



Lancashire Fire & Rescue Service
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Friday, 13th January, 2012.

BURNS
My Ref: PB00112.
Your Ref:

County Court Application Hearing - Specific Disclosure(CPR31.12) - 10th January 2012.

Paul Peter Burns-v-CFA-LCC.

Subsequent Directions Hearing - Sequential Disclosure Order.

Dear Mr. Harold,

1. Deputy District Judge Reynolds (DDJ) has directed that I, the Eventual Defendant(ED), should deal with you in this matter and I shall comply with that Direction, though routinely copying my correspondence to Mr.Holland for his information and the information of the CFA Elected Members.

2. The DDJ ordered that this case be removed from the High Court List and placed on the County Court List on the Fast Track.

3.The Court has ordered a sequential Disclosure '*of all documents*' by both parties in which the CFA must firstly complete Disclosure to the ED and then in sequence the ED Discloses to the CFA. All of which is to take place within a judicially time extended framework.

4. This is to be followed by the exchange of sequential Witness Statements, the CFA first, and the DDJ gave the ED permission to file an amended Defence and Counter Claim in the light of these Witness Statements and complete Disclosure.

5. The Court repeatedly made the point that the time frame to Disclosure completion commenced on the 10th January 2012, 'the clock is running'. A Disclosure time frame which the Court extended from the normal 14 days to 28 days to assist the ED.

6.The Court has given the ED time to review the CFA disclosed 'information' and in the event of lack of compliance with the Court's Order by using Forms N265 & N244 to seek further 'information' and documents from the CFA, eventually if necessary returning to the Court for Further Directions.

7. Sequentially the ED is ordered to Disclose on the standard form a list for Final Hearing to the CFA and the Court which is to be completed by the 16:00hrs on Tuesday 7th February 2012.

8. In managing this Court extended time framework it would be helpful to the ED if the CFA's Disclosure could take place by Monday 23rd January, 2012 at the latest. This would

allow the ED the remaining 14 days of the extended Disclosure period granted by the Court to examine the disclosed documents and prepare his Disclosure list for the Court and the CFA.

9. The ED asked the Court's permission to 'recycle' the original Specific Disclosure Draft Order which is a list of the documents which he seeks and which he had prepared for the Application Hearing. The Court, without objection from the CFA, granted him permission to do so.

10. After hearing the Disclosure arguments the Court concluded that the LCC is not a party to these proceedings.

It seems the Court's position on this is that the CFA as the contracting agency for LCC Pensions Services(LCC PS) will have available to it all the information which the LCC PS retain on behalf of the CFA and which the ED seeks and will thus automatically be available for Disclosure by the CFA to the ED and the Court.

11. In the light of the DDJ's Disclosure Directions and Orders and to provide clarity; to remove any remaining doubt or ambiguity on the CFA's part; the ED now attaches this original Draft Disclosure Order fully amended to reflect the removal all of *direct* reference to the LCC and acknowledges the belated release to the ED of his PRF.

12. In addition the ED also raised with the DDJ the matter of a particular document which the ED requires in Disclosure and which the CFA has listed in its original bundle as Item 17 Page No:25. The DDJ did not object to that request nor did the CFA.

13. Please acknowledge receipt.

Yours Truly,



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

DISCLOSURE.

1.The Claimant to disclose relevant copies of all records in their possession, power, custody, or control relating directly or indirectly to the 'Eventual Defendant' (ED) and a full summary list of such relevant records upon which the ED will rely in the County Court in his Defence and Counter Claim. In particular relating to the following:

- *All* relevant bilateral communications relating to the Injury Award dispute between the LFRS and its contractor the LCC PS from January 2007- to date;
- *All* relevant bilateral communications relating to the Injury Award dispute between the DWP; the Audit Commission; and other agencies as yet unknown;
- *All* Part II Minutes of the Combined Fire Authority relevant to the Injury Award dispute(redaction is assumed in the case of uninvolved FSVs);
- *All* CFA Injury Sub-Committee Minutes(redaction-ditto);
N.B. Where excessive redaction would make a document unintelligible an accurate summary will be required.

2. Without prejudice to the generality of the above *all* relevant Claimant/dispute records(or copies), or a full summary of such records in respect of:

a. CFA Chairman:

- *All* relevant reports received;
- *All* relevant internal bilateral communications with the LFRS;
- *All* relevant internal bilateral communications with the LCC;
- *All* relevant bilateral communications with elected Members both on the CFA and the LCC;
- *All* relevant external bilateral communications with external politicians(e.g. M.P.s);
- *All* relevant instructions issued to the LFRS by the full Committee and/or the Injury Award Sub-Committee;
- *All* relevant bilateral communications with the CLG (Communities and Local Government)its departments;
- *All* financial expenses and claims lodged with the CFA by CC D.O'Toole since his appointment to the CFA.

b. LFRS:

- *All* relevant reports submitted to the CFA;
- *All* relevant bilateral communications with the LCC and *its* departments;
- *All* relevant internal communications;
- *All* relevant bilateral communications with external agencies including, but not limited, to DWP; Audit Commission; CLG; Agencies as yet unidentified;
- *Waiver of Privilege*. The LFRS in a letter dated 26th March 2009[Page 47] to the ED declared a detailed summary of the legal Opinion they stated they had received from their instructed QC. This is a clear waiver of privilege and the ED now seeks a full copy of that Opinion.

N.B.

'Communications', for the purposes of this sequential Disclosure Order 'communications' is defined in its broadest sense which includes correspondence; emails; contemporaneous notes; minutes and recordings of vox conversations whether by electronic means or otherwise. The foregoing examples are not meant to be exhaustive nor exclusive.

'All', as defined in the OED.