response:

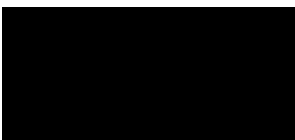
- Would you please be so kind as to let me know by what legal authority you have presumed to act ultra vires to avoid your Statutory duty which is to place my Stage II Application before the Full CFA committee for Statutory adjudication within the required Statutory time frame of two calendar months which commenced on the 16th June 2016?
- You may also care to explain why my Application directed to you and the individual elected Members of the Full Committee has apparently been dealt with by Mr Warren? Please correct me if I am wrong but he is not an elected Member simply a local authority civil servant; nor is he the Clerk to the Combined Fire Authority a similar non-elected local authority civil servant of the CFA? It seems Mr. Warren simply seeks to delay matters;
- Fundamental to dealing with my comprehensive pension Complaint will be the essential investigation of *all the circumstances* I have laid before you, during which it will be necessary for the Full Committee to consider Mr Warren's conduct of my pension management, and thus each of the elected Members is legally required to approach this Application 'with a clear mind', free of the influence of those whose conduct will be under review and transparently so - or risk a reputation for individual and corporate corruption;
- I choose to take the view that until your intrinsic investigative process is completed one cannot know what the right course to take is. If there is an admission of error and full correction to my satisfaction, it would not serve the public interest to pursue any past error or misconduct; nor would it be in my interest to do so.
- Should you take legal advice I believe you will be advised that in event of an alleged crime it is up to the injured party to proceed with it or not.
- Because the Pension Sub-Committee, as presently configured is unconstitutional, I have laid the detail of possible error and/or my suspicions

of continuing corruption and fraud bare for full investigation before all elected Members.

To effect this, I have individually served Statutory notices to each elected Member to ensure that great care will be taken, jointly and severally, by each Member to properly consider my Application, rather than rubber stamp what may, otherwise, render them unwittingly to criminal proceedings.

- Should the Full Committee not consider my Application in time, or at all, then as I understand it, there would be a general and unanswerable criminal liability for 'misconduct in public office', both jointly and severally by elected Members, which I would report to the Home Secretary and Serious Fraud Office, amongst others.
- All I seek is proper payment of my rightful pension entitlement as prescribed by law, rather than accepting a convenient layman's interpretation in aid of cost cutting by means of which those injured in service have been retired without any compensation.
- If corrected then one may be inclined to take the view that this is more a matter of error born of over-zealousness than of deliberate fraud.

Kindly let me know when and where the Full membership of the CFA committee will meet to consider my Application whilst remembering that the Statutory time framework within which they are required to make a Statutory Determination has already commenced on 16th June 2016.



Yours Sincerely,

F. M. G. [REDACTED] MIFireE.
Assistant Divisional Fire Officer(Rtd)



Mr F G [REDACTED]
[REDACTED]

Please ask for: Bob Warren
Telephone: 01772 866804
Email: bobwarren@lancsfireandrescue.org.uk
Your Ref:
Our Ref: BW/JLW
Date: 6 July 2016

Mr G [REDACTED]

IDRP – STAGE II APPLICATION

I have been asked by the Combined Fire Authority to respond to your latest letter to Members of the Authority and would refer you to the letter sent to you on 20 June 2016, which outlines the Authority's position.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Bob Warren".

Bob Warren
Director of People and Development

Headquarters

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





17th August 2016.

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

**IDRP – Stage II Application.
For the Record**

Dear Chairman,

Little purpose is served by a wasteful continuance of this correspondence, ***now that the Statutory legal time frame has expired today.*** However, I feel that in this third and final letter I should place certain matters 'On the Record' for future Inquiry purposes.

1.00. IDRP Implementation to Date.

- 1.01. I initiated Statutory Stage I, IDRP on 15th December 2015. The Chief Fire Officer and my Pension Scheme Manager Mr Warren were required to complete Stage I within two calendar months, which they failed to do resulting in a Statutory breach, only completing the process on the 19th February 2016.
- 1.02. Under Statutory IDRP no further, or future input is permitted by the CFO or by my Pension Scheme Manager, beyond Statutory Stage I.
- 1.03. Should a Statutory Stage II procedure be initiated, then this Stage II Statutory duty is specifically designated in law as the responsibility of the elected Members of the Fire Authority, including you.
- 1.04. I disagreed with your CFO's Stage I decision.
- 1.05. Legal Service - I served my Statutory Stage II Application on you by hand and on individual elected Members of the Fire Authority electronically on the 16th 2016 at 14:59hrs(2 acknowledgements), whence the time frame of two calendar months commenced to run, which has expired today.
Legal service was further confirmed with individual service on elected Members with hard copies via Recorded Delivery on Tuesday 28th June 2016 at 17:23hrs.
One County Councillor, Britcliffe(Conservative), refused service.
- 1.06. The Statutory Instrument(1996 No:1270) and FSC1/2009(National Agreement) permits the Fire Authority and its elected Members two calendar months within which to reach a detailed legal determination(citing legal authority) on my Stage II Application(which contained two interlinked principal

elements) which should have been communicated to me within the timeframe of completion by the 16th August 2016; that time has now expired.

- 1.07. I continued throughout my Application and these communication to commend to you and your elected Members the use of impartial independent legal advice particularly in respect of the technical pension element when dealing with the intricacies of this technically challenging pension dispute.
- 1.08. You replied with a decision, you stated, on behalf of the Fire Authority on Monday 20th June 2016.
- 1.09. On Saturday 25th June 2016 I responded seeking clarification for the 'legal authority' which you and the Fire Authority had used as the legal basis for your collective determination.
- 1.10. On Wednesday the 6th of July you responded reaffirming, you stated, the CFA's original decision but avoiding supplying me with either the supporting legal detail(a Statutory requirement) or the 'legal authority' which was the legal basis for the Fire Authority's determination.
- 1.11. In spite of presenting you, and the Fire Authority, with two opportunities to reconsider your decision and comply fully with your Statutory duty you have failed to do so and are thus, at this moment in time, in breach of the applicable Statute Pension law and in breach of the LCFA's Statutory duty to comply with the law.
- 2.00. **A Simple Procedural Matter.**
- 2.01. This, essentially, was a simple matter of procedure.
- 2.02. I exercised my Statutory right to implement the Internal Dispute Resolution Procedure(IDRP) which is underpinned in law by section 50 of the Pensions Act 1995 (c.26); Statutory Instrument(1996 No:1270); By virtue of section 273 of the Pensions Act 2004, S50,50A, & 50B; finally The Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 which is a provision of the 1995 Pensions Act(as amended-2004).
- 2.03. This final Statutory Instrument was, at the request of Fire Authorities, subsequently clarified by the then CLG(now Home Office) in Fire Service Circular 1/2009 culminating in a National Agreement by the CLG's Firefighters Pension Committee, on which your Fire Authority is represented.
The procedural contents of which have been fully adopted as Fire Authority Policy illustrated in the 'template' format of the IDRP documentation supplied to me.
- 2.04. In exercising my Statutory rights, within this legal framework, you have unequivocal duties to me which includes your duty as an Elected Councillor of Lancashire County Council(LCC); as an assigned LCC Councillor on the Fire Authority; and as the elected Chairman of the Fire Authority, with its 24 other Elected Members in a Combined Fire Authority whose collective legal duties are clear and unambiguous.

- 2.05. You and the Fire Authority also have a clear specific duty to me under the 1995 Pensions Act(as amended), its Statutory Instruments and provisions, as a Member of the Lancashire Firefighters Pension Scheme for which you, individually and severally, are legally politically accountable and liable.
- 2.06. You had a clear and unambiguous Statutory duty to place my Statutory Stage II Application, unabridged, before the full Committee of the Fire Authority so that it could reach a detailed legal conclusion on my pension dispute(first element) and my pension maladministration concerns(second element).
- 2.07. The intrinsic second element of my Stage II Application required, in your collective duty to me and in the Public interest, that you and the Fire Authority transparently investigate and report on my pension maladministration concerns incorporated within my Application.
- 2.08. Regardless of the second element the first element must be fully completed within the 2 month time frame in order to remain in compliance with the Act and its Statutory Instrument and you have failed to do this.
- 3.00. **Statute Law;**
- 3.01. The Statute Law:
- To provide legislative clarity there are no 'local' Fire Authority variations or customs and practices (which you have asserted) permitted within the applicable Statute pension law which is the overarching Statutory compliance framework;
 - Nor is it permitted as part of the implementation of FSC 1/2009(National Agreement) which the Fire Authority has constitutionally approved and incorporated in its own Policies;
 - You have, it seems acting in ultra vires, made the activation of your Statutory duty conditional on what I may, or may not, choose to do.
 - This is an unlawful attempt by you to construct a 'rule', your rule, outside the Statutory framework, which *is* your inescapable legal duty.
- 4.00. **Chain of Public Accountability, Scrutiny, Conduct, and Discipline.**
- 4.01. In the chain of elected Public responsibility and accountability your first and foremost duty to the electorate is as a duly elected Lancashire County Councillor.
- 4.02. On the day of your appointment as a Lancashire County Councillor you are required to sign formal LCC Constitutional documents of Attestation, public records, that you will in your appointment conduct yourself, both in private and those public duties allocated to you, in keeping with these published Code of Conduct and LCC standards.
- 4.03. In the duties which follow any Lancashire County Councillor may be assigned by his or her Party Leader to various LCC Committees, or to represent the LCC's interests on a particular external independent body, and though that body may, or may not, have its own Code of Conduct behavioural standards (which cannot be less than those imposed on Lancashire Councillors) and which may, or may not require your second personal attestation, the primacy

for personal accountability remains with the LCC and its Code of Conduct in compliance with the legal obligation of your personal Attestation.

5.00. Fire Authority Constitution & Policies; ‘Assurance’; and Delegated Powers.

5.01. The Fire Authority Constitution sets out the basic rules governing the legal ambience within which its assigned elected Members must conduct themselves in the procedural curia as it transacts its business.

5.02. This Constitution implicitly recognises that those Councillors assigned to it from various local authorities will already have given an Attestation of Good Conduct to the Local Authority they have been elected to and which has assigned them to the Combined Fire Authority and thus the primacy of accountability still remains in the first instance *with that* Local Authority.

5.03. It is also implicit within these Constitutions that the Fire Authority, for example, individually and severally, has a Statutory duty of compliance with the Statute law, the common law, and its own approved Policies.

5.04. The Fire Authority has further constitutionally bound its public conduct of transparency and honesty, by the incorporation, as a Policy in December 2015 of ‘The Statement of Assurance’ to the Citizens of Lancashire. This is proffered as evidence that the Fire Authority and its constituent parts and those politically assigned to it will deliver essential accountability and transparency during the discharge of all its Statutory duties, policies, and functions.

5.05. I remind you and the elected Members of the Fire Authority, as individuals and severally, that the Fire Authority has further bound itself Constitutionally that elected Members who have already made an Attestation(of primacy) with their own Local Authority will additionally comport themselves with transparency, honesty, and probity within this additional approved framework of Fire Authority’s own ‘Members’ Code of Conduct’.

5.06. As Chairman of the Fire Authority you have delegated powers under the Constitution Rules to authorise that, for example, exceptional ‘Urgent Business’ be conducted on behalf of the Fire Authority in the absence of the Full Committee.

You bear full personal liability for the exercise of these powers until you have sought and received retrospective approval, but only after the full implementation of Constitutional Rule 6.5 which requires Full Committee approval to place the Item on the Agenda followed by scrutiny, debate, and vote by show of hands, all of which *shall* be Minuted.

5.07. In order to ensure that any powers you exercise are lawful e.g., under ‘Urgent Business’ you have immediately available to you the Clerk to the LFCA, a solicitor Mr. Nolan; and the in-house LFRS solicitor Mr. Harold.

Your solicitors are ‘officers of the Court’. Their primary duty to the Court is to ensure that their advice to you is in compliance with the law and their secondary duty of care is to ensure that the Fire Authority and its pension contractors the LCC are not placed in conflict with, or contravention of, the law.

Should they fail in these remits then they become liable to the law themselves and subject to scrutiny by the Solicitors Regulation Authority which the Clerk to the Fire Authority is currently under.

5.08. Mr Warren is unqualified in both law and pensions administration and is thus incapable of advising you in legal matters affecting my pensions.

6.00. Elected Members Statutory Duties.

6.01. The Statute law in respect of my Statutory Stage II Application, which sets the precedence and takes primacy in law, was an unambiguous requirement placed on all Fire Authority elected Members.

6.02. Under Statutory Stage II procedures elected Members were required by law to study my Stage II Application and, if necessary, obtain independent legal advice(which was repeatedly advised) and within the time frame permitted in law(two calendar months) to reach a legally detailed conclusion citing 'legal authority' and communicate their collective determination to me before midnight on Tuesday the 16th August 2016; which you and they have failed to do.

6.03. To assist you, and them, in completing their individual and collective Statutory duty, I legally served my Statutory Stage II Application notice on each elected Member to ensure that great care would be taken, jointly and severally, by each Member to properly consider my Application, rather than 'rubber stamp' an 'officer's' recommendation which may, otherwise, render them as unwitting participants in criminal proceedings.

6.04. My legal service was also confirmation of my Stage II Application and confirmation of their Statutory duty and, if need be, their legal accountability, both individually and severally, in respect of the criminal law and the public duties laid directly upon each individually elected Member, failing which, the Fire Authority publicly risks acquiring a reputation for individual and corporate corruption.

6.05. Because the Full Committee of the Fire Authority has not lawfully considered my Application within the time permitted, or at all, or reached a lawful conclusion there is now a general and answerable criminal liability, both jointly and severally, for 'misconduct in public office' by elected Members, yourself, and your LFRS employees, in addition to any other self-evident Statutory breach.

7.00. Chairman's Decisions.

7.01. In your letter of acknowledgement and response of the 20th June 2016 to my Statutory Stage II Application you asserted that I sought to 'impose restrictions' and 'processes' on the IDRPs yet you made no such assertions on my Stage I Application. The substance of my Stage II Application with its pension dispute technical element and its intrinsic element of pension maladministration concerns were essentially unchanged in my Stage II Application.

- 7.02. Your assertions are without substance or merit, and thus without foundation. They are simply wrong in law and disingenuous because you will know, or ought to have been advised in law by your solicitors, that there was no 'flexibility' for either you, the Fire Authority, or me, to do other than to follow the laid down lawful Statutory procedure.

To do otherwise is to act in ultra vires which I have already pointed out to you.

- 7.03. You decided, presumably acting against this legal advice, unilaterally without any form of investigation, or consultation with other elected Members of the Fire Authority, paradoxically supporting my allegations of the misbehaviour of certain individuals, including my Pension Scheme Manager Mr. Warren, to the effect that my second element, pension maladministration, bore such substance that you advised me to immediately place them before the Chief Constable(CC).

- 7.04. I had grave misgivings about following your advice because it runs contrary to the legal advice I received and acts contrary to the process of natural and Judicial justice and once more I can only conclude that you have been deliberately or improperly advised from a legal standpoint, or are acting disingenuously for your own purposes.

- 7.05. I feel sure your advice to me was well intended but for the wrong reasons because prior to submitting my Stage II Application to you I specifically considered this second pension maladministration element of my pension dispute and unusually sought independent legal advice before I lodged my Statutory Stage II Application.

- 7.06. It seems, judging by your response, that I have not made my position on this pension maladministration clear.

- 7.07. I was advised that in the pursuit of natural justice it would be appropriate, proportionate, and fair that my pension maladministration concerns, which are an intrinsic part my Pension dispute, but were at that point publicly untested and unsupported allegations should be placed before you with the expectation, as part of your dealing with my Statutory Application, that my allegations would be put to the test.

In other words during your investigation it was my expectation that I would be invited to submit hard evidence supporting my allegations which I can but in the event was not invited to do so.

- 7.08. This approach was to anticipate and prevent the reasonable recriminations that you and the Fire Authority might raise that I had been too hasty in approaching the Chief Constable which could have resulted in 'muddying the waters' and impeding the Fire Authority's opportunity to put my allegations to the test using a fresh collective investigative mind.

- 7.09. This thoughtful, and considerate approach, would guard the rights of those under potential investigation, including my Pension Scheme Manager Mr. Warren and others, and provide you and the Fire Authority an opportunity to address my pension maladministration concerns; reject them; correct them if

necessary; and if my presented hard evidence was substantiated, then and only then, in conjunction with the Fire Authority to jointly place prima facie evidence before the Chief Constable(CC) for his criminal investigations.

- 7.10. Mr.Warren made the valuable point that should I be precipitous in approaching the CC he and others may well be under arrest, caution, and one assumes, suspension from their posts, which would indeed frustrate and inhibit the best of intentions of the Fire Authority to impartially investigate my entire Application in all its aspects.
- 7.11. Unfortunately Mr.Warren goes on to draw the wrong conclusion where he and others are concerned in respect of such an investigation because as the Statutory Instrument makes clear at the conclusion of Stage I, the CFO, Mr.Warren and others involvement has ceased in Statute law, they having no further role to play in the IDRPs.
- 7.12. Thus, access to them would be untrammelled by any legal restrictions and thus they would be fully available to you and the Fire Authority to consider Mr Warren, and others, conduct in the maladministration of my pensions. Therefore each of the elected Members could legally approach my Statutory Application 'with a clear mind', free of the influence of those, including the CFO, Mr.Warren and others, whose conduct would, and should, be under transparent review.
- 7.13. However, acting on your imprudent unlawful 'pre-condition' which advised pre-emptive involvement of the CC, you have now in the interim informed me twice that you decided to 'postpone' your, and the Fire Authority's compliance with its Statutory duty, by stating that you will not 'enact' the IDRPs until I have complied with your 'rule'.
- 7.14. I should inform you that you and the Fire Authority's decision is unlawful, acting as it does, in ultra vires.
- 7.15. To reiterate there is no 'flexibility' or provision within the Statutory Instrument which empowers or permits you, or I, to introduce or implement a new 'rule' or 'rules' what would be in effect a calculated and deliberate 'conditional' delay. Nor does the Statute facilitate you in law to act with such unlawful intent, quite the reverse in fact.
I was surprised that you had been so advised by your solicitors and advisors.
- 7.16. You, and they, have ignored and avoided responding to my repeated requests that you provide me with the 'legal authority' for acting so. I can only conclude that this is a conscious unlawful personal act by you and them intended to knowingly breach the Statutory duty of the Fire Authority and thus place it in a direct and embarrassing conflict and breach of the Statute law and its legal obligations.
- 7.17. Why you have done so could be a matter for Public speculation but it is unquestionably a matter for the Fire Authority to urgently question your decisions and satisfy itself, both individually and severally, why as a result of your decisions you have knowingly, under your leadership, placed the

Authority; its individual elected Members; and LFRS staff, in breach of the Statute law(s)?

7.18. I can only conclude at this point, as evidenced by you malfeasant decisions that you were determined to pervert the course of justice whilst being fully aware of your public duties and legal obligations though why you should do so is a matter for the Full Committee of the Fire Authority, and failing them other interested Agencies to ask, why?

7.19. Your decision will also have its *intended consequences* for me, which also brings further legal liability consequences for you and the Fire Authority, namely, that my Stage II will be knowingly and calculatingly delayed for an indeterminate period whilst intending, once more, to punitively expose me and my family to that which is colloquially known as the 'Hardship Route'.

The authorship of which was Mr. Warren but approved by both CC D.O'Toole and you as another tool of harassment in the avoidance of Public interest scrutiny of your actions and those of your 'associates'.

8.00. Fire Authority Annual General Public Meeting Timeline.

8.01. On Monday 20th June 2016 at 10:00 hours the Annual General Public meeting was scheduled to take place in the Main Hall, Washington Hall Training Centre, Euxton Lancashire.

You attended that meeting and were re-elected as the Labour Party Chairman of the Fire Authority for the term of office which will conclude with County Council elections next May 2017.

8.02. Prior to this Fire Authority Meeting on Thursday 16th June 2016 my Statutory Stage II Application was delivered to you by hand.

The covering letter asked that I be informed when the Stage II Full Committee was to be convened; the names of elected membership of the Committee who would decide Stage II; and subsequently a record of the duration, the vote taken, and by whom.

8.03. Regrettably in the event you did not inform me that the scheduled AGM was due the following Monday 20th June 2016 even though, in fact, I was fully aware that it was taking place.

8.04. The Fire Authority published Agenda did not include any item under Part 1 'Item 20 – Urgent Business' though there were 2 working days prior to the meeting to bring forward my Statutory Stage II Application which was an 'Urgent' item because the process was time limited to two calendar months expiring on the 16th August 2016 and because the next Full Committee Fire Authority Meeting was not scheduled until 19th September 2016 by which time my Application would be time expired which would place the Fire Authority and me in contravention of the pension Statute law leading me to have to start the whole IDR process again by reason of your deliberate dissimulation.

8.05. The Minutes of this meeting were subsequently published recording that under Part 2(Exclusion of Press and Public) the only 'Urgent Business' brought forward was Injury Pension Update which is a Standing Item in which Members are regularly updated on the Pension Dispute involving dissenting Lancashire disabled Fire Service Veterans.
The report was noted but not endorsed.

8.06. No other 'Urgent Business' was recorded or took place, and anecdotal evidence from those present supports that position.

8.07. If my Statutory Stage II Application was, as you have inferred twice, presented at this point to the Full Committee, as it ought to have been, as Statutory time limited 'Urgent Business' which required their urgent collective Statutory decision then to do so required the full implementation of the Fire Authority Constitutional Rule 6.5(d) regarding 'Urgent Business',

“An item of business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency.”.

Furthermore such a proposed 'Urgent' item must be placed before the Full Committee before being approved for admission to the Agenda and if this motion is carried then the Item is debated, voted on by a show of hands, and fully recorded in the Minutes regardless of whether or not it was carried out in Part 2(Press & Public Excluded).

8.08. In your correspondence you have twice given the unequivocal impression that your decision not to proceed with the Fire Authority's Statutory duty in respect of my Statutory Stage II Application was heard by, approved, and endorsed, by the Full Committee of the Fire Authority.

- *On the 20th June 2016(the day of the AGM)... “On behalf of the Fire Authority,”;*
- *On the 6th July 2016... “I have been asked by the Combined Fire Authority.”.*

8.09. In this Part 2 meeting I assume that you advised the Full Committee that the advice you had received from Mr.Nolan(Clerk-Solicitor) and Mr.Harold(LFRS-Solicitor), supported by CFO Kenny, was that if the CFA was determined to knowingly follow this course of action, they would in doing so place the Fire Authority, and themselves individually, in direct conflict with the Statute law leading to a direct contravention of their Statutory duty?

8.10. Given these inconceivable circumstances, and because I had gravest doubts about the veracity of your statements, and given that previously I have indicated to you that my Statutory Stage II Application is my 'subject data' under the provisions of the 1998 Data Protection Act, I felt I needed to act to determine the facts of what actually took place in Part 2 of the AGM.

8.11. In the circumstances which appear to have arisen in these proceedings I gave you formal notice on the 5th August 2016 delivered by hand under 1998 Data

Protection Act which requires you to supply me with any and all documents arising from or prior to and during the submission and processing of my Application. I have yet to receive a receipt or acknowledgement?



9.00. Impeachment.

- 9.01. It is my fundamental belief that you and those who advise and serve under your leadership and Chairmanship, including your law 'officers' within the LFRS and the LCC, have treated my Statutory Stage II Application with dissimulation in a deliberately successful attempt to mislead and misinform the Fire Authority, of the true legal position in which you have embarrassingly placed them all both severally, and individually.
- 9.02. When my subject data is released to me after the Fire Authority have discharged its Statutory duty under the provisions of the 1998 Data Protection Act, should my suspicions of your criminal dissimulation prove to be true then it will be my intention to impeach you and those Councillors under your jurisdiction who have knowingly aided and abetted you in perverting the course of Justice.
- 9.03. Accordingly I, and others, will be duty bound to report such personal criminality to the LCC in the first instance, and failing it, the LCC Home Secretary as the Minister of State responsible for the Fire and Rescue Service, and to other relevant authorities, for example, the House of Commons Select Committee for Work and Pensions; the Pensions Regulator; and the Pensions and Local Government Ombudsmen; the Chief Constable, the list is not exhaustive.

10.00. Payment of the Correct Pension.

- 10.01. All I continue to seek is the proper payment of my rightful pension entitlement as prescribed by law, rather than accepting a convenient layman's misinterpretation in aid of cost cutting by means of which those injured in service with the LFRS have been retired without any Statutory compensation.
- 10.02. I was compulsorily retired on grounds of ill health/injury and awarded a Rule B3 ill-health pension and Rule B4 Injury Award and in closing I reiterate the questions:

Why am I being paid the sum of the Rule B1 Ordinary pension I would have been entitled to had I been retiring by voluntary choice, instead of a Rule B3 ill-health pension and Rule B4 Injury Award provided for within the 1992 Statutory Instrument No.129 which was to compensate me for my lost career, the pay and emoluments due to higher rank I may have achieved, and pension falling due on my full service(aged 60), all lost to me by way of forced early retirement, due to injury in service for which the LCFA is statutorily liable in no lesser sums in compensation for my injury and loss than a Court would award by way of ordinary and special damages – and in such a case as this - aggravated damage should a judge take the view that the LCFA, its servants or agents, deserve censure for the illegal and fraudulent denial of payment due and particularly so where the Chairman of the LCFA's conduct was in clear and deliberate avoidance of State Guidance on how to interpret and apply the law, - thus perverting the course of Justice for gain.


Yours Sincerely,
F. M. G.  MIFireE.
Asst Divisional Fire Officer(Rtd)



5th 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 20th June 2016, the day that the Full Committee of the LCFA met for its AGM, and secondly, on Wednesday 6th 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 20th June 2016(the day of the AGM) you wrote... "On behalf of the Fire Authority,";*
 - *On the 6th 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 20th 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 6th 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 19th 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 13th September, 6 days prior to the next Full CFA Committee Meeting on Monday 19th 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  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.



Mr F G [REDACTED]
[REDACTED]

Please ask for: Bob Warren
Telephone: 01772 866804
Email: bobwarren@lancsfireandrescue.org.uk
Your Ref:
Our Ref: BW/JLW
Date: 6 July 2016

Mr G [REDACTED]

IDRP – STAGE II APPLICATION

I have been asked by the Combined Fire Authority to respond to your latest letter to Members of the Authority and would refer you to the letter sent to you on 20 June 2016, which outlines the Authority's position.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Bob Warren".

Bob Warren
Director of People and Development

Headquarters

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





Mr P Burns
7 Kings Drive
Fulwood
PRESTON
PR2 3HN

Please ask for: Mr Winterbottom
Telephone: 01772 866720
Email: dianebrooks@lancsfireandrescue.org.uk
Your Ref:
Our Ref: MBW/JLW
Date: 7 October 2013

Dear Sir

Your letter of 19 September to the Chairman of the Authority is acknowledged. Whilst noting your comments I have nothing further to add to my letter of 11 September and Mr Warren's letter of 4 September. These letters clearly state the Service's and Authority's position.

Yours faithfully

pp *Judith L Wilson*

MAX WINTERBOTTOM
CLERK TO THE AUTHORITY

Headquarters

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

