THE MORNING BUGLER
THE VOICE OF THE PEOPLE

Pensions - In Plain English.

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This Chapter (Minor Revision 9th January 2021) at a Glance:

This Pension Dispute

Dear Reader,

what is this pension dispute really all about?

In Plain English – this is a pension dispute in which about 11, 000 disabled FSVs who were compulsorily discharged and should have been paid an enhanced Rule B3 ill-health Pension with its correct Rule B4 Injury Award have been fraudulently *underpaid* a Rule B1 Ordinary Pension as though they chose to complete their Service, and/or left voluntarily fit and well.

What started out 28 years ago, at the S.I. enactment on 9th March 1992 following a major revision of the Firemen's Pension Scheme of 1973, as a simple clerical error, or so it first appears ~ by legally unqualified lay pension clerks ~ who miscalculated the first B3 Pension by incorrectly applying the *wrong* Statutory mathematical pension

Yes, because for the last 13 years they have all been individually and repeatedly supplied with the relevant information to correct this mismanagement and fraudulent activity but still have failed to do so.

The current members of the Home Office FPT team are Mr.Marc Sherratt, Mr.Anthony Mooney, and Mr. Philip Perry.

They are all Civil Servants and all are bound to conduct themselves within the constraints of the Civil Servants Code of Conduct in particular in respect of honesty, transparency, and Public accountability.

Their duty is to report all matters of concern, brought to their attention affecting Fire Service Pensions, to their 'Pensions Minister' who is currently Mr. Guy Opperman M.P., Under Secretary of State (for the last 3 years, 2017~2020) for the Fire Service but once more, as they

formulae supplied to them in the S.I. Regulations (Rules) to the *wrong* type of pension(s).

Or certainly, at a second reading many years later, this was how it was meant to appear.

Another compounding fundamental error was that when the new Scheme was introduced in 1992 no attempt whatsoever was made by the LCFA to 'convert' custom and practice under the old 1973 Scheme into correct lawful practice, by clerical training, on the new Pension Scheme.

Indeed this whole sorry mess grew into a 'hybrid' notion of how it all should work as opposed to how the law required it to work, but it had a hidden agenda.

When in 2002, a new LCFA Scheme manager, a clerk called Warren, became delegated manager it was his duty to carry out a complete Scheme review to see if it was all working lawfully.

There is not a single record to show he actually did this, or anything.This is the result when a Freemason is invited by handshake to take up an appointment for which he was not remotely qualified which included responsibility for over 2000+ retired Members and Beneficiaries of a Firefighters Pension Scheme of which he knew absolutely nothing, and from which he had no experience from his prior 'appointments'.

This 'hybrid' Scheme has with time and incompetence, particularly since 2006, become deliberate institutionalised fraud, if it was not already so, by the DCLG Firefighters Pension Team (currently the Home Office FPT) in complicity with Fire and Rescue Authorities (FRS), who having been repeatedly made aware of this mismanagement, rather than correct it, then decided to profit directly from it; but perhaps they knew all about this before the Statutory Instrument was even printed?

It seems they are happy to steal from the disabled FSVs, their Widows/Partners, and Beneficiaries.

This initial *maladministration*, became after notification of these major uncorrected errors, *malfeasance* (wilful official public wrong doing), and institutionalised criminal fraud.

Malfeasance/fraud are the legal definitions for a FRS which is aware that it is paying the incorrect Statutory pension(s) yet chooses to malfeasantly/fraudulently cover up their mismanagement.

In law this compounding action, in knowingly choosing to continue to pay the incorrect Statutory pensions, is defined as criminal fraud, in that both *the individual administrators* and the FRS ~ individually and severally (all together) ~ become liable to the Criminal law because in complicity they are deliberately and knowingly defrauding their pensioners, and when they pass away, their Widows/partners and Beneficiaries.

It is a breach of Statutory pension law for FRS's, who decided the type of pension to be awarded in the first place, in this instance an enhanced Rule B3 ill-health pension and/or a Rule B4 Injury award, to knowingly and wilfully breach the Statute law by paying, in 'substitution', a have repeatedly done over the preceding 13 years, by both obstruction and perverse criminality, have failed to do so.

In particular Mr. Mooney who has held his current appointment since at least 2006 has been well aware of this fraud since late 2006 (if not before) and chose, in secret emails to the LCFA, available to the Bugler, to assist and advise the LCFA Firefighters Pension Scheme manager R. Warren how this scandalous fraud could be covered up and kept hidden from disabled FSVs, their representatives, and from Public accountability.

Mr. Philip Perry with his current colleagues, has repeatedly breached the Civil Service Code of Conduct in his personal dishonesty which has entailed the deliberate obstruction of genuine pension concerns including fraud being brought before their Minister which is their primary Statutory duty as managers and protectors of the nationwide 53 UK Firefighters Pension Schemes.

A duty which also includes *a personal* and departmental Statutory duty which is to report this pension fraud to The Pension Regulator for investigation and indeed their own failures to report to their Minister.Go Here.

The document Mr. Perry refers to in his latest smirk response was a copy of the Bugler's 5 Chapter comprehensive Report to the Parliamentary Work and Pensions Select Committee (by invitation) about concerns including fraud which afflict the UK Fire Service Pension administration in complicity with the FPT.

Mr. Perry's original letter and now his latest response are two prime examples of his determination not to do his duty to his Minister but he, in complicity with his colleagues, subsumes the Minister's duty without his knowledge, in their collective determination to deflect any enquiry into why they failed that Ministerial duty and their Statutory duty to the Pension Regulator whilst raising the question whose interest are they actually serving?

Why have Fire Authorities not corrected the pensions and paid back the monies with interest which they owe to disabled FSVs and/or their Beneficiaries?

Because it would put the FRS's into bankruptcy; they would have to admit embarrassing maladministration; they would have to admit embarrassing malfeasance and a massive criminal fraud by fiddling the books to the FRS's benefit.

Individual elected Members of FRS's would have to admit what they knew, and when they knew it, and to accept individual and collective responsibility for fraud and their responsibility in their failure of Statutory duty.

A duty which was, and remains, to report all this to The Pension Regulator; then with their Pension Scheme managers they would all become liable in law both civil (damages) and criminal for being a party to and complicit in a massive fraud of their Pension Scheme members, and face not only prosecution by The Pension Regulator but in all likelihood a substantial fine and jail.

Are disabled FSVs to blame in any way for these errors?

Rule B1 'Ordinary' pension which states in the Statute law of Rule B1 that the payment of a Rule B1 'Ordinary' pension is prohibited in law, if the same FRS Authority, has originally awarded a Rule B3, or/and, a Rule B4 pension to their disabled Firefighter on compulsory discharge.

Under the Pension Act 1993 (as amended) individual administrators, in particular those in direct charge of such Schemes e.g., the Home Office FPT; and delegated Scheme managers including those with fiscal duties in respect of Firefighters Pension Scheme Funds; and corporate FRS's, have an individual and corporate Statutory liability both individually and severally (together)) to report such criminal activity to both the Pension Regulator and the Police Authorities.

In addition, because of this first basic misapplication of Statutory formula, or so it appeared, this error compounds and led to the consequential miscalculation of Injury Awards and Gratuities which are calculated *from* their Rule B3 'enhanced ill-health' pensions; these other emoluments are also wrong and thus are also being *underpaid.*

A Rule B3 ill-health pension was, and is, a compensation 'pension' for those Members of the 1992 Scheme who fell naturally ill and were compulsorily discharged; or for Members who were, in addition, injured in operations and could not complete their Service, and were compulsorily discharged.

Because of these apparent 'errors' have disabled FSVs ill-health/injury pensions been underpaid?

Yes.

For how long?

Since the first day when a pension was put into payment, before which, the FRS had decided the Statutory type (s) of pension(s) *it was awarding*, followed by their miscalculation of the Statutory pension (s) payments, using the misapplication of the wrong Statutory Rule ~ mathematical formulae ~ which resulted in the underpayment of pension(s).

Are disabled FSVs owed back pay with compound interest for the period their pension has been wrongly paid?

Yes, using the 'Late Payment of Commercial Debts (Interest) Act 1998' which is the standard Statutory commercial debt compound interest rates of 8%+ due on loss of 'amenity' (income), and because FRS know they have failed to correct their error, a Court can award exemplary (limitless) financial compensation.

Does the DCLG/Home Office Firefighters Pension Team(FPT) and the FRS's know about this and have they all personal and corporate responsibility ?

No, FRS Pension Scheme Members have no Statutory duty, obligation, nor moral duty to help the FRS Authorities in any manner, implied or otherwise, in running their Firefighters Pension Schemes.

How did this first 'error', which led to other errors, happen?

A interesting question. FRS Authorities have for decades ~ and continued since 1992 to employed unqualified and untrained clerical lay staff to administer and manage the legal complexities and technicalities of Firefighters Pension Schemes but that may not be all the emerging picture.

But what did they do wrong?

The Fire Authorities' pension 'experts' failed to read; to understand; and to put into practice the expert 1992 Home Office 'Commentary' ~ the plain English instructions ~ which was written specifically for their daily use and to prevent the very maladministration which has occurred.

How long has this been going on?

Another interesting Question? It seems that the original 'errors' originated under the 1973 Pension Scheme and most certainly have continued under the 1992 Firemen's Pension Scheme.

How will I know if this affects me and my pensions?

By reading the documents provided on the Morning Bugler website and by studying the plain English Home Office expert 'Commentary' to the '92 Scheme. This is essential pre-reading before using the Bugler's 'Method' to check a disabled Fire Service Veteran's pension and gratuities.

This will not make the Reader or a disabled FSV a pension 'expert' but will allow him/her a deeper understanding of what the law is, its 'intent' and what went wrong; how it went wrong; if it went wrong; and who was responsible; and how it has effected the underpayment of ill health/injury pensions and gratuities for decades amounting to £Billions of fraud.

This should then lead to a review of their own pensions to determine whether or not they are being paid the *correct type of pension* namely a Rule B3 and that the interlinked Rule B4 injury pension with gratuities have also been incorrectly calculated using the Statutory mathematical formulae supplied in the Statutory Instrument No:129 (Page 40+) found in TMB library calculating from the first day that their pensions were put into payment until the present day. Go Here.

Finally See 'The Method' ~ Checking Tools ~ Stages 1 ~ 8, Go Here.

Understanding the Issue

The challenges in explaining this issue are to avoid the many temptations to wander off into the complexities of the law just to demonstrate how clever the Bugler thinks he is.

The great irony of this is that had the LFRS not taken the Bugler's Editor to Court because of *their 'error' in allegedly overpaying his Injury Award* this 'error'/anomaly

This approach helps no one and he can and does get it wrong and so to re-drafts/corrections/amendments.

Granted, all this can be a complex subject within the already 'dry' topic of pensions, but only if the Bugler fails to layout the procedural aspects of this issue in logical clear concise understandable English for any reasonably accomplished Reader.

To assist in compiling a sound and simple explanation the Bugler had the support of already involved disabled FSVs who have acted as a sounding board in the compilation of this explanation.

Readers are encouraged to repeatedly read and re-read these Opinions to provide the absolute understanding of this pension issue in conjunction with the Statutory Instrument whilst considering the Bugler's plain English views which are quite simply a layman's view because on this understanding of their own pension case will hang its success.
But reading and correctly understanding the Statutory Instrument to the point of boredom is the bedrock of understanding .

To make this task simpler it is necessary to provide a basic understanding of the sequence of procedures which FRS Authorities must use which lead to the correct calculation of an ill-health pension from which ultimately springs the 'enhancement' of this pension when a 'qualifying injury' is also added in.

All Barristers sound a firm cautionary note when attempts are made to explain their legal points in plain English because this explanation is in effect an 'interpretation' which may not necessarily be strictly accurate in law and this should be borne in mind in this exercise of understanding.

The Courts of Law are the final arbiters…

Accordingly no attempt has been made to paraphrase Mr. J. Copplestone-Bruce's Opinions because this might well lead to misinterpretation and ambiguity in the mind of the Reader. So when in doubt or confusion read the Opinions once more…

Mr. J. Copplestone-Bruce's has laid out the law simple; in logic; and in principle as it stands for the 1992 Scheme in his comprehensive and skilled detailed Opinions.

His Opinions, though principally dealing with the 1992 Scheme (the Bugler's and disabled FSV~FMG's cases) also makes reference to the 1957 Scheme, 1973 Scheme, indeed his comments go right back to their roots in Section 26 of the 1947 Fire Services Act.

This Section was included in this Act specifically to prevent endless cases of compensation for received Fire Service injuries clogging the High Courts. This led in turn to the concept of a compensatory Fire Pension Scheme ultimately encapsulated in the 1992 Scheme.

As a consequence, these Schemes have similar legal principles and mathematical formulae within their Law and Schedules in respect of the correct pension to be paid and would not have been identified by the Bugler's barrister J.M.C-B and for this we must all be grateful to Mr.Warren of the LFRS.

The Bugler's natural reaction was one of surprise. How could this be when J.M.C-B first posited the Opinion that the Bugler had been, and was being paid, an incorrect pension(s) ?

The Bugler along with 11,000 other Firefighters trusted FRS Authorities to get it right. Surely the LFRS must know what they were doing in pension administration and that the pension paid during all those years must be correct ?

Now we know differently as the criminality continues to suppurate out.

It should be said that it required much patience on the part of J.M.C-B and detailed studying and explanations of SI 129 before the Bugler could grasp, or was convinced, of the detail of the error, such was his abysmal knowledge of pension law and his conflicting natural trust in those dealing with his pensions; a circumstance which changed dramatically during this legal tutelage.

When this 'error'/anomaly was put by J.M.C-B via the Court to Mr.Warren-LFRS he as usual prevaricated and engaged in simple and repeated falsehoods.

A detailed expose, supported with documented evidence, has already been published on this criminality confirming Warren's duplicity, his subsequent actions, and he and his colleagues criminality and their Contempts for the Court.

Repeatedly the LFRS refused to consider the fact that they had 'erred' and they rejected the suggestion that this 'error'/anomaly ought to be the subject of an independent actuarial review.

One wonders why?

Now it is necessary to return to the technical nub of the matter in as plain English as the Bugler is permitted .

J.M.C-B in his Opinions firstly explains the purpose of a B1 'Ordinary' pension. Put simply this is when a Firefighter completes his full term of Service, usually 30 years and leaves uninjured, fit and well, and voluntarily of his own free will.

As a consequence he will receive 2/3rds of his Average Pensionable Pay (APP) taken over his last ('best') 3 years though no where in the S.I.does it use the expression '40/60ths' or 'cap' favoured by ill educated 'experts'.

J.M.C-B next explains the purpose of an 'enhanced' B3 ill-health/disablement pension and its intent and principle in law when it was designed for Fire Service Schemes, the 1992 Scheme in particular.

Next he explains how the plain English interpretation of its intentions was incorporated into the supporting comprehensive expert 1992 Home Office 'Commentary' (a copy on this website) which is the only published Edition to be found in the UK, though kept well hidden from Firefighters' view for decades. Go Here.

how it is calculated including in 1992 'what you would/could have earned' had an FSV not been injured and thus compulsorily discharged from Service.

It is interesting to note that the relevant section of the 1973 Scheme, and earlier Schemes, are historically written in much more arcane legal language which in practice still mean the same applied principle, which goes back to the 17th Century, namely, compensation for personal loss.

These principles of 'compensation' then led in practical terms to the creation of scientific actuarial mathematical procedures to be adopted in the calculation of a Statutory enhanced compensating pension based on the loss of a income/career and future earning capacity through natural illness, and/or, a no-fault accident.

Whilst the mechanics may vary slightly from Scheme to Scheme the common law position in respect of this principle of a 'compensation package', namely enhanced ill-health/Injury pension, is still the same.

The first question which should be addressed is why did this present major pension error/anomaly arise in the first place?

At the moment there appears to be no rational explanation forthcoming from those who control FRS Pension Schemes, the Home Office FPTeam, why 'enhanced' ill-health/injury pensions have been consistently miscalculated, or not calculated and paid at all, throughout the UK Fire Service for decades and it is unlikely, through public embarrassment, that any will ever be forthcoming.

Perhaps these 'experts' do not understand the legal points being made by J.M.C-B, or if they do, they hope this matter will simply drift away? They will be disappointed. Perhaps this was a deliberate policy of a government, or governments, to defraud those with whom they had a pension Contract with; stranger things have happened at the xroads; and time will as ever reveal the truth?

Currently neither the DCLG/Home Office Firefighters Pension Team or the Firefighters Pension Committee have taken the trouble to address this matter which has been brought comprehensively to their attention by the Bugler in documented correspondence which the *DCLG/Home Office have refused* to place in circulation to Members of the Firefighters Pension Committee, or indeed the Minister they are supposed to report to, although the Bugler has in any event circulated all this information to individual members of that Committee for their attention.

But perhaps we are telling them what they already know?

This is a matter for which they all hold individual and collective responsibility with culpability in law.

The second question which should be addressed is why has this 'error'/anomaly arisen just now?

Next there has to be a clear understanding what the word 'enhanced' actually means in practice and what its practical purpose is within the calculation of an 'enhanced' ill-health/disablement pension.

Broadly an 'enhanced', as opposed to a simple 'Ordinary' time served pension, is meant to be an '*enhanced compensation package'* for the loss of future income and career due to natural illness/disablement, and/or, through a no-fault Service injury on duty which has resulted in an FSV being compulsory discharged from the Service.

If an FSV had not have been injured on duty, and as a consequence had not lost the ensuing years of career income and advancement (The Lost Career Years) which s/he did, then enhanced compensation of any form would not be necessary.

In order to ensure that the 'compensation package' known as the enhanced ill-health/disablement pensions compensates fairly and consistently for this loss of career, loss of earnings, and thus financial income, very special though simple to use, scientific mathematical formulae were designed and created by scientific mathematical pension actuaries which were ultimately incorporated for easy calculation for lay person purposes within the SI No:129 Schedules.

The FSV simply puts his/her information (data) into the formula and out the other end pops the money the pension(s) to be paid. What could be simpler?

If these legal formulae are neither understood, or more importantly not applied correctly, to the correct pension type decided by the FRS Authority then their 'experts' will calculate the wrong pension(s). It is as simple as that or was it ?

This critical element of applying the correct formulae to the *correct pension type* forms the basic calculation for any *enhanced compensation* pension and it is this procedure which pension 'experts' have got wrong for decades, or deliberately and repeatedly ignored, when incorrectly calculating a final enhanced ill-health/injury pension(s).

Did they get it wrong as they were meant to or were they acting in the complicit knowledge that they were defrauding disabled FSV's?

In practice, it appears, these 'experts' have taken the simple, and completely wrong route in calculation ~ but then again perhaps they were meant to?

They calculated, using their own hybrid 'ideas', of 2/3rds of the final APP, *regardless of the type of pension being calculated*, whilst completely ignoring the specific and complete formulaic/calculations required to be used by them in calculating the correct *enhanced compensation* for all ill-health/disablement pension(s) which have occurred through natural illness, or no-fault Service injury.

The Seminal Works – in Plain English?

These seminal *work*s of legal accomplishment, Opinions on the pension law involved were provided pro bono by Mr.J.M.Copplestone-Bruce, a Life Member of the illustrious Honourable Society of the Inner Temple, one of the four Inns of Court, which determines who shall be called to the Bar to practice law in England and Wales.

As a Life Member Mr.J.M.Copplestone-Bruce has the unique distinction that he is licensed to practice law for life. It was he, in addition to instituting reform, who devised the 'Illness Deferred Loss Scheme' for the Bar, hence his particular skill and understanding in this area of litigation involving illness and injury compensation in law.

Barristers are extremely reticent professionals and it is extremely 'bad form' to, in any manner, even appear to self-promote.

Nevertheless, even the briefest insight into the extra-curricular activities of Mr.J.M.Copplestone-Bruce (a former Captain in the British Army) paints the picture of a consummate professional who was not only a high performing Personal Injury Barrister, indeed the highest performer at one point in the UK, but who also won literary prizes whilst advising the governments of New Zealand, Ireland, and the UK.

Activities which simply confirm that he is a unique person who is passionate in his belief in the British judicial system and its essential and timeless dispensation of fair play as he sees it.

It is for that reason that he provides pro bono services to the Bugler and disabled Fire Service Veterans because of his trenchant views on the need for integrity and fair play in this issue particularly when it involves the UK Government's 'contract' with it Firefighters.

When Barristers with a life times experience of the Law sit down to write an Opinion or opinions on a particular aspect of the law, they do so, with a profound understanding of how the law is usually constructed by Parliamentary drafters.

This reflects the training they have received from day one long before they are ever called to the Bar. This grounding called pupillage during which their work, particularly when drafting Opinions for those who have already been called to the Bar, is vigorously overseen by stern, though at times, kindly mentors.

They learn to write in a particular style using age old nuances and subtleties which is rather akin to using another specialist language but based on the 'meanings of words' case laws.

No one finds it at all unusual when software writers use 'Basic', 'Java Script', or other code languages the point being that unless one is trained in the Law and its language it is all rather strange, nay 'foreign', to the layman's mind.

The Bugler has on occasion encouraged our *pro bono* Barrister J.M.C-B to write it all in plain English please!

But after the explanation that such a 'version' could not possibly be constructed using the Law as a foundation and would simply be just another lay 'opinion' (with a lower case 'o') we must be content to struggle over every word and nuance secure in the knowledge that when Barristers and Judges meet in joust at least the language they have in common is, for them, quite straight forward.

Nevertheless as the mists of nuance and subtleties clear and understanding gradually dawns the brilliance of Mr.J.M.Copplestone-Bruce's work and its ultimate simplicity eventually shines through.

The Bugler reminds Readers of the existence of 6 Opinions (No Less) on the law which lies at the heart of this dispute. Go Here.

The Conundrum ~ What is an APP & a B1?

Under Statutory Instrument No:129, Rules B3, G1, A7 what *is* an APP (Average Pensionable Pay)?

Using the above Rules the first question is how does one work out what an APP would have been *from* his/her current point in time and date of compulsory medical discharge ~ the last day of service, *to the time and date in service if* an FSV *had remained* in Service fit and well ?

The simple answer is that you do not; but the Statutory Instrument; the expert Commentary; and the Bugler makes provision for you to do it accurately and legally correct for yourself.

No one, particularly government actuaries (called scientific mathematical actuaries) can possibly crystal ball gaze what Rank to Pay Scales might be in use years hence; it is simply impossible, or imponderable. So in simplicity and logic they rightly decided to *use the existing Rank to Pay Scales actually in use* at the time of the Firefighter's compulsory medical discharge, on the last day of his/her Service, Go Here.

However, if FSVs had remained fit and well, this would have resulted in a much higher APP at the end of their voluntary retirement or at compulsory retirement (last day of Service) which is the end of their Service (rank related) at the age of 55, or 60, because all Pay Scales increase with Rank, time, and/or, promotion; but irrefutably the recipients of an enhanced Rule B3 ill-health pension will *never* have completed their Service and thus they are to be compensated.

As a consequence therefore they have suffered financial losses and future earnings and as we shall see later, perhaps in addition promotional losses, which always translates into income in yet another example of additional financial loss.

The lawful application of a Rule B1 Ordinary Pension is straightforward and simple.

A B1 Ordinary pension can only be paid on completion of service whether that be up to 30/35 or 40 years or any voluntary time in between, after which compulsory retirement on account of age will follow.
All this means, leaving voluntarily after time served, fit and well.

The paying of a Rule B1 Ordinary pension in substitution for an enhanced Rule B3 ill-health pension, regardless of how the LCFA might describe it , is absolutely prohibited, because Rule B1 absolutely prohibits its payment to a disabled FSV who has been awarded an enhanced Rule B3 ill-health pension by the *self-same Fire & Rescue Authority,* in this case the LCFA.

A Comparator ~ Two Pension Schemes

Subject: **Research – A Layman's briefing note on two Pension Schemes.**

Descriptors: FSR-Fire Service Regulations; FSR-SI(Statutory Instrument).

PSR-Police Service Regulations;PSR-SI.

To: **Mr. J.M. Copplestone-Bruce.**

From: **Paul P Burns GIFireE. Dear J.M. Copplestone-Bruce,**

At short notice, you have asked me to provide a layman's researched briefing note on a crude comparison between the above sets of Regulations.

I have drawn on pension industry technical advisers; practising and lecturing actuaries; and Dr Ros Altmann the newly appointed Pensions Minister who as you know I have been in private dialogue with for the past several years, for up-to-date information.

I am sorry it is rather rushed, so it is not a dissertation!

1. The FSR and the PSR are 'similar'(Having a resemblance) but not the 'same'(Identical).(OED);

2. The PSR are written in a narrative form without demonstrable formulae whilst the FSR are written with both narrative and actuarial formulae being used extensively to assist pension providers in simple practice;

3. The FSR are clearly more Highlighted in pension calculation where broadly the FSR uses years, 60ths, and applied formulae in the calculation of pensions as opposed to just 60ths in the PSR.

The PSR B3 uses a 'reference' base APP whilst the FSR uses both the 'actual' APP and a 'reference' APP for calculation purposes and is therefore much more wide ranging and generous in its compensation potential than its counterpart.

4. The PSR in calculating APP is much simpler and clearly based on an April financial year where the FSR is usually based on two part year pay scales traditionally commencing in November of each year the result of the first 1977/8 National Strike. This can be tedious to calculate and errors will arise.

5. An acquired understanding of the PSR(with the exclusion of B4 Injury Awards which are identical) leads to a mind-set which will not transpose to the FSR. To attempt to do so will only lead to confusion and a lack of understanding of the FSR minutiae. So a fresh untrammelled mind-set is required.

The FSR regulates a group of public servants who have a defined purpose which is different in service delivery and risk.

6. HO Commentaries on both Pension Schemes are *insightful* as to *intent* but they still cannot replace the law . They correctly state so in the Foreword:

"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".

7.The Commentary K1-1 Para 5 provides an insight into the broad purpose of an ill- health

"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) <u>to take</u> <u>the place of a retirement pension</u>.". **(my underline).**

8. Next to a broad understanding of accrual rates.

Accrual rates can run from 1/30th to 1/120th and no one I have spoken to can be sure where the idea came from though there are suggestions that historically it *might* be the Inland Revenue.

The idea of a 60th was that it provided 2/3rds after 40 years with 2/3rds thought to be the old Inland Revenue rules with such a maximum. 80ths often comes with a lump sum of 3/80ths, an enhancement if you will.

In the past the conversion factor to change pension into cash (commutation function) was £1 of pension is worth £9 of cash). In calculation if 3/80ths of cash is taken and converted to a pension, the pension amount is 3/80 x 1/9.

If this is added to a 1/80th pension then the total pension of 1/80 + 3/80 x 1/9 which with a bit of arithmetic is, 9/720 + 3/720 = 12/720 = 1/60th.

In other words 1/60th was seen as "the same" as 1/80th pension and 3/80ths cash. Nowadays the conversion factor is much bigger than 9 so 1/60ths is seen as better.

9. These analyses are reflected in a modern setting by D. Hamilton, Technical Director at the Pensions Advisory Service who states…

"It is your pension scheme rules rather than legislation which dictate how your pension is calculated.

The situation you describe is quite common, with entitlement to a 40/60ths pension only arising at age 65, regardless of how many years the individual has spent in the scheme.

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.".

11. Following from this what is the legislative position with 1/60ths currently in both the PSR and the FSR , with emphasis on the FSR?

• Both sets of Regulations are subordinate to the Pensions Acts.
Repeated searches of the Pensions Act 1995; the Pensions Act 2004; and the Public Service Pensions Act 2013, fail to elicit any reference to the 60ths of any description.

• The 1973 FSR-SI categorically states that an ill health pension is limited, or if you like, 'capped' at 40/60ths.

• The 1987 PSR-SI categorically states that an ill health pension is 'capped' at 40/60ths.

• The 1992 FSR-SI does not categorically state a 'cap' or limitation of 40/60ths to any pension or formulae throughout its main text.

However, in the entire FSR-SI there is only one direct reference to a 40/60ths 'cap' of a Short Service or ill-Health pension which is contained in (Sorry the lead in is tortuous), Schedule 11 (Page Substitution); Special Cases; Part IV; Rule J6; Modification For Persons Serving On 10th July 1956; Page 82;Para 17 'For Parts I to III of Schedule 2 substitute…Part I and Part II.

I am not a Special Case and I was not serving on 10th July 1956 and thus these substitute Pages and their content do not apply to my circumstances and I doubt to many others by now.

Nevertheless this is the only non-relevant quote in the *entire SI.* A statutory 'cap' is not stated in Rules B1-B5. Nor, most specifically, in the ill-health or notional retirement pension formulae.

• The 1992 FSR-Commentary does indeed refer to 40/60ths but this is clearly coupled(twice) to the statement of … " what you could have earned (if you had not been injured)" within the context of a compulsory age/time served discharge, Rule B1 pension.

• The 2006 FSR-SI Explanatory Note, Page 71, Paragraph (g) states:…

"pension will accrue at 1/60th per year. A firefighter member will be able to accrue more than 40 years' pensionable service;"

Logically to allow this accrual must then inevitably allow the payment of a pension above any 40/60ths 'cap' which in any event is not stated in this SI either?

12. Rounding up broadly on the 60ths issue.

The Fire Service, over time, has clearly moved from the 1973, 40/60ths 'cap' to a position in the 1992 Scheme where there is no Statute limitation or 'cap' on a pension except by formula; to a position in 2006 Scheme where accrual over 40 years of service is encouraged with the result that future pensions above 40/60ths will be paid without demur.

13. Next a closer look at the operation of the 1992 Scheme in respect of supposed existence of a 40/60ths 'cap'.

• The B1 'Ordinary' formula *always* calculates out to 40/60ths but there is no statutory 40/60ths stated 'cap' for this position in the SI.

• The FSR Rule B3 (Paragraph 4) formula consisting of 3 elements and is constructed as follows(Reading left to right)

o The first *enhancement* element calculates *up to* 7/60ths for long(er) service; plus,

o The second core element calculates *up to* 20/60ths for the first 20 years of service; plus,

o The third core element calculates *up to* 20/60ths for the second 20 years of service: plus,

Mathematically this formula can add up to a maximum of 47/60ths, or, 40/60ths + enhancement.

Finally, when added together this produces an ill-health pension calculation but there is no statutorily stated 'cap' of this ill health formula, and to then, on a whim, apply such a 40/60ths 'cap' would be mathematically and legislatively absurd.

14. Next to the 'Notional' or 'Hypothetical' retirement pension.

In the PSR-SI there is no reference to a 'Notional Retirement Pension' but instead it refers to a 'hypothetical' pension in a narrative which *specifically states a 'cap'* is applied to this 'hypothetical' pension at 40/60ths.

15. In the FSR-SI, a 'Notional Retirement Pension' is specifically referred to in Rule B3 (Para 5) and a formula for its calculation is provided in Rule B5 (Para (2)).

It is actuarially constructed in a different manner. It is mathematically possible to calculate to 40/60ths but there is no statutorily stated 'cap' to 40/60ths of this Notional Retirement Pension formulae and for it to be then whimsically applied would also be mathematically and legislatively absurd.

16. The FSR-SI makes provision at Rule L4(3) that where there are two contending 'amounts'(pensions) the 'greater' is always This is Rule is applied within Rule B3. There is no such provision in the PSR-SI.

17. No doubt a defence which will eventually be arrived at by any potential adversary that the Rule B3 formula exceeds 40/60ths, so let us deal with that.

Recently an Actuarial Science Lecturer at Manchester University(a recent 30 year actuary practicing in the real world) after studying the formulae in SI129 commented that it was not at all unusual in negotiating for a new pension Scheme for the employers to recognise, by enhancement, a particular type of award and it was his conclusion that the 7/60th *enhancement* element was just such recognition of service.

However, he also added a caveat, that Actuaries are also human and that from time to time anomalous errors in formulae in legislation may occur though are rarely picked up, but nevertheless, unless legislatively corrected, the law is the law.

18. So let us deal with the history of 1992 N;129 which is the pertinent law.

According to the records of the House of Commons Librarian, in supplying supporting documents, this Bill(Order) which led to the enactment of the 1992 Firemen's Pension Scheme Order, Statutory Instrument 1992 No.129 was laid 'on the table' under the 'affirmative resolution procedure' on the 7th February 1992 . This meant that, unless an objection is raised to it, the Bill is not debated either in Committee, or on the floor of the House of Commons – its passage is a formality.

This Bill was authorised by Parliament as an Order and enacted on the 1st March 1992.

This according to the Librarian was not at all unusual because all parties must have been in agreement.

There has been no retrospective amendment to the SI to both identify and/or correct(if it needed correction) any supposed anomalies in the SI.

Right or wrong, fair or unfair, the fact of the matter is that this is the law and, is the law, is the law….

Paul P Burns GIFireE 15th May 2015.

Fraud by the DCLG/Home Office and FRS

The DCLG/Home Office-Fire Authorities regularly use the secret Fire Finance (intra) Network to share sensitive information, including pension information.

But they are never prepared to share this information with currently serving, or retired Fire Service Veterans because they are collectively engaged in a scandalous and nationwide fraud of their disabled Firefighters, a deceitful action, which helps to directly fund their FRS.

Given all the stonewalling, obfuscation, and deceit there is little doubt that the DCLG/Home Office Firefighters Pension Team, Lancashire Combined Fire Authority, and other FRS know *all about these 'errors' and the financial consequences for them* and by

This Bill was introduced by Sir John Major's Conservative Government, but Major himself was a man for the People.

This was a 'no-contest' Bill/Statutory Instrument which, with the agreement of all parties to the negotiations, was at the *draft Bill pre-printing stage* 'laid on the table' of the House of Commons Library on the 7th February 1992 with the intention that 22 days later it would come into force and be recorded on the Statute Book on the 1st March 1992.

The purpose also allowed last minute amendments by all the parties involved, indeed Hansard reports so.

Last minute opportunism, at this point, by the Government of the day in these circumstances is not unknown to politicians who maintain vigilance until the printed version is published,

keeping quiet about this scandal hope that it will all go away, but it will not.

Because they are saving money and enhancing their budgets by stealing it from those disabled in Service, those least able to fight for themselves, and then compulsorily discharging them after having used them; cast them aside, whilst praising them at the time as so called 'Heroes'.

By knowing and keeping quiet about these 'errors', and failing to correct them, FRS Authorities are deliberately and fraudulently underpaying their disabled FSVs and their Beneficiaries.

But because they know and are not prepared to do anything about it, each person, each staff member involved, is engaged in culpable criminal fraud, and if this is a fair and equitable country, for the many not the few, then they should be identified and prosecuted to the full rigour of the law.

But is there more to all this than meets the eye?

Since bringing this pension issue before the judiciary in both Ireland and England common ground has emerged from those Judges who have looked at this case.

It was encapsulated by Lord Justice Sir Timothy Fancourt expressing puzzlement when he commented that Rule B3 Paragraph 5 … "took some reading".

The problem is that Paragraph 5, in bizarre absurdity, runs completely contradictory to the obvious intent of Rule B3 Paragraph 4 which was, and is, to pay compensation to a disabled Firefighter for his/her lost career and future earnings.

Commentary B3-1 'Points To Note' Paragraph 1., … *"This is because an ill-health pension is meant to compensate you for having to retire for medical reasons when you would not otherwise have done so."*.

The intent of Paragraph 5 is to perversely neuter, or emasculate, the clear purpose of Paragraph 4, which is compensatory, ignoring any other consideration in law.

However, the LCFA insist in paying an absurd basic Rule B1 Ordinary pension to a Rule B3 compulsorily discharged ill-Health/disabled Firefighter as though he/she had left voluntarily fit and well ?

The FRS knew from the inception of the 1992 Statutory Instrument exactly what they were doing and why Paragraph 5 was there for their malignant misuse.

The question arises how could the FRS's in criminal complicity with the DCLG/Home Office Firefighters Pension Team(FTP) have achieved this goal and was it practically possible given the usual intensive scrutiny any Bill is subjected to at all its three House of Commons Readings stages?

As we now know from inadvertently released emails between the LCFA and the FPT, both the LCFA and the but it is unusual to do so if it has been unilaterally agreed that the draft Bill be 'laid on the table'.

Indeed it is a criminal and an appalling breach of Parliamentary trust to act otherwise.

Examination of an original copy of the SI provides some interesting observations set against the Bugler's 30 years' experience with the printing trade whilst commercially authoring and producing his own publications.

This SI consisted of 44 double sided printed leaves.

There would be the expectation that these leaves would be grouped into manageable sub-leaf sizes for initial binding leading to final assembly binding by the binding section or sub-contractor.

In this case the 44 leaves were not subdivided but were simply stacked one on the other with the last double sided leaf uppermost consisting of Pages 43-46 (which included all the formulae and significantly Paragraph 5 which was in effect the last leaf/pages to be inserted in the SI print plates before the presses are run and before final binding.

It is extremely unlikely that the printer, HMSO, would be involved in any subterfuge but the printer/binder would react in print/binding planning, just in case, if he was aware that there was a possibility of a last minute amendment to Pages 43-46 by its 'owner' the CLG/Home Office FPT, by planning the binding to set aside that leaf (4xpages) to the last moment before running the presses.

And indeed that was the case because unusually the SI of 88 pages of content was simply centrally stapled through all pages including 44-45 in which rests, on the latter, Paragraph 5.

At the precursor stage of the print run, physically amending a document at this late pre-print stage is an extremely simple process even in 1992 because this was not 4 colour artwork which the Bugler regularly produced for his books, but one colour, black(K)-on-white.

Even using the most basic technology at HMSO (as it was) to substitute/amend a page would hardly raise an eyebrow at the printers because in legislative printing late revisions were, and are, endemic.

Thus inserting a new 'alternate' Paragraph 5 in a fraudulent subterfuge, at the instigation of the DCLG/Home Office/FPT/Employers, was also not unknown, the FPT having established 'form' in this, and the final draft document, in their 'possession', to do it.

It was a reasonable gamble by this criminal cohort, set against the anticipated expenditure to be saved in compensation that any unrecorded amendment would not be picked up by either an alert involved politician, or the Firefighters' representative bodies.

Trust had been established with all parties and was there to be abused, and it was.

Unfortunately for the criminals involved the hastily drafted Paragraph 5 contained the literary seeds of its own destruction as we shall see later.

FTP have 'form' in duplicity stretching to criminality.

But what were the mechanics of how this gross breach of negotiating trust could be achieved by both the FTP and their complicit partners in crime the Firefighters Employers ?

It starts with a simple a question at law.

Why is Paragraph 5 *in* the SI No: 129 in the first place? It is such an absurd contradiction.

Who put it there ? Why was it put there? And what purpose and whose benefit was it to serve?

Because it was not put there to serve Justice or Fair Play nor for the benefit of disabled Firefighters and their Beneficiaries.

This is in fact the Point of Law at issue in this case, Paragraph 5.

Not the fact that FRS's are paying disabled Firefighters a deliberately fraudulent pension; nor come to that, legal eagles playing with the 'meanings of words' ?

But it succeeded from 1992 until tripped over in 2011 in saving the governments/employers considerable expenditure in disablement compensation running into £Billions.

The Bugler has little doubt that had the two junior Judges been given the opportunity to explore Paragraph 5 they could well have arrived at the same bizarre absurdity in law which it presented then, and now, and to then ask the obvious questions to assuage their puzzlement and curiosity.

There is a simple question.

What is Paragraph 5's function in Rule B3 if not to save the Government/FPT/Employers compensation expenditure ?

Please explain the legitamet alternative for its presence?

It is a pity these poor Judges were not permitted to satisfy their curiosity or solve the puzzle, by their Master of the Rolls.

Finally, was the retired Master of the Rolls aware of the implications of what he was actually being asked to do, or was he simply gulled, and eager to repay his original appointment debts? What a fool…

The Law and The Logic

This sub chapter starts with a simple Point~of~Law Question to the LCFA:

"You are paying us a Rule B1 Ordinary pension instead of a Rule B3 ill-health pension which *you* decided to award us… Why is this?".

The applicable law is Statutory Instrument 1992 SI No:129. This complex law was not, and is not, a well written or constructed Instrument to correctly deliver pensions *to those whom it was meant to serve*.

There is clear evidence of a number of government mathematical actuaries working on drafting this document which became SI No:129. It was not the government actuaries' finest hour.

This multi authored SI at key points lacks detail in law; in logic; and 'afterthought' expert commentary is littered about under different loosely associated, hard to find, other Rules/Commentary especially where the Statute is 'silent' on how a 'pension provider' should proceed from a given point.

Paragraph 5 in Rule B3 is a prime example of poor construction and drafting, however there are others.

Multi authoring always gives rise to numerous errors which in this case went unchallenged through the trusting ignorance of the Firefighters whom Fire Authorities willingly and knowingly exploited to massage their budgets; though it was, and remains, fraudulence on a grand scale.

It is also important to recap and reprisé events involving the High Court Judiciary and their failure to find, read, and logically interpret all the relevant law and actuarial expertise, especially from those who wrote SI 129 which an annual throw), a publication which is not the law either, but is regularly cited for its expert knowledge. It would be useful to know how this commercial publication differs from the Home Office Commentary in its overall concept?

This essential pragmatic expert Commentary was designed for those implementing the law (it states so) and particularly for those who lack knowledge in the field of Statutory pension law; in this instance Junior High Court Judges who had no discernible pension law experience, nor did they claim so, but who attempted to operate outside their normal discipline without any competency level.

These professional flaws led these Judges to misdirect themselves but this was all set against the overarching context of instructions which they were given by the then Master of the Rolls who abandoned his Judicial Oath *to serve the Government* for favours rendered in his appointment in 2016; a 'burning of bridges' as he served out his time.

In this conflicting atmosphere of lack of competency in the discipline, divided loyalties, and personal morality, and in an attempt to comply with any innate sense of Justice they might possess, Falk LJ endeavoured to change her independent mind and steer a course towards Justice.

But she was immediately and extraordinarily removed from this case; it is hard to imagine her professional mortification.

However, Sir Timothy Fancourt LJ having seen the 'price to be paid' had no qualms of either Justice or morality and simply decided it was easier just to say 'No' to the Appellant and though he may well have made a good point or two, overall he made a complete mess of it.

they collated into the 1992 Home Office Commentary which, though not the law per se, presented and highlighted expert critical 'bridging' information for those who were tasked with implementing the law, especially when on numerous critical occasions, the Statute law falls 'silent'.

It is interesting to note that while Fancourt LJ is dismissive of the ' Commentary' in that it is not the law, he would not hesitate to rush for his copy of 'The White Book' (at £700 a

Both Judges highlighted their personal discomfort. At one point Falk LJ stated in frustration that … "*it doesn't make sense*" and she was right albeit it for the wrong reasons; and in another by Fancourt LJ in honest candour who stated that Paragraph 5 … "*took some reading*".

It does indeed but only if they were allowed to do their honest work rather than carry out the dictats of a Master of the Rolls serving two masters.

Rule B3 ~ Its Provisions

The Statutory References for that which follows is Page 44+ in SI.No:129, Go Here.
But to assist readability the relevant law is also reproduced in the narrative.

The Function and Construction of Rule B3 .

The simple Question is what is the overarching legislative Role and Application of Rule B3 and its Provisions?

- It is to provide enhanced financial compensation to a disabled Firefighter who has lost his/her employment and his/her career by reason of ill-health; and/or, through an in-Service no-fault 'qualifying' injury;
- A principle of law states a disabled Firefighter cannot be over compensated more than s/he would have lost. The Rule B3 Paragraph 4 formula applies limits by time served, to either 35 or 40 years service (Rank related), and to what the disabled Firefighter could /would have lost in terms of income, including career(promotion);
- A Rule B4 Injury pension is paid for pain, suffering, and 'loss of amenity' and is calculated directly from a Rule B3 pension so by using the Rule B4 dedicated formulae this extends the compensation limit already set by Rule B3;
- However, if the Courts decided that the LCFA were fully aware of what they were doing in defrauding the disabled Firefighters and their Beneficiaries then the Court have the power under Common Law to award damages to them, exemplary damages, upon which no limit is set;
- It is common ground that the LCFA took a HR decision based on medical opinion and SI 129 to permanently and compulsorily terminate disabled FSV~FMG's Service by awarding him a Rule B3 ill-health/disablement enhanced Pension; and to award a consequential Rule B4 Injury pension (calculated from a Rule B3 Pension);
- The purposes of an enhanced B3 ill-health pension are to financially compensate a disabled Firefighter for loss of income and career. This is referred to in Rule K and more specifically by expert commentary in the Home Office Commentary, Page K1-1, POINTS TO NOTE, 5 & a. :

> **5.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.**
>
> **That is why:**
> **a. once you have reached the age at which you could have retired with a pension:**
> **– your ill-health pension may no longer be cancelled.**

- The word 'career' *always* translates into 'income';
- An enhanced Rule B3 ill-health Pension *cannot* therefore be confused with, either by accidental or maladroit application, a B1 Ordinary pension, where there has been no injury; no financial loss including earnings; and no loss of career.
- It is common ground, which Fancourt LJ in his Judgment confirmed that, … '*Mr G is entitled to an ill-health award and not an ordinary pension.*'… So why then does he end up with one?

The Function and Construction of B3 Paragraph 4 .

Next the Bugler looks at Rule B3, Paragraph 4 *formulae (two),* which stands on its own merit, its provisions, and their application *within* the framework of Rule B3.

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

$$\frac{20xA}{60}$$

and-

$$\frac{7xA}{60} + \frac{AxD}{60} + \frac{2xAxE}{60}$$

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.

N.B. 'A', which it does not explain, is a person's APP (Average Pensionable Pay) calculated to the last day of Service.

Using disabled FSV~FMG career (cut short) APP, the two competing mathematical formulae are then calculated in sequence and in competition; this automatically identified the *larger* of the two results which was the amount resulting from the second formula calculation.

The design of this larger (second) mathematical formula consists of 3 co-joined parts (identified by the '+'sign) thus :

- **The first part identifies 'ill-health enhancement' which provides 7/60ths (a national agreement) to reflect his Service being compulsorily terminated by the 'awarding' of an enhanced B3 ill-health/disablement pension;**
- **The second part reflects his accrued pension earned at the rate of 1/60ths per served year up to and including the 20th year;**
- **The third part reflects his accrued pension earned at the rate of 2/60ths per year above 20 year's Service up to a maximum (which is rank related) of 35 years, or 40 year's Service for which pension contributions were paid or envisaged;**
- **An enhanced B3 ill-health/disablement pension can range from 01/60ths up to 67/60ths dependent on the time in Service; *all* concluding at the point of compulsory termination, namely the last day of Service;**
- **In this example disabled FSV~FMG was entitled, when his employment was compulsorily terminated, to a 59/60ths pension; this consisted of the 7/60ths 'ill-health/disablement enhancement' (at this stage *the only compensation)*, because the remaining 52/60ths consisted of his accrued pension for which he had already paid contributions;**
- **Paragraph 4 provides the only tripartite formula in the Statutory Instrument with which an enhanced B3 ill-health/disablement pension can be correctly calculated.**
  It is the Law, Common Law, common ground, and mathematical logic that this formula cannot be applied to a 'notional' B1 Ordinary pension.
- **Rule B3 is subject to Parts VII (Deferred Pension) and VIII (Pension reduction at State Pension age); the Deferred Pension cannot be applied, and Pension reduction can only be applied at State Pension age much later in the life of the pension, but wrongly, in some cases, deducted by the LCFA at pension inception on day one.**
- **"Paragraphs 3 and 4 have effect subject to Paragraph 5" which, in the latter case, cannot take effect because the 'notional' parameters to give it effect(make it work) did not actually occur. This was because of earlier, compromising, Statutory decisions by the LCFA; the egg follows the hen.**

The Function and The Construction of Rule B3 Paragraph 5 .

Whilst we all might wish that Paragraph 5 was not included in the Statutory Instrument Rule B3; nevertheless as commented in the sub-chapter on Government/Employers fraud above there it is by hook and by crook, well mostly by crook , and the Bugler must deal with it.

In the Government/Employers' haste to surreptitiously add Paragraph 5 to the S.I., they did an extremely hasty incompetent drafting job, most criminals do. In fact not only does Paragraph 5 stick out like a sore thumb it rather usefully came with its own built in self destruct button as we shall see.

In reality Paragraph 5 is in practice a self-defeating hypothesis; a theory; a notion.

Its implementation is conditional and subject to satisfying its fulfilment in law by the use of two co-joined key elements (which have to exist to make it work); applied legal principle; logic; and following the golden rule that all words in law have meaning particularly like, "and".

Paragraph 5 exists in the Land of Legal Absurdities where it is not to be found within the non-law, 'The White Book'.

This stultum, according to the LCFA, allows them to substitute a B1 Ordinary non-compensating pension for a B3 ill-health/disablement compensating pension, thus at an absurd stroke eliminating the irksome Rule B3 ill-health/disablement compensating pension which they had awarded in the first place; a Rule B3 pension which requires them to pay compensation to a Firefighter for a no fault loss of his/her career.

This 'notion' is based on two hypothetical co-joined elements in Paragraph 5 namely sub-paragraphs (a) *and* (b), meaning you cannot use one without having the other, which is clearly confirmed by the use of the legal word *'and'* between these two sub-paragraphs.

This sleight of hand Paragraph 5 'notion' is illusory, existing as it does, outside the remit of Rule B3, the purpose of which is to pay full compensation, and this 'notion' is based on a hypothetical Rule B1 'notional retirement pension' which does not exist in either Law; mathematical logic; nor reality because the parameters in this particular case of ill-Health/disablement to make it function do not exist either.

Disabled FSV~FMG *did not continue to serve* because of the Statutory decisions of the LCFA to compulsorily discharge him on his last day of Service, *they decided*…

> **5.-(l) 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.**

Sub-paragraph (a) theorises that (based on parameters which are speculative) a Rule B1 Ordinary pension would have been paid at the completion of Service, fit and well. This is the Law and common ground, but has no relevance to a contractual LCFA Statue awarded enhanced B3 ill-Health/disablement pension; a pension which the LCFA had already awarded; and in force by a Statutory decision of the LCFA. Once more the egg follows the hen.

AND (please note *the* '*and'*),

Sub-paragraph (b) hypothesizes that this LCFA enhanced B3 ill-Health/disablement formula calculation, can then be compared with a substituted, uncalculated, imaginary, Rule B1 Ordinary 'notional retirement pension' to be provided in the future at the completion of Service fit and well. The absence of mathematical logic, or any logic, is inescapable.

In its construction these two co-joined hypothetical sub-paragraphs use the words *'if'* ~ a supposition; *'and'* ~ to be taken jointly, which means sub-paragraph (a) cannot be used without sub-paragraph (b); *'notional'* ~ does not exist in reality or logic.

The full current Oxford English Dictionary verbatim definitions are:

> ***'Where'*…**OED (interrogative adverb);*'While it is possible to see where this argument is leading, it makes little sense.'*
>
> **'*if*'… OED; (introducing a conditional clause) *on the condition or supposition that; in the event that;***
>
> **'*and*'…OED; *Used to connect words of the same part of speech, clauses, or sentences, that are to be taken jointly;***
>
> ***'notional'*… OED; *Existing as or based on a suggestion, estimate, or theory; not existing in reality;***

It is postulated, in this theory, using these two conjoined sub-paragraphs (*'to be taken jointly'*) that *'if'* (*'in the event, supposition'*) disabled FSV~FMG had continued to serve until he could have retired on account of his age, he would have become entitled to an Ordinary or Short Service pension; this *is* the Law, but it is on irrelevant common ground.

Furthermore, that this *is* an hypothesis is confirmed by the use of the word '*notional*' in the description of disabled FSV~FMG speculated hypothetical Rule B1 Ordinary pension as "the notional retirement pension", a pension which cannot exist in reality or logic because by an *ab initio* (from the beginning) Statutory decision of the LCFA, disabled FSV~FMG *did not complete his Service*.

The next *absurdum quaestio* is how is this hypothetical Rule B1 Ordinary '*notional retirement pension*' to be calculated years hence (on completion of Service) to allow it to be compared with an *actual* B3 ill-health/disablement pension calculation which has already been produced under Paragraph 4 on disabled FSV~FMG's *before* his last day of Service?

The Statute is 'silent' on how this theoretical calculation is to be achieved; nor is any expert commentary in the H.O. Commentary propounded to fill this silence?

To attempt to take this 'notional retirement pension' calculation to the point whereby it might be capable of being compared with an actual B3 ill-health/disablement pension, thus taking this theory to exhaustive absurdity, it may be usefully illustrative to look at another hypothetical situation.

A Probationer Firefighter entering operational Service after 12 weeks intensive 24/7 training could on his/her first day of operations be exposed to a cytotoxic substance which will rapidly cause a terminal illness, or s/he could simply have been very seriously injured at a farm barn fire by an exploding gas cylinder.

Let us assume that both incidents would require compulsory termination of Service of a Probationer Firefighter of *unknown career potential* under Rule B3.

This compulsory discharged hypothetical Probationer Firefighter could have served 40 years and achieved the Rank of Chief Fire Officer (who were Members of the '92 Scheme) all things being equal.

In the first instance his/her B3 ill health/disablement pension would have been calculated under Paragraph 4 having earned 8/60ths and based on his/her APP on the last day of Service *as a Probationary Firefighter*.

In the second instance to satisfy Paragraph 5 (1) and having assumed no injury; no financial loss of earnings ;and no loss of career/promotion this would have to be calculated as his/her Rule B1 Ordinary pension having earned 67/60ths based on his/her projected APP as a Chief Fire Officer having served 39 years + , but how this earnings projection, which in any event would as a Rule B1 Ordinary pension be limited to 2/3rds, is to be achieved is beyond the scope of this fiction.

But if this was achievable, this calculation even in hypotheses, this would far outstrip the calculation made under Paragraph 4. In other words the 'Notional Retirement Pension' would be greater than Paragraph 4, then what?
Once more the SI is silent on this, and silence is taken in law to be acquiescence so, pursuant to 1992 SI 192 Rule L4(3), the *greater* amount is paid.

Accordingly following the LCFA 'logic and law' Paragraph 5 (1) would have to be paid as his/her 'retirement pension' from the first day it was put into payment on his actual last day of Service decades before; quite an enormous compensation as it would be; but then as we know, the LCFA prefers is own 'Law'.

Fancourt LJ states in support in his Judgment (AJ 18), *"It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service"*.

Yes indeed, but which year and how is this to be achieved 39 years hence since this disabled Firefighter has already been compulsorily discharged with a different enhanced compensatory disablement pension decades before?

In summary an enhanced Rule B3 ill-health/disablement Pension *cannot* therefore be confused with, either by accidental or maladroit application, a Rule B1 Ordinary pension, where there has been no injury; no financial loss including earnings; and no loss of career.

To advance from hypotheses/theory/supposition/speculation/notion/implausible fiction to the established fact; it is an irrefutable fact that disabled FSV~FMG did not continue to serve due to an early decision of the LCFA who absolutely and compulsorily terminated his Service by issuing him with an enhanced B3 ill-Health/disablement pension in 1998; his discharge document states so.

The LCFA by Statutory authority issued disabled FSV~FMG with an enhanced Rule B3 ill-Health/disablement Pension, an action which superseded Paragraph 5 and effectively removed it from consideration, implementation, or any other legal consequence, to whit he did not continue to serve.

In addition *both* conjoined sub-para (a) AND sub-para (b) jointly have to be legally satisfied/engaged/happen before Paragraph 5 can be activated. In this case sub-para (a) has been compromised permanently by the prior LCFA Statutory decision to compulsorily discharge disabled FSV-FMG and thus Paragraph 5 can never be implemented.

In this case Paragraph 5 is a self-defeating hypotheses because if ever the circumstances could prevail, or be identified to allow its implementation this would presuppose that an enhanced Rule B3 ill-Health/disablement pension in commission could be compared with a speculative Rule B1 Ordinary pension which did not exist in reality as hypothesised by Paragraph 5.

If this was so, this would lead to a further series of interlinked legal absurdities.

For this to have the logic to work in the first place it has to be imagined a Firefighter could hold 2 pensions, one while disabled the other while fit and well so they could be compared; and secondly regardless of what legal provisions there are to provide a variety of pensions in this Statutory Instrument the LCFA hypotheses are, and currently in unlawful practice is, that 'one Rule fits all' namely a Rule B1 Ordinary pension; and thus Rule B3 by this absurd notion and the

LCFA action serves no legislative purposes and has no legal effect which is an extraordinary absurdity repugnant to the existing Statute law.

The LCFA in spite of contradicting its own Statutory decision to award disabled FSV~FMG his correct Rule B3/B4 pensions then perversely decided to continue and to knowingly pay disabled FSV~FMG a Rule B1 Ordinary pension on the unlawful and legally absurd basis of the misapplication of Rule B3 Paragraph 5 as outlined above to the point of logic less irrationality.

The Bugler is unable, even by crystal ball gazing, to contemplate what the legislative purpose, other than to reduce the pension bill which in its 'legal' process emasculates Rule B3, was to be served by the insertion of the hypotheses of Paragraph 5 into Rule B3 when under Paragraph 4 the formula had already been provided to calculate all Rule B3 'notional' pensions and finally decided using Rule L4 (3), if necessary. The tools were already there.

Finally, Rule B3 falls 'silent' at this point and in the absence of any other expert commentary from the H.O. Commentary to the contrary, and silence in law being acquiescence, simple logic dictates that disabled FSV~FMG's 'notional pensions' should continue to be calculated using the Paragraph 4 formulaic convention supported by the expert Commentary using the, 'purposes of Rule B3', as contained in the expert Home Office Commentary K1-1, stated above and the comments on the use of the words 'notional pensions' in the next sub-chapter.

Finally, to follow this law of 'silence' to the point of obsession what happens if the 'Notional Retirement Pension' calculation is greater that Paragraph 4 ?

The SI is silent on this eventuality also and silence being acquiescence, the *'greater'* is paid pursuant to 1992 SI 192 Rule L4(3).

Calculating disabled FSV~FMG ~ 'Notional' Pensions

The words 'notional' and 'notional pension' are not confined to singular use in Rule B3 within the SI.

At Pt VI, at paragraph 1.–(2) is the wording "In paragraph 2, A is the person's average pensionable pay" in defining the basis of calculation of the 'notional pension' to have effect *subject to parts VII and VIII (plural)* of the Schedule.

Clearly the parliamentary draftsmen were not unmindful of being able to specify the calculation of a 'notional pension' for different purposes, and have used the language with precision to illustrate this and by doing so have provided intrinsic evidence of other usage. Indeed the word 'notional' is used 22 times in the SI.

By using different language to specify the calculation of a 'notional pension' it can only be concluded that the actuarial draftsmen intended other different means and uses for these words, other than a singular application within Rule B3.

Accordingly three 'notional' pensions are next to be calculated and evaluated whilst considering the applied criterion and purpose of each 'notional retirement pension' in sequence until the 'retirement pension' is decided by law and self elimination, and is paid.

The Courts are the final arbitrators but the LCFA, in the interim, holds the Statutory authority to determine what the pension paid is to be and thus what the consequential compensation is to be.

The triple calculations which follow this may lead, if necessary, to the use of Rule L4(3) which states:

> **(3) Subject to paragraph (4), where this rule applies only one of the pensions or allowances shall be paid in respect of the period in question; if they are for the time being unequal in amount, the one to be paid is the largest of them.**

Producing the *First* calculation which produces the *First* 'notional'(theoretical) retirement Pension:

A Firefighter's enhanced pension can range from 1/60ths up to 67/60ths dependent on the time served.

As indicated above using B3 Paragraph 4 ill-health/disablement *formula (the larger)* disabled FSV~FMG's first notional compulsory retirement pension is calculated on his actual APP and actual Rank but this data contains no case specific compensation.

The APP uses disabled FSV~FMG's Rank and Pay Scales in force in the year he was compulsorily medically discharged using his last day of Service based on the 1/60ths and/or 2/60ths of his accrued pension at that point.

In this example disabled FSV~FMG when compulsorily discharged was entitled to a 59/60ths retirement pension.

The only part which could be construed as compensating is the 'ill-health enhancement' of 7/60ths, but this is non case specific because it was a national agreement gratuity for those compulsorily discharged on ill-health.

The remaining 52/60ths consisted of his accrued pension from his Service which he had paid contributions towards.

Producing the *Second* calculation which produces the *Second* 'notional'(theoretical) retirement Pension:

The second calculation, once more based on the Paragraph 4 formula, again uses disabled FSV~FMG actual APP and his existing Rank but the data now includes:

> **The expert H.O. Commentary B3-2 … 'or what could have been earned by compulsory retirement age'…**

and again,

> **The expert H.O. Commentary B3-3 Paragraph (2)…'or what you could have earned by your compulsory retirement age'…**

which in this case is his 40th year of Service.

In effect using the same formula he counts his Service, *above* his 20 years of Service, accruing at the rate of 2/60ths per year, up to the point of his 40th year of Service. Pension Contributions up to the point of compulsory discharge had been paid, or envisaged.

This is in fact the first recognition of compensation for his loss of career, future earnings, and income.

Producing the *Third* calculation which produces the *Third* 'notional'(theoretical) retirement Pension:

This is based on a 'notional' promoted Rank to Pay Scale which he 'could' have 'earned' had he not been injured and compulsorily retired on ill-health.

This third calculation is also based on the Paragraph 4 formula, but does not use disabled FSV~FMG *actual* APP, but *a envisaged new 'notional'* APP based on the meanings of words as contained in Rule B3 .

If a Firefighter believed in the 'Lost Career Years' that s/he 'could' reasonably have advanced in Rank ~ a Qualified Firefighter is Rank as defined under the Cunningham Inquiry ~ this is a right included in the expert commentary 'H.O. Commentary Page K1-1, POINTS TO NOTE, 5 & 5 a ', and in Common Law.

Then this "notional" Rank (the 'idea' of the Rank s/he believed they 'could' have achieved) is used in a ' notional' calculation *"by reference to"* , the actual Rank to Pay Scales in force at the time of his/her compulsory medical discharge on the last day of Service, only this time contemplating a 'what if' factor; what if s/he had not been injured and had been able to serve to age 55 or 60 (rank related) and in the process gaining further promotion?

N.B. The meanings of words…*"By reference to"*… are words that do not mean…*"is"*…and vice versa; this is a matter of the use of plain OED English language and follows complete logic.

This is full recognition of compensation provided for in Rule B3 and in the case of disabled FSV~FMG based of his annual performance related evaluations/ National Statutory qualifications etc contained in his Personal Reference File(PRF) and supported by contemporaneous senior officers personal affidavits, on what Rank disabled FSV~FMG 'could have earned' had he not been injured and compulsorily retired

Finally to Rule L4(3) which is also a tool for enhancement/compensation, which states…

> **"(3) Subject to paragraph (4), where this rule applies only one of the pensions or allowances shall be paid in respect of the period in question; if they are for the time being unequal in amount, the one to be paid is the largest of them." .**

Consequences and Corrections to Pay the Bill

One of the heinous consequences of this first FRS 'error' is that pension Beneficiaries of all types, from Widows to Orphans, when their pensions/payments *first* came into existence on the death of the original pension holder the Firefighter (who is already being underpaid) these Beneficiaries, received what is colloquially known as the 'Widows Half'.

Firefighter would not have risen through the Ranks right to the top?

This final element is also implicit in the statement 'what you would/could have earned' in the expert Home Office Commentary (twice no less) because it is inextricably linked with Pay Scales and Rank all of which must be factored into this calculation for enhancement as part of

Which as a consequence started and continued for decades from the position of *double* underpayment because their pensions/payments *started from the position of an incorrect initial pension payment calculation for the original pension holder.*

All of this compounding error has led to substantial underpayment because disabled FSV were already receiving pension payments which have been miscalculated since the pension was originally put in pay by the FRS at the very beginning, resulting in significant under payment, in some cases for 28+ years.

To correct this gross error the disabled FSV should now deduct their present incorrect gross pension from a new and correctly calculated enhanced pension (which they ought to have been receiving in the first place) and then the disabled FSV charges the FRS 8%+ Statutory compound interest on the balance, the overdue debt, then adding in the original principal.

Because FRSs have unjustly enriched themselves due to their 'error' over these decades and because we know they have been repeatedly informed of this 'error' since at least 2006 and failed to correct this injustice the FRSs in addition stand liable for exemplary (limitless) damages in compensation for a wilful dereliction of Statutory duty in a knowing breach of trust by avoiding paying the correct pensions to Members of their Pension Schemes, the disabled Firefighters and their Beneficiaries.

Finally, there is the question of promotion which was touched on in the calculation of disabled FSV~FMG's B3 ill-health pension.

Who is not to say, that in the XX years remaining in service, had a Firefighter completed service uninjured, that he/she would not have been promoted to this or that rank?

If the FSV had an excellent discipline record and was regularly undergoing training and studying to advance him/herself in a career he/she loved, perhaps supported by acting Ranks from time to time, who is not to say that that the 'compensation package' for a career lost through natural illness/no-fault injury.

The Bugler has published a template using the Editor's actual figures correctly recalculated to confirm all these points so that by the substitution of a disabled FSV's own Rank; time served; and career 'lost', s/he will be able to calculate just how much s/he has been, underpaid and under compensated in error by these 'experts', all these years.
Currently (December 2020) a revision in plainer English has been completed.

However, what is patently clear is that in the years ahead that the management of one's own pension is best not left to the current generation of unqualified 'experts'.

Indeed the Judiciary wisely now employ their own Actuary a Mrs Livingstone to advise them on their Pension Scheme which they attained with the support of serving and retired Firefighters.

It is time to understand one's own pension, even though it may appear complex , nay boring, it is in fact the lifeline to a well earned tranquil retirement…

Now having looked at the historical background and had a look at the brief synopsis of calculating a pension and thus enabling any Beneficiary to check their own pension benefit it is time to take a more detailed look at how this is worked through.

Please take all the time you need to study and understand and if, Dear Reader, you go glazed and hit an intellectual 'stone wall' do not be concerned this is perfectly normal.

Just back up take a breather and give it all a go again.

If there a particular point on which you are completely stonewalled then the Bugler has not explained it properly please let us know where you are stuck and your ideas how we might redraft the offending piece so it makes more sense and we will give it a go…

The Authors of Misfortune

It is common knowledge that Ms.J. Drinkall MBE the lay person clerk (Pensions Officer) at the time of the introduction of the '92 Scheme' to Lancashire held no pension management qualifications whatsoever; no legal education whatsoever; nor any qualification whatsoever to calculate or administer a Pension Scheme with over 2000 Members.

Indeed the current LCFA delegated Pension Scheme manager(Since 2002) a clerk called Warren does not either.

Nor in fact do her replacements, Mrs. D. Lister then Head of LCC Pensions and Ms.Wisdom oft quoted and credited with such competency (who falsely claims a 'degree' in pension management) by the DTPO, and junior High Courts Judges as having so.

To be fair these Judges would be incredulous to know that in keeping with millions of other potential pensioners *their own pensions* are 'managed' by unqualified clerks who indeed manage the entire Pensions Industry today and always have done. But this will change, one hopes, with the advent of Mrs. Livingstone (actuary) though as we shall see she may well be running with the hare and hounds…

All this is just a sweeping generalisation…not so… read on.

As the pension industry over the last decades has moved to centralisation and unity of huge pension funds amounting to countless £Bns of assets so the professional stature of its administrators continues to stand still.

In 2011 The Head of the LCC Pensions Service and the continuing Head of the Local Pensions Partnership Administration (LPPA) since 2016 Mrs D. Lister found herself under oath in the witness box before our old bent friend Circuit Court Judge Philip Butler.

The Litigant-in-Person the Bugler asked Mrs. D. Lister who managed 200 Lancashire Pension Schemes disbursing over £300 million annually to reprise her own and her formal pension administration qualifications. Her prompt answer, repeated, in the ensuing silence in Court, was … "None!"

Today Mrs. D Lister who with Ms. Wisdom was and is at the centre of this LFRS debacle heads up the Local Pensions Partnership Administration (LPPA) which with London Pensions Fund Authority lead the largest joint Local Authority Pension Fund in the UK worth countless £Billions and counting.

Mrs. D Lister with Ms. Wisdom continue to exhibit no discernible pension management, or any relevant qualifications.

"At LPPA, we know pensions can sometimes be confusing. That's why our new website aims to make it easier for you to find and understand the information you need to get the most from your pension.".

Offering a modern look and feel, the website has also been designed to be more user-friendly and informative. All this aims to help you get answers to your pension queries quickly, while giving you the best online experience possible.".

Recent job vacancies at LPPA specify "5 GCSE or equivalent 'desirable' including Maths and English at Grade C or above and a recognised pension administration qualification (or working towards) would be desirable.".

There are no recognised pension administration qualifications by examination in the UK; the applicant just joins and pays the subs…

Local Pensions Partnership Administration Ltd (LPPA) based at Norwest Court, Guidhall Street, Preston, PR1 3NU, is a national UK local government pensions services provider set up and launched by the London Pensions Fund Authority and Lancashire County Pension Fund in April 2016.

LPPA was established to enable public sector schemes to pool resources and improve management of their assets for the benefit of their Members and employers. It is open to all members of the Local Government Pension Scheme and public sector funds in the UK.

It had £17.4bn of assets under management in March 2019 and according to its annual report 2018/19 serves 600,000 members from 1800 different employers.

A financial disaster on a monumental scale just waiting to happen…perhaps now we know why the Pensions Minister Mr. Guy Opperman MP refuses to answer his mail from other concerned Members of Parliament .