



The Permanent Secretary - DWP.
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BURNS

My Ref: PB03411.

Your Ref:

Thursday, 1st September, 2011.

**Case Number PR090107.
CFA/LFRS -v- DWP.**

Failure of Duty of Care.

Dear Permanent Secretary,

I write to you on a matter of the gravest concern. It is my opinion that your Department have repeatedly failed in its duty of care to me.

A duty of care which the DWP and your staff expressly stated in telephone conversations and in writing to me that it would discharge fully *before the events occurred* which I shall now relate to you.

Furthermore, in the prelude to this grave matter such was my concern for the intended efficacy of your Department's actions that I copied my correspondence with your staff directly to your desk. Correspondence which included my correspondence to the High Court in the person of District Judge I.R.Knifton.

(1) Myself and 16 other disabled Lancashire Fire Service Veterans are in dispute with our Injury Award Pension providers. The ramifications of this need not concern us here in so much that the Lancashire Fire & Rescue Service have finally been forced to comply with due legal process.

(2) In this matter as you will be aware the LFRS sought a Court Order against the DWP for the release of my *relevant* DWP records. In principle the Order repeatedly states records of *relevant* payments to me by the DWP, *relevant to* and *directly for* my Fire Service 'qualifying injury'.

(3) Earlier in the year I had written to the High Court expressing my thoughts that although I had no particular concern about the release of these *relevant* records which the LFRS have a Statutory duty to retain and administer I was curious why this Order was necessary if the LFRS had fulfilled its Statutory duty in the first place?

Furthermore, given the vindictive nature of the LFRS in this dispute I was concerned that the LFRS would then engage in a 'fishing trip' to obtain *all* my DWP records including personally sensitive records to which they are not entitled in law.

I expressed this concern to the High Court thus... ***“(j) In the Court’s wisdom should it decide to issue any such an Order then the Order should be restricted to only those relevant Claimant specified and Court agreed documents contained within the Defendant’s DWP records which directly relate to the Defendant’s Injury Award as stated within the Firemen’s Pension Scheme Order 1992;”***.

(4) Central to this issue is my contention that the LFRS have for decades failed to administer our Personal Record Files and having had this brought to their attention in 2007 they have since attempted a cover up of monumental proportions relating to their Statutory failure and maladministration.

(5) My deep concern was that the LFRS when it acquired these DWP records would insert them in all our PRFs and then ‘row back to respectability’ whilst claiming these DWP records had been there all the time.

I expressed this concern in detail to the DWP in my letter(PB03011) of the Sunday 14th August 2011.

(6) In this letter you will note I pointed out to the DWP that due to the LFRS previous machinations and its regular breaches of good faith they have created an atmosphere of complete distrust with its disabled FSVs. That distrust, which continues, is based on experience.

(7) The LFRS have also a factually long prior history of questionable activities where the DWP are concerned by obtaining disabled FSVs subject data from the DWP without those individual’s prior knowledge and consent contrary to the DPA and the DWP’s own policies regarding disclosure of their records.

(8) It is also a fact that the DWP did release these DWP records without consulting with the individuals concerned a fact recognised in a letter, one of many of extensive correspondence between the LCC/LFRS and the DWP including one from Lancashire County Council’s Deputy County Solicitor in his letter to you dated 9th July 2010 in which he states... ***“I am sure that it will not have escaped your attention that notwithstanding your comments about the need to ensure compliance with the DPA in fact your approach has been to provide the information requested by Pensions Services based on the original “Authority to Disclose” letter which you now say is inadequate and not DPA compliant. It must follow that you believe that you have been in breach of the DPA.”***

This is a statement with which, for once, I concur.

(9) I am sure you are aware that both the release and acquisition of such records is of course a criminal offence under the DPA.

(10) In my letter of the 14th August 2011 I therefore asked the DWP for the following:

- That the DWP treat this Court Order with particular care and if there was any doubts about the *relevant* material to be released then the DWP ought to seek guidance from the High Court who were also aware of my detailed concerns;
- That in releasing my *relevant* records I would be grateful if it was not already custom and practice that the DWP send me an inventory and list of those *relevant* documents it was releasing under Court Order for the pertinent reasons I have previously explained to you and to the High Court;

- That the DWP should not release *any* records concerning my late wife Jill in particular the release of Bereavement benefits paid to her estate. These were a particularly sensitive issue with me;

In effect I sought a specific duty of care from you and your department concerning all these sensitive matters.

(11) On the 15th August 2011 Ms. E. Todd promptly contacted me by telephone. She sought to reassure me, and she did, that under no circumstances would my late wife Jill's bereavement records be divulged to the LFRS.

(12) In my letter the following day on the 16th August 2011 I congratulated her on her care and common humanity and in addition I asked for clarification why I was receiving REA and whilst I received a thoroughly comprehensive letter in this respect from Mr. Huddlesdon of Barrow it has not been made clear to me whether or not a copy of this was forwarded as I had requested to the High Court?

(13) Given all these circumstances and specific requests from me allied with your reassurances I can only in the circumstances which have now unfolded conclude that In this matter you have failed that specific duty of care to me and I will now detail why.

(14) I have in my possession a copy of the Court Order dated 20th July 2011 released to me by the High Court. The Order reflects my concerns regarding the release of my *relevant* DWP and is quite concise and specific in this respect. At least the Court was listening and gave weight to my concerns.

(15) On Wednesday the 31st August 2011 I received a recorded delivery package from the LFRS dated 24th August 2011. I was informed by the LFRS solicitor A. Harold in an attached letter that the enclosed documents had been released to them under the Court Order. With the exclusion of this cover letter and the DWP list of abbreviations the documents numbered in total 187.

(16) This DWP consignment, because it cannot be described as a legal bundle, given the complete disarray of the package contents included no inventory or list of contents and in addition after sorting clearly contains a substantial number of duplicates and triplicates. Now whether this was how it was sent to the LFRS or whether it is the LFRs who have created this disarray is open to you to investigate.

In any event due to your failure to comply with my reasonable request to issue the documents to the LFRS and me with an accompanying inventory list or at the very least a despatch date stamp, I cannot now determine whether or not this is the complete consignment released by the DWP to the LFRS?

Nor am I able to determine whether or not the LFRS have retained certain copies from this consignment for their own use and finally I cannot determine whether or not these have now been placed in my PRF which the LFRS still refuses to release.

It is ironic that in one of these documents which I have never been privy to before that your department record the following statement about me... ***"The customer never misled or provided any incorrect information to the department."***

(17) I note in the included DWP copy letter to the LFRS from your Ms. J.Morgan she states the following... ***"I am enclosing the personal information we hold about Mr Burns in relation to State Pension. They have consented to this being provided to you."***

The Data Protection Act 1998 states that in some circumstances the right to see some personal information is limited. This includes personal information relating to health; the way crime is

detected or prevented; or the assessment or collection of taxes or duty. If an exemption applies, this personal information will be blocked on the enclosed records.”.

(18) It is clear to me from Ms. Morgan's response to the LFRS that the LFRS in *their* original letter to the DWP did ask for my State Pension records to be released because I have them before me in this consignment. Ms. Morgan further confirms, that “they”, whoever they might be at the DWP, “consented to these being provided to you”,(the LFRS).

(19) An initial review of this consignments of documents released by you and ultimately supplied unabridged I hope to me by the LFRS raises the following questions which I know you will wish to investigate and offer me a prompt explanation for your Department's extraordinary actions.

Actions in which you have repeatedly exceeded the remit and stipulated limits of the High Court Order.

It remains a moot point whether or not, as on previous occasions when you have released disabled FSVs subject data without their prior permission to the LCC/LFRS, this was another complicit act on your part?

In addition to questions arising above please answer the following questions:

- Why did you release Jill's bereavement payments to her estate contrary to your vox and written assurances that you would not do so?
- Why did you release my state pension records?
- Why did you release my wife Jill's bank account details?
- Why did you release my commercially sensitive financial records and correspondence including the Profit and Loss Accounts and Balance Sheet for the Year 2009/2010 for my company which included my tax records?
- Why was it necessary to copy and distribute without my permission screen print copies from my commercial website in breach of my personal Copyrights and Patents?
- Why was it necessary to release all my Medical Adjudication Documents without my specific permission?
- Why were no steps taken by Ms.Louise Williams in respect of your SAR LOG Form in fulfilling your duty of confidentiality to a third party (Mr.A.A.Wright) to contact that third party to obtain his consent for release of his statement to the Medical Adjudication Panel which adjudicated on my service injury?
- Did the High Court give the LFRS permission to widen the scope of its Order against you and were you informed in writing both by the Court and the LFRS that this widening of the scope of the Order had been approved by the Court?
- Or was this another 'unofficial' nod and wink widening of the scope of the Order a further example of LFRS opportunism in seeking data and records from the DWP as it had done in the past, only on this occasion, without the knowledge of the High Court?
- Please identify the “they” identified in Ms.Morgan's letter and have them explain to me for the purposes of raising all this matter with the High Court who gave ‘them’

permission to vary the Court Order and on what legally documented basis was this permitted?

- I intend to raise a charge of gross professional misconduct leading to contempt of the Court via the High Court against the LFRS solicitor based on your released documentation which indicates that he did seek DWP records outside the scope of the Order and you might well consider doing the self same thing yourself.

Please supply me by *urgent return* a copy of this LFRS letter to you for these purposes.

An initial review of this batch of documents released by you and supplied to me by the LFRS has raised the above questions which I know you will wish to investigate thoroughly and offer me a prompt explanation for your department's extraordinary actions.

It is a matter of great personal regret to me that throughout the last almost 4 years I have championed the decency of all those I have dealt directly with at the DWP in particular Mr. R. Mawdsley who has been involved with this issue from almost its start.

Your Department has not only failed in its specific duty of care to me personally but you have in a gross breach of good faith destroyed the irreplaceable trust within the group of disabled FSVs I represent and harmed the public integrity of your own staff.

This is the second such major breach of good faith and trust by the DWP.

Please promptly explain your actions to me.

Yours Sincerely,



Paul P. Burns. GIFireE

CC Minister of State at the Department of Works and Pensions
Rt.Hon. Mr.I.Duncan Smith M.P.

District Judge I.R.Knifton – High Court - Claim Number PR090110.

Mr.Robert Mawdsley – Deputy Data Protection Manager Lancashire & Cumbria.