

Appendix 'A'

It has never been my joy to read or write appendices, as they are usually boring - this Appendix is not. I know you will find it enlightening and most interesting because it is an evidential indictment of the TPO and TPR as a failed organisations.

(For readability the third person is used).

The Pension Ombudsman et al - Fit for Purpose? The need for a Ministerial Inquiry?

75. An invitation to provide 'information' on this scandalous canker was issued on 26th September 2017 by the Chair of the W&P Select Committee Mr. Frank Field DL., M.P.

A conflated 77 page document (Ref:PB00417) was then sent to every Member of the W&P Select Committee.

Because of continuing institutionalised corruption and injustice this has now led to this *supplementary document* which reaffirms the logical conclusion that such unlawful practices are *still* endemic within the LCFA, TPO, and TPR in their collective failure to deal with legitimate Pension Complaints.

76. On the 14th December 2017 pro bono Barrister – Mr. J.M. Copplestone-Bruce wrote to the Heads of TPR and TPO, copied to every Member of the W&P Select Committee expressing his public disquiet at this scandal. He received a single acknowledgement and response from the Chair of the W&P Select Committee.

77. Once more, after 2.5 years, this latest supplementary document simply updates this continuing outrage without the slightest sign of the proactive intervention of the Parliamentary W&P Committee.

One might ask, what is actually required to get the attention of this Committee and Parliament ? - because normal life does continue out here beyond Brexit.

78. It is regretted that it is not possible in that which follows to conflation these randomly selected examples of these collective 'experiences' and actual evidence of continuing wrong doing without losing the factual narrative along the way. Had civil servants been doing their jobs assiduously and honestly none of this would be necessary.

79. There is the salient fact that Mr. G [REDACTED]'s Pension Complaint has now been at the Pension Ombudsman's office under the control of Ms. Fiona Nicol, Director of Case Management; then with her colleagues Mr. Strachan, senior jurisdictional clerk, and currently Mr. Coutts senior adjudicator since 5th October 2017, for a total of 609 days.

This exceeds, without explanation or apology, the TPO's own case handling 'target to resolution' of 120 days, by some 365%.

80. Ms. Nicol is regarded by pension Complainants as the 'controller' of TPO's iniquitous fiefdom of ambiguity and corrupt deceit; the intrigues and abuses of authority which she and her staff, under her direction or coercion, perpetually engage in; because given her position of authority it cannot be otherwise.

obstruction and 'passing-the-parcel', which in a certain case has amounted to a 5 years + delay of a Fire Service Pension Complaint lying on Ms.Nicol's desk without the slightest action, other than prevarication throughout those years.

Drawing one to the conclusions that not only is she corrupt and underemployed but that she has risen above the level of her own competence.

81. There is, without question, the firm collective conclusion based on extensive personal experience that all this institutionalised corruption is simply designed to 'wither on the vine' difficult complainants with legally difficult and complex pension complaints with the appalling hope of *resolution by boredom or death*, which occurs.
82. In all this one must not forget the consequences to the growing numbers of Beneficiaries suffering further reduced income upon the decease of these pensioners; Beneficiaries who may in many cases now be considering a class action.
83. However, living Benefactors, wisely following their LCFA/TPO criminal 'experiences' of injustice are now adding a codicil to their Wills to keep their pension claims alive in perpetuity for their Beneficiaries.
84. Indeed there is the further firm conviction that any Pension Complaint which arises from the LCFAS/LFRS is doomed from the outset and that this outcome can only be achieved by an unpublished policy of the LCFA with the complicity of politicians of all Parties and certain employees at TPO and the LFRS.
85. Should a complainant be minded to formally complain about poor Service Delivery at TPO, using the published procedure, then that formal complaint goes directly to Ms.Nicol, the original 'controller' of these delays, who 'investigates' and 'adjudicates' on herself, finally, and statistically recording, that there is no case to answer.
86. Not content with this Ms.Nicol then in her annual work of fiction for the TPO Parliamentary Report manipulates these included statistics, which she controls and is accountable for, to not only show how industrious, balanced, and fair minded the TPO is but that informal arbitration is working whilst the TPO continues to be overwhelmed with workload which is probably accounted for by perpetually and aimlessly recirculating difficult cases and troublesome Complainants, all the while demanding an increase of budgets and staff.
87. This jaundiced opinion of TPO is based on the actual archived documented reality of long term exposure to Ms.Nicol machinations and her controlled subordinates where it is best to allow the records to speak for themselves.
88. These are unethical and dishonest intrigues which Ms.Nicol in her fiefdom of ambiguity surely cannot engage in, without one assumes, the Ombudsman's authority or tacit support? If she acts flagrantly so, without his authority, then she is simply an 'out of control' senior civil servant who must be brought to book without delay.
By her cavalier actions she significantly damages TPO's already diminished and

tarnished reputation simply adding to the Public perception of TPO as an expensive, inept, institutionally, and systemically corrupt organisation.

89. This complicitous and capricious framework of ambiguity is not only corrupt but criminal, amounting to Contempt of Court by denial of due process and Justice.
90. In particular when a government department like TPO acts in complicity with LCFA and other pension providers it is setting an example of an out of control government department engaged in not only institutionalised corruption but indeed criminality to deny pensioners the just fruits which they saved for all their working lives.
91. Perhaps the Ombudsman sees his organisation's role as protecting H.M. Treasury by procrastination? But, as has been seen before, this involves delaying the execution of High Court decisions, by delaying the payment of correct lawful pension commutation to thousands of disabled Fire Service Veterans; their Widows; and their Beneficiaries in defiance of Parliament, the Courts and the Law; those who were killed or disabled in the service of their communities and the Nation?
92. Or, it may well be that the Ombudsman is forced to follow an unpublished government policy of perpetuating fraud on those the government contracted with for their services, used, and then indifferently cast aside?
War Veterans and Windrush spring to mind, resonating as they do, with Fire Service Veterans (FSV) antithetical TPO/TPR experiences which is brass necked without apology, remorse, or conscience.
93. In recent times under the leadership of the Rt Hon. Mr. John McDonnell M.P., (the Fire Service pensioners' Champion), in conjunction with the Fire Brigades Union initiated a successful Parliamentary Early Day motion and a series of high profile successful High Court legal actions against these Fire Authority pension providers concluding at the perpetually procrastinating door of TPO.
94. Indeed, currently this pan Fire Service movement now involves several parallel successful High Court actions including one by Mid-Wales Fire Service personnel and now notably 154+ pension accruing Firefighters currently in service with Lancashire Fire & Rescue Service (LFRS) involving a Complaint to TPO and which, as usual, involves their mendacious Pension Scheme manager Mr. Warren.
95. All these collated and published TPO 'experiences' (www.themorningbugler.com) amount to the reason why the pension accruing work force including Firefighters' past, and now present, confidence in TPO/TPR's so called pension guardianship role and its impartiality are at a sceptically all-time low.
96. Regrettably when trusting members of the public, in this case Fire Service Beneficiaries, approach the TPO/TPR with a pension problem they do so on the basis that these organisations are simply points of decision to exhaust on the route to Justice having procedurally exhausted a dialogue with their pension providers on a pension complaint.
TPO nor TPR offer little prospect of either resolution or Justice conveniently forgetting that these pension issues invariably impact on the daily economics of pensioners' lives and/or the quality of their state cared disablement.

97. For example, from the onset of contact with TPO this organisation sets out to create the misleading impression that it is “*independent*”, “*We look at the facts without taking sides*” (indeed it states so unreservedly on its website); an organisation it implies which is fully staffed with nationally qualified pension legal ‘experts’ who will act transparently, honestly, and impartially on their behalf; who will intercede with their former employers to provide, if possible within the relevant pension law, a prompt lawful resolution.
98. TPO in this expensive sham, misleadingly and coyly, without the same enthusiasm for transparency, fails to mention that this ‘independent’ staff are not independent but simply HM graded civil servants with no national pension administration experience or legal qualifications, and with startlingly few civil servants qualified in law, whose fundamental mainstream work is to ‘interpret’ pension law.
99. Neither does the TPO advertise the fact that in addition to being funded by the ubiquitous Taxpayer it is also funded by a levy on the pension ‘industry’ thus establishing an early ‘loyalty link’ which confirms that wherever their loyalties might lie, whether it be with the industry levy payer or the Taxpayer it certainly does not lie with the ill-considered pensioner.
No one can yet serve two masters.
100. Nevertheless TPO knowingly creates an ambience of patronising goodwill which raises confidence and expectations in the complainants that prompt lawful and fair resolution may well follow which will see an improvement in the quality of complainants’ lives when wrongs are righted.
It also more prosaically keeps these civil servants in work.
101. Later as disillusionment and reality sets in, complainants find that all this deceitful window dressing is simply a case of institutionalised fraud, by a government department no less.
102. This systemic fraudulence is deliberately supported by the further mendacious use of ever changing grandiose work titles which include ‘Investigator/Adjudicator/Jurisdiction’ usually prefixed by the word ‘senior’ giving the whiff of a quasi-legal professionals at work when in fact the vast majority of the staff are simply unqualified-in-law civil servant clerks.
103. Laymen who are not only given these deliberately misleading grandiose titles but are also allocated Pension Complaints to ‘adjudicate’ upon on behalf of the Ombudsman(though the term used is ‘authorised to’) *implying* in law they have *delegated powers* to do so, which they do not.
104. This is a cause for major legal concern because in having Mr Coutts adjudicate for him the Ombudsman is acting in breach of Section 145 (4c) of the Pensions Act 1993(as amended) which enables his staff to perform any function of his, ‘*other than determination*’, of a matter referred to him.

The ramifications that this abuse have in law bring quite terrible consequences for TPO, the government of the day, and ultimately the Complainants.

105. Since 1993 every single adjudication not completed directly by an Ombudsman carrying out their Statutory duty, and carrying their legal imprimatur,

is simply illegal and ultra vires, and will have to be re-examined by an Ombudsman for its legality and compliance with the relevant Statute pension law and then signed off by him/her with that Ombudsman taking legal and personal responsibility as a lawyer for to act otherwise is to risk disbarment.

Why? Because integrity is required of solicitors/barristers who are officers of the Court, and they must act in accordance with the Solicitors Code of Conduct and the Bar. To knowingly manipulate language to replace a just legal consequence by an unjust and illegal one is to avoid legal integrity - for which he risks being struck off, as could his Deputy.

Finally, all this must be published so that former Complainants have the opportunity to reconsider the 'adjudication' carried out on their Complaint and seek a full review and re-evaluation strictly by an Ombudsman should they so choose.

106. Thus, these 'lawyerly' civil servants illegally, regularly, and misleadingly appear to a complainant to issue binding 'opinions' whilst choosing to ignore the actual law and the construction of technical pension law about which they know little or nothing.

107. Currently the unspoken 'policy' of the TPO is to reject, under any pretext, a Complaint. This is what the function of the 'Senior Jurisdiction Officer' post (presently Mr. Strachan) has become.

In duplicity yet another 'policy' is for the TPO to 'encourage' Complainants at an early stage in the process to move their Complaint into the TPO 'arbitration system' where TPO is indeed on safe ground because such a system has no binding legal authority in law but, yet again, it does help to create in the Public's mind a *misleading perception of fair play* in the annual published statistics.

Rapid arbitration, of questionable legal value, helps to balance the statistical books.

108. This is a complete and accomplished conspiracy of false institutionalised deceit carefully constructed to lead the unwitting, trusting, and legally ignorant pension complainant into a contrived informal 'arbitration', usually to the benefit of the pension provider, but always well away from the purview of the Courts and actual Justice.

Without shame it exploits pensioners trust and their known lack of financial resources to 'fight on'.

109. Furthermore, feeding on its own self-created mythology, a King legacy, these laymen civil servants who have clothed themselves in 'Emperor's clothes' with pompous hubris actually believe that they *do* have delegated authority in law to carry out these allegedly binding decisions whilst ignoring the actual law made good.

110. Even the briefest study of the relevant Statutory Instrument completely dispels this absurd notion because the legally binding power to 'adjudicate', an *entitlement* for a complainant, is *strictly reserved* in Statute to the Ombudsman and his/her Deputy only.

111. But of course, seek as one may, one will not find a simple single published truth to this effect from the Ombudsman for the benefit of a doubting Public. All this faux structure simply houses an organisation engaged in the perpetuation of a myth of public pension protection when in fact its process actually produces a constant stream of expensive failed ‘Determinations’ at the Court of Appeal and most unforgivably of all endemic institutionalised breaches of trust by exploiting the trusting legally ignorant pensioner.
112. One can only conclude that all this charade must either be an organisation out of control or a hidden government policy at work in spite of trumpeting publically, in juxtaposition, how essential it is for all workers to have a pension.
113. What is the wisdom of expending countless budgets of the Taxpayers/levy benevolence on publicity, including a recent £800K on Google “to promote the benefits of saving for retirement”, when those, aka the TPO/TPR, whom the government sets in supposed guardianship of these achieved pension rights in law then spend all their time, budgets, and energy working in resistance to Justice for pension holders to the clear benefit of the pension ‘industry’?
114. Yet another illusion of this cloak of deceit, and its final loss of ‘integrity’, is the perpetual employment of ex-Ministers from the DWP by the ‘industry’; an observation confirmed by recently having a serving junior DWP Minister sitting on the W&P Select Committee monitoring and reporting back their actions to the DWP Minister.

A presence which confirms an unhealthy relationship between TPR; TPO; the ‘pension industry’; and the government of the day to the detriment of all pension holding workers.

115. An organisation which in April 2018 moved to new palatial offices at Canary Wharf with a staff expansion from 55 to 70 at an annual budgetary cost of £5mil (Plus £1mil to equip these new offices paid to their Landlords) all borne by the Taxpayer.
116. Interestingly during this move TPO advertised for a “*second*”, which is a puzzling oxymoron, “*Lead Lawyer (£76,500 + benefits)*” presumably to address the long standing critical need for TPO to build a properly dedicated; properly legally qualified; and properly accomplished legal team who are especially well educated in pension law to attempt to eradicate the constant expense of the Ombudsman’s original ‘Determinations’ being repeatedly and successfully taken to the Appeal Court when faced with well supported legal challenges raised by Complainants on their Pension Complaints.
All of which contributes to the further steady erosion of its failed Public reputation.

But surely the TPO has this already?

117. It is common knowledge, though again not well published in ‘transparency’ by TPO, that of this number of staff there are only approximately 6 legally qualified staff at the TPO who includes the Ombudsman (a solicitor and his Deputy - a Barrister).
118. This second ‘Lead Lawyer’, one assumes, will also address the issue of providing a continual drip feed of supporting legal guidance to the majority of staff who are

non-lawyer civil servants staff, such as Mr.Coutts, who wrongly form the vast majority of its clerical work force in the vain hope that they may actually begin to get it provisionally right in the first place before *placing it as a matter of law* in the hands of an Ombudsman?

Though appointing a lawyer (Solicitor or Barrister) who is required to... "*be qualified as a solicitor or barrister with at least four years' post qualification*" is unlikely to set the legal world on fire; someone who apparently is to advise the sitting experienced Deputy Ombudsman Barrister? What an odd arrangement, and with 4 whole years of experience!

119. Mr.G■■■■'s Complaint, and others in the future, will increasingly continue to present legally well supported and legally technically challenging cases as the national workforce becomes more pension aware of its rights and more suspicious of the role of TPO/TPR who are meant to defend their pensions.

120. All this raises the question which refuses to go away ... Is the TPO fit for its purpose?

Or should it, as it is envisaged, be absorbed into an increasingly vigilant and proactive Pension Regulator organisation?

Bearing in mind that the TPR, who are still acquiring these virtues, only does so because of the Green disaster at British Home Stores; the vigorous intervention of a truly independent W&P Select Committee; and the subsequent replacement of a comical CEO called Titcomb.

There is undoubtedly a resonance here with TPO though according to a recent in-house DWP triannual 'Tailored Review' all is well at TPR though the W&P Select Committee do not think so.

The LCFA/TPO Complicit Corruption or Criminality?

121. What evidence exists of complicit corruption and criminality in the machinations between TPO, the LCFA, and other Fire Authorities?

122. At the TPO Ms.Nicol, Mr. Strachan, Mr.Coutts, and originally Mr.Rattigan were historically well aware that the LFRS in the person of Mr. Warren as its pension scheme manager had in prior pension complaint cases established an unseemly reputation of duplicity, ignoring the law, and using base criminality in association with the distinct perception of the involvement of complicit staff at the TPO(*Qui reus est?*) but including the former Ombudsman Mr.King, to jointly conspire to unlawfully 'defeat' legitimate pension Complaints originating from Lancashire and other Fire Authorities.

123. This consistent conspiracy of criminality lies at the very heart of an unlawful unspoken LCFA policy which is to deny and defeat legitimate pension complaints arising from Members of the Lancashire Firefighters Pension Schemes; a policy authorised by the current Chairman of the LCFA/LFRS CC F.DeMolfetta (Lab) in conjunction with the delegated Pension Scheme Manager Mr. Warren. Unlawful actions which have been repeatedly passed to TPR in writing but *who consistently refused to take any action whatsoever.*

124. One cannot leave these comments without presenting a conflated 'flavour' of the archived documentary evidence accumulated over many years which has generously been made available which confirms the existence of these collective 'experiences' which *should lead* to inevitable questions by those placed in authority over these organisations namely the Pensions Minister and the W&P Select Committee.

Some of The Maimed - 'Experiences':

(All these 'experiences' are fully supported by archived documentation)

125. FSV Mr.R.R.B. [REDACTED] - LFRS:

- FSV-RRB injured his head, neck, and upper spine during a fall from a foam tender whilst engaged in routine duties on an FR Station. The LCFA were found liable. He was subsequently compulsorily discharged on ill-health and injury pensions on 30th November 1994 after 19 years' service;
- His simple pension Complaint, in addition to the underpayment of his principle pensions, is that contrary to a Home Office directive 4/2010 his Retirement Allowance is wrongly being deducted from his Injury Award - contrary to thousands of other successful FSV awardees;
- On 3rd November 2010 FSV-RRB made a written application under the Data Protection Act 1998 for a full copy of his Personal Record File (to access his pension records). Mr.Warren/LFRS rejected his application;
- With the assistance of the Information Commissioner who, in frustration *four years later*, on 20th November 2014, sent a team of 3 inspectors to the LFRS and threatened the LFRS with Contempt of Court action in order that FSV-RRB, and all other requesting Lancashire FSVs, received their PRFs;

It was not until 2015 that FSV-RRB finally obtained his pension records including the error of the release of secret emails confirming pension corruption at the LFRS.

- On 5th September 2014 FSV-RRB instituted IDRPs Stage I which was accomplished but after instituting Stage II the LCFA/LFRS 'timed out' and furthermore refused to complete Stage II;
- Accordingly on 15th November 2014 FSV-RRB lodged a Complaint with TPO which the TPO wrongly refused to act on stating incorrectly that Stage II had to be completed, and when pressed, commenced the usual pass-the-parcel games which are now over 5 years old;
- This is a simple Complaint which FSV-RRB has pursued for over 9 years including 1.5 years of obfuscation at the LFRS and a further 5.0. years of pass-the-parcel at TPO during which time it has lain on Ms.Nicol's desk(who rejected repeated Service Delivery Complaints) without resolution or being submitted, as FSV-RRB and the law demands, for a 'Determination' by an Ombudsman?
- FSV-RRB was repeatedly assured in writing by Ms.Nicol and her staff that his letters of personal appeal to Mr. Arter had been 'placed on his desk'?

- During all this time TPR was fully engaged by 'copied in' correspondence and when approached directly with formal written complaints concerning the lawlessness of LFRS Scheme and its Pension Scheme manager Mr. Warren, TPR steadfastly refused to take any action whatsoever – Letter RB052 -1st March 2016 is an example.

117. FSV R.T. [REDACTED] – London Fire Brigade:

- FSV-RT, an ex-Royal Marine, received 5 in-service injuries. On the 6th February 1991 after 18 years' service he was compulsorily discharged with an accumulated disablement of over 40%;
- On 26th October 2010 he received a letter from the LFB alleging that he failed to report the receipt of pension deductible DWP Benefits to the value of £120,000.0., which he strenuously and continually denied producing supporting evidence to the contrary. Furthermore, he was accused of forging an official document but for which no evidence was ever produced;
- On 5th June 2015 after endless correspondence he instituted IDRPs Stage I to which he received a response.
The LFB then decided it could (unlawfully) run Stage I again (having erred in its procedure it said) and then reached the same conclusions.
FSV-RT then instituted Stage II. In contravention of the Statutory Instrument the LFB used the same personnel to reach the same conclusion it had reached at Stage I instead of its Statutory duty which is to place his Stage II before the Elected Members of the London Fire Authority;
- On 15th July 2016 the LFB Head of Legal Services Ms.McKenna wrote withdrawing all its financial claims and allegations explaining its 'errors' and how it had managed to arrive at these erroneous 'conclusions' using, wrongly, the Statute of Limitations. An apology was never forthcoming for this series of stressful malignant acts which undoubtedly damaged FSV-RT's health;
- FSV-RT is now severely disabled with diabetes.
- On the 6th March 2017 FSV-RT made a Pension Complaint to the TPO under extensive headings which included a further error of accounting by the LFB to the value of £700 due to him with compound interest;
- The TPO, ignoring High Court case law, decided that his Complaint was 'timed out'; Mr.Strachan fulfilling his function;
FSV-RT expressed his suspicions of collusion between the LFB and TPO;
- On 27th April 2019 knowing his Pension Complaint was still lying on Ms. Nicol's desk unanswered he once more raised this query with his handler...
"Hello Miss Stephenson, any movement on this yet, as I only have a few years left to live?";
- On the 23rd May 2019 Mr. Dartnell wrote to FSVRT rejecting all his Complaints having arrived at his 'Determination':

- Interestingly Mr. Dartnell had at an early point been engaged with the first rejection of FSV-RT's Complaint following which he commenced the 'pass-the-parcel' leading back through Ms.Nicol within her 'Fiefdom of Ambiguity' to no less than Mr. Darnell himself, who describes himself as a ' Pathway Manager';
 - Mr. Dartnell, a unqualified layperson civil servant demonstrates in his response his complete lack of legal knowledge by selectively misreading the relevant Sections 146-151 of the Pensions Schemes Act 1993(as amended) applicable to the Pensions Ombudsman's Statutory duties;
 - He takes it upon himself to claim a delegated power for this 'Determination' for which no legal provision exists within the Act;
 - Indeed the mere fact that Mr. Darnell and his colleagues work under the misapprehension, and give the impression, that he has the lawfully delegated authority to make a 'Determination' (and he is not alone in this respect with his colleagues at TPO) not only flies in the face of the actual law which allows the Ombudsman's staff to have delegated clerical duties 'other than determinations' but is a further cause for concern because it leads to exploitation of Complainants ignorance of the law that in doing so Mr.Dartnell is acting in breach of Section 145 (4c) of the Pensions Act 1993(as amended) which makes it appear that the Ombudsman is enabling and condoning the actions of his staff to perform any function of his without exception.
 - Mr. Darnell ignores the legal provision that when the PO undertakes an investigation into a Pension Complaint his decision activates in its entirety these relevant Sections of the Act;
 - Mr. Darnell further ignores a Complainants Statutory right to have a 'Determination' made only by the Ombudsman or his Deputy;
 - This is a prime and current example of Ms.Nicol's 'Fiefdom of Ambiguity' at work; her Contempt of Court; her self-examination; and her corruptly coercive abuse of authority over her subordinates by the tacit promise of promotion;
- This, top-to-bottom, is a classic example of a failed government department presided over by corrupt individuals which makes this department unfit for its purpose.

126. FSV Mr.P.B [REDACTED] - LFRS.

- FSV-PB was blown up in Belfast City in 1964. He received permanent damage to his hearing and by 1997 after 35.0 years' service his hearing had deteriorated to the point where he concluded that it was presenting a hazard to those under his command on operations and medically declared so. He was compulsorily discharged as disabled with a 5% disablement with an Ill-Health and Injury Award after 33.5 years of incomplete pensionable service in 1997;
- During a Court Hearing in February 2013 in Discovery the LFRS were Ordered to provide FSV-PB with his PRF (including his pension records) until that point they had repeatedly refused to do so and the Court case could not proceed. FSV-PB's Barrister deduced that he was being

underpaid the wrong pensions. In addition the Court Ordered the LFRS to investigate and correct its pension errors in conjunction with FSV-PB. This Order was ignored;

- On the 18th April 2013 following the Court decision FSV-PB de facto initiated IDRPs Stage I by correspondence the LCFA was informed it was under this aegis.
On 22nd August 2013 Mr. Warren then denied all knowledge that he was engaged in IDRPs Stage I proceedings;
- On 28th August 2013 FSV-PB wrote directly to the LCFA initiating IDRPs Stage II and on the 11th September the Clerk to the LCFA on behalf of the Authority and Mr. Warren replied stating that FSV-PB's Stage II had been presented to the Elected Members of the LCFA on the 5th September 2013.
- Lobbied County Councillors disagreed. No Minutes; no records of a vote; nor was a Stage II formal decision ever published to FSV-PB by the Fire Authority to confirm these alleged 'facts' by Mr. Warren.
On the 7th October 2013 the Clerk to the LCFA Mr. M. Winterbottom DL reconfirmed the LCFA position in respect of IDRPs;
- On the 16th January 2014 FSV-PB re-instituted IDRPs Stage I which was responded to on the 14th March 2014 and because the response was unacceptable he immediately issued IDRPs Stage II again.
No further response was received from the LCFA/LFRS;
- On the 25th March 2014 TPO (Mr. Strachan) agreed that it would accept FSV-PB's formal Pension Complaint;
- The deliberate criminal fraudulence of the knowing substitution of source reference material by Mr. Warren manager of the LFRS Firefighters Pension Scheme in the case of Burns-v-LFRS in order to criminally deceive TPO and the former Ombudsman Mr. King has been comprehensively covered in Paragraphs 60-67;
- Finally FSV-PB believes he has been the continual subject of ethnic discrimination by uncontrolled Freemasons in Lancashire and at TPO for over 11 years because he led the opposition against corruption and the pursuit of pension Justice for his colleagues; their Widows, and Beneficiaries.

127. FSV Mr. H [REDACTED]-LFRS(Deceased):

- FSV-WH was severely injured on an incident. Taken to hospital he received 4 units of Hepatitis 'C' contaminated blood originally from an Arkansas Prison in the USA. This severely set back his recovery; led to his compulsory medical discharge by the LFRS; the ruination of his life and future employment; and his premature death on 16th May 2014;
- At one point he and his wife were left destitute by Mr. Warren/LFRS's failure to pay his pensions which Mr. Warren described as a 'mistake'; FSV-WH believed that it was because he was active in this LFRS anti-corruption movement;

- In another 'mistake' Mr. Warren/LFRS refused to release FSV-WH Personal Record Files (including his pension records) because he suspected he had been paid the wrong pensions; being terminally ill and time of the essence FSV-WH took the LFRS to Court repeatedly at the cost of £2000.0 which he could ill afford to prove to his satisfaction that indeed he was being under paid the wrong pensions and that ultimately his Widow might benefit from his efforts;
- On his deathbed he kept encouraging his pension disputing colleagues to *"keep the flag flying boys..."*.
- Those of compassion may wish to read his final thoughts...
<http://www.themorningbugler.com/a-star-is-born/pastoral-care/fire-service-veteran-wh/>
- His Widow continues to receive her substantially reduced Widow's Half-Pension.

128. FSV Mr. G [REDACTED] – LFRS.

- FSV-FG whilst on duty was injured in a no fault RTA when his car was rear ended by a member of the Public. He sustained head, neck and spinal injuries which led to his compulsory retirement on the 22nd July 1998 with a disablement of 24% after 35.7 years of incomplete service;
- On the 18th December 2015 FSV-FG issued IDRPs Stage I proceedings on a Pension Complaint to the Chief Fire Officer (CFO);
- On the 19th February 2016 (Within Statute) the CFO replied thus... *"As your retirement was due to ill health you became entitled to an ill health pension under regulation B3 therefore the ordinary pension under regulation B 1 is not due, as indicated in part (1) (c) of the extract below:"*;

but the CFO failed to answer why he was being paid a Rule BI pension;

- On the 16th June 2016 FSV-FG issued IDRPs Stage II proceedings to the LCFA on this Pension Complaint;
- On the 20th June 2016 (within Statute) Mr. Warren in an ultra vires act replied. He stated on 'behalf of the Fire Authority' (although no meetings, scheduled or extraordinary, took place at this time) that until FSV-FG's IDRPs Stage II proceedings had been reported to the Chief Constable... *"this process cannot be enacted"*. Stating further... *"I have accordingly placed your application in abeyance until the Chief Constable's investigation."*, though Mr. Warren gives no indication what evidence, by whom, might be placed before the Chief Constable who holds no legal responsibility in IDRPs;

On 25th June 2016 FSV-FG wrote to the LCFA asking what 'legal authority' it was using to deny the activation of IDRPs Stage II in addition stating ... *"As you will also know there is no legal lenience, flexibility, nor ambiguity in the applicable pensions Statute law, namely the 1993 Pensions Act (as amended), which allows the Fire Authority to do so."*

- On the 6th July 2016 Mr. Warren replied thus... *"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."*
There are no LCFA Meetings during the Summer Recess;
- On the 1st October 2017 FSV-FG placed his Pension Complaint before the TPO.
- The Senior Jurisdictional Officer Mr. Strachan prevaricated as expected and was ultimately forced to accept High Court case law on the 'ticking clock'.
- FSV-FG's Complaint was accepted for 'investigation' thus activating s146-151 of the relevant Statute in its entirety.
- Mr. Coutts's 'opinion' has been rejected and the Complaint has been placed before an Ombudsman in keeping with Statute pending a 'Determination';

129. LFRS Serving Firefighters:

- Mr. Warren's consistent criminality once more lies at the heart of a 'Class Action' Complaint of 154+ Lancashire serving Firefighters and accruing Lancashire Pension Scheme Members who took issue on, whether or not, part of their pay was pensionable; a complex pension case requiring retrospective pension payments to the value of £3mil which is currently before TPO supported by two favourable High Court judgements and a pro bono Barrister;
- Mr. Warren/LFRS alleged that he had a written agreement for the local variation of pensionable pay with the local Fire Brigades Union but neither he, nor the FBU, would or could produce such a written agreement;
- Mr. Warren/LFRS then alleged that the LCFA had approved such a local arrangement but he was unable to produce their 'authority' for so doing either;
- Between October and November 2017 multiple individual applications initiating IDRPs Stage I proceedings were individually lodged with the LFRS. In a timed out response Mr. Warren alleged that he had authority to conclude a local agreement with the disputing Firefighters but once more could not produce documentation and/or LCFA written authority empowering him to do so;
- On the 20th May 2018 the Firefighters submitted a Class Action IDRPs Stage II acknowledged on the 23rd of May 2019.
- On the 4th December 2018 Mr. Warren/LFRS once more having timed out and with no response forthcoming the Firefighters submitted a Class Action Pension Complaint to TPO;
- On the 18th January 2019 timed out by 8 months Mr. Warren/LFRS finally replied in writing once more alleging and failing to issue supporting

documentation that this Class Action Complaint had been initially agreed/settled with the FBU and the Fire Authority when it had not?

- Furthermore, in his response Mr. Warren/LFRS stated that the Class Action had been presented to the Full Committee of the Lancashire Combined Fire Authority (25 Elected Members) at a meeting on 19th December 2018, when subsequently lobbied County Councillors, coupled with a glance at the official LCFA diary, confirmed that no such meeting was scheduled or emergency had occurred, nor had any such Class Action IDRPs Stage II been presented to them?
- The Class Action remains lodged with TPO (Mr.Strachan) updated with further successful High Court decisions.

130. There is little doubt that thousands of other disabled FSVs will wish to bring their individual Complaints forward to TPO until these and other pension issues are finally addressed and Justice is provided to all those entitled to it; especially those who are no longer alive, or who are unable to write for themselves, or are existing on reduced incomes aka Widows, but before they do so they are determined to Publicly press for a root and branch public examination of TPO and TPR by Ministerial Inquiry at the very least.

131. As the Ombudsman and his civil servant staff will also know it is the intention at the conclusion of these proceedings, to publicly present FSVs experiences to the W&P Select Committee, not for resolution, but as current examples of how routine, but legally complex cases with heavy financial implications for the government/Taxpayers, are deliberately side-lined/malevolently delayed by TPO in complicity with the LFRS/Fire Authorities including further delaying the implementation of High Court decisions by applying systemic corruption at the government's behest to avoid the payment of lawful and correct pensions.

132. One final rhetorical question remains.

Should an in-post Ombudsman with, at the last count, pension shares in 26 pension schemes whilst running a private child care business, which is all a perfectly legal, not be required by the DWP in transparency to declare such conflicts of interest more prominently on the TPO website?

133. Finally, it is important to restate that it is the measure of a Nation and those politicians it sets in authority over its civil servants to ensure that the good name and the self-respect of the Nation is maintained by those in public office.

The collective failure to act decently, and any failure to display the decent, virtuous morality towards those it employs, who by their voluntary choice of vocation put themselves in harm's way to protect their fellow Citizens, besmirches the name of the individual, the office, and brings shame on the Nation.

FIRE SERVICE PENSION SCHEMES – SCRUTINY

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Fire Service Pension Schemes – Scrutiny.

PART 1.00.

Prelude to the Law.

1.01. Lancashire Fire and Rescue Service(LFRS) disabled Fire Service Veterans(FSV), their Widows, and Beneficiaries are concerned by the long term systematic and systemic theft of compensatory pensions from them by their pension providing Fire Authority; an affliction apparently suffered by other UK Firefighters.

1.02. They were compulsorily retired and invalidated out of Service having received a no-fault injury and loss of career but have not been paid what they are fairly due in Statute law; being only paid what they would have received had they completed their service without injury, or had chosen to retire early, neither of which they did.

1.03. To enable this corporate fraud laymen including the LFRS Pension Scheme manager, not only ignored the law (1992 SI No:129), but avoided their duty to disabled FSVs, Widows, and Beneficiaries by knowingly suppressing the existence of the Home Office Commentary, which is meant as guidance for Firefighters-their representatives-and these so called 'pension practitioners'.

1.04. Indeed, the administrators in all this, deliberately concealed the guide and lied repeatedly, in writing, to mislead the now retired layman Pension Ombudsman Mr.A.King.

1.05. A H.O.Commentary which makes it clear that the Statutory Instrument was to be interpreted in line with common law; compensatory pensions which are to be paid on 'qualifying' injuries which cause early compulsory retirements and loss of careers.

1.06. The legal point is not complicated. To cut pension costs, these lay pension practitioners simply decided that they would take the word "is" to mean the same as "with reference to" to avoid payment under Rule 3 (5) of the Statutory Instrument which specifies by formulae, the amount of disability/compensatory pension to be paid; the provision of which is the purpose of this section of the Rules.

1.07. To the Man on the Clapham omnibus the word 'is' may be taken to mean the same thing as "in relation to". Yet when both occur in the same section of legislation and it is then taken to mean the same thing, *it avoids a provision of law.*

Clearly "in relation to" cannot be taken to mean "is" in law. It is the presumption at law that every word used in legislation is given a meaning.

1.08. The questions all this raises will simply not go away, until addressed publicly.

1.09. Such is the level of criminality involved in supporting their position, '*the material of significance*' as The Pension Regulator(TPR) puts it, that Lancashire County Council(LCC) and LFRS pension management staffs routinely incorporate these wrong

practices, which have become institutionalised, under the direction and control of their delegated Pension Scheme manager Mr. R. Warren; during which the following habitually occurs:

- Plain dishonesty coupled with expected mendacity;
- Obfuscation, deliberate delay, simple stonewalling, and dismissively ignoring questions concerning Scheme Members' pensions rights and entitlements;
- Non-confirmation or recording of routine pension information supplied to the Scheme manager by Members;
- Accurate information about individual DWP benefits and Scheme administration not recorded and held in individual Scheme Members' records;
- In deliberate breach of the applicable laws by failing to promptly release Personal Record Files (PRF) when sought by Scheme Members;
- Appropriate essential Members' records not being routinely audited or maintained;
- Inadequate, irregular, or non-robust internal audit controls of the Scheme;
- Scheme assets not being safeguarded;
- The routine and institutionalised covering up of poor governance by maladministration;
- The intended deliberate fraud of individual Scheme Members by malfeasance;
- Acting wilfully, deliberately, and knowingly in contravention of the law;
- Failing under the Local Government Superannuation Regulations-Scheme of Delegation S5.16e-to comply with the *specific requirement for an annual review of the payee status and/or monthly liability audit*;
- Knowingly, in direct breach of Statutory duty, to fail to report all this pension Scheme maladministration to The Pensions Regulator.

1.10. The essential part of the reason d'être for the existence of the Firemen's Pension Scheme Order 1992 Statutory Instrument 129 in the matter of Rule B3 ill-health/injury pensions is summarised as follows ...

“The SI gives evolved effect to the 1947 Fire Services Act with the intention of taking compensation out of the Courts. But without any intention to restrict awards to less than a court would award, indeed, to get the Unions ‘on side’, it leaned the other way. The aim was to give not ungenerous consistency across all local fire services and to cut endless legal costs.”.

Mr John Merlin Copplestone Bruce-Barrister-Life Member Inner Temple Bar.

The Law-The Opposing Legal Forces.

1.11. Two Barrister, one a ‘Silk’, were invited to give their pro bono Opinions on the issue of whether or not the correct pensions were being paid to disabled FSVs. Each was posed the same Question of Law by FSV-PPB:

“Why am I being paid a basic Rule B1 Ordinary Pension(in direct contravention of Rule B1) which is the correct payment for a fit Firefighter completing his full service, or taking early retirement by personal choice; instead of the 1992 SI 129, Rule B3 ill-health pension and Rule B4 Injury Award which are the pensions the Fire Authority compulsorily discharged me which are provided to compensate me for my lost career, and the promotion and pay I could have achieved but for enforced early retirement, due to injury in service for which the LCFA is statutorily liable, in no lesser compensation than a Court would have awarded me by way of ordinary and special damages under common law?”.

1.12. Mr.David Lock QC of Landmark Chambers London, a practising Supreme Court advocate; also in the NHS field; and recognised as a national authority on Police Pension law, was of the Opinion that disabled FSV-PPB was being paid the correct pensions.

1.13. To the contrary, Mr.Lock’s Opinion was juxtaposed by Mr. John Merlin Coplestone Bruce a former practising barrister and Life Member of the Inner Temple Bar; a life time specialist in Personal Injury and the Common Law; a specialist in reading pure law and latterly Fire Service pension law; and the actual meanings of words in law, as applied within Statutory instrument No:129, 1992; who was of the Opinion that disabled FSV-PPB was not being paid the correct pensions.

NB01. De Bono, Mr. David Lock QC who acts in police pensions cases kindly offered to give me an opinion on my pension. He appears to argue the common law case [in brackets] in his paragraph 18 which limits my pension to 40/60ths (calculated at my APP at the date of my actual retirement) before in contradiction ignoring what he has just written as though that restriction was not to apply.

If that is so, which is the position of the LFRS lay administrators, then according to them injured Firefighters *are* being lawfully paid just basic time served pensions.

NB02. It is this unresolved conflict between the stricture and common law provision which Mr Coplestone Bruce, given the inestimable benefit of Mr. Lock’s Opinion, has provided his Opinion to resolve this, as he sees it, contradiction in Mr.Lock’s interpretation of the law.

NB03. Part 1.00., of this document deals only with my own example case. But I do have a considerable amount of additional material presented in succeeding Parts 2.00-5.00., which the Committee may wish to consider for scrutiny within the general context of the (mal)administration of Fire Service Pensions in the UK as a whole.

NB04. Whilst this document lays the ground work and justification for Committee scrutiny inevitably other additional questions will arise, the answers to which can found either on my website www.themorningbugler.com. or, in my own archives which are entirely available(unabridged) to the Committee.

In the matter of Paul Burns

And in the matter of the Firemen's Pension Scheme Order 1992

ADVICE

1. I have been asked to provide some initial advice concerning the level of pension to which Mr Paul Burns is entitled following his retirement from the Fire Service in 1997.
2. Mr Burns served as a fire fighter in Lancashire. I do not know precisely when he commenced service or the nature of the injury which caused him to be required to leave the service. However I understand that he was a member of the Firemen's Pension Scheme and is now entitled to a B3 and B4 pension.
3. Fire fighters who serve today are generally members of the Firefighters' Pension Scheme (England) Order 2006 ("the 2006 Order") which came into force on 25th January 2007 (but had effect from 6th April 2006). Both the employer and the employee make contributions to a pension scheme¹. As a result a pension is, in law, a form of deferred pay which is earned by a worker during the period of employment. The pension scheme creates a set of legally enforceable rights to any benefits set out in the scheme to which the worker subsequently becomes entitled. Where the pension provider is a state body the worker is entitled to require the rights to be exercised in accordance with the principles set out in Article 1 Protocol 1 of the ECHR.
4. Article 3(4) of the 2006 Order provides:

"The 1992 scheme shall continue to have effect in relation to a person who, immediately before 6th April 2006, was a member of it or was entitled to, or in receipt of, an award under it"
5. The reference in the 2006 Order to the "1992 scheme" is a reference to the Firemen's Pension Scheme Order 1992 ("the 1992 Order"). Mr Burns was originally awarded a pension under the 1992 Order because that was the pension scheme in force at the date that he retired from the service. It follows that, pursuant to article 3(4) of the 2006

¹ Rule G2 of the 1992 scheme provided that firefighters paid 11% of their salary into the pension scheme. Hence this sum was deducted at source unless the firefighter elected not to be part of the pension scheme under rule G3 of the 1992 scheme. I understand that this does not apply in any of the relevant cases.

Order, his pension entitlement continues to be calculated by reference to the 1992 Order and not the 2006 Order.

6. The 1992 Order was subject to various amendments and, for the purposes of this advice, I have worked off the 2005 version of the 1992 Order as helpfully collated in the government on line national archives².
7. The standard pension payable to firefighters who have reached the age of 50 and have 25 years service is set out at Rule B1. This pension is calculated in accordance with Part 1 of Schedule 2. It provides that a person with 35 years service shall be entitled to 40/60ths of their APP as a pension. However rule B1(1)(c) provides that a person who is entitled to an ill-health pension under rule B3 shall not be entitled to a pension under B1. .
8. There were 2 separate pension schemes for injured firefighters, and the differences reflect differing policy objectives which are common in public sector schemes. The schemes reflect the different considerations which apply to public servants who become disabled from being able to perform their duties as a result of a disability which is not related to their job and those firefighters who become disabled as a result of an injury sustained during their service. Pensions for the former group seek to provide a pension to a former firefighter at an earlier date than the person would normally be entitled to a pension where a person becomes disabled during their working life. The disability can arise from an illness or injury of any cause but will usually be unrelated to service as a firefighter. Thus an ill-health pension seeks to provide a payment for someone where their working life (and hence the period when that person would expect to be earning a salary and contributing to a pension scheme) has been cut short for any reason unrelated to their duties as a public servant.
9. There are different policy considerations where a public servant is injured in the course of his or her duties. In such a case additional payments are made to reflect the fact that (without proof of any fault on the part of the public body) an individual has been left disabled as a result of performing his duties as a public servant. It is inevitable that police officers and firefighters put themselves in harm's way when doing their jobs. It is part of the "deal" with such public servants that, if they are injured and have to give up their job as a result, they will be paid an enhanced pension to compensate them for the loss of their ability to earn a living doing another form of work outside the fire service. Thus ill-

² See

<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/fire/pdf/319605.pdf>

health pensions and injury pensions provide for payments to former firefighters for significantly different purposes.

10. Rule A9 provides that a “qualifying injury” for a firefighter under the 1992 Order is:
“an injury received by a person without his own default in the execution of his duties as a regular firefighter”
11. Rule A10 refers to disablement and explains what is meant by permanent disablement. Rule A10(30 provides:
“Where it is necessary to determine the degree of a person's disablement, it shall be determined by reference to the degree to which his earning capacity has been affected as a result of a qualifying injury”
12. Accordingly (just as in the police scheme³ but in contrast for example to the scheme for members of the armed forces) an injury pension paid to an injured firefighter is calculated by reference to the extent to which his (or her) earning capacity has been reduced as a result of the qualifying injury.
13. Rule A15 of the 1992 scheme entitled a fire and rescue authority to require a firefighter to retire from the service if the firefighter became permanently disabled. However if this power was exercised and the individual had at least 2 years reckonable service (or if the person had a qualifying injury), the individual became entitled immediately on retirement to an ill-health pension calculated in accordance with Part III of Schedule 2.
14. Rule B4 provides that a person is entitled to an injury pension under rule B4 if:
 - a. The person has retired;
 - b. The person is permanently disabled; and
 - c. The “infirmity” was caused by a qualifying injury.
15. The injury pension is calculated under Part V of Schedule 2.
16. There is a formula for the calculation of an individual’s ill health pension under rule B3. However rule B3(5) provides:
“5. Where:
 - a) if the person had continued to serve until he reached normal pension age, he would have become entitled to an ordinary or short service pension (“the notional retirement pension”); and
 - b) the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the notional retirement pension,

³ See for example Regulation 7(5) of the Police (Injury Benefit) Regulations 2006.
PB000417

the amount of the ill-health pension is that of the notional retirement pension”

17. Rule B3(6) provides that a person’s notional retirement pension is to be calculated by reference to the person’s actual average pensionable pay. When Mr Burns left the fire service all firefighters were required to retire at age 55. Hence a firefighter who was not injured could continue to make contributions up to age 55 and then would be required to retire. If the firefighter joined the service at age 20 and continued to serve until the age of 55, the firefighter would have 35 years relevant service and thus would be entitled to a 40/60ths pension.
18. Rule B3(5) thus places an upper limit on the amount of an ill-health pension paid under B3 by providing that the sum paid cannot exceed the amount that an individual would have been paid if he had continued to work until aged 55 and then been entitled to a pension under B1 (calculated at his APP at the date of his actual retirement). However the limit is not the amount of the ordinary pension that the firefighter would have been entitled to receive under B1 when he actually retired but the amount that he would have been entitled if he had continued to work until his normal retirement age (which was then 55). I have not studied the commentary produced by the Home Office on the fire service pension scheme but I cannot see how the commentary could change the plain meaning of the statutory scheme. Further it would appear iniquitous for a former firefighter who became disabled as a result of circumstances that had nothing to do with his job should be paid a pension which was greater than a firefighter who completed his full 35 years service.
19. The position with injury pensions paid under rule B4 is slightly more complex. A former firefighter who is entitled to an injury pension is entitled to a gratuity and an additional pension. The amount of the pension payable under rule B4 is calculated in accordance with the table at paragraph 1 of Part V of Schedule 2. Hence, for example, a former firefighter with 25 years or more relevant service whose qualifying injury results in him losing 25% or less of his earnings capacity will be entitled to a pension of 60% of his APP for life after his retirement.
20. However a person who is entitled to a pension under B4 will almost inevitably also be entitled to an ill-health pension under B3. Whilst the pensions serve different purposes (as set out above) there are provisions to ensure that a person is not, in effect, over-compensated. Paragraph 2(1) of Part V provides:

“The amount of a person’s injury pension calculated in accordance with paragraph 1 shall be reduced by three quarters of the amount of any other pension calculated by reference to pensionable service reckonable by virtue of the period of service during which he received the qualifying injury or [*provisions where an election is made not to part of the pension scheme*]”

21. Thus where a former firefighter receives a pension under B3 and B4, the pension under B3 is unaffected but the pension under B4 is reduced by 75% of the amount that the former firefighter is paid under B3. Hence, by way of example, if a former firefighter is entitled to be paid £1000 per month under Rule B3 and (without the Rule B3 pension) he would be entitled to £2000 per month under B4, he is entitled to receive £2,250 per month. This is calculated by paying him £1000 under rule B3 plus £1250 under Rule B4 (namely £2000 less 75% of his payment under B3).
22. There are also provisions in paragraph 3 of Part V which require deductions to be made from a Rule B4 injury pension for various other state provided ill-health pensions and disability benefits. The amount that the B4 pension is reduced is the full amount of any qualifying benefit at the date of the former firefighter’s retirement. These are complex provisions and I can advise further on them if needed.
23. Paragraph 4 of Part V then provides:

“No payment shall be made in respect of an injury pension for any week in which the aggregate reductions under paragraphs 2 and 3 equal or exceed the amount of the pension calculated in accordance with paragraph 1”
24. It seems to me that this paragraph is strictly unnecessary but it clarifies that no injury pension is payable if the total of the deductions made due to another pension being payable to the former firefighter and the state ill-health pensions and/or benefits paid to him exceed the injury pension calculated in accordance with the table at paragraph 1.
25. I hope this helps identify whether there are grounds to challenge the amount paid to Mr Burns and others. Please come back to me if anything in this advice is unclear.

DAVID LOCK QC

11th May 2015.

Landmark Chambers,
180 Fleet Street,
London. EC4A 2HG

In the matter of Paul Burns

And in the matter of the Firemen's Pension Scheme Order 1992 SI 129

ADVICE

1. Mr. David Lock QC has most kindly given an initial advice setting out, as it were, the opposing forces and on feeling driven, but clearly uneasily to adopt one has also generously left the door open to the argument to be made that he can rest easy, he was right all along... Mr Burns is also fortunate in that Counsel's Instructing Solicitors could not have been more helpful in their continuing dialogue with Mr Burns.

2. Mr Burns has asked me to give a view on Mr. Lock's Advice that he has the correct pension.

3. I have hesitated before venturing to do so for when I was 'at the top of my trade' it was a long time ago and I am well aware of Mr. Lock's eminence. Indeed, in the ordinary way one would not presume to contradict a Silk of such experience but, I do here because it is by his own words that one can demonstrate that what he takes to be the 'plain meaning' cannot possibly be correct.

4. I would suggest that Mr. Lock, in seeking commendable brevity and clarity, may have been a little too hasty in his initial Advice. I also wonder to what extent both his, and his instructing Solicitor's views, may, inadvertently, not have been allowed to be a little influenced, where there should be none, by their past and most successful work on a similar but different, Police Pension Scheme.

5. On the face of it and in Mr. Burns's discussions with Instructing solicitors, there are, essentially, 4 issues:

(i) What role, if any, does Rule B1 in general, and paragraph (c) in particular, have in the correct payment of Rule B3/B4 pension awards?

(ii) With extensive past persuasive experience in Police Legislation where, if at all, does any 40/60th rule have a role to play in this Firemen's Legislation - the multiplier in pensionable years ?

(iii) Interpretation of precisely what is the correct average pensionable pay [APP], on which to calculate a material Rule B3 pension – the multiplicand ?

(iv) The relationship between Rule B3, Paragraphs 4., with 5., to arrive at what amount is payable ?

6. My conclusions are:

(i) The pension law of Rule B1 plainly speaks for itself in particular in paragraph (c) which prohibits the payment of a Rule B1 pension to a Firefighter who becomes ...

“entitled to an ill-health award under rule B3.”

The failure by the Fire Authority to correctly apply the law of Rule B1(c) to a Firefighter who it had awarded a Rule B3/B4/B5 pension(s) acted as a catalyst for a series of compounding errors in law, which in turn, led to further breaches in the law in respect of Rules B3/B4/B5.

(ii) Unlike prior fire pension schemes there is no 40/60ths rule to be applied in the SI 129, save and except to a retiree who had been in service on 10th July 1956.

The sole reference in SI 129 to 40/60ths is to be found on page 82.

This is a PART dealing with ‘Special Cases’ beginning at Schedule 11 (page 80), PART IV, Rule J6 *“Modifications for person’s serving on 10 July 1956”*. At Paragraph 17 (page 82), PART 11, Short Service or ill-health pension.

Mr. Burns was not yet in service on that date.

(iii) (a) In calculations Rule B3, under Paragraphs 1-4., the multiplicand is the APP on the date of retirement.

(b) In calculation under Rule B3.5. Mr. Lock correctly sets out the law as “the amount that he would have been entitled to if he had continued to work until his normal retirement age”. He was incorrect in applying the Rule B3, 1-4 multiplicand rule [supra at (i) (a)] to Paragraph 5.

(iv) Rule B3.5., takes precedence in providing the amount to be promulgated, unless Rule B3.4., is more.

7. SI 129 is intended to be very precise, but is a poorly drafted piece of legislation, appearing to give ‘plain meaning’ until, elsewhere, that meaning is changed by subjugation.

Mr. Lock, in admirably seeking brevity and to put complicated legislation ‘into plain English’, misdirected himself in law.

With great respect, he so concentrated his focus on what, on the face of it, was all that he thought decided the issue – set out in his paragraphs 16. and 17. – that he denied himself - in 18. - all possibility of realising that, as a matter of law, what he has taken to be ‘the plain meaning of the statutory scheme’ - that Mr Burns pension be (calculated at his APP at the date of retirement) - was wrong.

Mr. Lock, more than once, correctly set out the law to be applied , but clearly felt bound to give priority to what he thought the plain meaning to be.

In fact, nowhere in the SI do the words *‘calculated at his APP at the date of retirement’* appear.

The meaning of the SI, the Scheme, is otherwise.

8. (i) I hope that what occurs to me here will assist Mr. Lock to revise his initial Advice.

Correctly interpreted, I would think there are many more like Mr. Burns, with claims which may well run, as does his, into substantial amounts. The scheme ran from 1992 until 2004. I cannot think his pension provider was alone in 'getting it wrong'.

(ii) It is also a question of a great social injustice; a de facto breach of good faith; and reasonable expectations – to hire men to risk life and limb for you but when hurt in a fire to pay them off as though leaving the service as though by choice, relying on their ignorance of the law to deny them their entitlement to compensation for their loss to keep us safe. That is, surely, much more than merely 'iniquitous', in any language and in any Society, if not sunk in barbarity.

(iii) Without, I hope being impertinent, I would particularly hope that it is Mr. Lock and his Instructing Solicitors who will be pursuing this. It is a matter requiring his high calibre and their expert support in which, in seeking to correct an expensive mistake, it does no harm to plead, or go into Court, with strong successes in similar cases.

9. In consideration I think a number, some, or all of the following, are worth bearing in mind.

(i) The SI gives evolved effect to the 1947 Fire Services Act with the intention of taking compensation out of the Courts. But without any intention to restrict awards to less than a court would award, indeed, to get the Unions 'on side', it leaned the other way. The aim was to give not ungenerous consistency across all local fire services and to cut endless legal costs.

(ii) The SI is a substantive piece of legislation, complete in itself and only applicable to Firemen. Whilst interesting parallels and distinctions may be drawn between it and other public service pension schemes, none can be taken to apply to, alter, or in any way interpret the way in which the 1992 SI 129 makes pension provision. Each stands alone.

(iii) To ensure an even handed approach and common practice and understanding across the Country a Home Office Commentary accompanied the SI, setting out, at exhaustive length and detail, precisely the way in which the State wished the provisions of this, its Contract with the Firemen, to be interpreted and the way its provisions were to be applied.

(iv) The Home Office Commentary was intended to be a simple 'practice bible' (it is a little large at 394 pages to be a *vade mecum*) but for universal access and use, to ensure the retiree Firefighters themselves and all lay administrators (and lawyers or 'pension professionals') understood what the words and phrases, used in this SI, were to be taken to mean and the way they were to be applied.

The Foreword states:

"For the most part the text uses the "second person" to keep the style informal but this does not mean it is addressed only to Firefighters. It is intended mainly to help the local authority superannuation officers who have to administer the Scheme";

Quite plainly it was intended to be in public, unrestricted, use.

(v). But the Home Office Commentary is not the law – it is merely interpretive and for guidance. *“the purpose is to help those who use the Scheme to understand its provisions, bearing in mind that such guidance cannot replace or override those provisions”*.

(vi). At K1-1, Paragraph 5., the Home Office Commentary tells the reader *“The broad purposes of your ill-health pension are to compensate you for the interruption of your career, and (once you reach the age when you could have retired with a pension) to take the place of a retirement pension”*.

(vii). There are three points in the Commentary which gives the Home Office understanding that a Rule B3 pension amount shall be formulaic, or to the effect of, *“or what you could have earned”*.

10. (i) The problems SI129 presents are those of a Home Office draftsman’s production of a very detailed and technical piece of revisionary legislation. Human nature being what it is, during any intense team effort the work can become so well known, here to the draftsmen, that they became blind to any faults it may have had.

(ii). Unfortunately, faults were compounded by the SI going through the ‘Affirmative Resolution Procedure’ rather than go through any scrutiny in Committee or debate in The House. So, it was simply ‘laid on the table’ in the HoC library for any Member to read and, on no objections being lodged, it passed into law on 7th February, 1992.

11. I note that neither Mr Lock nor his Instructing Solicitors have had the benefit of the guidance given by the Home Office Commentary.

It defines a Rule B3 pension to also be, *“or what you would have earned by your compulsory retirement age”*.

That is the common law position and it is what Mr. Lock took the law to be.

That is until he stumbled across what he felt was of such a ‘plain meaning of the statutory scheme’, that, though in conflict with common law, nevertheless he concluded it avoided the common law approach to compensation.

12. The law does not countenance such conflict. Precedent is always right unless what is being proposed can be distinguished, so as to be able to be shown, not to conflict with precedent.

13. (i) *A priore*, Mr Lock, no stranger to public policy, may agree, on reflection, that his Advice may run aground before one gets into the detail of it. He writes, with justified indignation at the end of 18., *“Further it would appear iniquitous for a former fire-fighter who became disabled as a result of circumstances that had nothing to do with his job should be paid a pension which was greater than a fire-fighter who completed his full 35 years service”*.

(ii) The corollary is surely yet more iniquitous? On compulsory retirement on being injured while firefighting, to pay a Firefighter an Ordinary Rule B1 pension, to the

exclusion of any compensation provided by Rule B3 for the loss of career.

(iii) Mr. Lock is clearly right. Any right minded person would be indignant on hearing a pension is being paid where there is neither loss nor liability, yet would not it be more heinous, if it were the case, for Firemen, injured in our service, to be routinely being denied compensation for lost careers. Whilst it would also have been an abuse to deny retirees knowledge of, and access to, the Home Office Commentary, would it not be a greater abuse, relying on their ignorance, to pay them the wrong pension ?

(iv) Both such unjustified or avoided payments would offend public policy and could only be legally imposed on the clearest direction of fully debated legislation. For a Pension Provider to conveniently seek to save money by such means would, go beyond being iniquitous, it would render the authority liable, and not only in the amounts of the sums wrongly denied.

(v) Many, and I have in mind a jury (which, I seem to recollect, is by choice available in an exemplary damages case), could well take the view that for any pension provider, on whose honesty, duty of care, and good faith the retiring Fireman relies for a calculation and payment of a correct pension to:

(a) Avoid, to both staff and retirees, sight of the Home Office Commentary intended for their use;

And,

(b). Having compelled a Fireman to retire on grounds of attributable ill health, to then pretend that an Ordinary Rule B1 pension is what the law requires to be paid as a correct Rule B3 pension;

And then,

(c). To deceitfully pay only the lesser pension falling due to any Fireman who, by choice, cuts short his career to go and be a policeman or on any other whim;

And to then,

(d). Deny the 'error' well knowing a pensioner, a vulnerable person, may neither have the money, the health, nor the will to 'take on Town Hall';

Surely in such a case the law provides and requires that the malfeasant provider ought to be punished by way of exemplary damages?

I think *Rookes v Barnard* (1964) AC 1134. Per Devlin LJ., remains the authority. In Mr. Burns's case, the conduct seems to meet the criteria of being 'arbitrary and oppressive abuse of power in the hands of a servant of the State.'

(vi) Thus, premised here only on common law, to pay an Ordinary Rule B1 pension in place of an ill health/injury Rule B3/B4 pension would be unarguably wrong in law. As a way to save public money it would be contrary to public policy and the law.

If that is correct and it seems so, it follows that to claim that the SI provided for anything in conflict with that premise is to misunderstand the legislation, or, in the alternative, that the Firemen's Pension Scheme Order specifically repeals and replaces common law, to provide that an Ordinary Rule B1 pension can be paid in place of an ill-health Rule B3 pension.

That the SI does that, is Mr Lock's Advice.

14. But it is Mr. Burns's case that he is wrongly being paid an Ordinary Rule B1 pension he would have been entitled to, had his premature retirement had nothing to do with his job, but was being taken early by choice. The common law on damages would agree with Mr. Lock's view. With respect, I have no doubt a Court would agree with Mr. Burns. Public policy or natural justice apart, it is the law.

15. (i) But I only venture to suggest that Mr. Lock has simply misdirected himself in law because, in his own words, he demonstrates that to be so. He makes plain his place of departure from the law in the text of his Advice;

(ii) One can see the problem he faced. Never an easy task to put such diffuse legislation into 'plain English', Mr. Lock seeks to do so at paragraph 18., of his Advice, where he expresses, in a single embracive sub clause, what he takes to be 'the plain meaning of the statutory scheme' as '(calculated at his APP at the date of his actual retirement)';

(iii) That is certainly unambiguous, and yet, with respect, nowhere do those words appear in SI 129 - the scheme;

(iv) Faced with several *similar* phrases, in various places he has for brevity 'cleaned them up', so conflated them into what seemed to be that brief, but immediately intelligible, whole;

(v) But, with respect, in so doing he loses the clear distinctions to be drawn and adhered to. In each case the distinction made apparent by the words actually used, and in which context;

(vii) In absence of conflation, so taken phrase by phrase, distinctions emerge that require *similar* words to have entirely *different* meanings within specific contexts.

16. In best practice, Mr. Lock makes apparent the way he has arrived at his conclusions and so makes the point:

(i) Initially, Mr Lock premised his thinking on what he has always taken the law to be, but on finding that 'his thinking' is not apparently what he takes the SI to mean, he abandons 'his thinking' to premise his Advice on what he refers to as the 'plain meaning of the statutory scheme';

(ii) His omnibus interpretation of 'plain meaning' is expressed in the words 'calculated at his APP at his actual date of retirement' – at 18., line 4 of his Advice.

(iii) 'His thinking' is expressed at 18., line 1, where he defines entitlement as... "Rule B3(5) thus places an upper limit on the amount of an ill-health pension paid under Rule

B3 by providing that the sum paid cannot exceed the amount that an individual would have been paid if he had continued to work until aged 55 and then been entitled to a pension under B1”..., which is a common law entitlement.

(iii). (ii) conflicts with (iii) supra – One cannot have one, and the same pension entitlement, calculated on what ‘he would have been paid if he had continued to work’, and also, ‘calculated at his APP at his actual date of retirement’.

They are wholly different criteria and are mutually exclusive.

(iv) Of necessity, in denying the common law on damages in English Law, he sets the SI against common law in adamant conflict.

He does not seek to resolve this conflict.

(v) Yet it has to be resolved, because the presumption at law is that there can never be any conflict. It is a purpose of the law. Prior legislation and legal precedent is the law unless something in apparent conflict can be so distinguished so as to admit it without conflict.

Lord Wensleydale’s Golden Rule [*Pearson v Grey (1857) 6 HLC 61 at p.106*] remains current...

“In construing all written instruments, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity and inconsistency, but no further”.

And if that was insufficient...

Lord Field said in *Cox v Hakes (1890) 15 App. Cas. 502 at p. 542*:

*Now the admitted rule of construction, from which I am not at liberty to depart, lay down that I cannot infer an intention contrary to the literal meaning of the words of a statute, unless the context, or the consequences which would ensue from a literal interpretation, justify the inference that the Legislature has not expressed something which it intended to express, or unless such interpretation (in the language of Parke B. in *Becke v Smith (1836) 2 M&W 192* leads to any manifest "absurdity or repugnance" ...*

Furthermore, the Literal Golden Rule...

Lord Esher criticising the literal rule in *The Queen v The Judge of the City of London Court [1892] 1 Q.B. 273*:

Now, I say that no such rule of construction was ever laid down before. If the words of an Act are clear, you must follow them, even though they lead to a manifest absurdity. The Court has nothing to do with the question whether the legislature has committed an absurdity. In my opinion, the rule has always been this - if the words of an Act admit of two interpretations, then they are not clear; and if one interpretation leads to an

absurdity, and the other does not, the Court will conclude that the legislature did not intend to lead to an absurdity, and will adopt the other interpretation. If the learned judge meant to say that, when the meaning of general words is (if you look at them by themselves) clear, that determines their construction at once, even though from the context - from other parts of the same Act - you can see that they were intended to have a different meaning; if he meant to say that you cannot look at the context - at another part of the Act - to see what is the real meaning, then again I say he has laid down a new rule of interpretation, which, unless we are obliged to follow it in the particular case, I would not follow...

Finally, the Golden Rule of Context...

Lord Hoffmann stated in *Charter Reinsurance v Fagan* [1997] AC 313, at p.391:

I think that in some cases the notion of words having a natural meaning is not a very helpful one. Because the meaning of words is so sensitive to syntax and context, the natural meaning of words in one sentence may be quite unnatural in another. Thus a statement that words have a particular natural meaning may mean no more than that in many contexts they will have that meaning. In other contexts their meaning will be different but no less natural.

And thus the presumption at law, '*expressio unis est exclusio alterius*' (mention of one excludes others), remains unaltered.

17. Since one cannot ignore any text within any legislation, 'plain meaning' can only be given meaning consistent with all other parts of the SI; all words passed into law are presumed in law to have meaning.

18. Given that, as matters stand, an apparent conflict exists between the precedent of common law and Mr. Lock's 'plain meaning', the question is... "Can one, on looking only within SI129, find words to distinguish Mr. Lock's 'plain meaning' from the precedent of common law ?".

19. Mr. Lock deals with Mr Burns's substantive Rule B3 'ill-health pension' claim at 16,17, & 18., in his Advice. Mr Burns's Rule B4 qualifying injury award, save on quantum, is not in issue.

20. At 16., and 17., Mr. Lock reproduces Rule B3.5 (1) and (2), respectively. He also sets out a 30 year service Rule B1 entitlement. His consideration and analysis is at 18.

21. (i). At 18., Mr. Lock goes straight to the heart of the matter in seeking to deal with the Rule B3.5 ill-health pension. As a senior and very experienced Silk, Mr. Lock begins by simply setting out the law, as any fully competent lawyer would.

(ii). He correctly identifies that it is not 'time', which is limited to 55, that is at large [I would have added, 'or 60, if before 55, the set senior rank of Asst.Div.Officer was reached'-Rule A13], but 'amount' – the quantum.

(iii). Mr Lock then quantifies the quantum at large by specifying that the material amount is... "the amount an individual would have been paid if he continued to work until 55 and

then been entitled to a pension under B1”.

Thus, far so good, but then without comment, though clearly in direct contradiction with what he has just correctly written, he adds “(calculated at his APP at the date of his actual retirement)” These are his words; they are a direct quote from the SI but a conflation of *similar but not identical*, phrases, within separate contexts.

(iv). Clearly troubled by this inconsistency he seeks to put it on all fours, or avoid the conflict, with what he had just stated as his understanding of the law on damages.

(v). In seeking to find a way through he follows... “(calculated at his APP at the date of his actual retirement)”, by writing... “However the limit is not the amount of the ordinary pension that the firefighter would have been entitled to receive under a B1 when he actually retired but the amount that he would have been entitled to if he had continued to work until his normal retirement age (which was then 55)”..., to repeat, but with slightly greater particularity, what he had just written.

(vi). Unable to reconcile “APP with actual date of retirement” with what he “would have been paid if he had continued to work until aged 55”, he gives up the Sisyphean task and makes no further attempt to reconcile the mutual exclusion.

He chooses to abandon what he had taken the law to be in the belief that the SI made a specific ‘plain meaning’ exception to common law.

22.(i). Was he right? What is the law? Is it Mr.Lock’s correctly stated universal understanding under English law on quantification of damages, or does the SI by its language avoid the common law ?

23. If one accepts the words “calculated at his APP at the date of his actual retirement” at face value, an ill- health pension is based on what the APP (average pensionable pay) is at the date of a physical retirement, irrespective of whether the career is being terminated early by choice, or enforced by ill-health pension. In either case what is paid is an Ordinary Rule B1 pension.

24. On the other hand if an ill-health pension is based on, “the amount he would have been entitled to if he had continued to work until his normal retirement age”, that denies ‘APP as at the date of his actual retirement’, but accords with the provision set out at Rule B3.5 (a) by way of a notional, “notional retirement pension”, defined as what a person would have received “if the person had continued to serve until he reached normal pension age, when he would have become entitled to an Ordinary or Short Service pension (“the notional retirement pension”).

25. Clearly if the ‘plain meaning’, ‘(calculated at his APP at the date of his actual retirement)’ were to be the correct interpretation of the scheme it would entirely vitiate, Paragraph 5. It would have no use, nor serve no legal purpose. Yet that cannot be the legislative intention because it would be to defeat the presumption at law that all legislation has meaning.

26. This drives one to the unavoidable conclusion that since the application of

'(calculated at his APP at the actual date of his retirement)' would vitiate Paragraph 5, it follows, of necessity, that it is incorrect to conflate and take the meaning of the word "is" to be the same as words "with reference to". Where different language is used in legislation it is given its ordinary meaning.

27. It follows that whatever meaning was legislatively intended to be given to the 'meaning of the statutory scheme', it was not that an Ordinary Rule B1 pension be paid in place of, or be substituted for, a Rule B3 ill-health pension.

28. If so, one is required to go back to the SI and see what words are actually used in what context and see if that admits any interpretation not in conflict with any other provision in the SI, or common law.

I set out in PART 111, omitting Paragraphs only 2 and 3 as immaterial.

PART III Rule B3

ILL-HEALTH PENSION

1.-(1) Paragraphs 2 to 5 have effect subject to Parts VII and VIII of this Schedule, and paragraphs 3 and 4 have effect subject to paragraph 5.

(2) In paragraphs 2 to 4, A is the person's average pensionable pay.

4.- Where the person has more than 10 years' pensionable service, the amount of the ill-health pension is the greater of:

$$20xA/60$$

and-

$$7xA/60 + AxD/60 + 2xAxE/60$$

where-

D is the period in years of his pensionable service up to 20 years, and

E is the period in years by which his pensionable service exceeds 20 years.

5.-(1) Where-

(a) if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension ("the notional retirement pension"), and

(b) the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the notional retirement pension,

the amount of the ill-health pension is that of the notional retirement pension.

(2) The notional retirement pension is to be calculated by reference to the person's actual average pensionable pay.

29. Construing it requires a word-by-word consideration leaving none without an unassigned meaning. This would appear to yield:

30. (i). As to a Rule B1 and a Rule B3 pension. *A priori*, the SI specifically denies a Rule B1 pension to a Rule B3 ill-health pension recipient.

A Rule B1 'Ordinary Pension' is payable to a regular firefighter who retires but who, B1(c), "does not become entitled to an ill-health award under Rule B3".

(ii). Nowhere within Rule B3, Paragraph 5., is a Rule B1 specified. The text refers to "the notional retirement pension".

(iii). The Paragraph 5., specified 'notional retirement pension' *is not* a straight Rule B1 Ordinary pension.

31. (i). PT III 1. (Supra), at (2) makes the specific and limited provision. In paragraphs 2 to 4, 'A' is "the person's average pensionable pay". There is no mention of APP in Paragraph 5.

(ii). Under the '*expressio*' presumption the exclusion of Paragraph 5., is absolute... "A is the person's average pensionable pay" on being specified for application in 1-4 which denies the addition of Paragraph 5., to the class.

(iii). At Paragraph 5. (2). The provision is "a person's notional retirement pension is to be calculated by reference to the person's actual average pay".

(iv). Since the notional retirement pension APP *is not* 'the person's average pensionable pay' as specified in 1-4, then what other meaning can properly be ascribed to the words used which are(my emphases) '*by reference to*'; and, '*actual*' ?

(v). English law requires words to be given their ordinary meaning; 'by reference to' means, amongst other things 'by drawing attention to' or to 'use something as source' (transitive verb) – OECD

and,

'actual' existing in fact; real; authentic – OECD.

(vi). In the context of Paragraph 5. (2), a "person's notional retirement pension is to be calculated by reference to the person's actual average pensionable pay" means using as a source for calculating a notional APP for the notional pension the actual pay scales of all ranks at the time of retirement.

It avoids speculation of, on what pay may become, whilst allowing for a proper a reflection of promotions lost by early termination of career on grounds of attributable ill-health.

32. This avoids the conflict. It allows effect to be given to Mr. Lock's correct recital of

law, that the pension needs to be, in 'the amount that an individual would have been paid to work until aged 55', which should be a Rule B1 pension based on years of full service, uninterrupted by ill-health and giving credit for a more senior rank that the premature retiree 'could' (Home Office Commentary Pages B3-2;B3-3.) have achieved if 'paid to work until aged 55 or 60'.

Thus the APP on which the notional retirement Rule B1 pension is calculated is the APP of the rank someone 'could' notionally have achieved, but for injury curtailing career, and was taken, to provide the apposite notional APP for the notional rank, from scales of pay actually being paid at time of actual retirement.

33. If this is taken to be the correct interpretation of the SI provision there is no conflict between a "B1 calculated on actual APP", and "A is the APP" in Paragraphs 1-4, and a notional retirement pension (a Rule B1 pension) calculated 'by reference to', an "actual" APP in Paragraph 5; to fix the prevailing scale of rates of pay then prevailing.

34. Furthermore, the Rule B3 nomenclature (name system) is significant. It will be noticed that in Paragraphs 2, 3, and 4 under Rule B3, what each formula is calculating is an 'ill-health pension'. But in Paragraph 5, which takes precedence over 3, and 4, it is called a 'notional retirement pension'. Since this notional pension takes precedence, it is paid.

Nothing is actually a pension until it becomes promulgated as the ill-health pension. The nomenclature defines selection of the amount.

35. At Rule B3 paragraph 1(1) it is specified "that paragraphs 3 and 4 have effect subject to paragraph 5". Given ordinary meaning where A is 'subject to' B, B takes precedence over A in being given effect, or put first in line, or order.

Therefore Paragraph 5 has precedence in application. This means that a Paragraph 5 pension is always paid as the ill-health pension unless there is provision for that precedence to be lost. There is such provision.

36. The 'notional pension' is the ill-health pension paid, unless "the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the notional retirement pension" in which case the Rule 3 or Rule 4 'ill-health pension' becomes [takes the place of, supplants] 'the notional pension'.

37. (i). How to calculate a 'notional retirement pension' is specified at PART VI, Rule B5, 2(2). Save that D is replaced by an E - both specifying the same 'up to 20 years', and E is replaced by F - 'years ...exceeds 20 years'. The formulae are identical except the Paragraph 4, Rule B3 ill-health formula is enhanced by an additional 7/60 at its commencement.

(ii). However, unlike a Paragraph 4 calculation which will always exceed 40/60ths there is a limitation imposed on a 'notional retirement pension' in that it is specified at (3) (that):

"A person's notional service is the period in years that he would have been entitled to

reckon as pensionable service if he had continued to serve until he could-

- (a) retire with a maximum ordinary pension (disregarding rule B I (2)), or
- (b) be required to retire on account of age,

whichever is the earlier.

(iii). An Ordinary Rule B1 pension is limited to 40/60ths of APP.

Therefore in a 'notional retirement pension' the formula is, in effect the notional APP x 40/60ths maximum. It is apparent why when one considers that what is offered is the full pension the retiree would have earned on a full service pension calculated on the rank he 'could' have achieved.

Put another way pecuniary loss is extinguished. He is paid all he may have earned and the full service pension. His injury, per se, is compensated under Rule B4 provision.

38. In effect the Paragraph 4., calculation will always exceed the Paragraph 5., calculation *except* where the APP taken for the rank a retiree 'could' have attained is substantially above the APP upon which Paragraph 4., is calculated.

39. In practice Paragraph 5., will rarely be paid, being a safety net to avoid short-changing just a few who, but for injury, would have scaled the heights of promotion. Usually Paragraph 4., will be the greater and be paid.

40. Were any other interpretation given to the provision it would permanently deny one or other calculation (in this instance 4., or 5.) ever being paid and so render the words in the legislation meaningless.

41. This leads to the question of whether or not there is any 40/60ths limit to be applied in Rule B3 ill-health provision ?

42. At Rule B3 – 3. (2) in the Home Office Commentary[Pages B3-2;B3-3] in answer to the question "How much is the pension?" specifies... 'Never more than 40/60ths of APP, or what you could have earned by your compulsory retirement age'.

43. It is as well that the Home Office Commentary cannot make law because it is in error, and patently so in stating (supra) "Never more than 40/60ths". Perhaps here would be a convenient place to correct any misunderstandings.

44. One can only look to the SI 129 for whatever authority, or provision, there may be. No other legislation, whether before or after the promulgation of the SI, is of effect, save and except amending or enabling legislation. There is none. My comments at 6.

45. In considering 40/60ths Mr. D. Hamilton, the Technical Director at the Pensions Advisory Service has published the opinion, "Your pension will only grow beyond 40/60ths if the scheme rules say so. Certainly legislation will not prohibit this, but it does not require it to happen".

46. Clearly the public perception, and so what Unions may negotiate, changes with time. One can see it at work where the 1973 Fire Service Regulations SI 'capped' an ill-health pension at 40/60ths, but 20 years on and SI129 does not cap an ill-health pension, indeed, the formulae makes provision for more than 40/60ths.

But by 2006 The FSR-SI Explanatory note at page 71, paragraph (g) reads "...pension will accrue at 1/60th per year. A firefighter member will be able to accrue more than 40 years pensionable service". That is not in connection with a Rule B3 ill-health pension but an Ordinary B1 pension.

47. The sole reference in SI 129 to 40/60ths is to be found on page 82.

This is a PART dealing with 'Special Cases' beginning at Schedule 11 (page 80), PART IV, Rule J6 "Modifications for person's serving on 10 July 1956". At Paragraph 17 (page 82), PART 11, Short Service or ill-health pension.

There appears at 2. "The amount of the pension is not to be less than 1/60th nor more than 40/60ths of the person's pensionable pay".

48. However, the provision is specifically applicable only to anyone whose service commenced on, or before 10 July 1956 and Mr Burns began his career in the Fire Service in 1963.

49. Save and except at supra, in the special case, there is no restriction of any pension to 40/60ths save by the de facto operation of the formula for an Ordinary Rule B1 pension, which specifies $30 \times \text{APP}/60 + 2 \times \text{APP} \times 5/60$ (years maximum above 20). In effect $30 + 10/60 = 40/60\text{ths}$.

50. Far from restricting a pension to 40/60ths, the SI 129, Rule B3 formula set out at Paragraph 4, is designed specifically to increase pension above 40/60 of APP. Indeed, there is already a 40/60ths Rule B1 pension buried within the formula, which enhancement given by the formula can take to well beyond 40/60ths. In effect, the Firemen's Union negotiated a good deal for its membership. The formula is:

$$7 \times A/60 + A \times D/60 + 2 \times A \times E/60$$

where-

D is the period in years of his pensionable service up to 20 years, and

E is the period in years by which his pensionable service exceeds 20 years.

And where 'A is the person's APP'

51. One can immediately see that any firefighter retiring on a Rule B3 pension with more than 30 years service will receive $7 + 20 + 2 \times 10/60\text{ths}$ or 47/60 of APP. This could be exceeded.

The common law argument behind the granting of extra pension provision under Rule B3 is that due to the exigencies of simply being a firefighter all firefighters are required

to retire young, on account of age at 55 (unless in high enough administrative rank, Asst Div Officer and above-Rule A13, to 60). That is young in terms of less demanding occupations and so a fit full term retired firefighter may well have another full time job for 10 or more years after leaving the Fire Service, in which to supplement his full service de facto 40/60ths pension. Such supplementary income tends to be denied the disabled, so it is appropriate that an enhancement above an Ordinary full service Rule B1 pension be paid.

52. Although a 'Notional Retirement Pension' is not specified as an Ordinary Rule B1 pension it is premised on the assumption that an Ordinary Rule B1 pension would have been paid on full service, in which case there would have been no pecuniary loss, just injury which is a Rule B4 matter. In my view a Notional Retirement Pension is limited to 40/60ths.

53. In sum one arrives at a point where a Rule B3 pension is required to be calculated in accordance with the formula (in this case at Paragraph 4) which is calculated on a set APP, but leaves time at large; and at Paragraph 5, which is set in time but allows the APP to be at large.

The *raison d'être* is that it would be quite wrong, in damages, to consider two 40 year old men, both being retired on ill-health from the same rank which for one would have been as far as he would have gone, and for the other be a way station on the way to being a Chief Officer, to be taken to have suffered the same future loss.

Hence the basic provision of Paragraph 4 but only payable subject to being greater than the Paragraph 5 amount.

54. One can be sure that that is the correct view from the specific provision of the scheme.

55. The SI general direction (under duplication) at Rule L 4. 3. Provides that where there are two contending pension amounts the 'larger' is always paid

56. (i). In Mr. Burns's case it remains to do the calculations.

(ii). I understand he has evidence in that he 'could' have reached ACO. In that case his Paragraph 4 requires to be calculated on his APP as at date of retirement of c£31,500 and his Paragraph 5 notional APP on the ACO APP as at 1997, which was c£56,500.

(iii). His Paragraph 4 pension would be:

$$7 \times 31.500 + 31,500 \times 20 + 2 \times 31,500 \times 13.5/60 = \text{c}\pounds 28,350$$

(iv). His Paragraph 5 notional pension on the notional formula is of $56,500 \times 20 + 2 \times 56,500 \times 13.5/60$, which, whilst totalling c£44,000, only does so on 47/60ths which is above the Ordinary pension maximum, so his payable notional retirement pension $56,500 \times 40/60 = \text{£}37,500$ odd

(iv). Paragraph 5. takes precedence unless Paragraph 4. is greater, it is not, so his pension entitlement was $\text{£}37,500$ pa.

57. I hope this is rather more transparent than I understand earlier opinions may have been. But if anything is unclear please do not hesitate to contact me.

Incidentally, the link kindly provided by Mr. Lock would not work for me. I am not sure his Advice was written on the full version.

I have found that even in archived material modifications and omissions, as in formulae, seem to creep in. I believe that it was a 'consolidated version' entered into the archive in 2008.

It may be that that the original 1992 version of SI 129 date stamped as sold by HMSO for £9.10 on 9th March 1992 is preferable.

I think that copy can be found on Mr. Burns's web site 'The Morning Bugler'.

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Fire Service Pension Schemes - Scrutiny.

PART 2.00.

Fire Authorities and Pensions.

- 2.01. There are 53 Fire Authorities(FRS), including devolved authorities, in the UK employing 43,000 pension accruing Firefighters all with various Firefighters Pension Schemes.
In England there are 46 Fire Authorities;
- 2.02. In 2013 there were approximately 40,000 Fire Service pensions in payment to FSVs and/or their Beneficiaries;
- 2.03. The Firefighters Pension Schemes with an annual pension expenditure of £700+million were formerly administered by the DCLG(currently the Home Office) by means of 4 civil servants forming the Firefighters Pension Team(FPT) who also sat with GAD(Government Actuary Department) representing the Minister on the Firefighters Pension Committee(FPC) which has a representative role with a membership of 21 stakeholders;
- 2.04. The FPT denies that it has a trustees' role but it issues written governance guidance notes, pension directives, and confidential comments to the FRS, the latter which FSVs are not privy to;
- 2.05. The 'spotlighted' Fire Service pension Schemes are those administered by the London Fire Brigade(LFB) and the Lancashire Fire and Rescue Service(LFRS).
- 2.06. The actual Scheme for particular scrutiny is the 1992 Scheme encapsulated in Statutory Instrument 1992 No. 129 'The Firemen's Pension Scheme Order 1992' (9th March). Confusingly there are various hybrid condensed editions of this SI and other related documents in National Archives but all *originals* are available for download from www.themorningbugler.com website;
- 2.07. The pensions for consideration are found under:
- Rule B1 Ordinary-Time served(30 years), or voluntary retirement;
 - Rule B3 ill-health(compulsory retirement-compensating);
 - Rule B4 Injury (compulsory retirement-compensating-qualifying injury in service).

Local Pensions Partnership.

- 2.08. In 2016 the Local Pensions Partnership(LPP) was formed from an amalgamation of The London Pension Fund Authority(LPFA) and the Lancashire County Council(LCC) with an investment valuation of £1.8Billion, administering to 550,000 pensioners;

- 2.09. It seems there is only one person on the LPP executive boards, Ms.S.Bridgeland, who as an actuary may, or may not have, 'hands on' local pension provision administration or local fund management experience; there are no other individual declarations of formal pension management qualifications within the executive.
- 2.10. The LCC Director on the LPP Board is County Councillor A. Schofield(Con)-who has no pension qualifications or knowledge of pensions in spite of sitting on the LCC Pension Fund Administration Sub-Committee which surprisingly only meets once per year;
- 2.11. LPP in its investment portfolio makes no specific provision for pensioner oversight of *the FSV pensioners' own investment* in the LPP nor for independent annual scrutiny/accountability/report back of the success or otherwise of actual pension provision delivery to its base 'investors', the FSV pensioners;
- 2.12. The LPP incorporates the LFPA(LFB) and the LCC(LFRS):
- The LFB has 8,500+ FSV-Pensioners & Beneficiaries;
 - The LFRS has 2,350+ FSV Pensioners & Beneficiaries;

A grand total of 11,000 +/- FSVs and Beneficiaries which is approximately 25% of the paid out FSVs and Beneficiaries in England in just 2 of the 46 Fire Authorities;

- 2.13. The day-to-day management of the LFB Scheme is vested in the Director of Finance & Contractual Service Ms. S. Budden who came as an unqualified clerk from Norfolk, since then she has acquired no discernable pension management qualifications;
- 2.14. The LFB knowingly operates an in-house hybrid IDR Procedure (contrary to the Pensions Act 1995(as amended)) which unlawfully allows the LFB to determine both Stages of the Statutory and FS nationally agreed IDR. The second Stage must by law be placed before Elected Members. This surreptitious action is a denial of both natural and lawful justice and hundreds, if not thousands, of London IDR applicants have suffered miscarriages of justice under this regime;
- 2.15. The day-to-day management of the LCC Scheme is vested in the Head of Pensions Mrs D. Lister a former clerk from BAE Systems. She stated on Oath in Court in 2013 she has "*no pension management qualifications*" of any description;
- 2.16. The LCC-Mrs Lister-administers over 200 individual LA schemes with in total 120,000 pensioners including the 'Blue light' services with approximately 70 staff. *Not a single member of staff or 'manager', have a single qualification by*

examination in pension management, or even in basic audit skills, between them.
The Deputy Head Ms.J.Wisdom claims a 'degree', but that is a false claim;

- 2.17. The LFRS Firefighters Pension Fund contracted to the LCC includes the Chief Fire Officer Mr.C.Kenny QFSM; the delegated Scheme manager Mr.R.Warren; the LFRS finance manager Mr. K.Mattinson; and the local Pension Board none of whom have a pension qualification and scant, if any, pension knowledge;
- 2.18. The UK Fire Service multi-million £pound pension schemes are on a daily basis controlled, 'managed' and administered by clerks or politicians who almost without exception do not have a single nationally recognised Pension provider or Pension Fund financial management qualification, by examination?
- 2.19. Amended pension legislation has not been proposed nor drafted by the Home Office FPT or The Pensions Regulator which makes it mandatory for all those who engaged in, manage, or control expensive pension schemes, including the Fire Service, be required by law to hold *by examination* a nationally recognised sliding scale of qualifications in audit, actuarial skills, and pension law?
- 2.20. Given the recent history of BHS this LPP is a recipe for disaster in waiting for individual FSV pensioners savings and their pension funds in the future.



Fire Service Pension Schemes - Scrutiny.

PART 3.00.

Pension Schemes-Performance Indicators.

3.01. In 2005 all Fire Authorities were instructed by the DCLG to institute a new Firefighters Pension Account, reasons for which seem obscure;

3.02. The Audit Commission(AC) incorporating the National Fraud Initiative(NFI) reports on all Fire Authorities every two years in a data matching exercise with other agencies particularly the DWP.

For pension purposes the two sample Fire Authorities used are London and Lancashire:

- The LFB in its report of 2012 investigating its own pension administration highlights the writing off, of £3.1million unenforceable 'overpayments' of 1906 pensions due to its own maladministration/malfeasance;
- The LFB *unlawfully deducted* DWP Retirement Allowances from hundreds of disabled FSVs to the value of £0.7 million which has now been repaid on the advice of two senior Barristers it employed;
- This was a small portion of the £6.1million other underpayments(but not disability) paid out to FSVs, without interest, which is typical of the dishonourable attitude of all Fire Authorities to those disabled FSVs, widows, and orphaned beneficiaries when the Authority are found to be in error;
- When the error is on the part of the Veteran(rarely), the pensioner is forced to pay commercial rates of interest against the bullying lifeline threat of pension stoppage;

3.03. The AC/NFI reported in 2012 on the LCC/LFRS:

- The LCC Pensions Services had 'achieved' 2215 Fire Service pension payment errors which involved, it appeared, the paying of 1007 deceased pension holders?
- This report identified a further 762 as former employees who retired and then were taken back into employment;
- This left an unaccounted for balance of 446 payees which was neither stated; accounted for; nor detailed in this report;
- The total value of 'overpayments' was reported as £98,436 for 31 payees which amounts to £3175.35 per payee though it is not clear what the total accrued loss was including the amount paid to the 415 unaccounted for others on this 'balance' sheet;

- In 2014 the AC reported an *improvement* with errors down to 1900+.
- There has never been an accounting for monies recovered, if at all;

Failure rates of 1.85%+ are commonly regarded as pension maladministration.

- 3.04. On Wednesday the 13th August 2014 the Essex Gazette headlined an article reporting that the Essex County Fire & Rescue Service(ECFRS) had discovered a 'black hole' in its pension fund amounting to a deficit of £15.0 million which had been accumulating unnoticed since 2006;
- 3.05. The Staffordshire FRS and Cheshire FRS found themselves in a similar predicament with undisclosed figures of their 'black holes', questions about which when posed, remain unanswered;
- 3.06. The DCLG Firefighters Pension Team(FPT) and TPR failed to pick up these published accruing failures of pension scheme management or investigate them when these FAs were directly under their pension accountability control.
- 3.07. Nor did Fire Authorities, in failing their Statutory duty, report this maladministration to the Pensions Regulator;
- 3.08. Currently there is not a single trained pension actuary in any of the 53 Fire & Rescue Service Authorities pension 'management' teams in the entire UK, nor in the DCLG/Home Office-FPT.

Questions of Probity- Nationally.

- 3.09. Fact-Why is it necessary for Fire Authorities to have a secret intranet called 'Fire Finance Network' over which they share information detrimental to public interest, accounting to FSV pensioners, their Pension Funds, and the taxpayers. For example, complicitly defrauding the taxpayers by the retention a 20% overpayment from the Treasury in an error of payment of FRS pension fund reimbursement claims?
- 3.10. Fact-Why is it that UK wide Firefighter Scheme managers obstinately refuse to recognise that overpayments and underpayments of Fire Service Pensions are symptomatic, by the definition of the current Pensions Ombudsman, of failed pension scheme management? A failure called maladministration, which on knee jerk reaction cover-up, becomes malfeasance.
- 3.11. The DCLG FPT,(in released secret documents), are seen to be not only biased against FSV pensioners interests, but complicit with the LFRS(and no doubt other Authorities) in obstructing, rejecting, and ignoring perfectly reasonable pension queries from FSVs' about why they were failing to engage in pension dispute resolution; a function of their controlling Act which requires them to?

- 3.12. The DCLG FPT in complicity with Fire Authorities, supported unwittingly by changing governments, engaged in the wilful defrauding of FSVs and their Beneficiaries by the underpayment of commutations during the period 1998-2006.
- 3.13. Those involved possessed, and covered up the knowledge of their joint failure, to request that GAD(Government Actuary Department) update their commutation valuations tables which led to an unnecessary Parliamentary Early Day Motion and the waste of Parliamentary time; unnecessary expensive litigation for the tax payer; involving the unnecessary misuse of Pensions Ombudsman's resources all of which concluded in an unfair arbitrary cut off point of restitution insisted on as 1998.
- 3.14. The DCLG FPT failed to identify, and take immediate corrective action by informing the TPR, who they are required to inform by Statute law, of an anomalous pension situation, whereby Fire Service personnel who had served between the ages of 18-20,(colloquially known as the 18-20 Club), who had made non-accruing pension scheme contributions which the DCLG/Fire Authorities had a duty to repay, leading to unnecessary procrastination by the FPT, and unnecessary and taxpayer paid expensive litigation, when they ought to have voluntarily returned these pension contributions with compound interest?

N.B. On two occasions now, commutations and the 18-20 'Club' the DCLG have failed to pay compound interest on the sums involved which is normal Court practice. This was a failure by the DCLG and the FBU and another breach of trust and good faith with its FSV pensioners.

- 3.15. Why have/are Fire Authorities wastefully using expensive outside contractors, e.g., Capita, to act punitively on pension payment 'fishing trips' by sending DWP certified disabled FSVs for pension injury medical reviews throughout the UK?
- 3.16. Why did Mr Eric Pickles MP Cabinet Minister and Minister of State for the DCLG, then 'Anti-corruption Czar', criticise Fire Chiefs for *double dipping* their pensions and then allow his own Fire Advisor(ex LFRS CFO Holland the current government advisor) to *triple dip* his pensions?

N.B. The Applicant, Mr.P.Holland, for the vacant post of Fire Advisor failed to declare on his application that he had a criminal record for lewd behaviour in a public place which he also failed to declare to his appointing Select Committee ?

- 3.17. The ever changing Ministers of State at the DCLG, including the latest in April this year, Rt.Hon Mr.S.Javid MP, have failed to grant repeated requests for a Ministerial Enquiry into pension maladministration in the UK Fire Service; requests supported with the quoted examples of the LFB and the LFRS; repeated requests never referred to the TPR, or the Parliamentary Select Committee on Work and Pensions?

Questions of Probity- Lancashire.

- 3.18. In January 2008 CC.R.Wilkinson(Lab),Chair of the LCFA and a retired Firefighter who initiated and directed the September 2007 LFRS Pension Review into its own maladministration of overpayments and underpayments denied that he had failed to 'declare an interest' in that he was receiving a Rule B3 ill-health medical pension which he also denied, but was. The consensus view was that he 'shaped' the enquiry to avoid inquiring into his type of pension. Ironically it may well be that he is also receiving the wrong pension;
- 3.19. In 2008 the LCFA in-house solicitor, Mr.A.Harold was also found to be in a conflict of interest by being a Salford City Ward Councillor with special income of £15,000.0 pa. He was rightly accused of bullying a parking attendant for improper use of disabled parking spaces at the Town Hall(Manchester Evening News);
- 3.20. On 19th January 2010 a complaint of Misconduct in Public Office of CC Mr.D.O'Toole(Con) Chair of the LCFA, based on breaches of the LCFA Code of Conduct was laid before the LCFA. The 'defence', a routine response, was to attempt to issue proceedings for defamation contrary to the 'Derbyshire Principle';
- 3.21. It is alleged that by the 18th February 2010, four LCFA councillors, who remained nameless throughout, had colluded to issue a Decision Notice that 'No further Action' should be taken;
- 3.22. This 'decision' was appealed to the sole 'independent' Public Complaints Monitor Ms. Hilary Banks- Chairman of the LCFA Standards Appeal Committee-a member of the Crown Prosecution Service-who with an unlawful and unconstitutional 'committee' white washed the Appeal;
- 3.23. By the 6th April 2010 Ms.Banks, though requested, failed to publish the date; time; and composition of this Appeal Sub-Committee; who attended; politicians present; where the meeting took place; and whether or not an Agenda was produced and Minutes taken which she was bound to do under the ' Application of the Local Government Act 1972 s8;
- 3.24. In November 2011 with the advent of the Localism Act 2011 it was necessary for the LCFA to re-appoint the post of Public Complaints Monitor. Ms. Banks, in contravention of the new Act, because she was Statute barred from re-appointment for holding the post prior to the enactment was proposed as the single 'independent' person monitoring Public complaints on the recommendation of Mr. M.Winterbottom(Solicitor) Clerk to the LCFA, and reappointed by CC D.O'Toole to the stipend paying post of £5000.0.
- 3.25. The Law states otherwise:

Under the Localism Act 2011, S28 Codes of Conduct; Ss7 (a&b);Ss8 (b) (i) & (ii) Mrs Banks **may not be appointed** to the role she has been appointed to by the LCFA in contravention of the Act.

The Act states... ***“(b) a person may not be appointed under the provision required by subsection (7) if at any time during the 5 years ending with the appointment the person was—
(i) a member, co-opted member or officer of the authority, or
(ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority;***

The definition of ‘co-opted’ lies elsewhere in the Act. That being so Mrs. Banks has been unlawfully appointed by the LCFA , and remains so.

- 3.26. On the 12th April 2012 the LCC under the FOIAAct released 80 pages of CC.D.O’Toole’s LCC mileage and expenses claims in which he over claimed the actual distances, thus inflating his claims to the value of £40,000.0+/- . A report by disabled FSVs was made to the Chief Constable. Following an 16 month investigation by DS 1620 M.Pearson a report was passed to the CPS. Indeed, this Sergeant bizarrely concluded that the taxpayers owed the CC money:

The question remains did CC O’Toole charge the Taxpayer two separate journeys from home address when attending County Hall and then LFRS SHQ(3miles apart) on the same day?

The CPS concluded ‘there was no realistic prospect of a conviction and that no charges should be brought’; not, ‘no case to answer’.

Currently CC O’Toole, still a member of the LCFA, refuses, as does former CFO Holland CBE the current government fire advisor, to release their LFRS mileage and expenses claims for the periods of their appointments;

N.B. For reader continuity - The 2 years which followed involved a County Court Hearing and repeated attempts, without success, to have the LFRS reappraise disabled FSVs pensions in the light of that Court Hearing.

- 3.27. In 2015 why did the newly ‘appointed’ Clerk to the LCFA, a solicitor, deliberately ignore and fail to answer a single one of the 10 public questions posed to him on the unlawful manner and odd method of his a recent ‘appointment’ to a public office which disenfranchised other potential applicants ?
- 3.28. Why did the same clerk, a practising solicitor and an ‘officer’ of the Courts, who reports on pension disputes to the CFA, find it necessary to regularly mislead, groom, and manipulate CFA Councillors views by smearing disabled FSV complainants in attempting to defeat justice and the law; views which they carried forward to the local LCC/LFRS Pension Boards who adjudicate on FSVs, IDRPs Stage II Complaints and which they are required to address with a ‘fresh mind’?
- 3.29. Why did the this clerk find it necessary after the public reporting of his activities on a hard core gay pornographic website in ‘The Morning Bugler’ which raised questions about his suitability for public office, did he lay false information before the Lancashire Constabulary, in an attempt to intimidate the Editor, a disabled

FSV pensioner and the pensioners dispute group leader, into silence by encouraging the late night visitations of two separate sets of two constables to his home address? A gross abuse of state power;

- 3.30. The Chair of the LCFA CC.F.DeMolfetta(Lab), and the Chief Fire Officer C. Kenny QFSM, appeared to 'reward' the Data Protection manager Mr.L.Gardiner, involved in perpetual stonewalling over FOIA and Data Protection Act pension information requests, by making no attempt to recover £40,000.0+/- of fraudulent mileage claims by this clerk when his fraudulence was 'discovered' and he resigned. But who soon after took up a similar post with Cheshire Fire & Rescue Service?
- 3.31. Why did the same Chair of the LCFA authorise the payment of 2 years' salary(£200,000+/-) to the Deputy Pension Scheme manager who mysteriously 'disappeared' but who stood concurrently charged with a racism hate crime, and the bullying and abuse of his own LFRS HQ pension staff, and including, as their published statements confirm, disabled FSV pensioners and their families accused of alleged 'overpayments'?
- 3.32. Why did the finance manager of the LFRS Mr.K.Mattinson, responsible for the Firefighters Pension Fund, assist the Chair of the LCFA and the Chief Fire Officer by hiding the above payments/deficiencies under a catch all statement in the LFRS annual accounts?
- 3.33. Why was it necessary for the Clerk to the LCFA Mr.M.Nolan on Monday 15th February 2016 to prepare and submit a report in secret to Elected Members under Part II Public excluded protection in which he declared that following his 'investigation'(in self-examination) into disabled FSV~RRB comprehensive letter of Complaint to the Chair of the CFA on 5th November 2015 he concluded that the Complaint had 'no merit'?
- 3.34. A conclusion he failed to communicate to the Complainant but in which pension dispute dissenting disabled FSVs and their Beneficiaries are named and personally defamed, without any opportunity of rebuttal, whilst still failing to address their pension underpayment issues?

A Report which it required a FOIA request to the LCC to obtain almost 12 months later.
- 3.35. Why was it necessary for the Clerk to the CFA to initiate on Monday 20th June 2016 an LFRS 'FORMAL POLICY ON DEALING WITH HABITUAL AND VEXATIOUS COMPLAINTS' over and above that which is already provided for in primary legislation within the FOI Act?
- 3.36. A policy whose sole use and aim by democratically Elected Members is intended to muzzle, remove, and obstruct the legitimate civil rights of disabled FSVs, their Widows and Beneficiaries from pursuing their lawful enquiries regarding their Statutory pensions?

- 3.37. Why was it necessary , unsolicited, to send both these CFA Minutes to the civil servants of various governmental agencies?
- 3.38. The answers to this Question concerning a CFA approved Minuted secret report and the labelling of decent disabled FSVs and their families as ‘vexatious’ by the use a newly published CFA Policy on Vexation is very simple. In the period of almost a year from the report on the 15th February 2016 until its enforced release under FOIA via the LCC this report coupled with the newly published policy on vexation was repeatedly used to ‘poison the Well of Truth’ at those agencies to which the disabled FSVS were likely to have recourse to for Justice, namely, the Home Office; the TPR; the TPAS;the TPO; and if not already done so to the Chairman and Members of the Select Committee of Work and Pension.
- 3.39. All which is an attack and an affront on Democracy and its citizens in the UK.
- 3.40. Why have the two monitoring officers of the LCC - Mr Ian Young(solicitor)- and the LFRS- Mr.M.Nolan (Solicitor) failed to initiate the required Statutory duty of investigation when CC F.DeMolfetta Chair of the CFA and a Lancashire County Councillor was reported for breaches of the LCC Code of Conduct amounting to Misconduct in Public Office?
Two political administrations-Labour Coalition and Conservatives- in succession have failed to carry out their Statutory duty.
- 3.41. Why is the current Conservative Leader of the LCC, CC G. Driver CBE ,the ultimate head of pension schemes management in Lancashire, still in active office having been arrested in a fraud investigation-Operation Sheridan- on holding charges of suspicion of conspiracy to pervert the course of justice and intimidation of witnesses, and who remains on bail for alleged improprieties in connection with BT Connect contracts.
- 3.42. Lancashire Police and Crime Commissioner Mr.C.Grunshaw has been repeatedly circulated about this criminality at the LCC and the LFRS and repeatedly invited to engage but has failed to do so?



Fire Service Pension Schemes - Scrutiny.

PART 4.00.

Pension Disputes-Nationwide.

- 4.01. The primary dispute is that hundreds of Lancashire FSVs and their Beneficiaries are, and have for decades, been paid the wrong pensions;
- 4.02. Namely, those FSVs and/or their Beneficiaries who have been compulsorily retired under Rules B3/Rule B4 (Ill-health/injury) who are being underpaid a Rule B1-Ordinary (time served/voluntary retirement) pension which is prohibited in this Rule B1 by law if compulsorily retired under Rules B3/B4;
- 4.03. It is speculated on strong anecdotal evidence that *thousands of similar cases exist in the UK Fire Service as a whole*;
- 4.04. There are also other types of disputes not only in Lancashire where other Fire Authorities invent their own unlawful procedures choosing arbitrarily to either ignore the existing law or to stonewall pension complainants. Actions/policies which have created a clear pattern of complicit policies of obfuscation, deceit, and/or fraud (See 3.13.-3.14).

Pension Dispute-Lancashire.

- 4.05. This dispute originated in Lancashire in November 2006 when disabled FSV-DW (a terminally ill former Station Commander compulsorily medically discharged) reported to his pension providers LCC/LFRS and the DWP his concerns of potential DWP overpayments to his carer his wife because of her 60th birthday;
- 4.06. Later in early May 2007 without prelude he was informed in writing by the LCC that he owed the LFRS £30,000.0, in 'overpayments' because it was alleged he had failed to inform the LFRS of the receipt of his DWP benefits which he denied producing written official private records of proof that he had;
- 4.07. Given his wife's untenable position in the event of his impending death under advice from his solicitor he immediately paid back half using an unsecured loan and then died;
- 4.08. His Widow was left in an entirely precarious position about which the Chief Fire Officer Holland (the current government Fire Advisor) in a letter to his Widow 'explained' he could do nothing because the LFRS had 'lost' her husband's Personal Records File (PRF) containing his pension files which were 'lost – found – finally lost';

N.B. It is worthy of note that in UK Fire Service history this was the first occasion *when a Chief Fire Officer was banned from attending a full formal Service funeral by a Widow*;

- 4.09. Later a study of the Widow's private pension records of her husband revealed that he was being underpaid the wrong pension in any case;
- 4.10. Much later the LFRS Pension Scheme manager Mr. R.Warren was to write that his treatment of FSV-DW had been 'too generous'?
- 4.11. A subsequent LFRS pension fund 'review' including Audit Commission statistics identified over 2382 pension errors including the payment of pensions to 1007 who were also certified as dead; £2million+ losses of alleged 167+/- overpayments(Largest-£65,000.0) and underpayments(Largest-£43,000.0), whilst ignoring the maladministration and the Limitations Act 1980, the LFRs demanded immediate restitution with the threat of pension suspensions;

The accurate amounts missing from the Pension Fund remain unpublished by the LFRS but are available.

Questions?

- 4.12. The LCC/LFRS during their so-called Pension Review unlawfully and secretly obtained and used disabled FSVs individual DWP records without the knowledge or permission of the DWP and without the required written authority of the FSVs involved?
- 4.13. The LCC/LFRS failed entirely to treat their FSV pensioners and ultimately their Beneficiaries with dignified pastoral care and respect, choosing instead to create and adopt a policy contained in secret published documents of the LFRS delegated Firefighters Pension Scheme manager Mr.R.Warren who stated... *"I have provided the guiding principles."*, supported by his political masters, who sent dissenting FSVs and their Beneficiaries with disputed pension miscalculations down what he described in his emails as the ... "Hardship Route".
- 4.14. The same LFRS Pension Scheme manager habitually and perpetually engaged in mendacity, wilfully obstruction, then 'finding' and 'losing' IDRPs pension applications, and by engaging in subterfuges, too numerous to list, which included the deliberate supplying of the wrong legal authority to the Pensions Ombudsman in a disabled FSVs pension Complaint in order to repeatedly, and successfully, mislead the Ombudsman's 'investigators' into dismissing the Complaint?
- 4.15. Such was it that during the only pension review ever carried out in the history of Lancashire Fire Service that a large number of 'more equal than others' pensioners received 'get out of jail free' cards(no repayments of alleged 'overpayments') to the detriment of their colleagues and beneficiaries who did have to repay under duress or lose their pensions?
- 4.16. Such was it that in one curious case a disabled FSV-BB had his alleged debt of £3008.0 'overpayment' written off by the Pension Scheme manager oddly and

uniquely conceding after the exchange of just 2 letters that his pension had suffered “poor administration”.

- 4.17. Such was it that the LCC/LFRS repeatedly ignored or rejected requests to investigate and correct underpayments of incorrect FSVs pensions, or at least put it to the test by supplying a supporting legal Opinion of their position when repeatedly asked to do so?
- 4.18. Such was the LFRS(and other Fire Authorities) self-enrichment achieved by the underpayment of FS Pensions that it begged the question was this just a catalogue of errors by unqualified clerks or plain institutionalised and complicit wilful fraud to enhance their pension funds?
- 4.19. Such is it that LCC/LFRS Elected Members failed their collective and individual Statutory duty, which it is to report pension maladministration and malfeasant matters of ‘*material of significance*’ under the Pensions Regulator’s Code of Practice, No. 14 ‘Governance and administration of public service pension schemes’(April 2015)), which constituted material breaches of the relevant provisions of the Pensions Act 2004 which required them *as the persons responsible*, without delay, to *fulfil their Statutory duty* which was to investigate and report evidence of malpractice directly to The Pensions Regulator, so that FSVs Complaints could be fully and impartially investigated?
- 4.20. The TPR, who declare their unhappiness with pension scheme managers, who have had LFRS maladministration and malfeasance regularly reported to them including two written reports “*of material significance*” submitted to them by FSV-RRB of pension malfeasance simply failed to engage and investigate his concerns.

Seeking PRF Answers.

- 4.21. When FSVs sought answers to rebut claims of alleged ‘overpayments’ by seeking to compute their own pensions based on the official records held on them by the LFRS in their PRFs the LFRS refused and stonewalled for 6 years during which several FSVs died leaving their Widows and Beneficiaries income in distress.

More Questions?

- 4.22. Why did it take two individual disabled FSVs 6 years and two Court Orders, privately funded, to finally acquire copies of their own PRFs which contained no continuous pension records held on their files, just a pension compulsory discharge document, which enabled them to compute that they were actually being paid the wrong pensions?

4.23. Why did the Information Commissioner(ICO), in sheer frustration, finally sent 3 inspectors to the LFRS HQ to verify the existence of, and to validate the filing system, confirming that the PRFs were subject to lawful release under the Data Protection Act 1998 and, following a further refusal to release by stonewalling again, did the ICO state he regarded the LFRS refusal as Contempt of Court and intended to issue Proceedings against them, before the PRFs were finally released?



Fire Service Pension Schemes - Scrutiny.

PART 5.00.

Pension Disputes-Personal Examples.

5.01. FSV-'Billy' Milne:

- Retired from full service as a senior ranking officer with the Strathclyde Fire and Rescue Service, aged 50, in 2005;
- He chose to take a tax-free lump sum of £111,038.0 plus a pension of £22,207.0 pa; then with evidence calculated that his commutation was wrong though his Fire Authority rejected his complaints and obstructed his rights to restitution for 8 years;
- FSV-BM supported by Mr. J.McDonnell MP, the FBU, and with a cross party Early Day Motion and a positive Determination by Pension Ombudsman was proven right;
- A re-calculation of his commutation has resulted in him receiving an additional £25,000.0 including backdated interest-which ought to have been 8% compound interest- but was not;
- It took 8 long years to get his complaint to this point in his determination to attain fair play and justice; he is happy to report he is still alive.
- Neither he nor his wife and family ever received a single pastoral visit.

5.02. Disabled FSV-WH:

- Following a serious injury at an incident disabled FSV-WH(deceased) received 4 units of contaminated blood(Hepatitis B) from a US prison; he was compulsorily discharged by the LFRS;
- He wasted 4 years in declining health resolutely harrying the Information Commissioner until finally in frustration taking the matter to Court at his own expense of £2000 to get his PRF;
- His PRF was ultimately, and reluctantly, delivered to him whilst he was terminally ill, though during the many court appearances this was not a consideration by either the Judiciary or the LFRS in-house solicitor Mr.A. Harold;
- His PRF confirmed that he was not being paid the correct pension;
- He remained resolute in his pursuit of fair play and justice until the day he passed away; "keep the flag flying", he said.
- The status of his Widow's correct pension(her Widow's half) remains undetermined almost another 3 years on after his death;

- Neither his Widow nor FSV-WH ever received a single pastoral visit.

N.B. For a second time a Lancashire CFO was banned from a full Fire Service funeral.

5.03. Disabled FSV-RT:

- A former Royal Marine was compulsorily retired following an accumulating series of in-service injuries for which in addition he received lawful DWP benefits which he repeatedly informed his pension provider the London Fire Brigade of, in writing;
- In 2010 he was informed that he had been overpaid £120,000.0 because of his alleged failure to inform the LFB of the receipt of legitimate DWP benefits. The LFB alleged that he had 'doctored' copies of his own personal records which he had subsequently sent to them confirming that they had been informed;
- The LFB bullied and threatened litigation which he rebutted and took issue with using his own solicitor and then when money ran out an advisor. The LFB made him a 'special offer' that they would 'settle' for £19,000.0 which he rejected out of hand because he continued to protest his innocence;
- Subsequently solely representing himself he brought the issue to the point whereby the LFB finally stated miserably, 'without prejudice', that it would no longer proceed against him withdrawing their litigation threats and stating(twice) that they would no longer, or in the future, seek to recover any monies from him or his estate;
- Still aggrieved FSV-RT initiated IDRPs Stage I on his original dispute. His Complaint was dismissed by the LFB who decided, unsolicited, to re-run his Stage 1 (there are no legal provisions or precedents for this) following his repeated Complaint (on behalf of other FSVs) that the IDRPs being used was an unlawful hybrid LFB version of the law and was not legally constituted;
- The re-run Stage I rejected all his Complaints so he instituted IDRPs Stage II stressing the need for Stage II to be placed before independent Elected Members of the LFB; the LFB refused to do so and his Stage II Complaint was also rejected;
- Presently FSV-RT is preparing a Complaint to the Pensions Ombudsman on his original dispute enhanced by a further Complaint that hundreds of LFB FSVs, of which he is one, have been disenfranchised and suffered miscarriages of justice by the LFB failure to comply with the provisions of the IDRPs of the Pensions Act 1995 and the failure of the LFB to comply with a DCLG Fire Service Circular 1/2009 (IDRP) and a National IDRPs agreement of the Home Office Firefighters' Pension Committee to which it was a signatory;
- Currently, because of all the stress and worry FSV-RT now suffers from diabetes.

5.04. Disabled FSV-PPB:

- In early service with Belfast City Fire Brigade in 1964 disabled FSV-PPB was caught in an explosion which damaged his hearing;
- Later after 35.5(33.5 pensionable) years' service due to deteriorated hearing(monitored annually by LFRS medicals) he was compulsorily discharged in 1997;
- In 2008 following a pension scheme 'review' in 2007 he was informed that he had been overpaid £19,000.0 because of his failure to inform the LFB of the receipt of a single DWP benefit;
- He rejected this statement and in response produced a contemporaneous document which confirmed that the LFRS had been informed;
- The LFRS continued to deny that they had been informed even though they had disabled FSV-PPB's note in his unreleased PRF which he required a Court Order to obtain;
- The LFRS issued proceedings against FSV-PPB in the County Court but no other FSVs in this general dispute in a similar situation were ever issued with proceedings; one of whom FSV-DA had a similar alleged overpayment of £65,000.0 for which he regrets making an 'accommodation';
- Why was it necessary in Court before a Circuit Court Judge in January 2013, in a Litigant-in-Person defended case, for the Firefighters Pension Scheme manager, in complicity with the LCC Head of Pensions, and the LFRS solicitor to suborn their principle witness under oath in the Witness box?
- The Judge failed to declare a mistrial and eventually the matter was reported to the Lord Chancellor and the Attorney General who took no action; this matter is not concluded;
- The Judge found against the Defendant which with costs amounted to £64,000.0.
- Later oddly through the medium of the LFRS Pension Scheme manager the Judge sent disabled FSV-PPB a coded warning not to proceed with an exposé on him in 'The Morning Bugler'; this matter is still not concluded either;
- Then disabled FSV-PPB's pro bono Barrister determined that he was being paid the wrong pensions since its inception in 1997; the LFRS rejected that statement;
- He instituted IDRPs Stage I asking the same question why was he being paid the wrong pension which the LFRS rejected;
- He instituted IDRPs Stage II which the Pension Scheme manager alleged had been placed before Elected Members of the LCF Authority, a rejection signed off by the Chairman of the LCFA but subsequent enquiries with County Councillors

to whom Stage II had allegedly been presented revealed that no Stage II proceedings had been place before them for adjudication;

- Disabled FSV-PPB remains resolutely determined to seek personal and collective fair pay and Justice for all and to call for transparent public accounting;
- Disabled FSV-PPB has never received a single pastoral visit though his wife, a former Fire Officer in her own right, passed away and received a Service funeral at the commencement of this pension dispute.

5.05. Disabled FSV-FG:

- Disabled FSV-FG was severely injured at an incident and was compulsorily discharged;
- In 2008 he was accused of failing to inform the LFRS of his receipt of DWP benefits and had been allegedly overpaid £6,000.0 which he denied;
- He subsequently produced his own records dated 26th August 1998 showing they had been informed but nevertheless the LFRS commenced without accounting, agreement, or permission to suspend his Injury Award until the alleged amount was recovered all without any final or formal accounting which he continues to believe was an amount well above the amount of his alleged overpayment;
- After a year of trying via the ICO he finally received his PRF from the LFRS as a 'gesture of goodwill'?.. *"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"...*
- Disabled FSV-FG receipt of his PRF simply confirmed no pension records of his notifications of DWP benefits to the LFRS and also confirmed in the process that he had never been paid the correct pensions;
- Disabled FSV-FG stated... *"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";*
- He instituted IDRPs Stage I asking the simple question why he was being paid the wrong pensions contrary to the law. His IDRPs Stage I was rejected;
- He instituted IDRPs Stage II sending individual copies of his Application to all 25 Councillors on the LCFA pointing out their individual and collective Statutory duty;
- The Pension Scheme manager on behalf of the Chair of the LCFA refused to place the IDRPs Stage II application before Elected Members of the LCFA;

There is no such lawful process, Statutory power, nor discretion in compliance with the IDRPs of the Pensions Act 1995(as amended) which permits the Chairman, or the Pension Scheme manager, to take what is in effect an ultra vires decision;

- Disabled FSV-FG has never received a single pastoral visit;
- Currently he is preparing a formal Complaint to place before the Pensions Ombudsman seeking a 'Determination' asking why the Fire Authority continues to pay him the wrong pensions and why his Stage II application to the Fire Authority has been arbitrarily and unlawfully refused.

5.06. Disabled FSV-JH:

- Disabled FSV-JH(Deceased) a Divisional Commander of the East Lancashire Division, who was also a Justice of the Peace, was injured in a serious incident. He was subsequently compulsorily discharged from the Service;
- Following the 2007 LFRS Pension review it was alleged that he had been overpaid £10,466.57.
He was also informed that he had been underpaid £42,348.05 resulting in a balance to him of £31,881.49 which was paid to him in June 2008 on the basis, when he queried the unsolicited payment, 'just go ahead and spend it', no explanation was forthcoming at that time and he was denied any interest on the sum;
- Finally, the Pension Scheme manager responded stating... 'in reality the overpayment/under payment probably went back much further'...because the DWP had no records either;
- Between June 2008 and November 2010 he attempted to recover the interest due on the balance of the money paid to him but was repeatedly stonewalled and informed that the CFA had decreed otherwise. When he sought to see a copy of the CFA Minute he was informed it was secret because it was held in a Part II Meeting.
- He approached the Information Commissioner in November 2010 because he had been denied a copy of his PRF to check his own pension entitlement; it took until April 2011 with the assistance of the ICO to receive an 'alleged' extract copy of this part of the Minutes;
- He then applied for his full PRF and it was about this time that he was diagnosed terminally ill; once more his request was rebuffed;
- FSV-JH passed away receiving neither his PRF nor his interest on the underpaid sum which he was attempting to retrieve for his anticipated Widow;

5.07. Disabled FSV-PJ:

- Disabled FSV-PJ was injured in the appliance room of his station for which the LCFA eventually admitted liability;
- Throughout disabled FSV-PJ's retirement, because of his involvement in the pension dispute, his perpetual concern was for the vulnerability of his Firefighter son's career in the LFRS;
- The usual ritualistic PRF stonewalling took from mid-September 2015 to late January 2016 which involved denial of receipt of a Recorded Delivery letter containing the Statutory £10 fee-a cheque which was cashed-and a Passport photograph;
- When eventually he obtained his PRF it confirmed that not only was not just receiving the wrong pension as a 1992 Scheme Member he was also receiving his pensions under the considerably less advantageous 2004 Firefighters Compensation Scheme;
- When in a face to face meeting with the Scheme manager Mr. R. Warren he asked why this had happened disabled FSV-PJ recorded in a contemporaneous note Mr.Warren's reply,... "because I can...and because I don't think you deserve it..."

Finally in this matter we are all allowed just a little passion. FSV-RRB speaks for us all...

5.08. Disabled FSV-RRB:

- A volunteer International Rescuer; and a post disaster rebuilder in his own time and cost; a man of compassion and passion; a good servant of the Public;
- Following a serious accident at work for which the LFRS admitted liability disabled FSV-RRB was compulsorily discharged in short service;
- In 2010 he began an attempt to recover a copy of his PRF which he finally managed with the assistance of the ICO in November 2015;
- In January 2014 he drew the LFRS and the Pensions Ombudsman attention to the fact that his Retirement Allowance was being unlawfully deducted(see 3.02.) from his Injury Award in spite of DCLG FPS Guidance Note 4/2010 which also directed that it was not to be; in asking what 'legal authority' the LCC/LFRS were using for this deduction the LCC replied that they were acting under the instructions of the LFRS, where as usual there was no reply;
- In September 2014 he formally instituted IDRPs Stage I. His Stage I was rejected;

- In November 2014 he instituted IDR Stage II, all his Stage I & Stage II documents, having being delivered by hand. He did not receive a reply;
- In January 2015 he complained to The Pensions Ombudsman. The TPO rejected his complaint because they said that the LFRS stated that he had not completed his IDR Stage II Procedure. Yet another example of mendacity by the LFRS and now with obstruction by TPO which he is currently trying, yet again, to get the PO Mr. Arter to understand, investigate, and redress the damage to the credibility of TPO;
- Recently he lodged a second failure of Service Complaint letter on the 12th September 2017 with TPO. He did not seek to address his Pension Complaint but addressed his letter directly to Mr. A. Arter on the failure of his department to address this scandalous and deliberately obfuscated 'customer journey' by the LFRS, as TPO describes it, and now with the complicity of the following 6 named staff at TPO including:
 - Messers Monks; Batey; Dartnell; Krishna; Director of Casework Ms.Shona F.Nichol; Ms.Joshua; the latter two who are on record as promising to pass disabled FSV-RRB letter directly to Mr.A.Arter and who after electronic acknowledgment have yet to respond;
- Why has taken 3.75 years for the LFRS and the Pensions Ombudsman to make a determination on a simple pension dispute involving the incorrect deduction of his Retirement Allowance from his Injury Pension?; disabled FSV-RRB will be 70 at his next birthday;
- The answer to this Question is simple but it begs the questions why would these civil servants hazard their employment unless they have been instructed by someone in authority above them to ignore and obstruct the legitimate pursuits of disabled FSV-RRB seeking justice. Who is that person? The Ombudsman himself, or a senior member of his staff in communication with the LFRS? Because it is quite clear that their 'Well of Truth' has been poisoned, yet again, by correspondence from the LFRS which has happened before and will again;
- Disabled FSV-RRB currently lives in an a chicken shed in an old barn in central France without complaint in difficult economic circumstance to the shame of the UK Fire Service using a bucket for his ablutions but he remains resolute in his pursuit of fair play and justice;
- FSV-RRB has never received a single pastoral visit.
- In November 3rd 2015 he wrote a letter of Complaint to the Chair of the Lancashire Combined Fire Authority CC M.F.DeMolfetta(Lab). The Clerk to the Fire Authority 'investigated' his Complaint and deemed it to have 'no merit' and furthermore he was informed that he had now been deemed as a 'vexatious person'; this is his letter...



Friday, 6th November, 2015.

CC F.DeMolfetta
Chairman Lancashire Combined Fire Authority
Lancashire Fire & Rescue Service Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH

A Complaint – Malfeasant Pension Maladministration- The Pensions Regulator.

Dear Chairman,

In a recent letter to one of my colleagues your Mr. Warren(Head of People & Development) pointed out the following... *“Lancashire Combined Fire Authority is the scheme manager for the Firefighters Pension schemes”*.

Accordingly, as the Chairman of the Combined Fire Authority, you are the person ultimately responsible in law for my Pension Scheme and it is on this basis that I place this formal Complaint before you which is **Misconduct in Public Office** coupled with the **Malfeasant Maladministration of my Pensions**, in violation of Public trust, by certain named staff under your direct legal control, or indirect control by means of Contract, namely, the Lancashire County Council ‘Your Pension Service’(YPS), your pension service delivery contractor.

CFA’s Legal Responsibilities.

1. It is my belief that my incontrovertible evidence, which I will place before you in this Complaint, referred to as *‘material of significance’* in The Pensions Regulator’s Code of Practice, No. 14 ‘Governance and administration of public service pension schemes’(April 2015), constitutes material breaches of the relevant provisions of the Pensions Act 2004.

This requires you as the person responsible , without delay, to *fulfil your Statutory duty* which is to investigate and report my Complaint directly to the Pensions Regulator, so that it can be fully and impartially investigated.

2. My compelling evidence of criminality, which I will now present to you, is taken from my Personal Record Files, which includes pensions records, in a file released to me through the legal action of the Information Commissioner.
3. Your Statutory duty is, in part, referred to in this Guidance Paragraph 272 under the title 'Whistle Blowing protection and confidentiality'. For clarity you are referred to as the 'Reporter':

"The Pensions Act 2004 makes clear that the statutory duty to report overrides any other duties a reporter may have (my underline) such as confidentiality and that any such duty is not breached by making a report. The regulator understands the potential impact of a report on relationships, for example, between an employee and their employer."
4. Such is the level of criminality involved in the malfeasant management of my pensions, "*the material of significance*", that it routinely incorporated institutionalised malpractice by LFRS and LCC staffs under the direction and control of the day-to-day delegated scheme manager, Mr. R. Warren. Practices of :
 - Plain dishonesty;
 - Non-confirmation of information regularly supplied to the scheme administrators by Members;
 - The failure to record accurate information about Members' individual DWP benefits and data in their Service records;
 - Appropriate essential records not being regularly maintained, or monitored;
 - Inadequate, irregular, or non-robust internal audit controls leading to unsustainable losses to the Public Purse;
 - Scheme assets not being safeguarded;
 - Poor governance and maladministration;
 - Malfeasance in covering up maladministration and conspiracy to defraud;
 - Acting deliberately in contravention of the law;
 - Knowingly, in direct breaches of Statutory duty, failing to report significant pension Scheme maladministration to The Pensions Regulator.
5. It is my belief, supported by publicly available LCC/LFRS Minutes and records, that these unsupervised institutionalised practices will lead, and have led, to a lack of Member confidence in the entire Lancashire Firefighters' Pension Scheme under your jurisdiction

resulting in Scheme assets not being safeguarded, extending to recorded losses to the Public Purse of over £2mil+.

6. It is my, and the Lancashire Public's reasonable public interest expectation, that in the interim you will immediately suspend all those LFRS staff, those persons I will identify below, who have been engaged in these unlawful practices, *if only to protect their rights* in law and in natural Justice.
7. In respect of LCC contracted staff it is assumed that that you will liaise with the Leaders of the Coalition of the Lancashire County Council, to whom this letter is copied, to ask for the parallel suspension of their named YPS staff, namely, Mrs. D. Lister Head of YPS, and Ms. J. Wisdom Performance Manager.

Your Statutory Duty.

8. Since 2007 the Lancashire Combined Fire Authority in conjunction with the Lancashire CC have repeatedly been asked in published supporting correspondence, and patently failed, to transparently investigate and address these scandalous failures of pension management and to report them to The Pensions Regulator.

The LCC Pension Services(LCC YPS) administer 120,000 local authority pensions directly or by contract to other Local Authorities including the Lancashire and Cumbria Firefighters' Pension Schemes.

9. Statutory, TPR, and Public accountability is held by the LCC Pension Fund Administration Sub-Committee *of which you are a sitting member* and part of your Statutory duty was, and remains, to ensure that any pension maladministration of significance is reported to TPR.
 - You have failed your Statutory duty repeatedly because these matters were reported directly to you and recorded in LCC and LFRS Committee Minutes which I have read. Reports of these scandalous failures which you choose to ignore contained, for example, in Minutes of the Meeting held on Wednesday, 13th June, 2012 at 10.00 am in Cabinet Room 'B' - County Hall, Preston;
 - You failed to report to TPR poor governance and maladministration of your Firefighters' Pension Scheme identified by a Lancashire Scheme Member in March 2007 which had uncovered 2000+/- errors including 167+/- 'overpayments' to the highest individual value of £65k, and 'underpayments' to the highest individual value of £45k ;

- You failed to report to TPR poor governance and maladministration of your pension Scheme identified by the Audit Commission(National Fraud Initiative) in its data matching exercise of 2010 in which it identified 2,215 errors including the payments of pensions to 1007 Members who were certified as dead.
- You failed to report to TPR poor governance and maladministration of your pension Scheme identified by the Audit Commission(National Fraud Initiative) in its data matching exercise of 2012 in which it identified 2,060 errors including the payment of pensions to 1012 Members who were also certified as dead.
- These failure rates of 1.85%+ are commonly regarded as maladministration;
- You failed to take prompt and effective action to remedy these breaches of pension law and to identify and tackle their causes in order to minimise risk of recurrence;
- You failed to notify individually affected Scheme Members and the Scheme Membership in general of the deficiencies of their Scheme and the detailed remedial action being taken to restore their confidence in their Scheme;
- You failed to take, or pursue, the required Statutory action to a proper conclusion.

10. In framing my Complaint I have drawn evidence from all those, whether directly involved or not, who have supported a campaign for civil rights against the Lancashire Combined Fire Authority in opposing *its collective* scandalous tyranny in the maltreatment of LFRS disabled FSVs, their surviving Widows, and Beneficiaries, in a dispute involving their pensions since March 2007.

Once more you have an opportunity to present and report my irrefutable evidence to The Pensions Regulator which is your Statutory duty.

The Ineluctable Question?

11. The ineluctable question I have regularly asked myself is why your Mr.Warren went to such scandalous lengths of corrupt practice to obstruct my legal right to obtain my Service records, my Personal Record Files(PRF)?

12. This year, 2015, Mr.Warren sent me two letters May/August with enclosures. These letters were of increasingly strident threats when, at last in September, he was being legally forced by the Information Commissioner to release my service PRF after 5 years of deliberate obstruction and delay.

His vain hope was that this late embarrassingly frantic intimidation would finally deflect me from the task of obtaining my PRF, which I had set myself in November 2010.

13. The enforced release of my PRF now starkly reveals, and confirms, what he knew, and I

have always suspected, that he, in complicity with others under his authority, would stop at nothing, including the use of collective mendacity to protect themselves from exposure and the consequences of their, and his, failed legal duty which is, *and remains under Statute law*, to correctly administer my pensions as the LFRS delegated day-to-day pension Scheme administrators and manager.

14. Mr. Warren's obvious attempted intimidation in his letters invites my response in kind.

My Complaint uses evidential content from my PRF; correspondence with him; from FSVs associates; from Court released LFRS internal records and emails; and from the Information Commissioner.

The drafting and framing of my Complaint, which I have approved, also includes the advice of the civil rights anti LFRS pension campaign pro bono barrister.

J'Accuse !

15. In defending the indefensible, Mr Warren's professional persona, he has, since 2007, in complicity with his supervising principals, and those pension management staff with pension malfeasance to hide, without the knowledge or approval of the majority of the 25 Elected Members of the Lancashire Combined Fire Authority (who have signally failed to fulfil their Public inquisitorial mandate), regularly engaged in conceiving, authoring, and authorising undisguised corrupt practices.

His deliberate denial of the existence of information recorded in my PRF is a classic example of his corruption.

16. Mr. Warren has in his oppressive regime, as a matter of published fact, compelled innocent LFRS staff under threat of discipline leading to loss of their employment to engage in an unwarranted, unjustifiable, amoral pogrom, against any person including myself, or group of people, who had the temerity to oppose his unbridled criminality.

17. This is a manifest tyranny, coupled with a lawless pogrom of Mr. Warren's misconduct in public office for his own self-gratification and protection, during which he acted as the primary executor and grandiose sole arbiter for the LFRS, and during which he unhesitatingly stooped to the deliberate use of criminality by Contempts of Court; perjury; miscarriages of justice; blatant breaches of the law both-civil and criminal; intimidation; raw racism, and the false manipulation and malignant criminal misuse of Public and Personal Data under his

confidential control, in the presentation of *misinformation* to Elected Members of the CFA, and thus the Public.

18. It is Mr. Warren's self-evident and avowed intention to publicly smear, crush, and leave me penniless, and any of his disabled FSV opponents, whilst covering up and defending his abject failure to accept responsibility for the daily maladministration of the Lancashire Firefighters' Pension Scheme under his direct control since 2002, and for which you the Chairman; the current Chief Fire Officer C. Kenny QFSM; and Mr. Warren by lawful delegation, share legal culpability as its administrators and my Scheme manager.
19. This culminated in the personal application by Mr. Warren of his sadistically vicious financial hardship on me, which was nothing short of blackmail, in the application of *his* self-authored "Hardship Route" because as he saw it, I failed his '5th column' test which was to betray my protesting comrades, the disabled FSVs.

Contempts of Courts.

20. Now once more in intriguing, smearing, and covering up his suppurating trail of corruption he states in his threatening letter of August, which included a copy of the Court Judgement against disabled FSV Mr. Paul P. Burns, the intent of which can only have been to intimidate me, that I gave evidence in this 4 day County Court Trial, when it cannot have escaped his notice, because he was present, that I most certainly did nothing of the kind. Simply more deceit which is his stock in trade.
21. Mr. Warren's unprincipled contempt for the civilised rule of law displays a person who cares little for the laws and conventions of society in which he knows no legal boundaries, a Misconduct in Public Office which climaxed in February 2013 in the Preston County Court before Circuit Court Judge P. Butler (Knight of the Holy Sepulchre).
22. Mr. Warren is *indeed correct* in that I did provide sworn testimony to the Court but not on the basis he has assumed. But by giving a sworn testimony to the Court Office along with three other members of the Public from the Court public gallery, and two Court officials who between sessions complained directly to Judge Butler, of observed Contempts of Court. Judge Butler has confirmed that these sworn Witness Statements are held on file in the Preston County Court Records.

23. I did state in this sworn Court statement how I observed Mr. Warren and others representing the LFRS/LCC blatantly, in Contempts of Court, engage in personal perjury and by the misuse of banned electronic devices communicating between themselves, contrary to published Court notices on the Court room walls, collude with your LFRS Solicitor Mr. A. Harold; the LCC Head of Pensions Mrs. D. Lister (YPS); and by the use of physical signals suborn *your own complicit primary witness* Ms. J. Drinkall MBE (LFRS-Rtd) who was in the Witness Box.

24. In an obviously pre-planned staged choreography of perjury Mr. Warren and these others collectively conspired and intrigued to pervert the course of Justice by defeating the legitimate cross examination of Ms. J. Drinkall MBE (literally behind the back of the Litigant-in-Person), disabled FSV Paul P Burns.

25. These Witness Statements are linked directly to the Courts own tape records of Judge Butler's rants on this specific matter, including his failures to act, and now lie on file as a matter of Public and Court testimony.

26. All of this misconduct in public office coupled with its unashamed oppression, which documentary evidence supports in released comprehensive internal email exchanges with politicians, was condoned with the prior knowledge and tacit approval of the former Chairman of the CFA County Councillor D. O'Toole; *you as current Chairman of the CFA*; and the recently retired Clerk to the CFA, Mr. M. Winterbottom DL (Lancashire Under Sherriff and Deputy Lord Lieutenant); the former CFO Holland (now DCLG government Fire Advisor); and your current CFO, Kenny.

The "Hardship Route".

27. Mr. Warren it is who conceived and authored a deliberately inhuman, punitive, and secret LFRS policy known as the "Hardship Route" which was intended to, and did bring direct financial hardship to myself and others who refused to accept his financial intimidation and bullying and who were simply exercising their democratic rights within a free society.

It is a matter of factual record that in a circulated self-authored email (Released by the Court) Mr. Warren described the purpose and "principles" of the application of his "Hardship Route" to your former CFO Holland and to *the political leaders of that time*.

28. Mr. Warren did without compunction, apology, or remorse, conceive, direct, and engage in collusion with his staff, as my irrefutable and compelling PRF evidence now confirms, to send myself and other disabled FSVs, their surviving Widows, and Beneficiaries down this "Hardship Route" because we would not yield to his criminality, bullying, intimidation, and his oppressive misconduct in public office.

The intended effect of which in my case was to drive me into personal bankruptcy to a point where today I live in virtual destitution in a chicken shed with a bucket for ablutions within an unconverted dilapidated barn in a farmyard in France, my last refuge.

Corporate Falsehood.

29. At the commencement of Mr. Warren's personal pogrom against me on the 26th February 2008 he insisted that I attend a meeting at Service HQ under threat that if I did not do so he would stop my pensions (unlawful) and my DWP benefits (only the DWP can sanction this) which are all classed as my income, giving the explanation for my required attendance as 'overpayment'.

Under direct duress I did attend with my Fire Brigades Union representatives of which I am an out of trade member.

But, Mr. Warren had not the personal courage to attend himself.

30. This type of meeting, as other harassed and intimidated FSVs and their families had earlier reported, and were to report subsequently in the media was in effect both a combined 'kangaroo court' and 'ambush'.

31. This pre-choreographed staged meeting was attended by your deputy pension Scheme administrator Mr. Hamilton, his assistant Ms J. Hutchinson (Office Manager-Pensions), accompanied by Ms J. Wisdom (LCC-'Your Pension Scheme'), your contractor's Fire Service Pension Performance Manager, all of whom it is now clear to me, were there to enjoy my shock, alarm, and despondency.

It is an interesting reflective footnote that none of those mentioned above had a single Pension Management qualification between them.

32. Mr. Warren and his cohorts decided after consulting my PRF to use, contrived blatant falsehoods to deliberately misrepresent the recorded facts in my PRF to me, which was that according to your deputy pension Scheme administrator Mr. Hamilton at the meeting, I had

failed to inform the LFRS that I had been, and was, receiving deductible DWP Benefits in support of my 'qualifying' service injury(which had led to my early compulsory Service discharge) and that as a consequence I had been 'overpaid' the sum of £37,899.33(LFRS Internal Document entitled "Fire Injury Pension Reviews. As at 21 Jan 08") for which your Mr.Hamilton demanded immediate repayment.

33. When I protested that I had informed the LFRS of the status of my Benefits on the day I was compulsorily discharged, and had signed an LFRS document to that effect, which surely must have been recorded in my PRF, your Mr. Hamilton, clearly acting on Mr.Warren's instructions, refused my request to let me see my PRF even though he had it in his possession on the table in front of him at this meeting.

34. It is obvious now, after consulting my released PRF on the 15th September 2015, the day after your Mr.Warren handed over a copy to me, *that all those present, whom I have named above, were absolutely aware before this meeting that Mr.Warren and they were engaged in criminal corporate falsehood and the deliberate maleficent misrepresentation of the pension facts contained in my PRF.*

35. Those named above, acting under Mr.Warren's direction, repeatedly in falsehood upon falsehood asserted, in the presence of my FBU representatives, that I had not informed the LFRS and/or the LCC YPS about the receipt of deductible DWP benefits *when they knew from shared knowledge which Mr.Warren and they had accessed in my PRF(recorded emails confirm that shared knowledge access)* that I had informed the LFRS of my DWP status from the very first day my pensions were put into payment.

These compelling facts which they *collectively knew* were recorded in my PRF which was lying on the table before them at this meeting, facts which they refused to allow me or my FBU representatives to view.

36. In carrying out this criminal conspiracy of grossly corrupt deceitful malfeasance upon me (and without doubt others), acting under Mr. Warren's express instructions, it is now unequivocally clear that the sole purpose of this 'cover up' was to prevent the exposure to public accountability of those present who had failed in the pension administration of the Lancashire Firefighters' Pension Scheme, including the conveniently absent Mr.Warren, the delegated daily pension Scheme manager.

Compelling Evidence of Deliberate Corporate Mendacity.

37. The enforced release of my PRF now provides irrefutable and compelling documentary evidence of deliberate corporate mendacity under Mr. Warren's directions and the falsification and denial of the existence of my PRF DWP records which directly rebutted the LFRS accusation that I (and no doubt others as well) had failed to inform the LFRS of the status of DWP benefits which I was receiving; pension maladministration by the LFRS which resulted in my alleged so-called 'overpayment'.

38. The first, documentary evidence, of the many I could have chosen, confirms that 2 years prior, whilst I was suffering the effects of a serious on-duty injury which led to my compulsory discharge, there was a clear paper trail of LFRS knowledge of my DWP benefits status and indeed clear evidence of both incompetence and maladministration in LFRS failures to properly administer my pay, apropos DWP benefits.

This, particular example of maladministration, left me without my pensions. *Appendix 'A'*.

39. The second, documentary evidence, demonstrates that on the first day of my compulsory discharge when my pensions were put into payment the LFRS not only included my DWP benefits as a correct deduction from my calculated Injury Pension but I also signed a statement in which I detailed the DWP benefits I was already receiving and in which I gave an 'undertaking' that I would (as my PRF records reflect) inform the LFRS of any future changes. *Appendix 'B'*.

40. The third, documentary evidence, demonstrates that Mr. Warren and his collective staff were fully aware after consulting my PRF that they had been repeatedly informed by both me, and more importantly, the DWP annually, of the value and status of my DWP benefits including the fact that several DWP Benefits were being paid under one heading. *Appendix 'C'*.

41. The fourth documentary evidence demonstrates that when a final letter was being carefully drafted by Ms. J. Hutchinson(LFRS); Ms. J. Wisdom(YPS); and Mr. Hamilton(LFRS) for the final approval of Mr. Warren(LFRS) in a follow up response to the meeting on 26th February 2008, a letter which Mr. Hamilton then signed and sent to me, that this collective drafting was a cohesive, calculated, act of criminality in which they intended to deceive and defraud me.

42. All those involved knew, without a shadow of a doubt, that this letter flew completely in the face of the facts contained in my PRF which included substantial DWP referenced records from my PRF which exposed their collective incompetence for what it was, not just the occasional human error, but which knowingly went beyond institutionalised malfeasance to a point where Mr. Warren, and his staff under his direct control, intended to commit a criminal fraud against me, namely repayment.

Furthermore, in a final cover up, even though Mr Warren had all this DWP information before him, he knowingly failed to send all that DWP information with this letter to me even though Mr. Hamilton in an internal email stated that he would do so.

43. In this final letter to me, approved by Mr. Warren, Mr. Hamilton unequivocally stated a direct falsehood, that there were no records of me having informed the LFRS of my DWP benefits status, but not satisfied with this collective deceit, he then proceeded to repeat this blatant lie to me once more. *Appendix 'D'*.

Mr. Hamilton then went on to state that the DWP had informed the LFRS that there was a further 'schedule' of DWP benefits being paid to me which he knew nothing about. This was another falsehood, when in fact they all knew that the DWP had stated to the LFRS *'that several benefits were included under a single heading'*. *Appendix 'C'*.

44. Later when I reflected on these matters I was certain that *I had complied with my obligations and that I had informed* the LFRS of the status of my DWP Benefits and though having no personal records of my own to confirm this position I nevertheless wrote to Mr. Hamilton on Thursday 20th March 2008 confirming that I had complied with my obligations. *Appendix 'E'*.

Blackmail.

45. When the meeting on the 26th February 2008 broke up your Mr. Hamilton drew me aside privately for an 'off the record' conversation making clear that he was acting on Mr. Warren's instructions. He indicated to me that both Mr. Warren and he were aware of a discipline misdemeanour in my past service filed in my PRF and that they had both noted my activist participation with Mr. Burns the leader of the civil rights anti LFRS pension campaign.

Furthermore, Mr. Hamilton indicated to me that Mr. Warren would find it 'helpful' in any repayment agreement that he/LFRS might make with me if I was able, from time to time, to let him know what this campaign's planned activities might be.

Because I was still in a state of shock, given the large amount of the alleged 'overpayment' and the repayment allegedly due, I was non-committal and left SHQ at this point.

46. Later I reflected on this disturbing development, in which both Mr. Hamilton and Mr. Warren clearly had knowledge of an old spent discipline misdemeanour which could only have come from my PRF, and this coupled with Mr. Warren's 'under the table' offer, painted a very sinister picture which did not escape me.

47. It seemed to me that Mr. Warren's proposal via Mr. Hamilton could only have been approved by your forbear Chairman CC D. O'Toole and/or CFO Holland. A proposal which was that I should in effect spy and report to Mr. Warren from *inside* the civil rights anti LFRS pension campaign on their activities. An action which would be 'helpful' to me resulting in Mr. Warren, and presumably CFO Holland, approving more favourable terms in any repayment scheme Mr. Warren might propose to me concerning this alleged 'overpayment'.

48. Later Mr. Warren proposed that instead of the £37,899.33(LFRS Internal Document entitled "Fire Injury Pension Reviews. As at 21 Jan 08") allegedly due to the LFRS he would be satisfied to receive £25,186.89(LFRS Internal Document entitled "Fire Injury Pension Reviews. As at 21 Jan 08") which was a proposed reduction of one third(30%), presumably for 'services rendered' though from studying these records it is clear that of the 167+/- 'overpaid' disabled FSVs involved I was the only one to be offered this 'opportunity'.

49. It seemed to me that some were more equal than others having their alleged overpayments completely being quashed by Mr. Warren who simply dictated how the Pension fund and its mechanisms ought to work regardless of what the law might state.

My Discipline Misdemeanour.

50. Several years prior to 1987, whilst in Service, I was arrested and charged as a result of an affray in a public house whereby, in defending myself against a person I knew I caused him actual bodily harm.

After attendance in Magistrates Court I was subsequently fined and as required under the then Discipline Regulations I reported my conviction to my Station Commander.

Later I was charged with bringing the Service into disrepute and appeared before the Chief Fire Officer. I was severely admonished and given a final warning by him.

In 1988 I was on a list of International Rescue volunteers approved by him to attend the Armenian Earthquake as only the second ever UK response to an International Disaster(The first, also by Lancashire, was to the Italian Earthquake Disaster in 1980).

A short time after this successful mission and without solicitation I received a Memorandum from my CFO stating that all records of this misdemeanour were to be expunged from my records.

51. Now that I have seen my PRF it was upon this single document in my PRF that Mr. Warren and Mr. Hamilton, considered and decided, they would take it upon themselves to reverse and reopen a closed CFO's decision and use its presence in my PRF in common blackmail, should I fail to see the merit of their 'off the record' proposal. *Appendix 'F'*.

52. Obtaining My PRF.

Because I was uncertain on all counts about what my concealed PRF records actually contained, I repeatedly asked Mr. Warren to release a copy of my PRF to me so that I could correctly evaluate my position, but he and his staff, principally Mr Lee Gardiner your former Information and Data Protection Officer, and Mr. Harold the LFRS solicitor, repeatedly acting on Mr. Warren's standing instructions, over a 5 year period, refused to do so.

53. On the **3rd November 2010 almost 5 years ago I made a formal request** to Mr. Warren under the Data Protection Act 1998 Section 7 to supply me with a copy of my Personal Record File and **all** my associated subject data and records which the LCFB/LFRS still retained on me. Mr. Warren just ignored my request and in the 5 years which followed he continued to direct his staff Mr. Lee Gardiner and Mr. Harold the LFRS solicitor to repeatedly refuse my lawful request.

54. In particular Mr. Warren directed the LFRS solicitor Mr. A. Harold to oppose *with all means* at his disposal including the use of a DPA 'exempt' refusal of my request. A 'defence' which involved repeatedly restating and recycling the 'exemption' that my PRF were not held in a retrieval system which met the terms of the DPA and thus the LFRS were exempt from compliance and thus my requests could with impunity be denied, which was of course simply stonewalling deceit.

55. This legal subterfuge by Mr. Harold your solicitor, who was already fully aware of the

Information Commissioner's 'Assessments' that the LFRS was not 'exempt', and that *'all LFRS PRFs ought to be promptly released'*, then knowingly engaged in professional deceit with the absolute knowledge that neither the LCFB, nor its successor in title, could administratively function without a Personal Record File retrieval system which specifically identified an individual Firefighter by Regimental Number which the LCFB/LFRS allocated at Recruit stage, at their commencement of Appointment-for the duration of Service of at least 30 years.

56. The Courts(2 judgements) and the Information Commissioner(2) had repeatedly 'Assessed' and concluded that my PRF *'was held in a DPA relevant filing system'* and that as a matter of some urgency ought to be *'promptly'* released to me. Yet in spite of all those decisions Mr. Warren continued to blatantly ignore the law until the Information Commissioner at the Taxpayers waste of time and expense sent a 3 person team to physically examine the filing system in which my PRF was stored.

57. This visit simply confirmed the Commissioner's original Assessments whilst supporting the independent Courts decisions that it was an Act compliant filing system and that all PRF should be released on legal demand.

The Commissioner's decision tacitly recognised that Mr. Warren in complicity with his subordinates deliberately and obstructively failed to comply with the law for a 5 year period. But as I well knew this denial of the law and the truth was yet another example of Mr. Warren protecting his own self-interest and covering up his failure of Statutory duty as my daily Pension Scheme manager.

58. Mr. Gardiner and Mr. Hamilton, as you will know as Chairman, have since been suspended with your approval earlier this year, Mr. Gardiner for allegedly making fraudulent expenses claims in excess of £40,000.0. It is common knowledge that he has since resigned.

Mr Hamilton however remains suspended for a 'Race hate' crime on a member of LFRS staff and whilst both may well be 'unavailable' and may not now be in a position to support my claims for my repeated requests to Messers. Warren/Hamilton/Gardiner/Harold for the release of my PRF, undoubtedly both my own private records, and those of the Information Commissioner's Office most certainly will.

It is interesting to note that there is not a single record of my DPA applications for a copy of my PRF contained within my released PRF.

Alleged 'Overpayment'.

59. Given all these unlawful and criminal circumstances I have not the slightest intention of reimbursing the Public Purse one single penny which Mr. Warren wrongly alleges I owe. If Mr. Warren had been doing his job robustly as my daily Scheme manager properly for which he is handsomely rewarded, to the value of £110,000.0k pa, he would not have allowed the circumstances to arise which permitted 'overpayments' to collectively accumulate in the first place.

'Overpayments' which were in excess of £2.0mil+ by maladministration directly under his control and for which you, as the Scheme manager, and ultimately your CFO Kenny as the principal Scheme administrator are inextricably responsible.

60. To reinforce my stance the Pensions Ombudsman in a recent Determination' (Number 2865-June 2015) made a benchmark ruling which said in effect that if maladministration arises in a Scheme which then generates 'overpayments' the ultimate responsibility rests entirely with the Scheme manager, not the Scheme members, and accordingly any monies which are wrongly 'recovered' from Members must be repaid with interest and the Scheme, namely the LFRS Firefighters' Pension Scheme, must carry its own losses, and for those losses you, your CFO, and your Mr. Warren are directly responsible in law.

Misconduct in Public Office.

61. As I see matters which have directly affected me, Mr. Warren has repeatedly since 2002 misused his public office to unlawfully protect his pension management failures by any and all dubious means at his disposal. Mr. Warren has without hesitation ignored the common law which governs good social conduct and professional conduct in public office when it suited him and has regularly and continuously stooped to base criminality to achieve his own self-protective ends rather than accepting responsibility for his own self-generated failures.

62. Mr. Warren, with his supervising principals, which clearly includes you, have repeatedly manipulated and misrepresented the actual 'facts' of what has occurred, to the media and Public at large, which he and you regularly 'fed' over this period of time to the Elected Members of the CFA, thus easily defeating their inquisitorial role, and as a consequence their democratic role of accountability to the local Taxpayers and the Public.

63. Mr. Warren's defence will be, as ever in such cases, that he was only discharging his duty as

approved by his Councillors, including you as Chairman, in which he was just a mindful keeper of the good name of the LFRS whilst husbanding the Public Purse.

But the facts as I have laid them out to you belie these falsehoods as a glance at my PRF will confirm, as example upon example, of simple iniquity and perversity of pension 'management' surface directly under Mr.Warren's mendacious control.

64. Mr. Warren has without compunction in his daily working life at the LFRS, using my case as a prime example, engaged in unbridled common criminality in public office during which he regularly used institutionalised blatant stonewalling; deceit, repeated mendacity; and by the malign manipulation and deliberate supplying of misinformation to those to whom he is Publicly accountable, including you, when it suited his malignant self-preservation.

Your Role - CFA Chairman.

65. How much you actually knew in matters pension, chose to ignore, and/or failed to take action on, or were directly involved in approving, is a moot point for the Combined Fire Authority Elected Members to investigate and ponder on.

66. As a Lancashire County Council elected Councillor it is my expectation that the LCC Scrutiny Committee will surely also want to investigate your role in this pension scandals because of your central role on the LCC Pension Fund Administration Sub-Committee in their oversight and accountability for LCC Pensions Services.

Firstly, in the light of your prior knowledge of significant failures in the administration of YPS pension service, including the LFRS, highlighted by the two National Fraud Initiative Reports of 2010 and 2012 which were reported to you as a Member of the LCC Pension Fund Administration Sub-Committee which were materially significant matters which the Committee failed in its Statutory duty which was to report these failures to The Pensions Regulator.

Secondly, your past and continuing role in pension related scandalous issues involving Mr.Gardiner and Mr.Hamilton which have involved substantial losses/bribery by payments from the Public purse, for example, to Mr. Hamilton.

Suspension and Prosecution.

67.I have called on you to suspend Mr. Warren and all the others involved immediately and regardless of whether or not you have the political will or personal courage to implement such action, including a transparent and independent Inquiry, it is my intention shortly to seek and take legal advice on pursuing, in the long term, personal restitution from your Authority.

It is time to send the CFA down its very own "Hardship Route".

68.By now even you must surely be aware what your Statutory duty is, and remains, in respect of the Law and reporting all these issues to The Pensions Regulator.

Your Personal Response.


69.Finally, there just remains your public duty to me as an elected Councillor of Lancashire.

I would like you to extend the courtesy to me of a personal direct reply(using the above email address) which should include your acknowledgement of receipt my Complaint and any points you may wish to make.

A response which should of course, in observing common conventions, be personally signed by you.

That is why, included in your annual allowance, the Taxpayers' make a provision for your secretarial services.

Yours Truly,

A large black rectangular redaction box covering the signature area.

R.R.B. [redacted].

CC
The Pensions Minister-Baroness Altmann CBE;
The Pensions Regulator-CEO Ms. L.Titcomb;
Coalition Leaders of the Lancashire County Council;
Elected Members of the Lancashire Combined Fire Authority.

FF

B

Kinda

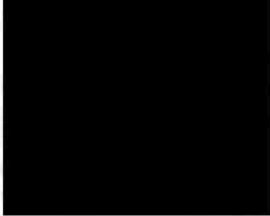
see note + PRF.

Thanks

208

186

APPENDIX 'A'



Mrs G Southworth
205

GS/DEH/PR
23 April 1992

Dear Mr B

Thank you for your recent letter.

I must firstly apologise for the fact that you were not sent the appropriate form in relation to Department of Social Security sickness payments. The Personnel Section does operate a monitoring system in relation to sick pay but unfortunately on this occasion it failed. Every effort will be made to ensure that a similar situation does not arise again.

In view of the concern expressed in your letter the Department of Social Security have been contacted and have been asked if you can receive priority attention, whilst being sympathetic they could not give any guarantees. However they did indicate that even if you had been sent the form on the correct day no payment would have been made until 27 April 1992 and there would still have been a time lag between the deduction from your salary and the payment from the Department of Social Security.

Yours sincerely

A handwritten signature in cursive script, appearing to be 'J.W.'.

PRF

Firefighter B R R
Station C50 Preston

Miss Drinkall
223

EJD/BML
8 May 1992

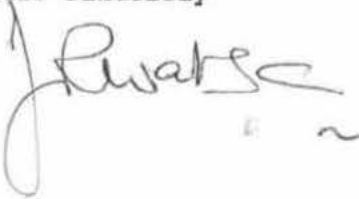
Dear Firefighter B

I refer to my letter of 23 April 1992 and subsequent telephone conversation with the PAO's personal assistant in respect of the deduction of sickness benefit from your salary on the expiration of SSP payments and the likelihood of you incurring bank charges as a result of this.

If a delay had not occurred in the forwarding of the necessary forms to you, you would have been paid invalidity benefit of £93.77 per week on and from the 20 April 1992 and the normal date of payment would have been 27 April 1992. Invalidity benefit is paid a week in arrears. Unfortunately the above mentioned delay resulted in you being paid on 5 May 1992 instead of 27 April 1992.

If you incurred bank charges for the period 27 April to 4 May inclusive you will be reimbursed for these but it will be necessary for you to produce documentary evidence to this effect. The Finance & Personnel Officer at Brigade Headquarters will be pleased to advise you on how to claim.

Yours sincerely



had
You can't be working &
paid for that. 6/5

Paul. H. discuss.

gf

5/5/92
2.30 pm

Glenys

FIREFIGHTER NO [REDACTED] MR [REDACTED]

He has rang with reference to a letter from you dated 23 April 1992. He has been off sick and it has gone into the 28 week period. There has been a mistake with the form from the Brigade which goes to the DHS. In his last pay he was £200 short. This was three weeks ago. He has spoken to Joan Drinkall and apparently she has told him that if he gets overdrawn which is highly likely. Then the Brigade will cover it. But he wants it in writing.

Home Address: [REDACTED]

hder

Date of payment of
↓
Sickness benefit
from
20 April -
date of payment. Invalidity
on
Paid 55.92

4/30

How to
include
with charges.
1992

1st payment 28th April week in
weekly rate of 93.77 appears

APPENDIX 'B'

used LANCASHIRE COUNTY FIRE BRIGADE
 RETIREMENT PENSION FIREMEN'S PENSION SCHEME ORDER 1992

NAME E [REDACTED] R R FF [REDACTED]
 STATION C50 PRESTON
 ADDRESS [REDACTED]
 DATE OF BIRTH [REDACTED]
 PAY REFERENCE NO [REDACTED]
 PENSIONABLE PAY 17,232.00 pa
 PENSION CONTRIBUTIONS 11.00%
 NHI NO. [REDACTED]
 RETIREMENT DATE 2359 hours on 30 November 1994

SERVICE

~~~~~  
 L.C.F.B. 05/07/76 - 30/11/94 18 years 149 days  
 ~~~~~  
 18 years 149 days

AVERAGE ANNUAL PENSIONABLE PAY

~~~~~  
 01/12/93 - 06/11/94 31/31 + 10 + 6/30 at 16,860.00 15,736.00  
 07/11/94 - 30/11/94 24/30 at 17,232.00 1,148.80  
 ~~~~~  
 16,884.80

ILL HEALTH PENSION

~~~~~  
 Retires in accordance with Rule B3 & B4

25.4082/60 of average annual pensionable pay of 16,884.80 7,150.21 pa

INJURY PENSION (Rule B4 Part V Schedule 2)

~~~~~  
 60 % of average pensionable pay of 16,884.80 10,130.88 pa

Less 3/4 of Ill Health Pension 5,362.66
 Less Department of Social Security Benefit Invalidity Benefit of 5,333.52 10,696.18 pa

fig 2.24 hr week converted to annual figure of 5333.52 pa

Pension Payable 0.00 pa

Gratuity 25.0 % of 16,884.80 4,221.20
 ~~~~~

COMMUTATION

~~~~~  
 An amount of 1,787.55 has been commuted from ill health pension and will secure a lump sum payment of :-

~~(1,787.55 x 1,500) / 100 = 26,813.25~~

- (a) any incapacity benefit under section 14 of the 1975 Act, including one to which he is only entitled by virtue of section 50A of that Act, and
 - (b) any incapacity pension under section 15 of the 1975 Act, including any additional component comprised in it in pursuance of section 14 of the Social Security Pensions Act 1975, and
 - (c) any severe disablement allowance under section 36 of the 1975 Act.
- (4) In relation to the additional benefit mentioned in sub-paragraph (2)(a), relevant increases comprise any increase in the benefit attributable to an increase in the pension -
- (a) by way of unemployability supplement under section 58 of the 1975 Act, excluding any increase under section 59 in the supplement,
 - (b) under section 60 of the 1975 Act (special hardship), or
 - (c) under section 64 or 66 of the 1975 Act (dependants),
- and so long as the person is receiving treatment as an in-patient at a hospital as a result of the qualifying injury, any increase in the pension under section 62 of the 1975 Act (hospital treatment).
- (5) In relation to the additional benefits referred to in sub-paragraph (2)(c), any increase under any provision of Chapter III of Part II of the 1975 Act (Dependants) is a relevant increase.
- (6) Where the provisions governing scales of additional benefits have changed after the person ceased to be a regular firefighter, the amount of the reduction in his injury pension in respect of any week on account of a particular benefit shall not exceed what it would have been if those provisions had not changed; where the benefit includes an amount attributable to an increase under section 60 of the 1975 Act (special hardship), it is to be assumed that the increase would have borne the same relationship to the former maximum for increases under that section.
- (7) Where a person has become entitled to a disablement gratuity under section 57 of the 1975 Act in respect of the qualifying injury, this paragraph has effect as if he were entitled under that section during the relevant period to a disablement pension of the amount that would be produced by converting the gratuity into an annuity for that period; the relevant period is the period taken into account, in accordance with section 57 of the 1975 Act for the purpose of making the assessment by reference to which the gratuity became payable.
4. No payment shall be made in respect of an injury pension for any week in which the aggregate reductions under paragraphs 2 and 3 equal or exceed the amount of the pension calculated in accordance with paragraph 1.

I declare that -

- * (1) ~~I am not in receipt of any of the above mentioned additional benefits.~~
- * (2) I am in receipt of the following additional benefits.
(Please state amounts and dates applicable)

*See attached document from D.S.S.
Invalidity Benefit was 102.24 - 1994.
now 103.49 - 1995*

* Delete as appropriate

(3) I undertake to inform the Lancashire County Fire Brigade's Chief Fire Officer of any of the above mentioned additional benefits I may be awarded by the Department of Social Security in the future.

SIGNED *D.S.S.* DATE *22.8.95*

NAME AND ADDRESS

[Redacted Name and Address]

[Redacted Signature]

APPENDIX 'C'

SHQ - Hutchinson, Jayne

From: Wisdom, Julie
Sent: 06 March 2008 15:45
To: SHQ - Hutchinson, Jayne
Subject: RE: B [REDACTED] Draft letter

Attachments: original info received.pdf; revised info received.pdf; B [REDACTED] overpayment schedule.xls

Hi Jayne

Attached is the information received from the DWP for Mr B [REDACTED]. With regards to the draft letter please look at the 'original info received' document as you will see that DWP did provide details of the Industrial injuries benefits however upon contacting them twice they advised up that it was included in the figures quoted under REA (Reduced Earning Allowance). Following our second phone call the lady we spoke to advised us she would send us a copy of the letter sent to Mr B [REDACTED]. It was at this stage that her error was highlighted.

I also attach a revised schedule, which includes the injury pension calculations and breaks down the overpayment between what was due and paid.

If you need any further details please let me know

Regards

Julie



original info received.pdf (92 ...
revised info received.pdf (75 ...
B [REDACTED] overpayment schedule.xls...

From: SHQ - Hutchinson, Jayne
Sent: 06 March 2008 10:38
To: Wisdom, Julie
Subject: FW: B [REDACTED] Draft letter

Hi Julie

Could you please have a look at this letter and verify that the contents are accurate. I am currently going through Mr B [REDACTED] personal file, for examples of letters and will let you see.

Brendan is happy to send this out on his behalf, so if you could just let me know when you have checked I will arrange for it to be issued.

Thanks very much.

Jayne Hutchinson
Human Resources Manager
01772 866841

<< File: SHQ - Hutchinson, Jayne.vcf >>

From: SHQ - Hamilton, Brendan
Sent: 05 March 2008 14:29
To: SHQ - Hutchinson, Jayne
Subject: B [REDACTED] Draft letter

Jayne

Attached is a rough draft as I am unclear of what has now been received from DWP and the circumstances. Can you review content with Julie and get all relevant correspondence from DWP copied to go out with letter
BH << File: E [REDACTED] letter.doc >>




Mr R R B [REDACTED]

Upon receipt of information from DWP Lancashire Pensions Services sought clarification of amount of benefit being paid due to details on the form. DWP advised Mr B [REDACTED] was currently receiving £ 52.68 for Industrial Injuries and Reduced Earning Allowance. LPS phoned DWP again to confirm details after meeting with MR B [REDACTED]. DWP confirmed details as previous and advised that Mr B [REDACTED] had asked them for details of benefits received and they would fax a copy of the letter they had issued to him. 10 minutes later LPS received a phone call from DWP and the lady explained she had filled in the original form and had now realised that the information given on the form, and the subsequent phone calls, was incorrect. Mr B [REDACTED] currently receives £52.68 for Reduced Earnings Allowance and £26.34 for Industrial Injuries benefit.



Mr R R B 


Please ask for: Brendan Hamilton
Telephone: 01772 866856
Email: brendanhamilton@lancsfire.org.uk
Your Ref:
Our Ref:
Date: 10 March 2008

Dear Mr B 

SUBJECT: Review of Injury Pension Award

At our meeting on 26 February we provided you with a schedule of apparent over payments of your injury pension award based on information we had received from the DWP. Whilst you acknowledged that such payments were being made, you believed you had advised us of this benefit at the time. We advised we had no such record and have subsequently again checked our files and can find no such referral. You also indicated that you would make your own enquiries of DWP.

Further to our meeting on 26 February I understand that you have initiated enquiries of your own regarding DWP benefits. As a consequence the benefits agency have been in touch with our pension administrators to advise as a result of your contact that they have identified a wider schedule of benefits that you have received than they initially reported to LCC Pension Services in response to their original audit enquiry.

I attach copies of the relevant correspondence from DWP and regretfully what appears to be an increased schedule of overpayment. Given the circumstances outlined above I feel it would be useful to have a further meeting to clarify the matter. Please feel free to bring a colleague/representative with you.

Yours sincerely



Brendan Hamilton
Head of Human Resources

APPENDIX 'E'

LFRS
Mr.B.Hamilton
Human Resources.
SHQ
Preston
PR2 3LH



Thursday, 20th March 2008.

Pension Injury Review.

Dear Sirs,

Thank for your letter of the 10th inst.

I have been advised by my representative body, the FBU and its legal department, that until detailed legal clarification on this subject has been provided by you, that to continue with further meetings would simply be a pointless waste of my time.

Nevertheless, at this point, I feel I ought to make the following clear to you until you do supply me with the clarification I seek, that:

- I deny entirely that a debt in any form exists between myself, the CFA , the DWP, and any other agency contracted by you to handle my pension.
- I deny that I have acted, whether by default or otherwise, in any manner whatsoever in failing to carry out my obligations in respect of my Fire Service pension contract.
- Furthermore, I categorically deny that I have in any manner whatsoever acted unlawfully in respect of the common law and my Fire Service pension.

Yours truly,

R [REDACTED] B [REDACTED].

APPENDIX 'F'

*Please remove
details
from WAX
JW
10/7.*

NB: WOULD YOU PLEASE ENSURE THAT ANY CORRESPONDENCE RELATIVE TO THIS DISCIPLINARY HEARING IS REMOVED FROM FILES HELD AT DIVISIONAL HEADQUARTERS.

CHIEF FIRE OFFICER
220
JPH/DEH/PR
10 July 1989

FIREMAN [REDACTED] B [REDACTED] R R
STATION C50 PRESTON

cc DC 'C', PR

*WAX Record
ided
17-7-89
SET.*

DISCIPLINARY HEARING - 2 JULY 1987

I have to advise you that details in respect of the above disciplinary case have now been removed from your personal record file and destroyed.

JRW