

**Combined Fire Authority(CFA)**

**-v-**

**Paul Peter Burns.**

**SYNOPSIS-HEADLINE-TIME LINE**

1. On the 24<sup>th</sup> October 1996 as a preliminary to compulsory retirement the Defendant agreed(whether lawful or unlawful) to inform the Claimant if in the future he received DWP benefits during retirement and he repeatedly did so.
2. On the 31<sup>st</sup> January 1997 the Defendant was compulsorily retired from the Fire Service with an 'Ordinary' pension and an Injury Award(5%)-hearing.
3. On the 7<sup>th</sup> July 1999 the DWP informed the Claimant by means of a *first* routine anti-fraud check that they had approved and intended, subject to this anti-fraud check, to make payments of REA to the Defendant, back dated to the 31<sup>st</sup> March 1999.
4. On or about 2<sup>nd</sup> August 1999 in response to a letter from the Claimant on the 19<sup>th</sup> July 1999, the Defendant in keeping with his agreement informed the Claimant of these change of circumstances and in the following years informed the Claimant an additional 11 times when the necessity arose.
5. On 11<sup>th</sup> January 2002 the DWP without the knowledge of the Defendant (which is normal) carried out another *second* anti-fraud check with the Claimant to which as their records show the Claimant responded.
6. No further contact was received by the Defendant from the Claimant during the ensuing 8 years until 13th November 2007.
7. During this ensuing period the Claimant failed to take cognisance of the impact of the introduction of the Data Protection Act 1998(DPA) would have on their ability to lawfully access the 'relevant' DWP records of Lancashire Scheme members including the Defendant.  
This hitherto lawful gateway became barred as a consequence of the introduction of this Act and in addition no authority was grounded in law under the Scheme SI129 for them to access such records.
8. On Friday 2<sup>nd</sup> March 2007 a terminally ill honest Fire Service Veteran(FSV) brought a personal pension anomaly to the attention of the Claimant in respect of the benefits being paid to his wife for his care. Without a thorough investigation the Claimant's contractor concluded that this FSV had received £30,000.0 of 'overpayments' and the Claimant recovered a discounted £14,000.0. from him. No similar 'deal' was ever offered to the Defendant or others.
9. On the 20<sup>th</sup> September 2007 in response to a query from the Claimant the DCLG Fire Pension Section informed the Claimant by email that no authority, statutory or otherwise, existed in the applicable and ruling authoritative Statutory Instrument SI129 to either abate or recover 'overpayments' from any Scheme member of the Lancashire Fire Pension Scheme including the Defendant.

10. On Tuesday the 25<sup>th</sup> September 2007, the injury pension issue was first reported to the Claimant's Resources Committee by the deputy Scheme Manager as something "new to them".
11. On 13<sup>th</sup> November 2007 the Claimant issued a 'consent' notice, the first of 5 amended editions to the Defendant, ultimately requiring him under threat of withdrawal of his Injury Award to allow them to access *all* his DWP records. The tone of the Claimant's correspondence was impertinent, disrespectful, peremptory, and bullying.
12. On the 15<sup>th</sup> November 2007 it is accepted common ground that the Defendant gave a vox accounting of *all* his DWP records including his 'relevant' records to the deputy head of the pension administrators Mrs Lambert. This accounting included the bereavement payments to his recently dead wife's estate even though the Claimant had no authority in law to seek such information either under the Defendant's pension scheme; the Data Protection Act 1998; or to have access to such information whether 'relevant' or not.
13. The Claimant with no authority grounded in law to access even the Defendant's 'relevant' records. The Claimant's ability to determine liability rested entirely on the goodwill of the Defendant which included granting permission under the DPA to the DWP to allow the Claimant access to such 'relevant' records.
14. In spite of informing the Claimant of *all* his DWP status the Claimant continued to act in a belligerent manner insisting under the duress of Injury Award withdrawal that the Defendant sign their 'consent' forms for which there is no provision or authority grounded in law in the Pension Scheme or in any law.
15. On the 16<sup>th</sup> January 2008 the Claimant issued a final threat to withdraw the Defendant's Injury Award unless he did what he was told.
16. On 20<sup>th</sup> January 2008 the Defendant first opened political dialogue with the leader of the Conservative group in Lancashire.
17. On 24<sup>th</sup> January 2008 the Defendant refused to consent to the access of all his DWP records but sought a resolution meeting with the Claimant. His invitation was neither acknowledged nor responded to.
18. On 24<sup>th</sup> January 2008 the Defendant first sought his Personal Record File under both the DPA and the FOIA. His PRF was finally released to him in December 2011 after the repeated intervention of the Information Commissioner.
19. On the 24<sup>th</sup> January 2008 the Defendant issued a 'Cease and Desist' s10 notice under the DPA to the LCC. This was neither acknowledged nor responded to.
20. On 28<sup>th</sup> January 2008 the Defendant first wrote to the Chair of the CFA.
21. On 28<sup>th</sup> January 2008 the Defendant issued a 'Cease and Desist' s10 notice under the DPA to the Claimant's Chairman. This was neither acknowledged nor responded to.
22. On 29<sup>th</sup> January 2008 the Defendant's County Councillor Driver (now LCC Leader) became involved and reported his investigation whilst informing the

Claimant's that what they proposed was unlawful in his experience as a former Treasurer of the West Yorkshire Fire Authority with hands on Fire Pensions experience.

23. On the 5<sup>th</sup> February 2008 the Defendant made a complaint to the Standards Board(dissolved) concerning CC Wilkinson Chair of the CFA for his breaches of their Code of Conduct including failure to declare an interest when chairing public meetings on this issue whilst receiving a Fire Service medical pension.

24. On 5<sup>th</sup> February 2008 the Defendant believed that he had been discriminated against under the Disability Discrimination Act 1995(DDA) so he wrote to the Claimant and asked them to supply the him with the necessary Complaint Form S56 2(a). This was neither acknowledged nor responded to.

25. On 5<sup>th</sup> February 2008 the Defendant calls on CC Wilkinson to resign.

26. On the 7<sup>th</sup> February 2008 the Defendant complained to the Information Commissioner.

27. On 14<sup>th</sup> February 2008 the Defendant called on the Minister Blears responsible to carry out a departmental enquiry. This was neither acknowledged nor responded to.

28. On 18<sup>th</sup> February 2008 the Defendant called on the Clerk to the Claimant to investigate the role of Mr.Harold the Claimant's solicitor in that a conflict of interest existed because he held a 'Politically restricted post' whilst being a ward councillor in Salford.

29. On the 28<sup>th</sup> February 2008 the 'kangaroo' courts commenced at the Claimant's HQ.

30. On the 29<sup>th</sup> February 2008 the Defendant wrote to the Under Secretary of State for the Disabled Mrs Maguire MP outlining the case of discrimination involving the Defendant and calling for an investigation. This was neither acknowledged nor responded to.

31. On the 4<sup>th</sup> March 2008 the Defendant drew the attention of the DWP Regional Officer for Data Protection drawn to the unlawful obtaining of individual records from the Department by the Claimant.

32. On 5<sup>th</sup> March 2008 the Defendant reminded the LCC Data Officer that the illicit acquisition of individual DWP records by their Pension Department was unlawful.

33. On the 5<sup>th</sup> March 2008 Eversheds the Claimant's solicitors confirmed that the Claimant had made the Defendant and others the subject of an exclusive investigation whilst ignoring others with a similar 'characteristic' namely disability.

34. On the 7<sup>th</sup> March 2008 the Defendant called for the Chair of the CFA CC Wilkinson to resign for public falsehood about the existence of his Fire Service Medical pension.

35. On the 12<sup>th</sup> March 2008 the Defendant asked the DWP to suspend the unlawful release of individual's records to the Claimant without their knowledge, permission, or authority.

36. On Monday 28<sup>th</sup> March 2008 In January the Claimant repeatedly stated in writing to the Defendant that the Scheme was unworkable without access to the Defendant's relevant DWP records whilst ignoring the fact that it was their major failure to take cognisance of the inception of the DPA which had led to this maladministration on their part in the first place and that in any event they had recourse to due process if they wished to obtain relevant DWP records of any Scheme member.

37. On 28<sup>th</sup> March 2008 the Defendant asks the Information Commissioner to follow up his complaints against the Claimant.

38. In March 2008 the Claimant finally received an ambiguous and inaccurate Opinion concerning the legality of their actions 9 months after they had commenced their actions.

39. On 31<sup>st</sup> March 2008 the DWP issued a positional statement encouraging the Defendant and FSVs to withdraw their 'consents' if granted and returned en masse the 'consent' forms already signed to the Claimant because they regarded the forms as unenforceable in law.

40. On Tuesday 1<sup>st</sup> April 2008 the Claimant reported publicly to the CFA that this was a national problem and that 'overpayment's to the value of £65,000.0 and 'under payments' to the value of £50,000.0 had occurred.

41. On 1<sup>st</sup> April 2008 FSVs wrote to the Claimant withdrawing their 'consents'.

42. On the 4<sup>th</sup> April 2008 the Defendant wrote to the Under Secretary of the DCLG P.Dhanda MP drawing his attention to the issue and receives a reply!

43. On the 11<sup>th</sup> April the Defendant wrote to Ms.Lister the Head of the LCC Pensions Services, the Claimant's contractor drawing her attention to her unlawful and criminal activities in respect of the DPA. He confirmed that he regarded her continuing attempts to obtain all his DWP records as both unlawful and criminal acts which he believed were driven by the Claimant's institutional spite and malice.

44. On the 12<sup>th</sup> April the Defendant publishes to the Claimant and others a 46 page review of their 'Review' fiasco. This was neither acknowledged nor responded to.

45. On the 15<sup>th</sup> April, 2008 the Defendant wrote to the DWP reminding them under no circumstance without a Court Order were they to release his DWP records in part or whole.

46. On 18<sup>th</sup> April 2008 the Defendant wrote to the LCC pointing out the illegality and criminality of their actions in respect of this issue and reminding them that no Local Authority are permitted to take corporate action on defamation which he in any event denied.

47. On the 19<sup>th</sup> April 2008 because of the belligerent attitude of the Claimant the Defendant was legally advised to refuse further cooperation on the assumption that if the Claimant wanted the Defendant's DWP 'relevant' records, which belong to the DWP, then the Claimant should seek these 'relevant' records through the Courts in due process

48. On the 20<sup>th</sup> April, 2008 the Defendant made first contact with the Audit Commission calling on them to carry out a NFI study of the Claimant's activities.
49. On the 20<sup>th</sup> April 20, 2008 the Defendant made first contact with the Local Authority Ombudsman and calls for an investigation including breaches of the Code of Conduct.
50. On the 21<sup>st</sup> April, 2008 the Defendant wrote to the Claimant making a specific complaint that Mr.Hamilton the Scheme Manager is treating involved FSVs with at least two or more different standards of resolution.
51. On 30<sup>th</sup> April 2008 the DWP commenced investigation the entire dispute from their legal perspective.
52. On the 6<sup>th</sup> May 2008 the DWP refuse a request by the Claimant to determine why a benefit is being paid to the Defendant and others.
53. On the 21<sup>st</sup> May 2008 the DWP asked the Claimant for the nature of the qualifying injury used for compulsory retirement for 34 FSVs. The Claimant did not know this vital information for 24 of the 34 enquiries.
54. On 26<sup>th</sup> May 2008 the Defendant wrote to the newly elected leader of the LCC who is also the Defendant's County Councillor, CC G.Driver , congratulating him and encouraging him to deliver on his political promises for a prompt and fair resolution.
55. On the 27<sup>th</sup> May 2008 the DWP informed the Claimant that the 'consent' forms were not lawful and refused further cooperation. The DWP finally refused to supply any further records to the Claimant citing their weakness in law in respect of the DPA and returned en masse the 'consent' forms which they had received from the Claimant because it was their opinion that these forms had not been signed freely or in the full knowledge of why it was being signed. They also wanted to know how the Claimant had lawfully been obtaining their information previously.
56. On 12<sup>th</sup> June 2008 the Claimant wrote to a FSV and others stating that the DWP had returned his original completed 'consent' form because it was not fully compliant with the DPA and asking him to resubmit this new form.
57. On the 16<sup>th</sup> June 2008 the Claimant sent the Defendant yet another variant/edition of the 'consent' form and informing him that without his knowledge or permission an approach had been made to the DWP to acquire his subject data.
58. On 25<sup>th</sup> June 2008 the Defendant wrote to the newly and briefly appointed Chief Executive of the LCC Mr.G.Fitzgerald briefing him on the issues and reminding him of the lawful duties of the Council providing documented examples whereby the LCC had unlawfully obtained individuals' DWP records without their permission or knowledge.
59. On the 1<sup>st</sup> July 2008 the Claimant withdrew all the Defendant's Injury Award. The Defendant regarded this action without consultation or meeting as deliberately punitive, disproportionate, unreasonable, and without justification in law.

60. On 31<sup>st</sup> July 2008 the Defendant wrote to the Permanent Secretary of the DWP seeking formal clarification on the role and involvement of the DWP in the future.

61. On the 4<sup>th</sup> August 2008 the Defendant wrote to the leader of the LCC calling again for a root and branch overhaul of his Pensions department due to their incompetence.

62. On 13<sup>th</sup> September 2008 the Defendant wrote a letter of protest on the subject of defamation by publishing libellous statements in the Claimant's publicly circulated and published Routine Bulletin No:29/08 and again in Routine Bulletin No 33/08.

63. On the 24<sup>th</sup> September 2008 the DWP issued a further positional statement regarding 'consent' forms and their role in the matter, to the Defendant.

64. On the 13<sup>th</sup> November 2008 The Defendant requested that the Information Commissioner takes action and carry out an 'Assessment'.

65. On 24<sup>th</sup> April 2009 the Claimant was informed by the Audit Commission that the Defendant was in receipt of REA which they ought to have known.

66. On the 18<sup>th</sup> May 2009 the Claimant wrote off an alleged 'overpayment' of £3080 for one FSV but never offered to do so in the similar case of the Defendant or others.

67. On Friday the 12<sup>th</sup> June 2009 the Claimant wrote to the Defendant enclosing a 'screen print' of an NFI record which confirmed what the Claimant ought to have known that he was receiving 1 x DWP allowance. The NFI returned 52 other 'mismatches' within the Claimant's Scheme.

68. On the 23<sup>rd</sup> June 2009 the Defendant wrote to the leader of the LCC including the Claimant on a first occasion calling for a Resolution and including an 8 page detailed Resolution Mechanism. This was neither acknowledged nor responded to.

69. On the 21<sup>st</sup> July the Claimant and Elected Members in a secret internal memo confirmed that the Defendant would be specifically excluded from any resolution meeting which automatically disenfranchised the 17 FSVs he represented.

70. On the 21<sup>st</sup> July the Claimant in a secret internal memo described the disabled Defendant as ... "a wounded animal".

71. On the 5<sup>th</sup> August 2009 the Defendant published a 2<sup>nd</sup> Resolution Mechanism which he circulated to all those involved including the Claimant and the leader of the LCC . This was neither acknowledged nor responded to.

72. On the 11<sup>th</sup> August 2009 the Claimant wrote to the Defendant's solicitor making an unsubstantiated maliciously libellous statement based on innuendo and stated inferences that the Defendant had received and retained DWP monies he knew he was not entitled to.

73. On the 5<sup>th</sup> October 2009 the Claimant confirmed in a secret internal memo that the CFA approved policy of imposed hardship had been used and would continue to be used to force FSVs to come to their resolution.

74. On the 27<sup>th</sup> October 2009 the Defendant published a 3<sup>rd</sup> Resolution Mechanism to all those involved including the Claimant. This was neither acknowledged nor responded to.
75. On the 16<sup>th</sup> November, 2009 the Defendant sent the Claimant an Invoice for his outstanding Injury Award payments.
76. On 30<sup>th</sup> November, 2009 the Defendant sent the Claimant a Letter of Claim as a pre action protocol for defamation referring to published statements contained in the Claimants Routine Bulletins 29/08; 33/08; and in a letter to the Defendant by the Claimant of the 11<sup>th</sup> August 2009 .
77. On the 7<sup>th</sup> December 2009 the Defendant and others picketed the Claimant's premises in protest.
78. On the 7<sup>th</sup> December 2009 the Defendant wrote to the Claimant once more seeking his Personal Record File under s 7 of the DPA.
79. On the 7<sup>th</sup> December 2009 the Clerk to the Claimant refused to pass the Defendant's correspondence to Elected Members and thus obstructed democracy. Complaint lodged against Claimant Chair for breach of Code of Conduct.
80. On the 9<sup>th</sup> December 2009 the Clerk to the Claimant issued a statement to the Defendant that the Claimant intended to issue proceeding (one of 8 such intentions) in the High Court for defamation.
81. On the 13<sup>th</sup> December 2009 the Defendant reminded the Claimant that such action for alleged defamation was explicitly denied under the House of Lords ruling in 1993 and supplied case law for information.
82. On the 19<sup>th</sup> December 2009 the Defendant made a FOIA request to the Audit Commission.
83. In January 2010 the Claimant authorised the making of secret, deliberately undocumented 'deals' of resolution in conjunction with the FBU and individual disabled FSV Scheme members.
84. On the 26<sup>th</sup> January 2010 the Defendant made a FOIA request for the Claimant's Chairman's expenses claims which were ultimately supplied on the 10<sup>th</sup> April 2012.
85. In July 2010 the Claimant instructed their staff to cease all 'deals' because this policy would only further compromise the Claimant's position in any litigation which may follow.
86. On the 9<sup>th</sup> July 2010 the LCC were forced to release documents of significance to the Defendant and in November 2010 the LCC was punitively placed on the Information Commissioner's Watch List for 3 months and found guilty of 2 breaches of the FOIAct
87. In September 2010 the Claimant authorised 'deals' to recommence but with the proviso that any finalised 'deal' were underpinned with a Non-Disclosure Agreements.

88. On the 3<sup>rd</sup> September 2010 the Claimant published a letter to the Defendant's Member of Parliament in which they maliciously and libellously accused the Defendant of knowingly receiving and retaining a DWP allowance to which they state he was not entitled.
89. On the 3<sup>rd</sup> September 2010 the Claimant threatened to litigate against the Defendant one of 6 occasions when they failed to do so.
90. On 15<sup>th</sup> September 2010 the Defendant wrote to the Claimant reminding them that they had failed to reply to his letter concerning defamation on the 30<sup>th</sup> November 2009.
91. On the 23<sup>rd</sup> September 2010 the Defendant wrote to the Claimant issuing a second letter of protocol for a second malicious defamation act published to a third person.
92. On the 28<sup>th</sup> September 2010 the Defendant wrote to the Claimant reminding them that they had failed to respond to his second letter of protocol and reiterated the damages he sought from the Claimant.
93. On the 11<sup>th</sup> October, 2010 the Defendant wrote to the Claimant reminding them that they had still not supplied him with this Personal Record File (PRF).
94. On 14<sup>th</sup> October 2010 the Defendant wrote to the Claimant making another *all* information/data requests under the appropriate Acts.
95. On the 16<sup>th</sup> October, 2010 the Defendant wrote to the Claimant reminding them that they had been instructed by the Information Commissioner following an 'Assessment' to release his PRF to him.
96. On 22<sup>nd</sup> October, 2010 the Defendant wrote to the Claimant reminding them that they had still not responded to his FOIA and DPA requests.
97. On the 29<sup>th</sup> November, 2010 the Defendant wrote to the Claimant reminding them again that they must cease bullying and intimidation of the Defendant and others and behave in a civilised manner; and must supply his PRF and other information.
98. On the 7<sup>th</sup> December, 2010 the Claimant offered a Resolution Meeting to which the Defendant responded positively with yet another 5<sup>th</sup> Resolution Mechanism. The Claimant refused a meeting or a follow up on their own proposal.
99. On the 29<sup>th</sup> December 2010 the Claimant issued proceedings in the High Court against the Defendant.
100. On 24<sup>th</sup> February 2011 the Defendant wrote to the Greater Manchester Probation Trust using an FOIA request on Mr. Hamilton formerly their Head of Human Relations and now the Claimant's pension Scheme manager to seek the reason for his precipitous departure from the Trust which the Trust informed was by mutual non-disclosure agreement. The Trust declared s14 of the FOIA.
101. On the 1<sup>st</sup> April 2011 the Defendant wrote to the Claimant calling for an investigation why Mr. Hamilton was appointed to the Claimant's organisation without



the vacancy being advertised; a short list of suitable candidates prepared; a selection panel being commissioned and a successful candidate being publicly announced. All contrary to the Equal Opportunities Act 1995.

102. On the 4<sup>th</sup> April, 2011 the Defendant Appealed to the Information Tribunal concerning the Information Commissioner's Decision to support the position of the Claimant in denying him his PRF records and information because he was being vexatious.

103. Wednesday, 13<sup>th</sup> April, 2011 the Defendant wrote to the Claimant outlining the case against the Claimant for corrupt practice in public office.

104. On Tuesday, 24<sup>th</sup> May 2011 the Defendant wrote to the Claimant once more requesting his PRF and all subject data.

105. On the 31<sup>st</sup> May 2011 the Defendant wrote to the Claimant once more reminding the Claimant of their duties under the appropriate acts namely the FOIA and the DPA.

106. On 6<sup>th</sup> June, 2011 the Claimant wrote to the Defendant threatening to sue for defamation, yet again.

107. On the 4<sup>th</sup> August 2011 the Defendant wrote to the Claimant once more reminding them that they should cease their intransigence and supply him with his subject data.

108. On the 14<sup>th</sup> August, 2011 the Claimant in an ex parte hearing against the DWP secured the release of all the Defendant's DWP. Due a Court administrative failure they failed to notify this Defendant.

109. On the 10<sup>th</sup> November, 2011 the Defendant wrote to the Principal 'judge' of the Information Tribunal Appeals Panel expressing his complete lack of confidence in the handling 'judge's' ability and case management of his Appeal. Professor Angel never replied to his urgent queries and as a consequence the Defendant and 9 others withdrew from proceedings and refused to attend the Appeal Hearing which was originally scheduled for Preston Lancashire and was rescheduled in haste without explanation or due time allowance to Manchester which a large number of the disabled Veterans and their carers simply could not physically attend.

110. On the 9<sup>th</sup> December, 2011 the Defendant wrote to the Claimant calling once more for the release of his PRF. Eventually without comment the case file finally arrived with the contents as predicted by the Defendant, i.e., no DWP records concerning his pension since 1999.

111. On 10<sup>th</sup> January 2012 the scheduled Application Hearing for Specific Disclosure was adjourned and a Case Management Hearing substituted.

112. On the 7<sup>th</sup> February 2012 the Claimant breached the Court Order for Mutual Disclosure and the Defendant complained to the Court.

113. On Tuesday 20<sup>th</sup> March 2012 the Claimant breached the Court Order for sequential Statements of Fact and Truth and in addition submitted to the Court and the Defendant unsigned and undated Claimants' and Witness' Statements.


114. The Court ordered a reconvened Specific Disclosure Hearing for the 11<sup>th</sup> May 2012 an Application which the Court rejected which included a request for a copy of the Claimants bundle which the Defendant has repeatedly asked for but which has never been supplied since the commencement of proceedings.

115. On the 31<sup>st</sup> May, 2012 the Defendant wrote to the Claimant pointing out that their Schedule of losses was both inaccurate and insufficient for his purposes. The Claimant sent an amended but unexpanded copy as had been requested.

116. On the 11<sup>th</sup> June the Defendant submitted his Schedule of Losses as ordered by the Court.

117. On the 11<sup>th</sup> June it was reported in the local press that the LCC Pensions Services which is the contractor for the Claimant had as a result of a recent Audit Commission inspection using the National Fraud Initiative procedure identified 2,215 case of overpayments by the LCC...

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**Signature:**   
**Date:** 14<sup>th</sup> June 2012.