FIRE SERVICE FROM RETIREMENT

Date of retirement 15/02/93. Retired on Injury Pension.

Informed LCFB that I was receiving Incapacity Benefit and that I had made a claim for my wife as a dependant. (This is on my PR File)

Informed LCFB that I was in receipt of additional benefit for my wife as a dependant. (This is the letter they claim not to have received)

17 Years on.

Mon 27 November. Phoned Job Centre to query Incapacity Benefit when wife becomes 60. Informed that benefit for my wife would stop when she became 60. Phoned County Hall to inform them of conversation with Jobcentre but was told no action could be taken without written confirmation from Jobcentre

Sun 10 December. My wife was 60 years old.

Wed 17 January 2007. Phoned Job Centre to request letter confirming stoppage of Benefit.

Wed 31 January 2007. Phoned Jobcentre to remind then I had still not received promised letter.

Tue 20 February 2007. Letter to Jobcentre re above.

Fri 02 March 2007. County Hall phoned reminder re confirmation of stopped benefits. Called at Gateway House (Job Centre Preston) and after much cajoling managed to obtain letter confirming stoppage of benefits. Taken by hand to County Hall and handed over to a member of Pensions staff.

Wed 27 June 2007. Pension Advice slip arrived for July. Showed no Injury benefit amounting to a loss of over £200 when I expected an increase of about £200, Phoned County Hall and spoke to Julie Wisdom regarding my pension Advice slip. She explained that they had been sent out early because of the post strike and that I should have received an explanatory letter. Over the telephone she explained that not only was the Injury Benefit being stopped but that for the last 14 years I had been paid it when I was not entitled to it amounting to a sum of **£30,164.61** which the Combined Fire Authority intended to recover commencing on 1 August at a rate of £415

Fri 29 June 2007. Letter referred to in telephone conversation Wed. 27 June arrived **(1).** On receipt of this letter I contacted a friend of mine, who works for Citizens Advice, and he advised me to write to County Hall to inform them that they had no authority to deduct any monies from my pension and to seek legal advice.

Sat 30 June 2007. Letter to County Hall. **(2)**

Wed 8 July 2007. Preliminary meeting with John Hardwick (solicitor) who is a personal friend. Advised by John to request a fully detailed reassessment of my overpayments.

Fri 10 July 2007. Letter to County Hall re meeting with solicitor. **(3)**

Fri 20 July 2007. Letter from County Hall regarding overpayment of Injury Pension (Monthly breakdown enclosed) **(4)**

Wed 8 Aug 2007. Meeting with J. Hardwick re progress

Mon 13 Aug 2007. Further meeting with J. Hardwick re progress.

Mon 20 Aug 2007. J. Hardwick phoned re sending letter to County Hall with my approval.

Wed 22 Aug 2007. Draft letter received from J. Hardwick and approved. **(5)**

Thur 13 Sept 2007. Copy of letter from Fire Service H.Q. received from J. Hardwick **(6)**

Tue 2 Oct 2007. Copy of letter from Fire Service H.Q. received from J. Hardwick **(7)**

Thur 11 Oct 2007. As I was having problems finding the £14,000 I telephoned J. Hardwick and asked him to make an offer to repay the overpayment at £200 a month

Wed 24 Oct 2007. Letter from J. Hardwick re offer to repay at £200 per month. **(8)**

At some point after the beginning of July, date not known, I received a letter from Jobcentre Plus detailing my payments with a request that I forward it to my employers. This was forwarded to County Hall and should be on my PR file.

Once this offer was refused and given the tight deadlines and the prospect of the full claim being reinstated I felt that I had little alternative and arranged a bank loan to cover the overpayment. I felt that I had to settle at that point as we were due to go on holiday on the 16 November to celebrate our 40th wedding anniversary, an event that had been planned and paid for well before this matter came to light.

The cheque was delivered to J. Hardwick on Thursday 15 November and though I am aware that it has been cashed I have not received any acknowledgement.

I have spoken to J. Hardwick today (31/01/08) and given the circumstances he is willing to release the case file.

D[redacted] J. W[redacted]

Lancashire County Council

Resources Directorate

www.lancashire.gov.uk

tel (01772) 532091
fax (01772) 532600
e-mail julie.wisdom@pens.lancscc.gov.uk

Mr D J W[redacted]

Your ref
Our ref IS/PEN/JW
Date: 26 June 2007

Dear Mr W[redacted]

FIRE PENSION SCHEME

I refer to recent correspondence received from you in connection with the injury pension paid.

I note from your file that a letter send in January 1994 by Miss E J Drinkall requested that you keep her informed of any changes in the payments you received from the Department of Social Securities.

Following receipt of your letter and confirming the details of your Invalidity/Incapacity benefit with Jobcentre Plus it has come to my attention that the benefits received are greater than the injury pension due. Therefore the injury pension should not have been paid and payment has now ceased. Consequently an overpayment has occurred between 16 February 1993 and 30 June 2007 amounting to £30,164.61.

I appreciate this discovery will be received as very unpleasant news by you, but I regret that, as an overpayment of public funds, Lancashire Fire & Rescue (LFRS) have asked me to seek recovery of the full amount. I intend to seek recovery of this overpayment by instalments from your pension and LFRS have suggested a recovery of £415.00 per month. It is proposed that the recovery starts from the 1 August 2007 pension payment.

Should you wish to discuss the matter further please do not hesitate to contact me on 01772 532091.

Yours sincerely

Julie Wisdom
Casework Supervisor

Julie Wisdom Casework Supervisor
Lancashire Pensions Services
County Hall Preston
Lancashire PR1 0LD

Lancashire County Pay Unit

[redacted]

30 June 2007

Julie Wisdom
Casework Supervisor
Lancashire Pensions Service
County Hall
Preston
PR1 0LD

Dear Ms Wisdom:

Thank you for your letter dated 26 June 2007 confirming our telephone conversation regarding my pension.

Unpleasant news it indeed was and I have had to take some time to consider the contents. Having taken advice from a good friend of mine, who works with Citizens Advice, I have decided to seek legal advice and next week I will be consulting a solicitor

I have also been advised that I must inform you that, until this matter is resolved, I do not agree to any deductions from my pension in regard to this manner.

As always I will keep you fully informed of any progress.

Yours sincerely,

D[redacted] J. W[redacted]

[redacted]

10 July 2007

Julie Wisdom
Casework Supervisor
Lancashire Pensions Service
County Hall
Preston
PR1 0LD

Dear Ms Wisdom:

I have been in touch with a legal advisor who has advised me to request a fully detailed re-assessment of my overpayment before any further action can be taken.

Will you please forward this to me, at your convenience, so I can progress the matter.

Yours sincerely,

D[redacted]J. W[redacted]

Lancashire County Council

Resources Directorate

www.lancashire.gov.uk

tel (01772) 532091
fax (01772) 532600
e-mail julie.wisdom@pens.lancscc.gov.uk

Mr D J W[redacted]

[redacted]

Your ref
Our ref IS/PEN/JW
Date: 26 July 2007

Dear Mr W[redacted]

FIRE PENSION SCHEME

Further to recent correspondence I enclose a breakdown of the overpayment of your injury pension as requested.

I realise that this is a large amount and accordingly, I will not commence recovery on 1 August as stated in my letter of 26 June to enable you time to consider the enclosed schedule. In this respect I should be grateful if you would confirm that you agree with the total overpayment figure of £30,164.61 specified on the schedule.

Please do not hesitate to contact me if you require any further information.

Yours sincerely

Wisdom.

Julie Wisdom
Casework Supervisor

Julie Wisdom Casework Supervisor
Lancashire Pensions Services
County Hall Preston
Lancashire PR1 0LD

Mr DJ [redacted]

Schedule of Overpayment of Fire Injury Pension

		£
16/02/1993	11/04/1993	268.62
12/04/1993	10/04/1994	1,765.18
11/04/1994	09/04/1995	1,796.99
10/04/1995	07/04/1996	1,831.97
08/04/1996	06/04/1997	1,908.22
07/04/1997	05/04/1998	1,948.28
06/04/1998	11/04/1999	2,058.87
12/04/1999	09/04/2000	2,077.73
10/04/2000	08/04/2001	2,105.92
09/04/2001	07/04/2002	2,175.40
08/04/2002	06/04/2003	2,212.24
07/04/2003	11/04/2004	2,289.30
12/04/2004	10/04/2005	2,312.82
11/04/2005	09/04/2006	2,384.47
10/04/2006	08/04/2007	2,448.81
09/04/2007	30/06/2007	579.79
Total overpayment		£ 30,164.61

£14,403·83

Injury pension suspended July 2007

HARDWICKS
SOLICITORS

10 St. Thomas's Road, Chorley, Lancashire. PR7 1HR
Tel : 01257 - 266211 Fax : 01257 - 241642 DX : 18422 Chorley 1
(Service by Fax not accepted)

JOHN F. HARDWICK PAUL W. MARGEY LLB

OUR REF: JH/JH2/W[redacted]

YOUR REF:

DATE: 22 August 2007

Mr D J W[redacted]
[redacted]

Dear D[redacted]

Further to our recent telephone conversation, I enclose herewith a draft letter for your approval. Please telephone me with any amendments or approval at your earliest convenience.

I also enclose herewith an authority which I would be obliged if you would sign and return, so that I can negotiate with Lancashire County Council on your behalf.

Yours sincerely

MR JOHN HARDWICK
enc

JH/JH

22 August 2007

Dear Sirs

D[redacted] J W[redacted]
[redacted]

I have been instructed to act on behalf of Mr D[redacted] W[redacted] in relation to a possible overpayment of his fire injury pension.

Mr W[redacted] is now aged 62 having retired from the fire service in approximately February 1993. He himself at about that time was claiming incapacity benefit and he wrote to the fire service indicating that his wife was also to make a claim for incapacity benefit. It now transpires that that letter was never received by yourselves.

Over the ensuing years Mr W[redacted] has regularly received his fire injury pension on the basis that he had provided you with all the relevant information and therefore had no reason to suspect that the pension he was receiving was other than the correct amount.

In due course when his wife reached the age of 60 he wrote to you again and indicated that his wife's incapacity benefit had now ceased and that she would be entitled to receive the state pension.

You can therefore imagine his dismay when he received a letter from you dated 26th June 2007 with an accompanying schedule indicating that there had been an overpayment of fire injury pension in the sum of £30,164.61 accompanied by a suggestion that he repay this overpayment at the rate of £415 per month.

As you will immediately appreciate, the sum of £30,164.61 is a considerable amount of money, especially bearing in mind that this error was not of Mr Wilson's own making. It seems that this error should have been discovered many years ago and it is only by the fact that Mr Wilson has provided full and proper information to you in the course of events that this matter has now come to light.

In all the circumstances I would respectfully suggest that some compromise be agreed, perhaps based on the 6 year limitation period, which would then equate to a sum of £14,399.

I trust that you will give this matter your sympathetic consideration and I look forward to hearing from you.

Yours faithfully

MR JOHN HARDWICK

HARDWICKS
SOLICITORS

10 St. Thomas's Road, Chorley, Lancashire. PR7 1HR
Tel : 01257 - 266211 Fax : 01257 - 241642 DX : 18422 Chorley 1
(Service by Fax not accepted)

JOHN F. HARDWICK PAUL W. MARGEY LLB

OUR REF: JFH.KF.3 [redacted]

YOUR REF:

DATE: 13 September 2007

Mr D J W[redacted]

Dear D[redacted]

I enclose herewith a copy of a letter which I have today received from Lancashire Fire and Rescue Service and would be obliged if you would telephone me.

Yours sincerely

Mr J Hardwick
enc

Lancashire Fire and Rescue Service

Hardwicks Solicitors
10 St.Thomas's Road
Chorley
Lancashire
PR7 1HR

Please ask for: Anthony Harold
Telephone: 01772 866964
Fax: 01772 866847
Email: AnthonyHarold@lancsfirerescue.org.uk
Your Ref: JH/JH1
Our Ref: JAH/IS PEN JW
Date: 12 September 2007

Without Prejudice save as to costs

Dear Sirs,

Your Client: D[redacted] J W[redacted], [redacted]

Thank you for your letter of 22 August 2007.

We note that your client says he wrote to us regarding the benefits he and his wife were receiving but this correspondence was never received by us. Nor could we anticipate a change in his circumstances without being informed by him. I also note your letter does not dispute the calculation of the overpayment. I must advise you that as a public services body it is our duty to seek full recovery of debt.

We are required to inform our Fire Authority of your client's proposal to pay the sum of £14,399.00 in full and final settlement of the matter. However it is unclear if full payment is to be made in early course. We should be obliged if you would take your client's instructions on how soon this could be paid and advise me by the 21 September in order that the relevant committee can make an informed decision on how best to progress this debt recovery.

Yours faithfully,

Anthony Harold

Anthony Harold
Solicitor

HARDWICKS
SOLICITORS

10 St. Thomas's Road, Chorley, Lancashire. PR7 1HR
Tel : 01257 - 266211 Fax : 01257 - 241642 DX : 18422 Chorley 1
(Service by Fax not accepted)

JOHN F. HARDWICK PAUL W. MARGEY LLB

OUR REF: YOUR REF: DATE:

JH/JH2/W[redacted] 02 October 2007

Mr D J W[redacted]

Dear D[redacted]

I enclose herewith a copy of a letter received from Lancashire Fire & Rescue and would be obliged if you would telephone me.

Yours sincerely

MR JOHN HARDWICK
enc

Lancashire Fire and Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH

Lancashire Fire and Rescue Service

Hardwicks Solicitors
10 St.Thomas's Road
Chorley
Lancashire
PR7 1HR

Your Ref. JH/JH/W[redacted]
Our Ref. JAH/IS/PEN/JW

Without Prejudice save as to costs

28 September 2007

Dear Sirs,

Your Client: D[redacted] J.W[redacted]

Thank you for your letter of 18 September 2007.

I note that your client wishes to resolve this matter once and for all which we agree is a sensible approach in the circumstances.

I confirm that I am empowered to conclude this matter with you if the last 6 years of overpayments in the sum of £14,399.00 is paid within the next 28 days. The cheque should be made payable to Lancashire Fire and Rescue Service.

In the absence of agreement the Service reserves the right to recover the full amount. If you wish to discuss the matter please do not hesitate to telephone the writer.

Yours faithfully,

Anthony Harold

Anthony Harold
Solicitor
Tel. 01772 866 964

HARDWICKS
SOLICITORS

10 St. Thomas's Road, Chorley, Lancashire. PR7 1HR
Tel : 01257 - 266211 Fax : 01257 - 241642 DX : 18422 Chorley 1
(Service by Fax not accepted)

JOHN F. HARDWICK PAUL W. MARGEY LLB

OUR REF: JH/JH2/W[redacted]

YOUR REF:

DATE: 24 October 2007

Mr D J W[redacted]

Dear D[redacted]

I write to confirm that I have spoken to Lancashire Fire & Rescue and they are not prepared to accept a payment of £14,399 at the rate of £200 per month.

I do not want them to reject our proposals out of hand and therefore before I take the matter any further, I would be obliged if you would make an appointment to see me so that we can explore all the possibilities.

I look forward to hearing from you.

Yours sincerely

1600 MCN 29TH

MR JOHN HARDWICK

* No receipt has ever been received from November 2007 to 22 September 2011. Mr Hardwick was D. original solicitor at the beginning of this situation - June 2007.

JH/JH/W jah is pen jw 19 November 2007

FAO Mr Anthony Harold
Lancashire Fire & Rescue Service
Headquarters
Garstang Road
Fulwood
Preston
PR2 3LH

Dear Sir

D W

Further to our previous correspondence and telephone conversations, I now enclose herewith a cheque in the sum of £14,399.00 which is tendered to you in full and final settlement of this matter.

I would be obliged if you would acknowledge safe receipt and confirm that this matter is now concluded.

Yours faithfully

MR JOHN HARDWICK

FIRE BRIGADES UNION

Number 5 Region - LANCASHIRE

Brigade Secretary: Steve Harman
Fire Brigades Union Office, Fire Service Training Centre,
Washington Hall, Euxton, Chorley, Lancashire. PR7 6DH
E-mail: [redacted]

Brigade Chair: [redacted]
Tel. 01257 - 241557
[redacted]

Ref. FBU/08/CFA/011

12th February 2008

CC Bob Wilkinson
CFA Chairman
11 Brookside
Rawtenstall
Rossendale
Lancashire BB4 6JE

Dear Mr Wilkinson

Retired Station Commander - Mr D[redacted] Wi[redacted]

Following our recent phone conversation, I am writing to you formally on behalf of Mr W[redacted] who is a FBU 'out of trade' member.

In July 2007, Mr W[redacted] was finally given the all clear having suffered from cancer of the larynx five years earlier. However, following a minor illness in January 2008, medical tests diagnosed that Mr W[redacted] is now suffering from terminal lung cancer and he has been informed that his condition is inoperable. Due to the reasons set out below, I request that the Combined Fire Authority considers reimbursing the £14,000 that Mr W[redacted] paid to LFRS in November 2007. This request is being made purely on compassionate grounds and it is understood that this would not set any precedents.

As you can imagine, the news of the illness has been a terrible shock to both Mr W[redacted] and his wife C[redacted]. However, what is also of great concern to Mr W[redacted], and the reason why I am writing to you is that, in order to pay the bill, he was forced to take out an uninsured bank loan of £12,500 and at this time, it is unlikely that his wife would be able to keep up the repayments in the event of his death.

A brief history of the events to date is as follows:

1. As instructed when he retired in 1993, in early 2007 Mr W[redacted] contacted County Hall to inform them of a change in his benefits.

2. On the 27th June 2007 his injury award was stopped. This was without receiving any prior notification. Mr W[redacted] immediately phoned County Hall (Ms Julie Wisdom) and was informed that he should have received an explanatory letter first. During this telephone

conversation she inform him that he actually owed £30,164.61 in pension overpayments and this amount would be recovered at a rate of £415 each month commencing on the 1st August 2007.

3. The relevant letter dated 26th June 2007 arrived on the 29th June 2007. However, no financial breakdown or detailed explanation of this overpayment was provided. It simply requested reimbursement.

4. Following various correspondence, LFRS wrote to Mr W[redacted] stating that the sum of £14,399 would be accepted as full and final settlement providing that this amount was received within the next 28 days, and they would not accept the repayment in instalments. Also, it was stated that in the absence of an Agreement to these terms, the Service reserved the right to recover the full amount. This obviously put Mr W[redacted] under tremendous pressure to borrow the money as quickly as possible.

5. On the 31st October 2007 Mr W[redacted] managed to secure a personal bank loan for the sum of £12,500 and the requested sum of £14,399 was paid to LFRS on the 19th November 2007.

You may well remember Mr W[redacted] from your time working for the Fire Service in Lancashire. If so, you will be aware that his integrity is beyond doubt. I ask that members of the CFA consider this as an exceptional case affecting somebody that has dedicated his working life to the Fire Service and I implore the CFA to support Mr W[redacted] and his family in their time of need.

If you require any further information, then please do not hesitate to contact me. Loan details and medical records will be available for scrutiny if the CFA so wishes.

Thank you in anticipation, for your help on this tragic issue.

Yours sincerely

Steve Harman
Brigade Secretary

c.c. Mr Holland CFO
Mr Warren DoPD

FIRE BRIGADES UNION

Number 5 Region - LANCASHIRE

Brigade Secretary: Steve Harman
Fire Brigades Union Office, Fire Service Training Centre,
Washington Hall, Euxton, Chorley, Lancashire. PR7 6DH
E-mail: [redacted]

Brigade Chair: Kevin Deacon
Tel. 01257 - 241557
[redacted]

Ref. FBU/08/CFA/107

9th September 2008

To: All CFA Members

Dear Sir/Madam

RETIRED STATION COMMANDER MR D[redacted] W[redacted] (DECEASED)

FIREFIGHTER PENSION SCHEME INJURY AWARD

I wrote to all Fire Authority members on the 15th February 2008, attaching a letter dated 12 February 2008 that I had sent to Mr Wilkinson the CFA Chair (both letters enclosed). Both letters raised serious concerns that one of our members – Mr D[redacted] W[redacted] – had been pressured into taking out a large bank loan in order to pay the LFRS in excess of £14,000 that they alleged had been overpaid to his fire service pension 'injury award'.

At the time, Mr W[redacted] was not given details as to what his Injury Award payments were for and how they related to his DWP benefit payments, it had simply been assumed that there was a link that had resulted in the overpayment and despite numerous requests for information, this link has not yet been proven by the LFRS.

The FBU advised Mr W[redacted] that he should request this information as he needed to ascertain first, whether there had actually been an overpayment (to date, we still do not believe this is the case) and second, if there had been an overpayment, then to investigate why this had occurred, as Mr W[redacted] has maintained that he always kept the fire service informed of the benefits he was receiving.

In the letter, I also informed you that Mr W[redacted] was suffering from a terminal illness and this added stress was obviously not helping his condition. Also, I stated that the FBU had requested that Lancashire Fire & Rescue Service (LFRS) return the money paid, until such time as a full investigation could be carried out.

Sadly, D[redacted] lost his brave battle against his illness on the 26th August 2008 and I attended his funeral last Thursday (4th September).

There were many Fire Service colleagues paying their last respects, ranging from ex Chief Fire Officers and ex Chairs of Fire Authorities, right through to numerous Fire-fighters who still had tremendous respect for Mr W[redacted] from his time when he was a Station Commander. There were also friends from across the country that knew him from his support for the Fire-fighters Charity (Benevolent fund), the Rotary Club, and his involvement with the Fire Service national football

team. However, it was sad that after such an illustrious career, no current senior representatives from LFRS were in attendance and indeed, would not have been welcome.

The reason that I am writing again is that Mr W[redacted] widow (C[redacted]) has now been left with a dramatic drop in income, as well as still being burdened with the outstanding bank loan that is secured on her home. This has obviously left C[redacted] and her family financially vulnerable.

We have obtained the necessary information from the DWP detailing the medical conditions relating to Mr W[redacted] DWP benefits (surprisingly, this information was also provided to the W[redacted] by the LFRS HR Dept). However, despite numerous letters and verbal requests going back several months from Mr W[redacted] and the FBU, LFRS has consistently refused to release the relevant medical information relating to his Fire Service 'qualifying injury award' (final letter from Mr W[redacted] dated 31 July 2008 is enclosed) .

I am sure you will agree that this lack of co-operation is totally unacceptable and Mr W[redacted] had every right to the information he requested, as now does his widow C[redacted].

I am now reliably informed that Mr.W[redacted] case file has been lost at SHQ. If this proves to be so then the implication of such a loss are extremely grave. The continued provision of Mrs.W[redacted] widow's pension is based wholly on the documentary proof of Mr.W[redacted] recorded pensionable service held in his records at SHQ.

The FBU do not accept the LFRS statements that they were legally bound not to return the money, particularly considering that it has **not** been proven that 'injury award' was actually overpaid in the first place. In fact, it has been brought to our attention that when a dispute exists, the issue *shall* be dealt with by a 'Competent Court' [FPS - L5 Par (6)(7)]. If the LFRS as it appears has failed to comply with the law then it is reasonable to expect that litigation by pensioners will follow.
We have been disheartened and surprised that LFRS has taken this aggressive stance against a loyal ex employee, particularly when they knew he did not have long to live.

I am in touch with Mrs W[redacted] and will continue to represent her, as she is still extremely distressed about the loss of her husband, the financial position she has been left in, and the deplorable way they have been treated by LFRS over the past year.

I am sure you will be well aware; this issue has not been resolved with Mr W[redacted] death and legal advice is still being sought in relation to the whole issue. However, in the meantime, I urge you to use your position on the CFA to ensure that the previously requested information is released as a matter of urgency. I also urge you to demand that Mrs W[redacted] is paid back the original money (including the interest paid and the solicitor's bill incurred), at least until such time as all the requested information has been made available to both sides and agreement is reached.

I would like to thank those CFA members that have already indicated support and I hope all members on the authority can show equal compassion and professionalism on this sensitive issue.

Please do not hesitate to contact me if you need any further information, and I am always available to meet with you at your convenience.

I look forward to your response.

Yours Sincerely

Steve Harman
Brigade Secretary

cc. Chief Fire Officer
Director of People & Development.

File

Lancashire Fire and Rescue Service

Mr S Harman
FBU Office

Please ask for: Jayne Hutchinson
Telephone: 01772 866841
Email: JayneHutchinson@lancsfirerescue.org.uk
Your Ref:
Our Ref:
Date: 01 October 2008

Dear Mr Harman

SUBJECT: D W (deceased)

Prior to Mr W unfortunate demise, as you are already aware, he wrote to me requesting information from his personal record file relating to his medical retirement from the service.

His file has now been traced through the Lancashire Records Management Service and I have copies of the relevant documents. I am however, not sure whether to forward these documents through to Mrs W or via yourself, as I would not want to cause unnecessary distress. From our recent discussions I am aware that you are in liaison with a number of individuals and Thompson's Solicitors. I wondered whether Thompson's Solicitors were still looking at this specific case and if so, whether it would be appropriate to pass this information through to Thompson's Solicitors via you.

Yours sincerely

JHutchinson

JAYNE HUTCHINSON
Human Resources Manager
For the Director of People and Development

FIRE BRIGADES UNION

Number 5 Region - LANCASHIRE

Brigade Secretary: Steve Harman
Fire Brigades Union Office, Fire Service Training Centre,
Washington Hall, Euxton, Chorley, Lancashire. PR7 6DH
E-mail:

Brigade Chair: Kevin Deacon
Tel. 01257 - 241557
Mobile.

Ref. FBU/08/SHQ/116

2nd October 2008

Jayne Hutchinson
Human Resources Manager
Lancashire Fire & Rescue Service
Garstang Road
Fulwood
Preston PR2 3LH

Dear Jayne

SUBJECT: D. W (deceased)

Thank you for your letter dated 1st October 2008.

As you are aware, the FBU was representing Mr W and we had in fact advised him to formally request the relevant information from his personal record file.

Just for your record, the FBU is now representing Mrs W and she is still receiving legal assistance from Thompsons.

As such, I would be grateful if you would forward the requested information directly to me at the Lancashire FBU office, and I will forward it on as appropriate.

Thanks again for your co-operation.

Yours sincerely

Steve Harman
FBU Brigade Secretary

cc. Mrs C W
Thompsons Solicitors.

Ms.Zohra Francis
Thompsons Solicitors
Congress House
Great Russell Street
London
WC1B 3LW

Tuesday, 28th October 2008.

My Ref: CW01
Your Ref: ZFR/[redacted]

Dear Ms.Francis,

Just recently my life has reached the point of recovery when I can only now consider the future and my financial situation which you will be well aware is far from good.

I know that you have helped and that you will help me more but recently Paul Burns pointed out to us all that we need to help ourselves and to do so you will need all our accurate facts and how we truly feel about our shabby treatment from the LFRS. I hope this information will assist you in this process.

Paul mentioned that to do this we should place our thoughts in writing in the form of a Witness Statement accompanied with a Schedule of Losses which should in effect be a bill to put to the LFRS for the stress and actual hardship they have caused us all.

The following Witness Statement summarises my innermost and deepest thoughts from the past, up to and including the present, and how I continue to feel. Obviously it will not be perfect in a legal sense but at least it will help us to help ourselves, and assist you in fighting for us and to give a starting point from which I can amend as you see fit.

In respect of the Schedule of Losses I will examine this mess right from the start and try and recall as accurately as possible the detail of all that this has cost us financially, and try, with great difficulty because I continue to feel angry, to put a price on my feelings. Once more, this will be a starting point for us working together and if some of my figures are not realistic, I am sure I can leave it to you to tell me what you think *is* realistic and fair minded in the Court's experience. Though as you might imagine I am not feeling particularly fair minded where the LFRS are concerned.

It is with a heavy heart that I write this Statement of Witness but realise it is a necessity if I am to secure some security and stability in my future.

Witness Statement:
I, C[redacted] W[redacted] of the above address shall truthfully state as follows:

I was not initially aware of any problems until I noticed that D[redacted] was becoming withdrawn and tetchy. He appeared to be worrying about something and being very off hand. I asked what the problem was? Only to be told 'you don't want to know'. I insisted he tell me and he told me about the letter from County Hall. He told me he had kept it to himself because he knew I would be upset and worried. When I read the letter I was astounded, shocked and

Angry, at its contents. I read the letter several times and was shocked at its 'bullying' and 'threatening' tone.

But we believed what we were told by the LFRS. *Surely they must know what they were doing?*

The prospect of finding that sort of money, even at £400 a month, was totally unrealistic. I felt we were being accused of dishonesty for claiming DWP benefits the LFRS said we were not entitled to even though *I was fully aware that D[redacted] had kept the LFRS fully informed, at every stage throughout his retirement.*

This rapidly became a very stressful issue for my husband and I which, as you might expect, put yet another major strain on our relationship on top of the terrible medical problems we already faced.

After D[redacted] had sought advice from a friend, who works for Citizens Advice, we contacted a solicitor who agreed to act for us. The solicitor was also taken aback at the tone of the letter.

Eventually after negotiations it was agreed that the LFRS would settle for £15,000 but only if it was paid within 28 days. D[redacted] asked to pay it at £200 pounds a month but this was rejected.

D[redacted], with some difficulty, secured a bank loan to pay the amount in full, and we were quite anxious to get the money paid to LFRS before going on holiday to celebrate our 40th Wedding Anniversary on the 22nd November.
The events of the last few months marred what should have been a very happy and memorable celebration and holiday. My recollection of what was discussed at the bank just days after D[redacted] died are very hazy, [redacted]

Since this money has been paid we have *still not received any acknowledgement* of payment, which alarms me and does not surprise me the way this whole fiasco has been dealt with.

To date there has been no acknowledgement from LFRS of the payment made to them by cheque on the 15th November, 2007 via our solicitor (which was cashed on the 21st December, 2007).

I also find it shameful that after 28 years service no one from the Fire Authority had the courtesy or decency to come and see him or contact him. This would have been the norm when he was a serving Fire-fighter.

D[redacted] was discharged from Christies on the 26th of July 2007 following 5 years of after care for treatment of cancer of the larynx. In January 2008 D[redacted] was told that he had, in all probability, a tumour on his left lung, which caused us further upset.

By now I was becoming increasingly concerned at how matters were becoming. I did not voice these concerns to D[redacted] as I did not want to burden him further, he had enough to deal with. This whole fiasco with the LFRS caused a lot of upset

in our household on top of which I lost my cousin, to cancer, towards the end of June a matter of a week before all this started.
Later D[redacted] informed me that I would have more financial problems if he should die. [redacted] I also signed the agreement, not knowing the full implications, so the debt now passes to me and is in the hands of a solicitor, yet more worry. I did not know then the total figure as I just accepted D[redacted] decisions and can only assume he wanted to pay off all debts (house, car, credit cards etc,etc) and have just one monthly payment to make life easier for me.

Prior to my 60th birthday in December '06 D[redacted] had repeatedly informed LFRS about my state pension and that the allowance he was claiming for me should be ceased and adjusted by them. That is when in May '07 all this complete fiasco came to light.

We are not dishonest people nor are we benefit fraudsters, the error was not of our making, but LFRS seem to imply we were, which is a terrible slur on our good name! The initial letter from LFRS not only caused stress and worry but it also caused D[redacted] to panic into raising a loan at very short notice.

With hindsight this was a massive risk and would have been manageable had the second cancer not occurred. It grieves me to think D[redacted] spent the last eighteen months or so of his life with such a heavy burden of stress and worry on his shoulders, not only for himself but also for my future. He kept a lot to himself.

On the 26th August, 2008, D[redacted] passed away unexpectedly.

Only two weeks previously he had been told by his oncologist that his life expectancy had been reduced from a few years to months, a great shock to us, but in fact this turned out to be not the case as the cancer had spread leaving him in excruciating pain before he died just days later. It is of some comfort that he did not endure months of pain and distress, although the shabby treatment he had received from LFRS still did cause him much anxiety.

In the last weeks and days of his life D[redacted] had great difficulty in trying to sort out our financial, and other, affairs as he was virtually confined to his bed, moving around had become too difficult and painful.

There are no words whatsoever to describe how harrowing it was for me to watch him struggle, even when he had to be taken into hospital he clung on to the belief that somehow the doctors would find medication to prolong his life just for a bit longer, hoping that a miracle drug would be found. I was devastated, as were my son and daughter, when we got the telephone call at 4.50am to go to the hospital as soon as possible as he had taken a turn for the worse only to find when we did get there it was too late, my anguish at not being able to comfort him, hold his hand or say goodbye is impossible to put into words, and will haunt me forever.

Other than a brief personal condolence note from Chief Fire Office Mr Holland, there has been no acknowledgement from any senior officers at headquarters regarding David's illness or death. I find this insulting because he was after all a Station Commander who helped to run the Brigade.

More than 200 people attended the funeral including many Fire-fighters both serving and retired. It was a very emotional day for everyone. It was D[redacted]s wish that no senior officers in uniform attend because of the disgraceful way he had been treated.

I wish to make known my grateful appreciation to Steve Harman and Paul Burns for all their help and guidance, without them retired disabled Lancashire's Fire Service Veterans would have no hope of fighting LFRS for justice.

I hope this has given you a clearer insight into how this affair has affected myself and my family, it is difficult to find the right words to describe how D[redacted] felt and how I feel now without him.

Yours Sincerely,

C[redacted] W[redacted]
28 October, 2008.

Schedule of Losses:

My Family Good Name….	£250,000:00.
Personal Injury due to unnecessary Stress and financial hardship…	£100,000:00.
Solicitors Fees…	£ 499:37.
Etc etc	

14 November 08

Mr. P. Holland,
Chief Fire Officer,
Lancashire Fire and Rescue Service,
Garstang Road,
Fulwood.
Preston.

Dear Mr Holland,

It is very rare for me to consider writing a letter of this nature but I felt I had to write as I did not consider the RMA dinner an appropriate occasion to comment on the unforgiveable way D . was treated by LFRS over the last months of his life.

I refer, not only to the pension dispute but also to the lack of compassion from the people he worked with for so many years. He became increasingly bitter that no one from headquarters bothered to telephone him or even write a short note during his battle with cancer or to discuss the pension dispute in a normal, sensible manner without the need for bullying letters and demands which were totally unnecessary. That is why D . decided he wanted no uniformed officers from headquarters to attend his funeral. It should never have been that way.

Being given the all clear from Christies in May 2007 D. had absolutely no indication that the cancer would re appear, so when in January of this year, when he was diagnosed with lung cancer and treatment may be limited he was absolutely devastated, as were myself and family.

After the two cycles of chemotherapy in March/April D was critically ill and nearly died but through

dedicated nursing by staff at the Royal Preston Hospital he pulled through but never regained good health. It always hoped that even after a course of radiotherapy that some miracle drug would be made available to keep the cancer under control. On August 19th his oncologist told us the cancer had spread and the most he could expect was a few months, you can imagine how devastated we were at that news. However, D only survived six days after that visit and was taken into hospital in extreme pain. It grieves me to think I wasn't with him when he needed me most, we were not told how serious his condition was, had we been then I would not have left the hospital, that will haunt me forever.

With regard to the pension dispute I have to say that has been the most despicable way to treat any retired firefighter. It prayed on D mind a long time before he told me what was happening. Even after LFRS received the cheque, at no time has any acknowledgement been made to its receipt, no letter, no telephone call, nothing. The handling of this affair has been deplorable and those involved with its instigation should hang their heads in shame at the trauma and stress it put D under especially when his health was failing so quickly.

May I suggest the LFRS changes its attitude to its pensioners, be they healthy or sick, and adopt a more caring attitude towards them as they deserve to be treated with dignity after years of dedicated service.

I have no wish to offend, I just needed to speak out on D behalf, to underline the fact that he was an honest, hard working, dedicated man who did not deserve to be treated the way he has.

Yours sincerely,

C
(Mrs)

Lancashire
Fire & Rescue Service

Service Headquarters
Garstang Road, Fulwood, Preston PR2 3LH.
Telephone: (01772) 862545
Fax: (01772) 866033

19th NOVEMBER 2008

Dear C

I very much appreciate just how difficult it must have been for you to write your letter after we met briefly at the RMA dinner. It is crystal clear from your letter that you feel I have not ensured D last few months on this earth were made easier through better interaction with Lancashire Fire and Rescue Service.

It would be entirely inappropriate for me to do anything other than apologise that our support was not what you or D would have expected under the circumstances.

As you say in your penultimate paragraph David was an honest, hardworking, dedicated man who gave good service to the community whilst working for us.

I write this letter with a heavy heart hoping that you will accept the apology. As I said briefly at the RMA dinner if you do feel I can help in any way I would want you to know I would be pleased to help

With very best wishes

Peter Holland

17 December, 2008

Mr P. Holland,
Chief Fire Officer,
L.F.R.S.
Garstang Road,
Fulwood,
Preston
Lancs.

Dear Mr. Holland,

Thank you for your reply to my letter dated the 19th November, 2008, your apologies are accepted. Again it is not easy for me to write to you again but I need to ask you the following question, if you can't help then at least I know I tried. The question is – would it be possible for D estate to be reimbursed the £15,000.00 he paid to L.F.R.S on the 15th November, 2007, in response to a demand by L.F.R.S for repayment of overpaid benefit?

I ask the question for purely personal reasons as my financial situation is causing me some anxiety. I just need to know where I stand so my solicitor can have a better idea in dealing with D estate. It appears that nothing is ever straightforward.

Best wishes for Christmas and New Year!

Yours sincerely,

C
(Mrs)

Rec 15 Jan 09

Peter Holland OStJ QFSM FIFireE
Chief Fire Officer

Lancashire Fire and Rescue Service

Mrs C W

Please ask for: Mr Holland
Telephone: 01772 866800
Email: pholland@lancsfirerescue.org.uk
Your Ref:
Our Ref: PMH/BW/HLG
Date: 13 January 2009

Dear Mrs W

Thank you for your response of 17 December to my letter of 19 November. Whilst I have personal sympathy with your request I cannot, unfortunately, comply with it. As you are aware, the issue of the overpayment was not restricted to D and across the Service a number of individuals have been affected.

As a result, the Service commissioned guidance from a leading Barrister as to what we were allowed to do and we specifically asked him about your husband's position following his diagnosis.

Whilst the legal advice is a detailed statement of the position, in summary the Queen's Counsel said that:-

- The CFA and the Service had no authority to write off the debts due to the overpayment of injury awards.
- That the CFA must pursue repayment of the overpayments in all cases with a view to recovering as much of the overpayments as possible, including, if necessary, litigation.
- That the CFA should add simple interest to the amounts of debt outstanding.
- That, in view of the fact that D and others had already entered into agreements with the Service which had been accepted, then the Service could waive the interest issue and the discount on the debt that had already been given but should not continue to do so.
- No discretion existed for the Authority to repay any of the agreed debt settlement monies already made without the Authority acting outside of its powers.

This advice was considered by the Combined Fire Authority and, in view of the nature of the statement of the legal position, whilst extremely sympathetic to your position, concluded that no discretion existed for the Authority to repay any of the debt settlement monies already made to yourselves.

I regret the position as it affects you personally, but am unable to alter the situation.

Yours sincerely

Peter Holland
Chief Fire Officer

16 January, 2009.

Mr. Peter Holland,
Chief Fire Officer,
L.F.R.S.
Garstang Road,
Fulwood,
Preston.
Lancs.
PR2 3LH.

Dear Mr Holland,

Thank you for your letter dated 13 January, 2009 which was in reply to a letter I wrote to you on the 17 December, 2008 about the possibility of overpaid monies being re-imbursed to D estate.

I appreciate you taking time to seek and summarise the advice given to you in order to answer my question, but I have to be honest and say I am somewhat disappointed.

Thank you once again for your understanding.

Yours sincerely,

C

(Mrs)

THOMPSONS
SOLICITORS

Congress House
Great Russell Street
London
WC1B 3LW

020 7290 0000
020 7637 0000
DX 35722 BLOOMSBURY
www.thompsons.law.co.uk

Mrs W.

Quote Ref: ZFR/ /

30th November 2009

Dear Mrs W

I have recently reviewed your file, following correspondence from Steve Harman and was concerned to note that our previous letters have not been addressed to you specifically and there has been a failure to provide you with information on how claims such as yours have been dealt with following the referral from the FBU. This falls below the standards we would like and I sincerely apologise for this and would like to explain, in part, why the delay has occurred.

I can assure you that I have reviewed your file personally and set out below the status of your claim and my view on prospects in pursuing further action based on this information contained therein.

As you will be aware, the issue of retired Lancashire Firefighters' Injury Pension Awards arises in the context of an interaction between the Firefighter's pension scheme regulations and Social Security benefits. At the present time, we are instructed by the FBU to advise on the strength of any claim. We are not authorised to instigate legal action without the authority of the FBU.

When the matter was originally referred to us, that there were a number of claimants which on the substantial point, had similar complaints. However, after an initial review of social security and employment histories of over 30 claimants, we understood more fully the facts surrounding each claim and requested further documentation via your union.

At that time, the recovery of overpayment of benefits by state bodies is an area of law in which there had, until very recently, been few legal authorities. Following analysis of cases referred to us by the FBU, which took some considerable time in light of the volume of documentation and the sensitive nature of each claimants personal circumstances, we identified claims in a number of categories:

- Claims relating to the operation of the Injury Award Scheme and the need to identify correct entitlement i.e. administrative claims;

- or claims more easily categorised as a test of the legal authority of LFRS to withhold or suspend payment on the basis of non-disclosure of information in a format not specified in the regulations.

Your claim was different as your husband had already settled his dispute. The question that remains outstanding is therefore: a) how was this demand calculated, b) was an overpayment due as a consequence of an error by LFRS's and c) did they have the authority to collect this payment?

The decision to suspend pensions in payment of those who failed to complete Data Access requests, focused our attention initially as it was felt that if we could conduct a lead case and successfully challenge the actions of the Authority in this area, there would be greater scope to set out grounds of claim.

Due to a change in the legal landscape due to two legal authorities reported in October of this year which were of direct relevance[1] it was decided that whilst data access claims, in principle, were of merit there would be difficulty in pursuing this matter due to the individual circumstances of each claimant.

We advised the FBU to continue negotiating settlement of claims, where possible. The view at this stage was that in light of the judgments, the legal position had shifted the balance of successfully defending these claims in favour of LFRS.

The result of these decisions has meant that we have had to review all claims. However, the recent judgments does not effect your position as there were no overlapping issues with the claim in hand.

Background

Entitlement

According to the Lancashire County Fire Brigade pension statement, your husband's pension entitlement, including the injury pension was payable, based on nearly 27 years of pensionable service and payable at 70% of his pensionable pay.

There are a number of conflicting statements for the period 1992-1993. In 1992 Statutory Sick Pay and Invalidity Pension are recorded at different rates and for one period, ignored completely. As at 15th February 1993, he was in receipt of what looks to be Invalidity Benefits of £63.50 per week and therefore his entitlement was reduced by £3,317.80.

By January 1994, there is evidence on file of an overpayment of £556.28 being made and settled by way of a deduction in pension over three months. There is no explanation as to how this overpayment occurred.

No further correspondence appears on file until June 2007, notifying Mr Wilson of an overpayment due to Invalidity/Incapacity Benefit for the period 16 February 1993 to 30th June 2007.

---

[1] The Queen on the Application of Child Poverty Action v Secretary of State for Work and Pensions [2009] and NHS Business Services Authority v Edward Ingram [2009]

The Jobcentre Plus information dated 15th May 2007, clearly shows payments made, not at the weekly amount of £63.50 recorded above but at a higher rate ranging from £150.28 to £142.92.

Settlement

We cannot move away from the fact that settlement has been reached. It is very difficult to undo this position and the question remains as to whether the payments received via the DWP represented payment relating to a relevant injury.

Mr Wilson's personnel file contains some ambiguity over his initial "injury" as there were two key incidents which appeared to result in different injuries.

Further the overpayment appears to have occurred as a consequence of a claim for dependants benefits not correctly recorded by the pension scheme administrators.

> "The Regulations specifically permit a reduction where a social security benefit is paid so far as it relates to the injury, together with any relevant increase."
>
> A relevant increase can include "additional benefits" including (dependants) increases. (Chapt II of Part II of the 1975 Act).

Unfortunately, the settlement of the claim in 2007, results in very limited grounds to dispute the payment at this stage unless we can claim that settlement was based on false or misleading information.

Further, even if we can establish that not all the money claimed was owed, or that LFRS/LPF failed to keep proper records, compensation will be based on the consequences of that error, not what has been paid back. The courts will be concerned about whether there has been an injustice, not how it was caused.

Conclusion

The significance of this approach, as it relates to your claim, is that the Court will be less likely to accept defences made by claimants who have been overpaid.

We therefore need to reach agreement with LFRS as to the correct entitlement for the period in question and the handling of the case. We have discussed the current view with your representative, Steve Harman who has agreed to continue negotiations with LFRS in an attempt to reach settlement. Should this not result in a resolution to your satisfaction, we will need to review the legal options available and report to the FBU.

Your case has not been dealt with as speedily as we would have hoped and we apologise for the delay in reporting to you directly in writing, before now. However this was due to the changing legal view and complexity of your case.

Now that the legal position has been clarified, we see no reason for your claim to be concluded with the assistance of your representative, shortly.

Yours sincerely

Zohra Francis
for THOMPSONS

8 December, 2009

Dear Paul

Please excuse a typed letter but its quicker to type than hand write. I enclose a copy of the letter I received from Thompsons on the 2nd December, 2009. I will try and be as brief as I can with comments because it occurred to me that the overall impression I have from reading the letter is that Thompsons are changing the gyst of the case. I would suggest Thompsons re-read my original statement because they have obviously missed the point by stating D "settled" his dispute with LFRS willingly which he most certainly didn't. The truth is D having received the original "threatening" letter from Julie Wisdom, was left with no alternative but to pay the agreed £15k+ from the original demand for £30k+ or have £415 taken from his pension per month which was not acceptable to him, you know the history.

Refering to the paragraph 'Entitlement' – I have no idea if the information is correct or not but would suspect some information to be conveniently missing or just not recorded at all, but thats my opinion and I have no proof. Again with the paragraph 'Settlement' – D informed LFRS that he wanted to claim for me as a dependant when I stopped work, he also informed LFRS when I became eligible for the State pension when I reached 60, all perfectly above board and honest, at no point did it enter D head to try and defraud or give misleading information to LFRS. All the problems stem from them as other FSVs have found to their cost.

The final part of the letter seems to put the onus on Steve Harman to continue negotiating with LFRS to 'attempt ' to reach settlement – which won't be a refund but maybe a minutely remote chance of a bit of compensation, well thats the way I see it. I would be interested in your understanding of the letter, maybe I have it all wrong, only time will tell.

The more I read the letter the more convinced I am that Thompsons are not as good as they claim to be and LFRS are getting the upper hand – heaven forbid!

Change of subject – did CC Driver manage to get anywhere with the CFA committee and CC O'Toole?

My apologies for rattling on, I have had a lot going on recently, anniversaries and family concerns etc, maybe the new year will bring more positive news.

Take care
Regards -

4 November, 2010.

Mr. P. Holland,
Chief Fire Officer,
Lancashire Fire + Rescue Headquarters.
Garstang Road,
Fulwood,
Preston
Lancashire
PR2 3LH.

Dear Mr. Holland,

Data Protection Act 1998

Would you be kind enough to forward to me a copy of my late husband D Personal Record File and all the associated subject data and records you have kept for him

As D widow I am entitled to these documents and ask that you acknowledge receipt of this letter and forward to me the necessary application documents for me to sign within the next 20 days from the date of this letter, and to comply with the Data Protection Act 1998.

Yours sincerely,

C

(Mrs.)

Lancashire Fire and Rescue Service

Please ask for: Lee Gardiner

Direct Line: 01772 866903
Email: leegardiner@lancsfirerescue.org.uk
Your Ref:
Our Ref: LG/SAR/
Date: 9 November 2010

Dear Mrs W

Subject Access Request – D W

I am writing further to your letter of 4 November 2010 where you requested a copy of your late husband's personal record file (PRF) under the Data Protection Act 1998 (DPA).

Unfortunately the DPA and the right of access to personal information under Section 7 does not apply to your late husband's file as the DPA only applies to information relating to living individuals.

As such you have no right of access to these records under the DPA.

If you are an executor of you late husband's will you are entitled to receive a copy of his PRF to allow you to undertake your duties as an executor. Could you please confirm in writing whether or not you are an executor and that you are acting in this capacity

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

Yours sincerely,

Lee Gardiner
Data Protection & Freedom of Information Officer

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

Ref. LG/SAR/W

17 November, 2010.

Mr. L. Gardiner,
Data Protection and Freedom of
Information Officer,
Lancashire Fire and Rescue Service,
Garstang Road,
Fulwood,
Preston,
Lancs
PR2 3LH.

Dear Mr. Gardiner,

Personal Record File - D W

Thank you for your letter dated 9 November, 2010. Having spoken to my solicitor I can confirm that I am the Executrix of my late husband D estate and as such I am entitled to receive a copy of his Personal Record File and all associated subject data and record you have kept for him.

Would you be kind enough to forward to me the relevant form for me to sign. If you need any further information please do not hesitate in contacting me.

Yours sincerely,

C

(Mrs)

Lancashire Fire and Rescue Service

Mrs C.

Please ask for: Lee Gardiner

Direct Line: 01772 866903
Email: leegardiner@lancsfirerescue.org.uk
Your Ref:
Our Ref: LG/SAR/W
Date: 23 November 2010

Dear Mrs W

Subject Access Request – D W

I am writing further to your letter of 17 November 2010 where you confirmed your position as an executor of your late husband's will.

As mentioned in my previous correspondence If you are an executor of you late husband's will you are entitled to receive a copy of his PRF **to allow you to undertake your duties as an executor**.

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

Yours sincerely,

Lee Gardiner
Data Protection & Freedom of Information Officer

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

My Copies

Subject Access Form: Application for access to your personal data held on Lancashire Fire and Rescue Service information systems

Section 7(1)(a) & 7(1)(c)(i) of the Data Protection Act 1998 (Subject Access)

Your subject Access Rights

Subject to certain exemptions, you have a right to be told whether Lancashire Fire and Rescue Service hold any information about you (your 'personal data') and a right to be provided with a copy of that personal data within a 40 day period.

If you wish to exercise those rights, please complete this form carefully and follow the instructions regarding the £10 fee, proof of identity, and the way to return the form to Lancashire Fire and Rescue Service.

Under the Data Protection Act, in certain circumstances, Lancashire Fire and Rescue Service may decide not to provide you with some personal data. For example, we are not likely to provide you with information that identifies other individuals.

Fee

Your Subject Access application will cost £10. You are encouraged to pay by cheque or postal order, as Lancashire Fire and Rescue Service cannot be held responsible for cash sent through the post. Cheques etc. should be made payable to 'Lancashire Combined Fire Authority'. Postal Orders must be UK Postal Orders.

Proof of Identity

Lancashire Fire and Rescue Service need to be satisfied that you are who you say you are. Consequently, Section 3 asks you to provide evidence of your identity and address, by supplying at least two official documents which between them provide sufficient information to prove your name, date of birth, current address and signature.

Returning this form

The completed form, together with appropriate fee and proof of identity should be returned by post to the following address:

Information Manager
Lancashire Fire and Rescue
Service Headquarters
Garstang Road
Fullwood
Preston
PR2 3LH

Section 1. About Yourself (Please use block capitals and black ink)

Title (Mr, Mrs, ~~Miss, Dr, etc.~~) MRS ..... Surname/Family Name W. .....

First Name(s) C. .....

Maiden/Former Name(s) S. ..... Gender FEMALE .....

Date of Birth... ..... Place of Birth (Town/City) ...P. .....

Home Address (Including Postcode) .....
This is the address to which all .....
all replies will be sent, unless you .....
specify otherwise .....

Contact Telephone Number * Daytime ... Evening

Email address * .....

* Not mandatory, but these will assist us if we need to get back in touch with you to discuss your application.

Previous Address N/A
If you have lived at your current .....
Address for less than 3 years .....
Please give your previous .....
Address for that period in .....
spaces to the right. .....
Continue on a separate .....
If necessary .....

The information supplied in connection with this application will be used for the purpose of administering this request and to ensure the accuracy of Lancashire Fire and Rescue Service systems.

Section 2. Personal Data Sort

☐ Tick here if you wish to access your personal data regarding an incident held on the Incident Recording System.

☑ Tick here if you wish to access your personal data other than the above. To help us find any information that may be held about you, please supply additional details below (and continue on a separate sheet if you need to). To assist us, you are advised to include, where relevant, a description of the information you are looking for; a description of the circumstances in which you had contact with Lancashire Fire and Rescue Service – for example, were you a person reporting an incident, dates and times; and any other information you have that can assist us in finding the information you seek.

PLEASE FORWARD TO ME A COMPLETE COPY OF MY HUSBAND'S PERSONAL RECORD FILE AND ALL HIS ASSOCIATED SUBJECT DATA, RECORDS, AND ASSOCIATED FILES WHICH YOU HAVE RETAINED ON HIM. I CONFIRM THAT I AM A LEGAL EXECUTOR OF HIS ESTATE.
I ENCLOSE A CHEQUE FOR £10 MADE OUT TO LANCASHIRE COMBINED FIRE AUTHORITY AND ENCLOSE PROOF OF MY IDENTITY – PHOTOCOPIES OF MY DRIVING LICENCE AND RELEVANT PAGE OF MY PASSPORT – PLEASE DESTROY WHEN MY IDENTITY IS CONFIRMED.
I AM AWARE YOU HAVE RECENTLY CLAIMED EXEMPTION FROM THIS PROCEDURE UNDER THE ACT – PLEASE COMPLY WITH THE ASSESSMENTS OF THE INFORMATION COMMISSIONER AND THE ACT.

Section 3. Proof of Identity Documents

To help establish your identity, your application must be accompanied by at least two forms of identification. Between them, they should bear a combination of your name, address, signature and date of birth (e.g. Driving Licence, Passport, Medical Card, Birth/Adoption Certificate, Bank Statement, or Utility Bill). It is advised that you send photocopies of original documents – if you do send a photocopy they must be certified by a Police Officer, Justice of the Peace, Solicitor, or person of similar standing.

Section 4. Declaration

The information, which I have supplied in this application, is correct, and I am the person to whom it relates.

Signature ..... Date 16 DECEMBER 2010

If you are signing this form on behalf of someone else, state who you are signing for (see note 8 on attached 'notes to assist').

I am signing on behalf of .....N/A.....

Signature ..... Date .....

Warning – a person who impersonates another or attempts to impersonate another may be guilty of an offence

Should any advice of guidance be required in completing this application form please contact:
The Data Protection Officer, Lancashire Fire and Rescue Service Headquarters, Garstang Road, Fulwood, Preston PR2 3LH.
Telephone 01772 866903 or 01772 866842, . Email: Informationmanagement@lancsfirerescue.org.uk

Received 4 to 15 Jan 11

Reply attached
Posted 28 Jan 11
cheque shredded

Lancashire Fire and Rescue Service

Mrs C A W[redacted]
[redacted]

Please ask for: [redacted]ee Gardiner

Direct Line: 01772 866903
Email: leegardiner@lancsfirerescue.org.uk
Your Ref:
Our Ref: LG/SAR/W[redacted]
Date: 4 January 2011

Dear Mrs W[redacted]

Subject Access Request – D[redacted] W[redacted]

I am writing further to your request to access the personnel files of your late husband dated 16 December 2010.

As previously confirmed to you in writing on 9 November 2010 you have no right of access to your late husband's records under the Data Protection Act 1998.

Similarly it is our view that your duties as an executor of your late husband's estate have expired and I enclose a copy of my previous letter of 30 November 2010 confirming our position in this matter.

Also enclosed is your cheque which I am returning.

Finally I can confirm that as requested your proof of identity has been destroyed.

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

Yours sincerely,

Lee Gardiner

Lee Gardiner
Data Protection & Freedom of Information Officer

Enc: Copy Letter – 30 November 2010
Cheque

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

Mrs C A W[redacted]
[redacted]

Please ask for:	Lee Gardiner
Direct Line:	01772 866903
Email:	leegardiner@lancsfirerescue.org.uk
Your Ref:	
Our Ref:	LG/SAR/W[redacted]
Date:	30 November 2010

Dear Mrs W[redacted]

Subject Access Request – D[redacted] W[redacted]

Thank you for your letter of 17 November 2010 in which you confirmed you role as an executor of your late husband's estate and please accept my apologies for the delay in responding.

As previously mentioned in my letter of 9 November you have no right of access under the Data Protection Act 1998 to your late husband's files and it is our view that given the time that has elapsed since you husband passed away that the estate is likely to have been settled. We therefore feel that your role as an executor is likely to have been discharged and so any right or access that may have granted will have expired. If you are able to prove that the estate has not been settled at this point, then we may consider further any potential disclosure under your duties as an executor.

Finally we are refusing to disclose the information to you under Section 41 of the Freedom of Information Act (FOI) relating to information provided in confidence. As Section 41 is an *absolute exemption* there is no need for Lancashire Fire and Rescue Service to consider the public interest in disclosing this information. We believe Section 41 is engaged by virtue of Article 8 of the Human Rights Act which allows for an individual's right to privacy and this right continues after an individual has passed away.

While we accept that as Mr W[redacted] next of kin you would usually have rights over and above those of a member of the general public, it is worth noting that in this instance any disclosure of information made to you under FOI would be likely to necessitate a disclosure to other members of the public if they requested information.

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

Yours sincerely,

Lee Gardiner
Data Protection & Freedom of Information Officer

27 January 11

Mr. Lee Gardiner,
Data Protection + Freedom of Information Officer,
Lancashire Fire + Rescue Service,
Garstang Road,
Fulwood,
Preston,
Lancs.
PR2 3LH.

Dear Mr. Gardiner,

Subject Access Request - D NO

Thank you for your letter dated 4 January, 2011, I apologise for not replying sooner as I was away for over two weeks on family matters and only read your letter on the 19 January.

I am disappointed in your decision not to forward D Personal Record Files and other information. I read the relevant sections of the Data Protection Act, Freedom of Information Act and Human Rights Act you quoted in your attached letter dated 30 November, 2010, but found the information of little help.

I have also sought advice from my solicitor and it was agreed there was no point pursuing the matter further but he did confirm that my role as executrix continues for my lifetime.

I would also like to confirm that it has never been my intention to pass on information to a third party.

Yours sincerely

(Mrs)

22 September '11.

Dear Paul,

Please find enclosed photocopies of letters you requested this morning - I hope they may be of use.

I have also included a copy of a letter from D original solicitor asking for a receipt/letter for the final settlement cheque of £14399.00 - this has never been actioned by LFRS!

Regards -

C

BURNS

Mr.Mike Gaskill
Parliamentary Adviser
Office of Hon. Lindsay Hoyle MP
Deputy Speaker-House of Commons
Chairman of Ways and Means
House of Commons
London
SW1A 0AA
T: 020 7219 3515
Member of Parliament for [redacted]

7, Kings Drive,
Preston.
Lancashire.
PR2 3HN.
ENGLAND.
Tel/Fax: +44 (0) 1772 715963.
symbolseeker@tiscali.co.uk

Friday, 23rd September, 2011.

My Ref: PB04011.
Your Ref:.

Your Constituent
Mrs C. A.W[redacted]

Dear Mike,
Mrs C[redacted] W[redacted] is as you know not only one of the co-Appellant applicants in this Lower Tier Information Tribunal Hearing called because of the LFRS and the LCC entrenched refusal to release critical information to the likes of C[redacted], but C[redacted] is also a Constituent of the Deputy Speaker, the Rt Hon Mr. L. Hoyle M.P.

Mr.Holye raised the point and stated that he wanted his Constituents treated in a proper civilised manner. This is a prime example of how the LFRS in conjunction with the LCC conducts its affairs and the obnoxious and unfeeling manner in which it does so.

Mr. W[redacted] it was who inadvertently brought this whole pension debacle of the LFRS/LCC to light in the first place in March 2007 whilst exercising his honesty in this matter. He was smartly heaped with approbrium for this honesty by the LFRS. However his honesty unwittingly uncovered the parlous state of the maladministration of all our pensions for which he was smartly punished financially as the great cover up got in its stride.

The core issue here is our unshakeable belief that the LFRS/LCC failed abysmally to perform their statutory duty to maintain our pension records even when informed by us of changes affecting our pensions and when Mr.W[redacted] inadvertently took the lid off the LFRS/LCC can of worms they took the usual step of blaming the victims which continues to this very day.

The release of our personal record files will provide the proof of their maladministration for decades and the LFRS/LCC dare not release them to us which accounts for their entrenched attitude of refusal because given this proof they know we will pursue them in law probably both individually and by a class action.

In the attached we have a prime example of the cover up at work.

Firstly the LFRS state that they 'lost' Mr.W[redacted] records, then they 'found' them, and finally 'lost them again where we are today, though the LFRS are careful not to state so to Mrs.W[redacted] in the cock-a-maney storyline they are now spinning to her.

You will note in the 'found them' phase of the cover up Ms.Hutchenson LFRS 'finds them' in the County Archives in October 2008. This is a blatant falsehood because in personal discussion with the County Archivist I was informed that all the Fire Service Pension records were passed to the newly formed LFRS in April 1998 and in fact supplied the named person they were receipted by, a Mrs. Ashcroft, who is still at the LFRS today.

Furthermore, if we accept that Mr.W[redacted] records were actually 'lost' then it would matter very little how many times he would inform them of this or that change of DWP benefit. The LFRS did not have anywhere to store this vital personal information he supplied for his personal pension administration pruposes so presumably they never bothered themselves either doing anything with his information or even trying to find his records to put this information there.

How many definitions of pension maladministration do we need?
In a terminally ill statement, which I have, Mr. W[redacted] repeatedly states his honesty and innocence and as one of my former Station Commanders I can assure anyone of D[redacted] veracity and integrity in this matter in that he did keep the LFRS informed of these changes.Ironically Ms.Hutchenson's 'find' simply confirms their maladministration in his case and if in his case how about so many others?

To deliberatly insult the intelligence of a bereaved woman is simply unspeakable and for Harold their solicitor(who does the drafting of these falsehoods) to deny her her executor's rights in this matter is yet another variation of practiced falsehoods regularly told to Veterans seeking their records.

You will note that Harold without asking Mrs. W[redacted] concluded that she was no longer an executor of Mr.W[redacted] estate. Which crystal ball told him this? In fact if he had read Mrs.W[redacted] letter and the advice she received from her own solicitor in which he advised that she remains an executor for life of her late husband's estate he would have been better served but this would not serve a slick manipulation of the truth would it?

I have lost track of their ingenious excuses for denying the release of documents and given enough rope they will hang together or we will do it for them individually such is the strenght of feelings in this matter.

The time is long past when all of them including Holland are publicly called to account over these brass necked outrages and falsehoods.

I have spoken at length with C[redacted] and she urges me to use any document of hers and D[redacted] she has supplied me with in order to call these creatures to account.

Now is the time when she seeks and appeals for the help of her Member of Parliament to do just this and I urge Mr. Hoyle on her behalf to do so by calling for a public enquiry into all this if only to provide a baseline for honesty and transparency.

It is time this iniquitous matter was brought to a public head and these miscreants were punished for their wilfuness.

Yours sincerely,

Paul P. Burns. GIFireE
Divisional Officer (Rtd).

24 April 2012.

Lancashire County Council
FAO Mr.M.Sayles
Access to information Manager
PO Box 78,
County Hall Preston,PR1 8XJ.

Dear Mr.Sayles,
I acknowledge receipt of your letter of the 10th April 2012 with its enclosures.

It would be helpful with the close of the last financial year 2011/2012 if you would send me copies of CC O'Toole's claims for that year also.

I would like you to supply me with a copy of the rules and regulations which apply for all County Councillors when making their expenses, mileage, and subsistence claims.

I recognise that these will be amended from year to year but I would appreciate it if you could let me have a copy of these regulations for each of the years you have sent me CC O'Toole's claims that is from 2003 to March 2012.

Sorry for the trouble and thanks again.

Yours sincerely,

CAW

26th April, 2012.

Lancashire Fire & Rescue Service
FAO Mr.P.Holland
Garstang Road
Fulwood
Preston
PR2 3LH.

My Husband's PRF.

Dear Mr.Holland,
For several years now you will be aware that both my husband D when he was alive) and now myself as his widow and principal executor of his estate have been trying without success to obtain D PRF from you.

I regret I have found your unhelpful attitude very disappointing and puzzling.

You will also be aware that last year the Information Commissioner ordered you to release these files to me and once more you refused to do so without providing a satisfactory explanation to the Commissioner or indeed to me.

I have, as you also ought to be aware through your staff, taken legal advice on the matter and I have now been advised to write finally to you before I take appropriate legal action to recover these documents.

Accordingly if within the next seven(7) days I do not have a positive response from you that you are, without further delay, prepared to release all these records to me I intend without further notice to you at any time to issue proceedings against you through the County Court under Section 7 of the Data Protection Act 1998 to recover what is rightfully mine.

I also intend to recover all the costs expended by me including professional fees in what I regard as a completely unnecessary action brought about by your unwarranted obstruction.

Please promptly acknowledge receipt of this notice.

Yours sincerely,

C A. W

C[redacted]

I was not initially aware of any problems until I noticed that D[redacted] was becoming withdrawn and tetchy. He appeared to be worrying about something and being very off hand. I asked what the problem was only to be told ‘you don’t want to know’. I insisted he tell me and he told me about the letter from County Hall. He told me he had kept it to himself because he knew I would be upset and worried. When I read the letter I was astounded, shocked and angry at its contents. I read the letter several times and was shocked at its ‘bullying’ tone. The prospect of finding that sort of money, even at £400 pounds a month, was totally unrealistic.

I felt we were being accused of dishonesty for claiming money we were not entitled to when I was fully aware that D[redacted] had kept the LCFB fully informed.

After D[redacted] had sought advice from a friend, who works for Citizens Advice, we contacted a solicitor who agreed to act for us. He was also taken aback at the tone of the letter. Eventually it was agreed that the Fire Brigade would settle for £15,000 but only if it was paid in 28 days. D[redacted] asked to pay it at £200 pounds a month but this was rejected. D[redacted] with some difficulty, secured a bank loan to pay the amount in full.

Since this money has been paid we have not received any acknowledgement of the payment which does not surprise me the way the whole thing has been dealt with.

I also find it shameful that after 28 years service no one from the Fire Authority has had the courtesy to come and see him or contact him. This would have been the norm when he was a serving firefighter.

D[redacted] was discharged from Christies on the 26 of July following 5 years of follow ups after treatment for cancer of the larynx. Within the last three weeks D[redacted] has been told that he has, in all probability, a tumour on his left lung, which has caused further upset. I am also aware that the loan is uninsured to keep the repayments down and that I will be left with the payments should the worst happen.

This incident caused a lot of upset in our household on top of which I lost my cousin, to cancer, towards the end of June a matter of a week before this started.

C[redacted] A. W[redacted]