‘An Teach Bán’

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Wednesday 21st June, 2023.

The Prime Minister Rt Hon Mr. R. Sunak PC

First Lord of the Treasury & Minister for the Civil Service.

Prime Minister's Office,

10 Downing Street

London SW1A 2AA.

Dear Prime Minister,
When you took office you unequivocally stated that our expectation from you and your government should be that it would “have integrity, professionalism and accountability at every level.".

I believe that your statement at that time was both honest and a personal expectation that you could deliver these democratic values and even today in this current maelstrom of undignified politics your public refusal to grant Johnson’s tawdry requests confirmed those personal values; values a person of integrity should hold true to …to thine own self be true.

I am also sure that by now you are astute enough recognise that neither Johnson, Rees-Mogg, Coffey, Opperman, Francoise, and a corrupt Judiciary, etc, these gangsters of sedition are not their individual Faustian Masters but simply Servants to their own Mephestoples, Sir Iain Duncan Smith PC and his 1922 Committee through which Smith aspires to grasp the ultimate Parliamentary power by hook, crook, coup d’etat, or putsch denied him in his own frustrated lack lustre parliamentary life.

The current public question being raised is why did Johnston resign? Could I suggest to you it was because he was asked by Conservative Party ‘grandees’ of integrity including Lord Michael Heseltine CH PC and Sir John Major KG CH [on my Circulation List] to give an accounting of the whereabouts of £5+Billion overdue pension payments to 11,000 disabled Fire Service Veterans and their Beneficiaries since 1992?

At which point, Johnson having served his purpose, Smith as he regularly does, he threw him under the nearest Clapham omnibus in Chingford. I predict that the fools Rees-Mogg, Coffey, and Opperman will be next…

Smith who works with the sacrificial fools he surrounds himself with is a Master manipulator of seditious deviancy who hides in the political darkness.
A driven extraordinary, almost satanic creature, though to look at him close to you would be forgiven for thinking that you are wrong. The window dressing is excellent.

Can I with respect suggest to you, having experienced Smith's modus operandii for over 17 years, that you have a political care.

Neither Democracy, you, the Conservative Party, nor any political party, will be safe, nor in a position to move constructively forward to the next General Election until Smith et al are permanently removed from Parliament with their malignant damaging corruption.

I am shocked that no one in any party until recently actually comprehends what Smith's agenda truly is and the fact that he almost succeeded on his attack on Democracy is a tribute to his fascist sedition tendencies and his malignant right wing political manipulative skills.

Using the example I am passing to you, you surely must conclude that Smith's vision is not only corrupting sedition on a grand scale but with the intention of extending his threatening vision to any Democracy within arm's length in Europe and in writing to you I do so as a concerned Irish and UK Citizen.

I would like to assume that as the last fair play 'power' in the UK you will initiate the appropriate lawful action by taking this dispute 'on a point of law' to the High Court to put it right?

Yours Truly,

Paul P Burns

Divisional Fire Officer [Rtd[Grad I Fire E.

Order
of
Excellent Firefighter

Soviet Union

LSGCM

Exemplary Fire Service

United Kingdom

Oklahoma Medal of Valour
&
Honorary Citizenship

Oklahoma USA

A FORMAL COMPLAINT

EGREGIOUS ABUSES OF POWER BY THE CORRUPTION OF DEMOCRACY

THE SMITH PUTSCHS

HOW TO SEIZE POWER IN THE UK

THE ATTEMPT TO DESTROY PARLIAMENTARY DEMOCRACY

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The White House
4, Bangor Road,
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symbolseeker999@gmail.com
Wednesday, 17th May, 2023.

Personal & Private

Mr. Guy T. Opperman MP
Minister of State

for Employment DWP.

West Tofts Barn, Mickleton.
Barnard Castle DL12 0LR.
Tel No: 01748884601.

My Reference: PB00123 Prime Minister.
Your Reference:

The Smith 'Putsch'

Sedition
Corrupt Practice in Public Office
Conspiracy to Defraud
Knowingly ~ Perverting the Course of Justice.

[Sapiens nihil affirmat quod non probet ~
A wise man affirms nothing which he cannot prove]

Dear Minister,

Law Lords Ruling ~ Derbyshire Principle 1993.

1. In 1993 The House of Lords ruled, in which became known as the "Derbyshire Principle", that it was of the… " *highest public importance that a democratically elected body or any governmental body, should be open to uninhibited public criticism."*.

2. Furthermore, the Ruling continued*… "that the limits of acceptable criticism are accordingly wider as regards a politician…" .*

3. By now I am sure you know who I am and my journalistic interest in your activities and those of your Political and Judicial 'associates' and accordingly no formal introductions are necessary.
   In testing my bona fides you may wish to contact Dame Louise J. Ellman DBE, BA MPhil a renowned supporter and one time Leader of the Lancashire County Council, its Firefighters, and their Families in Lancashire.

Your Election and Promotion.

4. Minister, you were first elected to PM Cameron's Conservative Government as Member for Hexham in May 2010 stating you were … *"rather on the left"*… but calling for your Conservative Party to do more to show its support for… *"the hard working people in our public sector"…* and one assumes in these noble words you included all the UKs, 11,000 disabled Firefighters and their 30,000 Beneficiaries you are presently short measuring in 'support' ?

5. Regrettably at this early point you disowned your socialist public statements to the dismay of your local supporters by becoming what is known in the 'trade' as a turncoat by moving sharply from the left to the extreme right of the Conservative Party where you have remained ever since.

6. This synoptic letter simply confirms your subsequent duplicity and your continuing aberrant misbehaviour in corrupt practice as an existing middle ranking Minister [For Employment] in this current UK Government.

7. My personal letter also provides a platform for the full publication of you and your 'associates' corrupt practices to be published in factual detail in my publication "The Morning Bugler" when, or *if,* the need arises.

8. You need to be reminded, as you and your accomplices continue to 'sail close to the wind', that the Treason Act of 1551 still remains on the Statute Book…

> *"Treason against this state consists only in levying war against it, adhering to its enemies, or giving them aid and comfort, and <u>can be committed only by persons owing allegiance to the state</u>. The punishment of treason shall be death [as amended-removed] or life imprisonment <u>without the possibility of parole</u>".*

Recorded Archived Data

9. The archived data from my website [www.TheMorningBugler.com] has for well over a decade recorded a conspiracy of fraud by a collective of criminality, those named below, including yourself, and/or those who 'control' Civil Servants Freemason Brethren [the 'family'] who acted under your collective direction:

Politicians ~

Rt Hon. Sir George Iain Duncan Smith PC,MP; Conservative Backbencher;
Rt Hon. Jacob Rees~Mogg PC,MP; Conservative Backbencher;
Rt Hon. Dr. Thérèse Coffey PhD PC MP; Secretary of State DEARA;
Mr. Guy. Opperman MP; Minister of State [Minister for Employment].

"Best in the World" Justices ~

Rt Hon. Lord Ian Duncan Burnett PC, Baron Burnett of Maldon; Lord Chief Justice;
Rt.Hon. Lord Robert John Reed PC, Baron Reed of Allermuir President of the Supreme Court;
Rt Hon. Sir Geoffrey Vos PC, Masters of the Rolls.

10. Coincidentally you are fully aware that *all electronic communications* addressed to me are routinely intercepted by BT Belfast, from which you directly benefit, but whose civilian personnel cannot claim Crown immunity unlike the Security Services from prosecution.
All at the behest of Kenneth Douglas *McCallum* who is a British intelligence officer who is serving as the Director General of *MI5* since 2020, for and behalf of the UK government; which is ironically helpful because it ultimately confirms the egregarious unlawful activities of this civilian agency BT and of course your own personal role in benefitting from their combined interceptions.

11. This evidential archived data of over 2,000 documents, commenced in 2006, 17 years ago continues to record and provide irrefutable evidence of collective sedition, corruption, perversion of the course of Justice, and the common law criminality of fraud by 'controlled' Civil Servant public employees within successive UK Governments, their Agencies, and the Judiciary acting in concert with you against the lawful Rights of former public employees namely, *11,000 disabled Firefighters and their 30,000 Beneficiaries,* all Electors.

12. In spite of these politicians and Civil Servants using electronic proxies I can with the highest technical expertise available to me, identify and record their timed presences and their entire actions on my website, including, the equipment and systems they use, and even the pages of TMB they choose to read.

An Honourable Man ?

13. Regrettably Minister, in an earlier honourable professional life of 20 years as a barrister acting as a truly independent and noteworthy *pro bono* criminal barrister of probity ironically engaged in Human Rights issues, you routinely prepared accurate records/briefs for your clients but on this scandalous issue you have deliberately failed to retain any Ministerial records at the DWP which is a breach of the Ministerial Code.

14. Before you were appointed to Govern you worked for the Conservative Party in the 'Whips Office' in Parliament for 2 years until you were appointed a Junior Minister on the 14th June 2017, as Under Secretary of State at the Department of Works and Pensions [DWP]. An appointment colloquially known as the 'Pensions Minister'.

15. Thus you immediately found yourself in rather dire circumstances which you had 'inherited' from senior your predecessor, the Rt. Hon. Iain Duncan Smith PC MP.

16. On appointment you had an immediate Ministerial duty to inform yourself of the existence of any contentious issues in your Department drawing from the usual ministerial briefing given to all new Ministers by the then DWP's Permanent Secretary [PS] Sir John Deveraux KCB [Rtd 2018], and subsequently, by Mr. Peter Schofield [PS] who is the current accounting officer for the DWP when reporting to Parliament. Clearly you heard them but you chose not to listen.

17. Both these PS's had a special duty to inform you that your Department was already deeply enmired in this scandalous National Pension Fraud by unlawfully, in breach of the Data Protection Act 1998, supplying 'subject data' to the Lancashire Combined Fire Authority[LCFA] at this scandal's point of inception in Lancashire in late 2006; followed by a blatant Miscarriage of Justice at a corrupt Civil Court Hearing in February 2013; and in particular, post Hearing, highlighting the corrupt activities of the then Pension Ombudsman Mr. Anthony Arter OBE whom you controlled and were responsible for to Parliament.

18. It immediately became clear following your appointment, whether by practiced criminality or by acquiescing calculated silent deceit that you, PSs, and/or 'controlled' Civil Servant Freemason Brethren who were being directed by you and corrupt senior Conservative Party Politicians, which included the use by you of equally corrupt Justices [all named above].

19. In hiding your corrupt activities you were instructed by Smith to remain politically at 'arm's length' by creating, manipulating, and operating an artificial stonewall policy of obmutescent and dissimulation against the lawful entitlements of these 11,000 disabled Firefighters and their 30,000 Beneficiaries.

The Case of Disappearing Correspondence ?

20. On or about the 14th December 2017 the DWP received the first of two open unsolicited letters entitled 'Conspiracy to Defraud' from *pro bono* Barrister Mr. J. Copplestone-Bruce [Life Member - Inner Temple]. This was prompted by his alarm at the self-evident *de facto* criminality of The Pensions Ombudsman[TPO] Arter and also at the malfeasant role of TPR and the DWP, facts which he reported at large, including to you, the Minister responsible.

21. As expected no response was forthcoming from either your Permanent Secretary [PS] or yourself, so it remained a moot point, whether or not you had actually seen these two communications?

22. However, based on extensive pragmatic experience I was aware that it was, and remains, an accomplished function of Smith and his brother Freemasons, including those in Lancashire, to control

those ‘within the family’ of local politicians and the Civil Service including compliant Ministers like yourself, PS’s, Justices and associated Court Registrars and Civil Service[CS] staff at ‘keypoint’ posts within the UK Courts of Law, not forgetting those CS’s, who regularly ‘administer’ State sensitive Papers for Select Committees.

23. Their seditious function is to perpetually provide Smith et al with an unlawful correspondence interception/mislay/informational service in direct contravention of the Telegraph Act of 1868 [as amended].

The Great UK Revolution.

24. The objective of Smith’s control was three fold:

> Primarily, to facilitate his aspiring governmental coups d’état commencing in 2019, to date;
>
> Secondly, and coincidentally, to continue to support his ‘family’ Brethren in Lancashire Fire & Rescue Service [LFRS] by an unlawful discriminatory ‘policy’ which institutionalised and then nationalised a selective individual Pension Fraud which continues to afflict UK disabled Firefighters and their Beneficiaries today;
>
> Thirdly, in conjunctive ‘ring fencing’ with the aforementioned bribed and corrupted “Best in the World” senior Justices of England & Wales to create and implement a secret policy of Judicial ‘Omerta’ which I have entitled ‘Rejection by Judicial Obmutescent and Stonewalling’ to prevent these 11,000 disabled Firefighters and their 30,000 Beneficiaries from lawfully exercising their Right to ‘due legal process’, because as we and the Government now know, ‘The Firemen’s Pension Scheme Order 1992 Statutory Instrument[SI] No:129’, Rule B3/4 actually *finds for these supplicants*…

25. Minister, on the 23rd August 2022 in the Bugler I published in ‘Current Affairs ~ Volume 45’ in which I laid several additional serious charges against you of *current examples* of your corrupt Ministerial practices in Public Office.

26. For example, you acted as Smith’s *agent provocateur*, in extensive published correspondence with the Parliamentary DWP Select Committee [2022] by which you jointly attempted to corrupt the Parliamentary terms of appointment of a replacement Pension Ombudsman; yet another example of Smith’s and your dissimulating attempts to insert one of the ‘family’ selected Brethren into a ‘keypoint’ post *in order to buy his future corrupt usefulness and silence*; an attempt which was blocked by an alert Sir Stephen Timms MP [DWP ~ Chair ~ Select Committee].

27. I also publicly elucidated the quagmire of corruption with its consequences, which to your slowly dawning imagination, you found yourself fully implicated in since 2017; the personal consequence you are liable to; and the ultimate price of your criminality, which is likely to be one or more custodial sentences.

28. Unwisely, and still not thinking it through to a conclusion whilst dissimulating in the dark you could up to this point *still reasonably claim public ignorance* of this scandalous National Pension Fraud but you decided, acting against your best survival instincts, or perhaps acting in self-preservation ~ which confirms prior knowledge ~ to retrieve the original intercepted/mislaid correspondence at your Department originating from Barrister Mr. J. Copplestone-Bruce [14th December 2017] and [6th June 2018].

29. Ironically your enquiries prompted stonewalling attitudes in your own staff who simply confirmed to you their prior and extensive knowledge of the Fraud which they had a duty to inform you of and you continued to press for these elusive Barrister's letters which to your relief you eventually found in the Bugler's 'Correspondence Library Year ~ 2017' *where you actually downloaded the 14th December 2017 edition on the 23rd August 2022 @09:25:07hrs.* Yet carelessly you failed to find or download the 6th June 2018 follow up found in 'Correspondence/ Library/ Year ~ 2018'.

Those in League with a 'bought' Minister.

30. Minister, having finally acquired one of these two 'wayward' documents it depressingly confirmed to you the extent of the criminality in which you were fully involved [if you did not already know] while you struggled to mount a political defensive posture to extract yourself from this appalling reality, slowly realising *from this irrevocable point of download forward you simply could not claim ignorance of this scandalous fraud*; its criminality; your acquiescing role and culpability; and the guilty involvement of those Civil Servants under your Ministerial control.

Finally realising the future dire circumstances you are going to face when Parliamentary questions are asked and the national media headlines spin up their interest in your corrupt practices in Ministerial Office. You have much to answer for, and to lose…

31. Still unable to think clearly, you foolishly decided that you would seek confidential advice from your immediate political superior, Cabinet Member, 'another master manipulator' and your dear friend and fellow equine lover Dr.T.Coffey PhD PC MP who since 2019 has been habitually cultivating your friendship? Now you know why…

32. Your indiscreet and thoughtless investigations, as the Truth eluded your grasp, caused considerable alarm in the 'Omerta' cadre and even though belatedly you joined the other political lemmings in their stampede 'over the cliff' to resign from the Johnson 'government', within a matter of hours you found yourself coercively and perplexingly parachuted by Johnson/Smith/Rees-Mogg/Coffey back into your old recently vacated junior Ministerial post.

33. Regrettably you completely misread the reason for this 're-appointment', which was a duplicitous act entirely lost on you because *it was to guarantee your* future obmutescent. There is one born every minute...

34. Put simply, Coffey, her co-conspirators Smith, Johnson, Rees-Mogg and their corrupted Justices damned you into Silence with faint praise but the fact was you had inadvertently alarmed them by raising queries about the 'mislaid' correspondence concerning the missing £5Bil Pensions Fraud underpayments now overdue to the UK's 11,000 disabled Firefighters

and their 30,000 Beneficiaries since 1992 which you thought you knew all about, whilst conveniently forgetting that the victims are Electors at the fast approaching next UK General Election.

35. No doubt Coffey, as the sorcerer's manipulative apprentice of Mephistopheles Smith, and ace calculating 'sales person', used her latent Irish descendancy on your faux friendship and palpable gullibility to remind you how indispensable you were to her at the DW*P* and thus you bought into her flattering 'blarney', hook line and sinker and indeed you were and remain indispensable, but not for the purposes you might imagine, because by then you were no longer a free man.

36. The extraordinary alacrity of your gullible acceptance of this Smith/Johnson/Rees-Mogg/Coffey 're-appointment' proved to them that, coupled with your accelerating politically ambitious greed, and your lack of integrity that *your obmutescent* was 'For Sale' and thus Smith/Johnson/Rees-Mogg/Coffey seized it .

37. But it was not to cease there because your culpable cronies had placed you in their black mail grip and once there, no matter how daintily it was couched, they intend that you will remain there in obmutescent as the 'Fall Guy' [no pun intended]. It was time to waken up to the end game of consequences…

The Gubbins Turn PM Nominees

38. Coffey is an arch manipulator who politically lies at the bottom of this denial of 'due process' chain consisting of herself, her master controller Smith/Rees-Mogg, not forgetting their controlled Justices and when in power, even for a few transient hours, the PM of the day who in superseding all others is surely duty bound to know who s/he appoints and though it may be done by Civil Servants at arm's length 'deniability', the responsibility rests entirely with the PM?

39. Coffey was, and remains the 'contact presence' at the critical monthly Privy Council [PC] Meeting with the Sovereign. It was not a coincidence that Coffey was particularly chummy with the PC Registrar Mr.Louise des Mambros [now retired] who was also the Registrar for the Supreme Court and Lord Reed its President.

40. The Privy Council remains a venue for all these whispering conspirators, especially for the attending senior Justices, with, for example, yet another equine link to Justice the Rt Hon G. Vos PC ~ Master of the Rolls, a congenital crook and so called 'horse and bull breeder' in the Malvern Hills and, baloney aside, prompting the question where does Vos actually keep his missing horse manège?

41. All these Privy Councillors [PC] are contributors to the Judicial Rejection by Obmutescent and Stonewalling of any attempt by the victims of this State Pension Fraud to implement their Human Right to 'due legal process'. But these criminals have a shared survivalist instinct with the arrogant belief that their criminality is 'untouchable' by the hoi polloi, until to their shared horror and disbelief, one by one, they have disappeared under the Smith driven Conservative Party 1922 Committee Clapham/Chingford omnibus the latest being Johnson, when it suits

him….

42. It has been said that one should always keep ones potential opponents close to the heart and that is what Coffey, as you now well know Minister, does unceasingly with only one personal objective in her mind, the attainment of the Premiership for herself to the detriment of every Conservative politician and her Party and that is why, her cynical objective having been exposed by the Conservative 'Old Guard', she now finds herself in the woody woodlands in charge of DEARA [Dept. for Environment Agriculture and Rural Affairs]. Such is riding the Tiger's back…

43. Incidentally, it seems that all those associated with high bred horses, other than hacks, are inveterate shady gamblers, prepared to gamble with their most priceless possessions, integrity, honesty, transparency, and personal freedom, but in the end game they and you will find that no one is above the Law; so Minister as a former amateur jockey [the equine link] you are in grubby sleazy company.

44. With the announcement of Smith's next PM 'Nominee', Truss, a coup d'état Mark II Prime Minister, even more uncontrollable and more vacuous than Smith or Johnston, who are both profoundly stupid politicians and past their 'sell-by-date' revolutionaries, when *eventually* the truly Conservative 'Old Guard' woke up to the fact that Smith was engaged in a power grab, a putsch for himself and UK Freemasonry [which he has terminally damaged] with his multifaceted coups d'état which came to a juddering halt as Truss resigned and Smith's powerbase in the Conservative Party 1922 Committee stalled into violent fisty-cuffs confusion in the House of Commons counting lobby.

45. The straws in the wind were choleric but beautiful to behold.

46. At the sheer mention of Mr.Sunak's Asian name as the next PM Nominee, 'humble' Rees-Mogg simply gave up the ghost and promptly resigned taking his Chinese obmutescent, Secrets, and bigotry with him, *for the moment*.

47. Foolishly PM Sunak, had a criminal record [times x 2] when stumbled into the spotlight. A naïve UK politician with no political experience to speak of who cannot understand how even a poorly managed democracy can function without a 'caste' system, including the right to strike, but perhaps he has the cunning, intelligence, or nous to learn to be a good PM, but will time allow him that ?

48. PM Sunak next attempted to build a rainbow coalition within a very disparate Conservative Party [to save the Party but not the Nation] as Smith grumbled himself off onto the backbenches with his straw chewing yokels, stating in a blatant falsehood, that he had been offered and rejected a PM appointment which simply confirmed, yet again, his tendency towards racist bigotry, but a bigot can be a saintly aspiration for many other backbenchers.

49. The laughable huff and guff Smith posturing about retiring to the political wings in this farce is a complete sham as you and any seasoned observer will know. Smith is an abysmal

politician, is addicted by frustration to power and all any observer has to do is separate the wheat from the pile of guff.

50. Meantime the cloying and clingy Coffey disappeared off the front bench heading for the political wilderness of green pastures at DEARA having blatantly wheedled and squirmed her way into an appointment as Truss's Deputy Prime Minister saying that she was PM Truss's *best friend*, confidant, and parliamentary prompter when the Questions at PMQ [Prime Minister's Awkward Squad Question time], came thick and fast.

51. Coffey will of course see more of her horses and her Arab investors in Warwickshire at her undeclared parliamentary stud 'farm', an allegory for the residential caravan she pulled off in Suffolk claiming it was her and her Mum's permanent constituency home forgetting she lives at Billinge in Lancashire with her sister….they used to call people like her in Ireland Tinkers…who have the gall, that if it is not screwed down, it belongs to them…hence Coffey has the largest, by far, the longest list of received 'gifts' in the House of Commons!

52. At this point one must ask the obvious why was Coffey not sacked but only sent to the back benches ? The answer is obvious that both the PM and she knows that she possesses too much inner circle politically dangerous baggage for his Premiership to prosper including the revelation of this 'elephant in the room' of a £5Bil+Compound Interest National Pension Fraud.

53. Old adages say about Coffey, if it looks and behaves like a bag lady, then *it is a bag lady,* with a bag full of political hand grenades, and she is better retained under control even though it is out in the Somerset Levels; or if you prefer, the American maxim concerning tents and urinating; or finally the blackmailers', blackmailer…

Opportunity Strikes

54. So the game appeared up for Smith, Rees-Mogg, and Coffey but what about you Minister? Your denouement came a little earlier, or did it, when it became every matelot for himself on the deck of this Titanic Revolution, with women and children last !

55. It seems Minister that waning stars became the fashionable order of the day including yours. One can only imagine your chagrin and your high dungeon immediately after you had just done the Smith/Johnson/Rees-Mogg/Coffey 'cabal' a huge sell-out 'favour' to man the DWP pumps when without further ado, as you so pithily put it, Truss peremptorily decided to … 'relieve you of your duties'… and you were dispatched to the Tory backbenches after 7 years' service as a Conservative Party Whip and Junior Minister, though Readers will recall you told the world that you were mightily relieved, whilst forgetting the Law has a Long Arm?

56. Power apparently is the original aphrodisiac and having sipped from the poisoned chalice it finally dawned on you that your criminal associates had indeed all bailed out in this maelstrom of corruption and dashed revolutionary zeal, leaving you to 'carry the can', but perversely your cronies Smith et al remaining inherently stupid had unwittingly placed priceless power in your slippery hands, useful for another day especially for a Minister of such boundless ambition and flexible morality.

57. But as we know after the collapse of Truss's administration, because it could not be described as a government, came Mr. Sunak, as the next Conservative Party 'Nominee' who unwittingly provided you with the opportunity to fulfil the destiny of your warped ambition. A Nominee promising *"this government will have integrity, professionalism and accountability at every level."*, A promise which you are unlikely to fulfil.

58. This was the pivotal moment in your mindless ambition born out of criminality when unbelievably you decided you may as well be hung for a sheep as a lamb, which indeed you will…
But Truss and Sunak had greater fish to fry than a mere Under Secretary and no one was listening to your feeble attempts at a dialogue with the incoming Sunak/Conservative Party's administration so it did not immediately bear fruit.

59. Clearly such ingratitude was intolerable and having sold your professional Soul so cheaply for a penny roll, and after having taken the irreversible first step of selling out your good name and that of your family, your integrity, and honesty, you were not best pleased and yet you slowly realised that indeed you *were in possession of incalculable knowledge* of Smith's institutionalised Pension Fraud on a grand scale entitling you, as you saw it, to sell out to the highest bidder, *for your benefit for a change*… and as a former Tory Whip you well knew how the trading works…did you not?

60. PM Sunak had a plethora of problems, the least of which is criminality; partying [fined] and seatbelts [fined]; all centred around, as he still sees it, how to rescue the Conservative Party from political oblivion whilst accommodating a rainbow coalition of all the competing disenchanted splinter groups of the Party without losing their voting support; a balancing act set against a substantial shortfall of experienced or accomplished Ministers of any description.

61. This shortfall provided you with an opportune moment, whilst re-employed at the DWP to capitalise on your old Whip trading skills armed with Smith's legacy of Judicial Rejection by Obmutescent and Stonewalling with its useful sensitive tradable criminal knowledge which was now in your sole possession.

62. A trade off which you used to 'encourage' Smith and the Conservative 1922 Committee to support your candidature for the existing vacant middle ranking DWP Minister for Employment which you envisaged just slipping into whilst remaining at the DWP using all the old trading skills you had honed there as a Junior Minister which also, rather neatly, fulfilled PM Sunak's Ministerial capability short fall.

63. Clearly though it was a 'hard sell' highlighted by the delay in publishing your promotion by appointment [horse trading takes time] but confirmed by the 'rainy day' low key level of its public announcement. A promotion which inimitably brought inherent benefits to Smith and the 'family' Brethren including their continuing 'investment' in your quid pro quo of Silence.

So where do you find yourself ?

64. Minister, I am sure you find all this somewhat depressing but it seems appropriate, at this juncture following your pyric coups de main, to evaluate where you now *actually* find yourself and although deeper into this quagmire of corruption, with its resultant personal and family humiliation to follow, you have nevertheless achieved this higher Public Office, mostly by hook and crook which means you have further to fall from the gibbet because you now have acquired the suffix as a blackmailer whilst probably facing indeterminate custodial sentences which match a growing list of criminal offences.

65. This trapdoor will most assuredly be sprung when the question is presented to the PM Sunak across the Despatch Box by the Opposition… PM would you care to explain to the House how was it you appointed Junior Minister Opperman, a Full Minister? A PM who must surely have known the background to your 'solicited' appointment and thus the PM has also become a reluctant 'accessory after the fact'; a co-conspirator of yours ?

The Consequences of Treason and Sedition

66. I am duty bound to explain to my International Readers the 'normal' Political standing and responsibilities of a UK Minister of State [for Employment] and your continuing legal responsibilities for this National Pension Fraud as you continue in higher Ministerial office at the DWP?

67. Unless you have forgotten, which I doubt, you will be aware that even as a 'door tenant' barrister whether currently practicing or not, you continue to be an Officer of the Court with its full panoply of duties when you swore to uphold the Law, following your swearing-in of several Oaths at the Bar, to the Sovereign, the Citizens, and the Nation.

68. In addition to Common Law exposure to the Fraud Act 2006 [as amended] you are also subject to two individual Standards of [Mis]Conduct firstly, the Bar Standards Board, the Chair of which is, since 1st September 2022, Ms Kathryn Elizabeth Stone OBE, Doctor of Laws; and secondly from January 2023 when Mr. Daniel Isaac Greenberg CB was appointed independent Parliamentary Commissioner for Standards of the House of Commons.

69. Furthermore, when finally in 2022 you became fully aware of the dimensions and personal implications for you of this National Pension Fraud you signally failed to act to halt or correct this wrong doing, further compounding this felony by denying these predisposed Applicants their Human Right to 'due legal process' which under the European Convention on Human Rights [ECHR] Directive Article 6 is the "Right to a Fair Trial" which is our common law Human Right to Justice.
But then given your years of practice in *pro bono* Human Rights Law in the lower English Courts you surely know all this?

70. Minister, all this criminality including your own, was effected under Smith's control and direction using his political vassal intermediaries principally Rt. Hon. J.Rees~Mogg PC,MP; Rt.Hon.Dr.T.Coffey PhD PC MP; and principally Judicially Sir Geoffrey Vos PC. which has led to the corruption of the reputation of England and Wales Juris Prudentia by these so called, by the Lord Chief Justice Lord Burnett, "Best in the World", senior 'independent', 'impartial', 'incorruptible' Justices created by rigging/rewarding their appointments and

providing other inducements to carry out Smith's treasonous, seditious, fraudulent acts against the State, its disabled Firefighter Veterans and their Beneficiaries.

The Financial Embarrassment

71. The logical step is to examine these illustrious Justices following LCJ Burnett's [Upon appointment-2017] ill-advised published twitterings.

72. Justices who have in actualite seditiously perverted the course of Justice and profoundly damaged the international reputation of Juris Prudentia in England and Wales.

73. The first question arising is why was it so easy to corrupt them? Because, it seems, they were already corrupted by the bribed fulfilment of their career ambitions which we continue to witness as you and others persist in the continuum of corrupting them regularly over this scandal.

74. Next one should also ask these illustrious Justices of Law, why was such a criminal conspiracy of Sedition, Surreptition, Rejection by Judicial Obmutescent and Stonewalling, and perverting the 'due legal process' *actually necessary, if,* a prime facia reading of 1992 Statutory Instrument No:129 by any accomplished government law advisors *had already found for the Government*…

75. A warped 'fact' which you Minister, as an accomplished barrister, and having access to internal privileged governmental legal advice will already know *they did not*, in fact, they actually *found for the disabled Fire Fighters*...thus another plank of your defence just fell away.

76. Your collective problem was not the Law per se, but the resultant embarrassingly large calculation of £5Bil+Statutory Compound Interest overdue, nationwide, in arrears of underpaid Pension Payments due to disabled Firefighters and their Beneficiaries since 1992.

77. An amount calculated by the application of the Statutory provisions of the 'Late Payment of Commercial Debts [Interest] Act 1998' which operates on the Statutory principle of applying 8% Compound Interest to this overdue Debt in Pension Payments due to all these 40,000 disabled Firefighter Veterans and their Pension Beneficiaries, who are also Electors.

The Illustrious Corrupt Justices ?

78. Next a detailed look at the corrupt actions of some of these illustrious Justices commencing with Master of the Rolls the Rt Hon Justice Sir Geoffrey Vos PC who is an interesting arrogant cove, yet another Justice who lacks intellectual rigour or moral scruples but the same cannot be said for his personal ambition or fiscal greed.

79. The primary skill which Justice Vos exhibited, under the direction of Coffey et al, was to corruptly attempt to exploit my perceived ignorance of the Law and 'due legal process' by creating and applying an imaginary lawless 'rule' of 'Judicial Rejection by Obmutescent and Stonewalling'.

80. When it served Justice Vos's flagrant criminal purpose of abuse of the judicial system to deny 11,000 disabled Firefighters Veterans and 30,000 Beneficiaries their Right to 'due legal process', he used his Civil Servant Freemason 'family' at the Registries of Courts to knowingly and maladroitly intercept/mislay and malignantly manipulate lawful documents.

81. Further, he supported this perversion using compliant subordinate junior Justices at the High Court of Appeal and Chancellery who under his direct control he 'parachuted' Justice Fancourt [currently sitting on the HRH Case] into the 'due legal process' with the *absolute* intention of perverting the course of Justice.

82. Furthermore, his intention was to implement this preordained Judicial Rejection by Obmutescent and Stone Walling which concluded without the issue of a single Judicial Judgement, at any or every stage; a Judgement which is a tenet of every EU and UK Applicant's Human Right to Justice within any Court of England, Wales, and Europe.

83. When Vos was a junior Justice at the High Court of 'Chancers' [Chancellery] he was attached to the British Virgin Islands [BVI] dainty Court House as a 'visiting' Justice which served a dual purpose because he surely knew it was a notorious tax haven? But to protect himself from the UK prying Taxman he sought to hide his extracurricular activities by laundering his 'spare cash' in another adjacent and obscure British Colony, Barbuda.

84. Unfortunately for Vos early in 2022 at short notice Barbuda decided that its Constitutional future lay in becoming a Republic, and one assumes, in rather a panic following this decision the Bugler logged Vos into Barbuda using a proxy over a 7 day period where no doubt he was having a 'holiday' at the Tax Payers expense whilst he moved his 'laundry' from Barbuda back to the adjacent BVI with which he was so familiar.
"Best in the World" ~ at tax evasion?

85. Closer to home in the Malvern Hills, one wonders if Vos still claims exemption as a working corn acre agricultural farm from the Herefordshire Community Charge [a Local Tax]? Yet in the Jewish Chronical he misleads us, from the other side of his mouth, that his farm is a fully functioning commercial horse stud and bull progeny breeding farm which includes a sprinkling of individual private sub-residences, which he publicly advertises, as rental holiday homes though presumably used ex gratia for visiting horse and bull breeder owners who visit their 'investments'. All of which, according to the Taxman, are not tax exempt?

86. But ["Independent"?] Vos did not act alone. He was aided and abetted in this Rejection by Judicial Obmutescent and Stonewalling, leading to the absence of any Judicial Judgement, by the Lord Chief Justice Lord Burnett PC ["Impartial"?] and the President of the Supreme Court Lord Reed PC ["Incorruptible"?] who as the Bugler's correspondence records show were *all* fully aware of Vos's criminality at a very early stage, but who *all* failed in oversight to take any legitimate judicial action whatsoever in respect of an "Extraordinary Appeal" submitted directly to them by me, and others; a permitted legal provision for any Appellant at the UK Supreme Court given these *"Extraordinary"* circumstances which they alone created.

The Justices who never knew ?

87. Neither Reed nor his [then] Registrar Mrs Louise de Mambros can plead ignorance of the Court's receipt or lodgement of this "Extraordinary Appeal", fee paid at the Supreme Court. Nor by its acceptance with the encashment of the £1,200.0 fee the creation of a Common Law contractual obligation to provide, 'due legal process', which required that this "Extraordinary Appeal" had to be placed before the President, or his nominees, of the Supreme Court for Trial whether or not later they decided to return the encashed cheque, the Contract was established.

88. Indeed, Registrar des Mambros, who was also Registrar for the Privy Council [PC], which was all rather fortuitous for conniving with Coffey, Reed et al , *reinforced this receipt* in a one line response which bizarrely stated that she believed the President was "unable to help".

89. Interestingly high flying Legal Eagle the UK President of the Supreme Court Lord Reed PC ["Independent & Impartial & Incorruptible"] sits on an ad hoc Committee at the European Convention on Human Rights in Strasbourg. One wonders when we all get there shortly how this particular Court will view his cant and hypocrisy as indeed will the Irish Bar which he visits regularly in Dublin to teach the 'natives a few tricks'. Surely he must be declared *persona non grata* by both organisations?

90. Furthermore, Vos and Reed were also aided and abetted by the most senior law Lord in England and Wales Lord Burnett, Privy Councillor [PC], the Lord Chief Justice, who, given the volume of Recorded Delivery and duplicated correspondence delivered to each of them including LCJ, in some cases by hand, could not and cannot, under any circumstances, plead ignorance of receipt, or plead ignorance of the existence, of this "Extraordinary Appeal"?

Ministerial Explanations

91. Now Minister, in returning to the Pensions Scandal, a simple Question? When did you inform each of these transient Prime Ministers of this National Pension Fraud during the period of their transitory Office?
What instruction in remedial action did the last three Prime Ministers of the day then issue to you ?

92. Perhaps you might care to explain, in the case of myself and forty one thousand other pension recipients [disabled Firefighter Veterans ~ 11,000 and their Beneficiaries ~ 30,000] when you were recently promoted to this latest *full* Ministerial post as the over arcing lawfully responsible Minister whether or not you have already informed your Junior Minister, the newly appointed 'Pensions Minister' Ms. L.Trott, of this major National Pension Fraud at the DWP and what your joint intentions are to correct this scandal to ensure that the compensated backdated correct payment of these lawfully due pensions since 1992 are immediately reimbursed to these victims, by the DWP who is not without clean hands either?

93. Following your Yuletide island holiday am I to assume, six months later, that you do not intend presenting a Statement to the House and thus you intend [head in the sands] to take no action as previously on a National Pension Fraud of the significance of £5Bill+Statutory Compound Interest which has been before you since 2017?

94. Is it perhaps that you are obediently following the dictat of PM Sunak and his Cabinet in supporting their unlawful denial of our rightfully due disablement pensions, since 1992 a lack of corrective action which de facto will confirm that the PM *is fully advised by you* of this National Pension Fraud, thus confirming *his* complicity?

95. It only takes the slightest spark of imagination Minister to understand the ramifications all this and to then reflect what action you should personally take if only to protect your remaining professional integrity; your political self-preservation; and your personal freedom ?

96. Surely your experience in the professional world of criminality which notably included defending *pro bono* Human Rights applicants in the Courts have taught you some lessons which in your pursuit of ambition and greed you have chosen to ignore?

Family Good Name ?

97. And what of your family good name? What will your wife, and with time, your children and extended family think of your shameless treacherous criminal misconduct? Perhaps in a Crie de Coeur they might be driven to ask how could you have been so stupid and greedy? A base instinct of greed which simply confirms, once more, that Power does indeed corrupt.

98. There is no escaping the facts of the appalling political/criminal imbroglio which you placed yourself and your family in, compounded with your uncontrolled ambition and greed by placing your integrity and personal freedom in the hands of cynical criminals, aka Duncan Smith; Jacob Rees-Mogg and Coffey; and the worst of all the ruthlessly corrupt and manipulative Judiciary and its Civil Service.

99. It may well be that you have already privately thrown yourself on PM Sunak's mercy, but somehow I doubt that, and thus currently the PM might well *be unaware* that not only do you hold his political future in your hands but in doing so you have also made him an '*accessory after the fact'* ~ yet another confirmed criminal conviction for the PM.

100. Indeed the future of the Sunak Government with the prospect of a General Election rests entirely with you; and furthermore a Conservative Party doomed to political perdition for at least the next electoral generation

101. Finally comes the most disconcerting matter of all which you surely must continue to ponder. How are you going to retain and use this 'Get out of Jail free card' which you have now created and ruthlessly exploited for your own greedy material advancement whilst cogitating is there a solution to your unenviable and imponderable situation?

Resolution and Restitution? ~ What is my intent?

102. My intent remains unchanged and unchanging whilst directly acting on behalf of those compulsorily discharged Lancashire disabled Fire Service Veterans and their Beneficiaries

whom have placed their trust in me, whether or not, they are Freemasons.

103. Further, I presage my options with my oft publicly repeated views on Freemasonry.

104. I live in a democracy albeit a hapless example. Any Citizen is entitled to join and engage with any lawful organisation which s/he chooses.

105. Where my moral and spiritual views diverge is if any organisation, or its individual components, use unlawful or immoral practices to gain unfair advantage over other fellow Citizens and/or deny or obstruct *their* God Given Human Right to Justice for the abhorrent purpose of personal or organisational pecuniary gain, then I will strenuously object.

106. I have never sought unfair advantage nor will I act unlawfully, nor have I done so. Jointly and individually we seek full reimbursement and full restitution of the corruptly enforced alleged pension 'overpayments' and the confirmed underpayments [with 8% compound interest since 1992, or when pension was first put into payment] from the LFRS Pension Fund into which we paid the highest level contributions and which we have earned on the streets of Lancashire, in the Service of Lancashire Communities.

107. In the light of the synoptic outline evidence I have presented to you I suggest that you should without further dissimulation or delay take action in Resolution and Restitution to rectify these Injustices and for pragmatic purposes I will allow you 14 days to indicate to me what your Government's formal intentions are? One assumes expediency?

The Pathway to Justice.

108. Should you find it uncomfortable to dialogue with me even though I have been under formal tutelage from Mr. John Copplestone-Bruce [Life Member-Inner Temple] since 2011, Mr. J. Copplestone-Bruce[J.C-B.] has given his permission for me to indicate to you that he is prepared in the pursuit of Justice to assist you in your Restitution and Resolution endeavours but he restricts his endeavours to disabled Firefighters and/or Beneficiary Members of the LCFA 1992 Pension Fund only.

Within, 'Pensions ~ In Plain English' on 'The Morning Bugler', [indeed uniquely the facility is provided to download the entire document] is to be found 'Seminal Works in Plain English', a synoptic biography of J.C-B.

Contact Point:
Mr.John Merlin Copplestone-Bruce Barrister Life Member ~ Inner Temple, 30 Broadway Fulwood Preston Lancs PR2 9TH; Phone +44 [0]1772 712857.

Finally we, jointly believe that what other Fire and Rescue Authorities, with similar Pension Fund deficits might care to do is a matter for them.

In all these legal matters of Public integrity, honesty and transparency, as PM Sunak would have it, I am advised by my good friend and Tutor for over a decade, *pro bono* Mr. John

Copplestone-Bruce, Life Member of the Inner Temple; a Bar at which you Minister continue to be a practicing criminal barrister albeit a ‘Gate tenant’ .

109. Minister, unlike this letter’s frontispiece, the purpose of certain of the attached Appendices are self-evident providing you with additional information of significance in the form of either a narrative, or de facto copies of specific historical legal documents concerning this Pension Scandal which you should be made aware of; *if* you are to fully understand the genesis of this scandalous National Pension Fraud, which originated in Lancashire.

110. Anticipating your failure to acknowledge or respond, as previously, within the time period I have stipulated I will publish the contents of this document worldwide to the media and to the Prime Minister as open correspondence because we expect him to… “have integrity, professionalism and accountability at every level.".

111. Furthermore, I will, without further notice to you, make Application with detailed legal Addenda to the ECHR Court at Strasbourg citing the appropriate Articles of the Convention which the UK have with malice aforethought failed to implement for its Citizens as an ECHR Member State and thus I will conclude that I have also exhausted the Juris Prudentia of England and Wales.

112. Minister, Mr.J.C-B has persuaded me, against my better instincts, to proffer you a final opportunity to promptly take Ministerial action to rectify all these unlawful matters. Failing which I recommend that you approach the DPP and turn King’s Evidence throwing yourself on the Courts’ mercy before I publish all this evidence unmasking of all those involved with you in this criminal conspiracy of Sedition and Fraud.

What are your Options?

113. In 2006.When the LCFA became aware of their failure to maintain an accurate ‘account’ of their Firefighters Pension Fund they had a Statutory duty to report the gravity of this failure to The Pensions Regulator which they failed to do.

114. In 2007 – 2011, in another deliberate miscarriage of justice, when the LCFA unlawfully retrieved these ‘alleged ‘overpayments from the disabled Firefighter Veterans and their Beneficiaries they failed to transfer these funds for reallocation back to LCFA Lancashire Firefighters Pension Fund. Where have they gone? Because no Public account record has ever been published?

115. You and/or your Under Secretary Ms.Trott [The Pensions Minister] should immediately carry out a publicly declared strictly time limited Ministerial Inquiry into Pension Fund fraud at the LCFA and its unlawful association with the DWP over ‘subject data’. All based on the additional evidence of corrupt and unlawful practices I have presented to you in the attached Appendices.

116. This will ‘facilitate’ the LCFA in paying back the disabled Firefighters of Lancashire and their Beneficiaries that which the LCFA have fraudulently swindled them of including the unlawfully enforced repayments of the 2007-2011 alleged DWP ‘overpayments’, all due to the

LFRS's failure to maintain and retain accurate individual pension records within a properly 'maintained' Statutory Pension Fund 'account'.

117. Furthermore, as a consequence of the LCFA failure of Statutory duty to 'maintain' an accurate 'account' including individual pension records they have failed to apply the correct provisions of the relevant Pension Fund law [1992 SI No:129]; to pay the overdue arrears; and following correction, the continuing balance due to their Fund Members underpaid pensions since these individual pensions were first put in payment; all attracting 8% Statutory Compound Interest.
A budget of several £Millions is envisaged in restitution which no doubt the LFRS reserves will be applied to from the well-endowed Local Pensions Partnership of which they are a founding Partner.

118. Any unexplained delay on your part will be construed as the continuing practice of Rejection by Judicial Obmutescent and Stonewalling and without further contact I will bring the UK Government to the ECHR Court of Strasbourg and because the Statutory UK Laws will find for us and the UK will pay the final bill which will amount to at least £5+Billion+8% Compound Interest with its attendant individual, national, and international impact.

119. Finally returning to the Statute Law may I remind you and your Secretary of State, The Rt Hon Mel Stride MP, that you both have a **Statutory duty under the Public Service Pensions Act 2013 which *compels you* to resolve any pension dispute by taking the issue to the High Court on a Point of Law. I recommend you promptly do so by ex parte if you so desire.**

Yours Truly,

Paul P Burns

Divisional Fire Officer [Rtd[Grad I Fire E.

Order of Excellent Firefighter

Soviet Union

LSGCM

Exemplary Fire Service

United Kingdom

Oklahoma Medal of Valour & Honorary Citizenship

Oklahoma USA

Appendix ~ 'A'. The Authors of this Seditious Fraud.

120. Since 1947, Lancashire County Council [LCC] and its operational command Lancashire County Fire Brigade [LCFB 61 stations], was the progenitor of the 1998 Lancashire Combined Fire Authority[LCFA] and its operational command Lancashire Fire and Rescue Service[LFRS 40 stations].

121. The LCFA, formed in 1998, was a politically opportunistic organisation created by the gerrymandering of local MP Mr. Jack Straw [Labour ~ Blackburn] to capture the growing local ethnic votes for his personal political aggrandisement.

122. The resultant hybrid *combination* organisation of 3 Local Authorities was a politically excessive polyglot collection of 25 corrupt Councillors of all Parties ~ top to bottom.

123. In addition this absurdly corrupt organisation, including its senior uniformed management [to date] continues to be controlled and directed by the Lancashire Freemason Brotherhood under its leader Mr. M. B. Winterbottom a solicitor.

124. So in unapologetic discrimination, ethnic and female employees, whether uniformed or not, are never permitted the Equal Opportunity to attain Principal Officer ranks and who should know better than I ? Perhaps the new Sovereign may have divergent views on Winterbottom's approach to Equality?

125. Based at the historically bestial [Hung, Drawn, and Quartered] Lancaster Castle under the direction of Mr. Max Benskin Winterbottom who is the permanently appointed Under Sheriff for the Duchy of Lancaster, as close as any Under Sherriff [one wonders if he is a Pro Grand Master] is likely to be permitted to get to the serving the new Monarch, King Charles III.

126. Supposedly retired, this former solicitor and omnipotent Leader of Lancashire's Freemasons, after a very long stint as Clerk of the Lancashire Fire Authority, was the first official to threaten to sue me for defamation providing a useful barometer of panic which increased the closer I got to the Truth.
Winterbottom runs a fly fishery on small ox bow lakes at the side of the Lune in Caton Lancashire where he retains many fingers in many pies as a leading Freemason in the North West of England.

127. The Lancashire Freemason Brotherhood, colloquially known nationwide as 'the family', were never renowned for their intellectual rigour but were exemplary corrupters. Routinely they include in their current ranks the local titular 'Lancashire High Sheriff ~ Deputy Lieutenant [DL]', King Charles III Nominee, whose primary duty … "is to protect and assist in upholding the dignity and wellbeing of HM Judges"? "Best in the World"?
Hardly surprisingly, present are the subordinate Lancashire Chief Constables and their 'family', rank holders at every level and other Heads of Local Authorities and useful public organisations, etc., all of which proliferate.

128. The Temple Brethren routinely includes the local judiciary ranging from amateur magistrates to "Best in the World" Justices. In 2011, for example, this local judiciary was under the control of an embarrassing Circuit Court Justice [Head of the local Family Division] for

Lancashire and Cumbria, His Honour Justice Philip Butler who was on perpetual call to ensure that Lady Justitia did as she was told at the direction of Winterbottom et al, as we shall see.

129. Butler, a Catholic, was in contravention of the long standing Papal Bull of 1738, '*In eminenti apostolatus specula'* of Pope Clement XII which bans Catholics from becoming Freemasons, but who also happened to be a Knight of the Equus Equestrian Order of the Holy Sepulchre of Jerusalem, anointed by the Pope.
Butler was, like Vos, just another one of LCJ Burnett's, the "Best in the World"; "Independent?" "Impartial?" And "Incorruptible?" Justices who soiled every one of those laudatory principles.

Appendix ~ 'A'. The LCFB Firefighters Pension Fund 1947 ~ 1998.

130. Since 1947 the LCC and its operational command the LCFB including its successor in 1998 the Lancashire Combined Fire Authority [LCFA] and its operational command the Lancashire Fire & Rescue Service[LFRS] was required to operate a current Statutory National Pension Scheme for full time Firefighters[now including part-time] and their Beneficiaries.

131. In late 1971 I was transferred to Brigade HQ and appointed as Brigade Press Liaison Officer. Part of this holding appointment, pending appointment to Station Command in 1972, was to familiarise me with in-post BHQ civilian staff, their roles and functions, essential knowledge for future dialogue with BHQ staff.

132. The Personnel Department staff included Ms. Eileen Joan Drinkall [EJD] described as a 'pensions clerk' but who was in legal fact the *sub-delegated* Pension Scheme administrator [the Pension Scheme manager is always the delegated Authority's Chief Fire Officer] and remained so, well after Ms.Drinkall's retirement in 2002.

133. To support her work the LCC provided a 'Pensions Services' department [the actual pension paymasters] for all its Pension Schemes[120], including the LCFB Pension Scheme with its Pension Fund and Members, under a long service pension clerk called Mrs. Dorothy Lambert who liaised with Ms.Drinkall.

134. At that point in time I was a Member of the 1973 Pension Scheme.

135. The immediate predecessor of the 1992 Scheme [a combination/enhancement Scheme] was the 1973 Pension Scheme [a non-enhancement Scheme]. The latter a rather simplistic set of Regulations consisting of 80 pages with no form of *official* working guide.
Similar in actuarial principle and practice to the Police Pension Scheme it put into payment pensions based on a *maximum* of 40/60th [known as the hypothetical pension] calculated on a retirees' last year of Average Pensionable Pay [APP]. A simple one fits all 'pension scheme' for those retiring.

136. Better late than never, to increase Pension Scheme awareness in all Ranks, in 1987 Kent and Surrey Fire Brigades produced and supplied nationwide a 45 page Guide to the 1973 Scheme. The LCC supplied the Guide to all LCFB Officer Ranks, including myself.

A cautionary caveat reminds the users that a Guide is simply that, a guide, which ***cannot replace the provisions of the actual relevant Statutory Instrument [SI]***.

137. This example based Guide was undoubtedly casually used by Ms. Drinkall as a crude ready reckoner for the 1973 Scheme to provide a 'quick fix' for providing pensions to Firefighters retiring in Lancashire, pre1992, by the simple application of 40/60ths to a hypothetical calculated gross pension which then became the pension put into payment.

138. This casual approach, as subsequent disastrous events were to prove, ignored the *critical requirement* for any Pension Scheme clerk, including Ms.Drinkall and Mrs Lambert, to understand and accurately apply the *actual provisions* of the relevant Statutory Instrument when putting new pensions into payment.

Appendix ~ 'A'. The LCFB Firefighters Pension Scheme 1992 ~ 1998.

139. A *part resolution* of the first national Fire Service strike in 1977-78 was the enactment of a new and more complex, even generous Pension Scheme, the '1992 Firemen's Pension Scheme Order Statutory Instrument No:129' [SI], enacted in March 1992.

140. This was, unlike the 1973 Scheme, a specifically *complex combination Scheme* encompassing both non-enchantment *and* enhancement elements.

141. It consisted of 90 pages of detailed Regulations but because of the complexity of its typographical layout and its multifaceted legal drafting language it was accompanied with an official plain English, Home Office Commentary [HOC], a guide of 394 pages including the repeating caveat … *" Its purpose is to help those who use the Scheme to understand its provisions, bearing in mind that such guidance cannot replace or override those provisions.".*

142. Once more this caveat, ubiquitous to all legislative 'Guides' is that no Guide can replace the regime of the accurate application of an SI's *provisions* to which it refers. For example, this HOC does indeed contain omissions, ambiguities, errors and can of course be misread by the untrained.
All *a trap for the unwary* because the HOC was written under a less strict regime than those required from scientific actuaries drafting legislation.

143. The Morning Bugler was the only publication to ever reproduce this entire HOC unedited/unredacted in full for the use of UK Firefighters nationwide to assist them in understanding their pensions.

Appendix ~ 'A'. Pension Fund Maladministration 1992 ~ 1998.

144. 'Maladministration' of any Pension Scheme has been defined by The Pension Ombudsman as the presence of 'Overpayments' and/or 'Underpayments' within the Scheme. It follows that 'Malfescence' is the institutionalisation of 'Maladministration' whereby the Authority [LCFB] *knowingly* acts unlawfully.

145. With the enactment of the new pensions SI on 1st March 1992, the LCFB at BHQ had in post a single full–time clerk Ms.Drinkall and at the LCC Pensions Services [its then pension provider], a full time pensions clerk Mrs. Dorothy Lambert who liaised with Ms.Drinkall in overseeing the previous 1973 Scheme but who were now jointly required to administer a new 1992 Scheme with of over 2000 LCFB Pension Fund Members.

146. From personal knowledge neither Ms.Drinkall nor Mrs Lambert her LCC colleague held a nationally recognised Statutory Qualification for Pension Scheme management, even by voluntary paid subscription to an 'industry' association. Nor surprisingly did they ever receive or seek any training or qualification in a discipline which also required audit skills.
Indeed, today in spite of the 'Hutton' Review no such qualification *by Statutory examination* exists in the UK Pension 'industry' including Fire Authorities.

147. It is clear no one received the minimum essential legal/audit training to transition from the 1973 to the '92 Scheme. Nor critically was anyone given a basic understanding of how to apply the legal provisions of this new legislation; what its new nomenclature might mean; or even how to correctly audit/calculate a 'hypothetical' pension for those Members retiring under the new '92 Scheme.

148. Thus Ms.Drinkall, in effect an untrained daily ledger Pension Fund clerk and the sub delegated Pension Scheme manager was expected just to carry on and expand her 'expertise' accrued from an unofficial Guide to the 1973 Scheme whilst confusingly attempting to 'learn on the job' about the new '92 Scheme and its enormous official HOC which was a monumental task well beyond Ms.Drinkall's and Mrs Lambert's capabilities which inevitably led to accumulative errors with the application of this 1973 scant 'expertise' to, for example, the 5 new types of pensions created under the new '92 Scheme.

149. Given this 'accident waiting to happen' Ms.Drinkall in plausible ignorance simply continued applying her questionable 'expertise' by substituting the new Official HOC without recourse to, or application of, the actual provisions of the new SI. In effect making it up as she went along.

150. Thus was born the first of many epic maladminstrative failures which over time amassed into monumental errors whilst remembering that the Statutory duty and its legal liability for Ms.Drinkall's ineptitude rested entirely with the LCFB and in 1998 its emerging replacement the Lancashire Combined Fire Authority[LCFA].

151. It is a correct assertion that from 1992 to 1998, not a single Officer at Principal Officer Rank [Asst Chief and above] was engaged in any manner in the supervision or oversight of the LCFB Firefighters Pension Fund or its delegated Scheme clerk Ms.Drinkall. Even though these senior Officers were exclusively Members of the LCFB Pension Fund. The Statutory fact remains that the Chief Fire Officer was the delegated LCFB Pension Fund Manager of which they were all Members themselves!

152. Indeed most Officer Ranks trustingly held the ubiquitous view that surely Ms. Drinkall must know what she was doing when in fact she simply did not. Conversely the Lower Ranks who by far are the most adept at calculating their 'take home pay' took a more jaundiced view.

Appendix ~ 'A'. Putting a Firefighter on the Retirement List.

153. Before proceeding further it is important to illustrate how the administrative procedure of putting a Firefighter on to the Retirement List should have been correctly implemented when a '92 Scheme Member was to be *transferred* from active Service to the LCFB/LCFA Pension List.

154. A preliminary step for a potential Retiree Firefighter was a final medical examination by the Brigade Occupational Health Doctor who had at his disposal the entire medical records [including annual over-40 medicals] of the Firefighter; allied with this Doctor's required professional knowledge of the new Pension legislation as a Medical Examiner on the Fire Service Appeals Board.

155. The Doctor was from commencement clearly aware of the significant changes in the new '92 Pension Scheme including the new pension types, their nomenclature, and their application in respect of the revised Pensions to be awarded.

156. Firstly, the Doctor was tasked with determining what the percentage disability [0-100%], if any, a Retiree was suffering from at discharge which could become the subject of the issue of 'The Firefighters Pension Scheme Certificate of Permanent Disability' [CPD]. This Certificate in fact reflected not only his subsequent re-employability in the general labour market but also, if declared fully disabled [14%+], the DWP Disability Benefits which he/she was entitled to receive set against his/her percentage of disability. The LCFB Doctor routinely issued this CPD to the DWP*.*

157. This disability percentage ranged from 0%-13% for which no DWP Disability Benefits would be paid [although *Allowances* could] and from 14%-100% which DWP Disability Benefits would be paid and in a type and value to be decided by the DWP.

158. For example, in my case the Doctor working to this DWP Disability 'standard' reported that I was 5% disabled because of my hearing loss but effectively this meant that I was only re-employable for certain types of occupation but because of the low percentage of disability awarded I would not be entitled to DWP Disability Benefits, but this did not preclude the receipt of a small DWP *Allowance*, *e.g.,* Reduced Earnings Income Allowance [REA]. A facile attempt to 'make up' the lost difference between a full wage and the subsequent reduced pension.

159. Secondly, still within this framework, and as a consequence of his first decision the Doctor was then tasked to recommend to the CFO what type of Pension(s) was to be awarded after this medical from a selection of 5 different types of pensions under Rules B1 to B5, some of which had *non-enhanced pensions e.g.,* a Rule B1 *Ordinary* Pension; and yet others which were *fully enhanced pensions, e.g.,* Rules B3 *ill-health,* and B4 *Injury.*

160. Obviously the Doctor's recommendation of the type of Pension[s] to be awarded by the CFO was set against the Firefighter's current physical discharge condition *e.g.,*

a time served [30 years], fit and well, Firefighter would normally be awarded a Rule B1*Ordinary non-enhanced* pension ~ that is ~ 40/60ths of his APP [Average Pensionable Pay] of his last/best 3 years, with no entitlement to DWP Disability Benefits.

161. Conversely, a Firefighter compulsorily discharged suffering from *ill-health* [Rule B3], usually[but not always] as the consequences of a 'Qualifying' in Service injury [Rule B4], would normally be awarded *both pensions, an enhanced* Rule B3 ill-health Pension, *and* an enhanced Rule B4 Injury Pension which *could* amount to ~ 60/60ths of his APP or more, [but with *entitlement* to DWP Disability Benefits to be determined by the DWP.

Appendix ~ 'A'. The Growing Legacy of Ineptitude ~ A Benchmark of Errors.

162. Under the '92 Scheme, in my case which was not unique, the CFO compulsorily medically discharged me, awarding me a Rule B3 ill-health Pension [enhanced] *and* a Rule B4 Injury Pension [enhanced], *stipulated* by him in a discharge document presented to me.

163. When completing the remainder of the compulsory discharge documentation *immediately below* the CFO's lawful pensions determination [the legislative implications of which were entirely lost on Ms.Drinkall], she then proceeded to apply her 1973 'expertise', whilst ignoring the CFO's decision, by wrongly calculating 40/60ths of my 'hypothetical' pension [which she calculated no less than 2 times] based on my APP over the preceding 3 'best years'.

164. In her first fundamental decision Ms.Drinkall wrongly ignored the CFO's decisions and treated my 1992 Rule B3 ill-health *enhanced pension* as a 1973 Rule B1 Ordinary *non-enhanced pension*. As though I had left voluntarily fit and well, *or at my compulsory retirement age,* instead of by compulsory ill-health discharge.

165. But how did this fundamental error occur?
In the HOC B3-2 & 3 under Heading "How much is the pension?". There were two 'flags' of guidance to Ms. Drinkall on how to count the 60ths to be applied in correctly calculating the envisaged hypothetical base pension pay:

Firstly in B3-2 [***my bold and italics***] :

> "The sums are set out in Examples 1 and 4 to 7. The basis of the calculations is***(sic)*** explained here. Firefighter's basic ill-health pension is never less than 1/60th of average pensionable pay (APP) and never more than 40/60ths (2/3rds) of APP, ***or what could have been earned by compulsory retirement age."*.**

Next, followed the simple principle of counting 60ths, namely 1/60th per year of Service up to 20 years and 2/60ths per year, or part year, thereafter; *including the addition of 7/60ths enhancement*, a recognition for Service being compulsory terminated by ill-health.

Secondly in B3-3:
(1) each day counts as1/365th of a year even in a leap year.

(2) never more than 40/60ths of APP, **"*or what you could have earned by your compulsory retirement age.*"**.

166. Ms.Drinkall simply failed to read or to understand… **"or what <u>could</u> have…"**; **"or what <u>you could</u> have…".** She seized on the 40/60ths, which she clearly recognised becoming fixated on it, to the exclusion and detriment of all else.

167. This guidance to Ms.Drinkall was repeated twice for emphasis and a further 'flag' pointed directly to the SI, Part III, Rule B3, Paragraph 5 (1) (a)…

> "**Where, if the person had continued to serve until he could be required to retire of account of age**, he would have become entitled to an ordinary pension or a short service ("the notional retirement pension"), and…", etc.
>
> This did amount to 40/60ths, or an *unenhanced* Rule B1 Ordinary Pension; but the SI in its inescapable actuarial mathematical logic confirms that any Firefighter who was compulsorily discharged with an ill-health pension **could not possibly have continued to serve; could not possibly reach the compulsory retirement age; could not possibly have earned further; and by law simply did not 'qualify' for a 40/60ths non-enhanced Rule B1 Ordinary Pension; but *was entitled* to a correctly calculated Rule B3 ill-health enhanced pension and/or a Rule B4 enhanced pension set against the actual formulae provided, transcribing the appropriate values.**

168. In 1997 aged 54, at my Rank, with 33.51 pensionable years [**Rule A7~34yrs**], my 60ths amounted to 55/60ths which *included* an enhancement of 7/60ths for compulsory ill-health discharge.
Ms. Drinkall in wrongly applying *her 40/60ths calculation* to my hypothetical pension base salary left a debit of 15/60ths [25%] in favour of the LCFB/LCFA Pension Fund, to date.

169. A correctly calculated *final* pension payment was the starting point for every other accumulative pension calculation which followed. Thus if the base pension for payment was calculated wrongly then every other interrelated pension calculation based on this first calculation was also wrong, e.g.,

A Summary of Errors:

- Error ~ Calculation of my *final* base pension entitlement, 3 times [the record is 4];
- Error ~ Calculation of counting 60ths – not 40/60ths – but 55/60ths;
- Error ~ Calculation of Base Pension - paid 40/60ths, a Rule B1Ordinary pension[fit and & well];
- Error ~ Calculation of Commutation;
- Error ~ Calculation ill-Health Pension;
- Error ~ Calculation of Injury Award;
- Error ~ Calculation of Gratuity Award;
- Error ~ Failure to include *pensionable* Long Service Award;
- Error ~ Failure to Index Link immediately – delayed for 2 years;
- Error ~ Failure to inform me of DWP, REA entitlement – delayed 2 years;
- Error ~ Incorrect Serps deduction implementation, years early.

170. It is difficult to contemplate in compounding these monumental errors what might have occurred had Ms.Drinkall attempted to *recognise, use, and apply the correct legislative*

provisions which the SI provided in its actuarial formulae at 'Schedule 2, Personal Awards, Parts III' [Rule B3] & IV [Rule B4] - *to correctly calculate* a Rule B3 ill-health [enhanced] pension and a Rule B4 Injury Award [enhanced] to arrive at the correct amounts to be put into payment as my pensions?

171. Ms.Drinkall set a benchmark by this dogged ineptitude for decades to come, which became over time malfescence, materially reducing the payment value of my Pensions, commencing on the 1st February 1997[26 years to date], simply benefitting the LCFB/LCFA Pension Fund which the CFO in honest ignorance routinely 'signed off' and which I and many hundreds of others in the LCFB/LCFA Pension Fund *in good faith ignorance* routinely accepted, and for which, to date, the LCFA remains liable.

172. Ms.Drinkall's then in unsupervised daily maladministration coupled with legislative ignorance established her own discriminatory 'pension law' and 'policies', e.g., Pension Fund Members injured and discharged from Service [enhanced pensions entitlement Rules B3/B4] were treated less equitably in law by her imposition of the same pension as those who left the Service with non-enhanced pensions Rule B1Ordinary pensions of their own volition, fit and well.
Later in May 1995 Pension Fund Members were individually deceived into signing up to an "undertaking" procedure concerning DWP Disability Benefits which was entirely unlawful and thus Ms. Drinkall simply became a law unto herself.

173. As natural consequence of her unsupervised malfescence since 1992 Ms.Drinkall created a cavalier unchallengeable personal attitude within her own fiefdom which included routinely ignoring the CFO's decisions for which she earned the unfortunate sobriquet 'nasty nickers' for her lack of common good manners in dealing with polite pension enquiries from the Lower Ranks.
She became arrogantly dismissive at being asked difficult pension questions but these were to continue to come until this legacy bubble of ineptitude burst in 2006 after her retirement in 2002.

Appendix ~ 'A'. Statutory Instruments Impose Statutory Duties. 1992 – 1998 and Beyond.

174. In 1992 Ms.Drinkall was issued a copy of the newly published SI, accompanied by the bulky HOC in circumstances which raised serious questions about her 'expertise' and capability to move forward. Did she ever actually attempt to read the SI and, mores to the point, understand it? Given historically what subsequently occurred this is highly unlikely.

175. In its introduction, the HOC offers guidance, how this very large tome was to be used in pages [ii-xiii] including yet again in blocked type **[Important]**…**[Nothing in this Commentary can override the provisions of the Scheme or any other statutory provision to which reference is made**].

176. However, the HOC in its first major omission does not directly state the Statutory liabilities which are actually imposed on the LCFB [or its successor LCFA] and by delegation to its daily ledger Pension Fund clerk, or those responsible at law for running this Scheme.
It rightly *assumes* the critical need for such clerks to be trained to read, understand, and

accurately implement the provisions of the SI within which are exclusively found these Statutory liabilities.

177. The First liability of the LCFB/LCFA Pension Fund clerks was accurate compliance with *all* the provisions of the 1992 Statutory Instrument No:129 which commenced at its enactment.

178. The Second liability of the LCFB/LCFA Pension Fund clerks from which all else flows is best summarised by quoting the actual 1992 SI No:129 which is to pay correct awards and pensions:

> **"Payment of Awards Part LI.-(1).** *An award payable to or in respect of a person by reason of his having been employed as a regular firefighter is payable by the fire authority by whom he was last so employed.".*

179. The Third liability of the LCFB/LCFA Pension Fund clerks is the essential liability to maintain an "account":

> **"Expenses and receipts of fire authorities Part L.2***. Every fire authority* <u>*shall maintain*</u> an account showing all sums received or paid by them under or for the purposes of this Scheme, *or in consequence of rights acquired and obligations incurred by them under the 1973 Scheme and previous Firemen's Pension Schemes.",*.

This is not only the liability to pay all their Firefighters, regardless of rank, their due pensions, but ***shall*** [the word shall in law means an inviolable duty] generate and maintain "an account" which was a daily ledger of amendments by its Pension Fund clerks.
In other words balance the LCFB/LCFA Pension Fund books and be prepared to give a full accounting when demanded by its Membership, or any other lawful authority.

180. The Fourth liability of the LCFB/LCFA Pension Fund clerks is the prevention of Duplication under Part L4-1 [paying twice for the same Award] by ensuring that "formal arrangements" were to be put in place with other interacting agencies, namely the DWP and the LCC Pension Providers from commencement in 1992 to date, to ensure that *individual audit information*, particularly in respect of DWP Disability Benefits, is automatically exchanged.

181. The SI does not stipulate how the LCFB/LCFA were to pragmatically achieve these 'formal arrangements' in attempting to fulfil its daily ledger "account" liability nor in good audit practice by extension to record them in Fund Members Personal Record Files[PRFs] where DWP Disability Benefits were supposed to be individually recorded.

182. For example, firstly when the DWP puts an SI specified <u>deductible</u> DWP Disability Benefit into payment it is paid *directly* to the authorised recipients and the other interested agencies are immediately informed, e.g., LCFB/LCFA , LCC Pension Providers, [Benefits are specified in the SI, Part 5 Rule B4 ~ not all Benefits/Allowances are deductible].
Secondly, the LCFB/LCFA should then prevent '*Duplication'* by *not paying* a *deducted* Injury Award *directly* to its authorised Firefighters via its LCC Pension Providers. The Statutory audit duty and required accounting 'paper trail' are abundantly clear but the failed to follow this.

183. In summary to guard against such a likely occurrence, in a complex transaction, the SI continued to require that the LCFB/LCFA as the *ultimate* Statutory Authority in maintaining a

balanced “account”, *had to have in place* a series of “formal arrangement”(s) for the notification of DWP Disability Benefit payments between the DWP*,* the LCFB/LCFA*,* the LCC Pension Providers and the disabled Firefighter whereby when an SI specified DWP Benefit was put into payment or updated by the DWP, the LCFB/LCFA and the LCC would automatically be notified by the DWP and the LCFB/LCFA was then *required* to deduct that element from a Firefighter’s Injury Award and inform its LCC Pension Provider prior to payment, *whilst retaining a ledger record in their maintained “account”* which in good audit practice demanded, by extension, that it would also be duplicated into a Fund Member’s PRF.

184. It is a matter of fact and common ground that when the SI was implemented in 1992 that Ms.Drinkall did not make any such “formal arrangement”(s) with either the DWP or indeed its LCC Pension Providers and as a consequence she unable to retain or maintain an accurate Statutory DWP Disability Benefit payment record, in either the LCFB required Statutory “account”, or within a Fund Member’s individual PRF which, as the lack of records subsequently confirmed, she also failed to update even though she had without doubt been informed by individual Pension Fund Members of DWP Disability Benefit payments and/or changes.
Nor indeed did the LCFA either when in 1998 it took over this Statutory duty from the LCFB.

185. In 1995, three years after the enactment of the SI when the initial surge of Firefighters had already gone into retirement under this new Pension Scheme, Ms. Drinkall in the light of having failed her Statutory liability to make ‘formal arrangements’ with these other agencies and with mounting evidence of DWP Disability Benefit payment errors accruing decided ‘to plug the legal gap’ by making up her own law.

186. In May 1995 Ms. Drinkall authored an unofficial, unauthorised, and unlawful amendment to an LCFB Brigade Order entitled “Lancashire County Fire Brigade, Firemen’s Pension Scheme Order 1992, Part 5 Rule B4 Injury Awards”. [Ref - EJD/AM/Injury] fraudulently purporting it to be the Statute Law.

187. In the main this two page document was a direct rehearsal of the SI but she put an addendum to Page 2 fraudulently purporting that this came with the legislative effect of the SI and under the imprimatur of the Chief Fire Officer which it did not.
Ms. Drinkall then rather inanely added her own Reference “EJD/AM/Injury May 1995” at the bottom.

188. In effect without consulting the Pension Fund Membership Ms. Drinkall deliberately passed *her* Statutory liability onto the trusting Members of the Firefighters Pension Fund without their knowledge, without them individually giving fully informed consent, in a gross breach of good faith which attempted to lay the responsibility for Duplication, Drinkall thought, at the feet of the Fund Members which it certainly did not.

189. The SI does not make *provision of any legal liability in Law* for a Pension Fund Member, of a properly constituted Pension Fund under this SI, to be forced to assist or otherwise engage in discharging the LCFB/LCFA’s Statutory duty *to maintain its* pension *“account”*.

190. Flying in the face of the law Ms.Drinkall, in the avoidance of tedious daily ledger work and in a gross breach of good faith with LCFB/LCFA Fund Members contemptuously and indolently tricked her Pension Fund Members from 1995 into 'signing up' to this so called 'undertaking' which was cynical manipulation designed to provide her with a perpetual defence that any failure on her part to fulfil her Statutory 'Duplication' liabilities could be laid at the feet of trusting ignorant disabled Firefighters.

191. In the 3 year period from 1992 until 1995 no Pension Fund Members were asked to sign up this unlawful 'undertaking' because it simply did not exist.

192. From 1995 some Members were asked to and did unwittingly in trusting ignorance 'sign up' to keep her informed when a Member began to receive a DWP Disability Benefit, or when changes to a DWP Disability Benefit's value occurred. Conversely as the post 1998 LCFB/LCFA records show an indeterminate number were not asked; did not understand what the purpose of the 'undertaking' was; what it was meant to do; or took offence that their honesty was being impugned?

193. This entire web of chicanery was posited on Ms. Drinkall following through by recording any significant information supplied to her, which ought to have been passed onto her LCC Pension Providers; entered into her daily ledger "account"; and thence duplicated in the Member's PRF, all of which, as the lack of LCFB PRF records confirm, she and subsequently the LCFA Records signally failed to do.

194. There is unambiguous evidence that even though Ms.Drinkall and her replacement at the LCFA *had been informed* by some of significant DWP Disability Benefit changes [*as their contemporaneous records confirm*] she/LCFA did not deduct [if required] or inform the LCC her Pension Providers; nor did she/LCFA record the information supplied in the daily ledger of her/LCFA Pension Fund "account"; neither did she/LCFA enter this vital information into a Member's PRF either.

195. This was a lawless lazy clerk's charter of abrogation of the LCFB/Ms.Drinkall's liability but it was also an unlawful denial of the LCFB and its successor the LCFA's Statutory liabilities.

196. If this was not bad enough it had been Ms.Drinkall and Mrs. Lambert's[LCC] *lawful* practice from 1992 until 1998 to ring up their contact at the DWP Job Centre Plus Preston seeking DWP Disability Benefit information on an individual disabled Firefighter but after the enactment of the 1998 Data Protection Act such 'under the counter' lawless practices immediately became *unlawful*.

197. Not that this enactment seemed to concern either Ms.Drinkall or Mrs. Lambert , the DWP, the LCC, and now the LCFA in the slightest because these unlawful repetitions continued until 2008 when the DWP Permanent Secretary ceased their collective unlawful practices.

198. On 24th September 2008 Sir Leigh Lewis Permanent Secretary DWP wrote the following in clarification to the LCC ['Your Pension Service'], the LCFA's Pension Providers.

E.Todd to LCC [Ref DWP14]
"No such formal arrangement has been entered into with Lancashire County Council.".
N.B. Note the careful use of words 'formal arrangement'.

TMB/Correspondence/ Year 11 ~ PB03211 DWP from Ms E Todd REA not deductible from Injury award; X Ref to PB01212;
TMB/Correspondence/Year 11 ~ PB03411 DWP Letter to Sir Robert J. Deveroux KCB, DWP Permanent Secretary; Ref REA;
TMB/Correspondence/Year 12 ~ PB01212 REA Time Line history from inception.

199. Later we shall see how the new LCFA when taking office in 1998 also failed through legislative ignorance to refresh or set up these Statutory triumvirate "formal arrangements" but when their major errors became public knowledge in 2006 the LCFA then attempted, as predicted, in a cover-up 'blame game' by fraudulently attempting to pass *their failures of Statutory liabilities*, onto the victims by claiming they had failed this unlawful 'undertaking' whilst knowing that the Members of the LCFA Pension Fund did not have such a liability. Plain criminality.

200. Astonishingly the LCFA were also completely unaware that upon attaining the age of 65 disabled Firefighters' entitlement to DWP Disability Benefits ceased.

201. So it is worth repeating that the SI does not make *provision of any legal liability in Law* for a Pension Fund Member, of a Pension Fund properly constituted under this SI, to force, assist or otherwise engage in discharging the LCFB/LCFA's duty *to maintain its pension "account"*.

202. In taking the predictable action they did, i.e., blaming the victim, the LCFA knowingly acted in corrupt criminality with patent mendacity, and unlawfully in a spirit of unbridled fraudulence.

203. This led to a truly bizarre situation in the LCFA pension wonderland of blind trusting good faith where only the 'Seer' Ms.Drinkall, who seemed to senior management [who could not possibly know] that she knew what she was doing and thus she became unchallengeable on the simple basis that after all these years as a pensions clerk surely she was up to the job and could not be in error?

Confusingly in 1998 the new LCFA after creating its own Pension Scheme then decided during a transitional period which followed that the LCC should continue to provide by Contract its 'Pension Services' to the LCFA until, after joint agreement, the LCC would then create a new venture called 'Your Pension Service' which became the LCFA's Contracted Pension Providers.

204. At this point there were now 4 elements involved in the provision of pensions to the LCFA Pension Fund Members.
The LCC Pensions Services ~ then the new LCC 'Your Pension Service' ~ the DWP who paid out legitimate Disability Benefits *directly* to the LCFA Pension Fund Members ~ and the LCFA Pension Fund who also paid out pensions via their Pension Provider 'Your Pension Service' *directly* to its Pension fund Members without carrying out any 'Duplication' deductions.

205. This was the genesis for a complete administrative meltdown.
But before looking at this spectacular collapse which ran from 2006 to 2011 it is important to set the LCFA 'Stage' and the 'Players' on it from 1998, to date.

Appendix ~ 'A'. Lancashire's Corrupt Leadership and the LCFA.

206. The LCFA was as we know formed in 1998, was a politically opportunistic organisation created by the gerrymandering of a local Labour MP Mr. Jack Straw for Blackburn to capture the growing local ethnic votes for his personal political aggrandisement.

207. The resultant hybrid combination of 3 Local Authorities was a politically excessive polyglot organisation of 25 corrupt Councillors of all Parties, or none ~ top to bottom.

208. It is never good practice to use hyperbole in casting an opinion to the wind in the case of corrupt politicians in Lancashire. Indeed Lancashire politicians provide their own hyperbole much better than any observer can, by their corrupt actions, which exceeds any honest Lancastrian Elector's expectation of decency. It is simply an open sewer of corruption.

209. There is a great fair minded expression among Lancastrians that you 'speak as you find'. Sadly that is no longer the case because over the years it has become increasingly difficult to speak fair mindedly, such is the endemic level of corruption in Lancashire politicians. Politicians have been ubiquitously described as someone who will send you son to war, but never their own.

210. So it is best to begin by looking at current corrupt leadership in Lancashire after the era of the Democratic Lady Leaders [All Parties] headed up by Dame Louise Ellman DBE and how it all changed under the Conservative Leadership of Mr. Geoff Driver CBE commencing in 2005.

211. County Councillor G. Driver CBE [Freemason] Conservative LCC Leader.
In May 2011 the LCC [in-house] whistle-blowers reported financial irregularities to the Chief Constable Finnegan citing a £5mil fleet maintenance Contract between BT Connect and the LCC. CC.Driver [my councillor] who along with 2 others of the LCC staff and a BT Executive were arrested and then bailed until Operation 'Sheridan' finally commenced in 2013 after preliminary investigation and continued at the cost of £3mil until 2016 when they were all exonerated?

212. Following a storm of in-house finger pointing and the production of further supporting evidence from the whistle-blowers the investigation re-commenced in 2017 and in early 2022, CC. Driver plus his 3 associates were re-arrested. CC.Driver in particular being charged with Perverting the Course of Justice, Witness Intimidation, and Misconduct in Public Office with a Court Hearing set in Liverpool in October 2022 costs having by now risen to £5mil+ with CC. Driver surely the Guinness bail record holder for the longest period in the UK at 9 years, and counting!

213. This is a perfect example of LCFA Clerk to the Fire Authority Mr. M. Winterbottom [a solicitor] pulling out all the stops to rescue his Lancashire 'Brethren in distress' using the

‘withering on the vine’ and ‘stone walling’ techniques, but principally using fellow Freemason Brethren Chief Constables Finnegan and then Rhodes in March 2017.

214. However the County Hall natives continued to be unhappy and this great cover up imploded and then ran out of Winterbottom’s control. A notable failure on his watch but a prime example of the very common techniques used in corrupt Freemasonry to protect *their* criminally guilty.

215. County Councillor Mr. D.O’Toole[Freemason] Conservative LCFA Chair.
By contrast in June 2014 a group of Fire Service Veterans[FSV] became interested in the activities of CC.O’Toole and made several Freedom of Information Requests seeking copies of O’Toole’s official mileage claims between his Ormskirk home and his bases at County Hall and the nearby LFRS HQ.
After repeated refusals by Lee Gardiner [Freemason], the LCFA Data Protection Manager, was overridden by the intervention of the Information Commissioner [Canadian- Elizabeth Denham] and they subsequently received 80 copies of Claims for a 13.5 year period.

216. From analyses, including rerunning the routes taken using the AA Mileage calculator which the LCC/LCFA use as the official reimbursable mileage claim calculator, it became clear that CC O’Toole had persistently and fraudulently over claimed £42,106.64 over 13.5 year period and the matter was reported to the Chief Constable Finnegan whence after an ersatz investigation by an amusing Detective Sergeant Pearson [Freemason] which took place over a 6 months period, concluding with a bizarre written statement that CC O’Toole was such a paragon of integrity and virtue that the Taxpayers actually owed him money!

217. Such is the Alice-in-Wonderland of the Lancashire Constabulary demonstrating a partly successful mission by Brothers Winterbottom, Finnegan, Rhodes, and O’Toole. But there is no Statute of Limitations on a crime.

218. County Councillor Mr. F.de Molfetta [Freemason] Labour LCFA Chair.
On 1st November 2016 after gathering substantial evidence over an extended period of time I formally impeached de Molfetta [a former resident of Sicily ~ yes that Mafia] for Perverting the Course of Justice and corrupt Misconduct in Public Office.

219. The documentation containing 20 detailed specific charges was hand delivered to County Hall and a written acknowledgement was received from the Labour Leader CC Mrs Jennifer Mein [still serving] who continues to be a County Councillor of the LCFA as Vice Chair of Resources.

220. Documentation was duplicated and again hand delivered to CEO Ms. Jo Turton and Deputy County Solicitor Mr. Ian Young who both had a Statutory duty to investigate and report back to the full Council. Both acknowledged receipt but in Turton’s case almost immediately afterwards she was publicly sacked with a large payoff.

221. In the eventuality, there was no perceptible conclusion reached by the LCC, or CC Mein, even though as a local leading member of CAFOD [and an immediate neighbour] one would

assumes integrity? Nevertheless she continues to sit on the LCC/LCFA with de Molfetta.

222. County Councillor Peter Britcliffe Conservative LCFA Elected Member [Freemason].
Now to bring Public corruption in Lancashire up to date.

On the 9th February 2018 in the Bugler in Current Affairs Volume 24 I reported on the 'activities' of Britcliffe LCFA Elected Member under the well-deserved title of 'Messiah of Sleaze'.

This is a particularly fine example of how Winterbottom's Freemasons of Lancashire were mobilised after receiving the standard 'Freemason in Distress' message from Britcliffe.
Britcliffe had little to do but sit back and do as he was told and all would be well. Criminality never seems to be an issue when exercising such a 'distress' mechanism but denial of Justice is another matter.

223. Whilst Winterbottom and Britcliffe may well have celebrated at the Temple they publicly highlighted the dark Satanic ambiance which exists and festers within the Lancashire Freemasonry movement and nationwide. As decent law abiding democratic Citizen/Electors we are all inevitably associated with, and diminished by, such blatant criminality?

224. Britcliffe has been a Conservative councillor since 1984 principally at the East Lancashire Hyndburn Borough Council. In 2017 during his Mayoral year 3 young men between the ages 18 -19 publicly reported him to the Chief Constable Rhodes for 'awful' sex offences.

225. Britcliffe was formerly a primary school and special needs teacher but it was not made clear by Rhodes who handled these complainants and their complaints whether these alleged offences occurred during the period when they were passing through the primary school, or at the special needs school, under Britcliffe's tutelage?

226. In the event Britcliffe was neither arrested by Rhodes nor charged by the CPS and it seems the whole issue under the Rhodes's control just faded away. It should not be assumed that a cold case review might not take place under an *honest* CC and Police Commissioner.

227. Presuming no malice, it should not be forgotten that 3 trusting young men summoned up the personal courage to report their alleged childhood 'experiences' with Britcliffe to Rhodes with the expectation of fair play and Justice but as was expected the cover up was a complete whitewash. As a society we are, once more, all diminished by such barefaced corruption.

228. In 1987 Britcliffe was elected as a Conservative County Councillor and currently serves on the LCFA. In May 2022 Britcliffe was elected titular Chairman of the LCC and though he twice stood for Parliament unsuccessfully his daughter Ms. Sara Britcliffe MP sits as Vice Chairman of the Conservative Party holding the Youth Portfolio.
Britcliffe informs us he spends his free time in Spain no doubt admiring the youthful bronzed bodies on the beach…

229. Is it little wonder that with such rampant and publicly visible corruption in this Lancashire open sewer of decadence that decent LCC/LCFA employees' morale is at rock bottom?

Unfortunately the minor criminal elements within these local authority staff will continue to draw ‘encouragement’ from their ‘Leaders’ corrupt disgraceful examples and behave in a like manner.

Appendix ~ ‘A’. The LFCA Motely Crew ~ 1999 and Beyond.

230. Chief Fire Officer Mr. Peter Holland [Freemason].

231. In July 1999 Mr Peter Holland was appointed the new CFO of the LFRS. He came from Bedfordshire and in the period that followed between 1999 and 2011. Mr. Holland seemed to have an expansionist agenda at a time of austerity where his priority seemed to be supplementing and promoting the existing ‘family’ of Brethren in Lancashire.

232. Holland automatically became the delegated Statutory Lancashire Firefighters Pension Fund manager and thus his first Statutory duty required him to promptly review and consider the ‘health’ of the Scheme under his jurisdiction; a regulatory requirement of ‘The Pensions Regulator’ which is a thoroughly unimpressive organisation from experience.

An action which ought then to have been reflected in his subsequent HR appointments of accomplished sub-delegated Fund managers, or pension clerks, though it seemed Holland’s predilections lay elsewhere.

233. The unfortunate Ms. Drinkall MBE retired in 2002 and oddly these new additional clerks appointed in 2002 were in the main recruited via the Probationary Service in Preston where Holland appeared to spend an inordinate amount of time with its local Service Director.

234. This LFRS expansionist period in both senior civilian clerks and senior uniformed staff has internally been described as ‘jobs for the well paid boys’ which included an exponential growth in creating new civilian posts and departments e.g., the first ever in-house solicitor [excluding the existing Clerk to the LCFA]; and a new department of Human Resources [HR], vacancies which were never announced, advertised, or published under Equal Opportunity Law.

235. It is reasonable to assume that Ms.Drinkall’s legacy of ineptitude and faux competence had been exposed by this new broom Holland who with his new HR staffed by competent experienced clerks would, after completing a total review of all matters HR, particularly the Firefighters’ Pension Fund, ought then to have set new ‘standards’ to rebuild Members confidence in their Fund moving it from a position of ‘afterthought’ to pre-eminence.

236. There are aspirations and there is the achieved reality by appointing those most likely to achieve these aspirations. Unfortunately in the case of the Pension Fund neither experienced nor dedicated pension clerks were appointed to restore confidence in its management.

237. In fact perversely the management went from bad to worse with the influx of these new civilian clerks of whom not a single one had even a casual knowledge of pensions, their

management, or the competence to raise the ‘standards’ left by Ms.Drinkall MBE. Once more the Firefighters’ Pensions Fund was consigned to the role of ‘Cinderella’ at HR.

238. However without doubt Holland did set a new ‘standard’ throughout his tenure of office by many of his antics which culminated in his and his companion’s arrest on Blackpool promenade in a car with a female member of his staff by a Special Constable who was connected with a uniformed member of the LFRS.

They were both taken to Blackpool Central Police Station where their fingerprints and DNA were recorded and where they then received a ‘Caution’ [A Criminal Record] from the Duty Inspector for committing a ‘lewd’ act in a public place.
Naturally the whole flagrante delicto was covered up but not before more evidence of Misconduct in Public Office emerged.

239. A young Watch Commander at the largest Station in Lancashire very unusually [one should assume Freemason] called the CFO *direct* and sought advice from him how he should proceed on a delicate matter?
It seems a short time before he had taken a call from the young son of the LFRS Visual Aids manager who complained that if Holland did not cease importuning his mother he would go to the media. Holland ordered the Watch Commander just to log it online as a standard complaint but once more the matter never came before Public scrutiny in spite of initiated FOIA Applications.

240. Today in such criminal matters Holland’s gross misconducts would be simply be reported in the media as that of a sexual predator who should have been under arrest and on bail.

241. Ironically as Firefighters know there is no smoke without fire and further down the ‘sharp practice road’ anecdotal evidence surfaced that when the fleet of LCFA service cars and vans became due for replacement Holland promptly became the proud owner of a new BMW X series car from the same supplier which became the subject of discord within his Principal Officers. Now whether this discord was envy based or because of the unfair division of spoils is difficult to determine.

242. When pension time came in 2011 Holland engaged in the brass necked deceit of the Lancashire Electorate with the corrupt assistance of Conservative CC.David O’Toole and not unexpectedly Labour CC F.de Molfettta the LCFA leader when Holland double dipped his Pension No:1 of £425K, when he was reappointed the following day with a salary of £75k Pension No:2, claiming he had saved the Taxpayers thousands of £££?
Taxpayer might want to know why they had to pay Holland £425k before he started saving them money?
Whilst not unlawful, Conservative Minister Eric Pickles [DCLG] immediately banned the practice stating it was sharp practice.
Presently, Holland is well on his way to his triple pension dip No:3 as we shall see.

243. Holland currently is Prime Minister Sunak’s government Chief Inspector at the Crown Premises Fire Safety Inspectorate UK since 2017 based in the Fire Directorate at the Home Office. He is responsible for fire safety enforcement in 16,000 Crown premises, which are on

10,000 sites. However in spite of these Public appointments no government organisation has ever answered the simple question did Holland declare on his Application form [if he ever had one] that he had a criminal record?

244. On this happy ship Holland next fell foul of himself again over another female member of staff and one of his Asst Chiefs who had given her a reference though it is not clear for what? In the event Holland countermanded the Reference and extraordinarily it all went to Civil Court where astonishingly the Court found for the Assistant with a 6 figure of compensation mentioned for ruffled feathers.

245. Naturally the Assistant's career ceased forthwith and he found himself blackballed at the Temple[thus confirming that Freemasons are human and do fall out] but after his retirement the Assistant was 'rehabilitated' by being given the task by the Brethren of spying on my lawful activities representing disabled Firefighters and their Beneficiaries…

246. Having served under 9 CFOs in different Brigades Holland was by any standard an extremely poor CFO. He did not actually take *command* of the LFRS being content to allow Winterbottom to do that for him meantime importing every Tom, Dick, and Harry to be his administrators who consistently were mirror images of himself, totally lacking in integrity or morality of any description, more sleaze.
Clearly Holland was simply satisfied with his nefarious extracurricular activities.

247. I met regularly and knew Sir Kenneth Holland who was Holland's father at the HO Fire Service College who was not only Her Majesty Chief Inspector of the Fire Service but was also a lifetime member of the Leyland Lancashire Masonic Temple where for a long period I was the local Fire Station Commander. Sir Kenneth was well thought of…

248. Next we must listen to a murmuration of unimaginative solicitors. The first of a few in-house low calibre amateur LFRS solicitors starting with current part-time Clerk to the LCFA Mr.M.Nolan [Freemason] Solicitor on the Rolls.

249. Mr. Nolan an undeclared gay person filled another unadvertised 'part-time appointment' under Equality Laws to replace Mr. Max Winterbottom [Senior Lancashire Freemason] Solicitor, Clerk to the LCFA who 'retired' in October 2015 to the darker places of Freemasonry and to set up a commercial fishery on the banks of the River Lune at Lancaster.
I researched and presented an interesting piece on Nolan's arrival in the Bugler in 'Current Affairs Volume 13, 20th December 2015 asking him to answer 10 simple Questions about his 'appointment' which of course he never did ...

250. Because he seemed rather vexed at my disclosures of his publicised hard core homosexual activities and other dubious activities concerning Pope Benedict XVI he sought refuge with a fellow Freemason the Chief Constable who, in a gross abuse of his authority, ordered two separate late night visitations 2x2 Police Constables to be made to my home to offer me 'advice'. Naturally I sympathetically refused to allow them to proffer me any 'advice' and on both occasions I politely threw them out and escorted them off my property to the front gate much to their relief.

251. Nolan continues in LCFA part-time office [though employed full time at the Stockport Metropolitan B.C.] regularly monitoring my lawful activities on the Morning Bugler whilst he uses various easily identifiable proxies for which employment he makes and receives undeclared tax free expenses claimed as payments from the LCFA.

252. Mr.A.Harold. [Freemason] Solicitor on the Rolls. Appointed 2007 without advertisement under Equal Opportunity Law.
Harold was reported in the Manchester Evening News for trying to browbeat a Town Hall based traffic warden out of a parking ticket for using a *disabled parking bay at the Salford Town Hall* where Harold worked unlawfully on his days off as a constitutionally disbarred Ward Councillor [£15k pa]. Later I received an unsolicited "nice one!" from the head of the local Tory Party.
Harold regularly booked absences on sick leave due to stress at work ~ he sweats a lot ~ finally leaving the LFRS in 2016. Still listed on the Solicitors Rolls, lives in Manchester.

253. Just before he resigned, under a Court Order for Discovery he finally released 362 randomised and censored secret internal emails including various titles e.g., "P.Burns strictly confidential, not for circulating"., which he thrust through my letter box 1 minute before Court closure time on the Order.

254. These carefully censored internal emails e.g., there is no reference to Hamilton and Wisdom's brutality used in choreographed FSV 'interviews', giving a striking and sometimes amusing insight into the panicked pandemonium and chicanery engaged in by all those involved whose future employment and personal freedom was and remains, at risk. In particular Warren when at breaking point, which was quite regularly, uses uninhibited threatening language which paints the picture of his vicious mendacity much better than any mere Firefighter might achieve.

255. LFRS head clerk Mr. R. Warren [Freemason].
Appointed in April 2002 by Holland to be the Director of People and Development [Salary 103k+ the salary growing with the length of the title] which included becoming the sub-delegated Pension Fund clerk. Warren had no prior direct Pension Scheme management, experience, knowledge, or qualification though he claimed so. It appears liars have standards to maintain.

256. A clerk who came from British Rail Northwest-Manchester Piccadilly claiming to be head of HR who anecdotally came under a cloud of 'jumping ship before pushed' apparently leaving trade union industrial relations at BR in the most parlous state they had been in for decades.

As events were to confirm at Lancashire Warren clearly had a seminal dislike for trade unionists indeed the human rights of any trade union workforce placed under his control though paradoxically a large number of them, 100+, were Freemasons like himself.

257. As the pressure mounted, including from these Freemasons, over the malfeasance of their Pension Fund for which he was directly responsible, Warren creaked under load. His natural inclination is towards criminality which he advanced to on the 5th October 2009 in an early released email which became his personal mantra and the ethos within which he would fight for the survival of his own employment and personal freedom.

On Page 5 of this email under the sub-heading “Individuals engaging with the Service” he states…

> *“Engagement will continue and legal proceedings will be actioned as a last resort. It is hoped that after the initial case has been resolved* [The Bugler] *a change in response will be seen. In addition 3 of the cases are at a very early stage due to late information from the DWP and it is to be hoped to persuade the individuals of an appropriate resolution, potentially using the hardship route if this is necessary.”*.

Warren was both the author and enthusiastic implementer of this “hardship route”, a secret LCFA policy which unhesitatingly used Hamilton/Wisdom’s inhuman brutality of every description on those they presumed guilty of ‘overpayment’ including Widows and Beneficiaries.

258. Warren was that brainlessly insensitive to those around him in uniform that he did not realise that after his inhumanity to DW and his Widow in 2007, which included him saying that the LCFA had been “too generous”, he created his and Hamilton’s Nemesis unwittingly generating the “change in response” he desired, as he began to feel the full weight of personal animosity from the Firefighter Brethren through their Temples which would end his power over others in uniform as they all closed ranks and commenced to make his life untenable to the point he was ordered to stop this pension pogrom on ‘the family’ by Winterbottom Leader of the Brethren in Lancashire because Warren was in over his head.

259. Hamilton, as we shall see, as the ‘loose cannon on the deck’ carried the full brunt of Warren’s created storm simply demonstrating Warren’s disposal technique when it came to the ‘blame game’ and his ‘colleagues’.

260. Naturally I became the special focus of Warren’s spleen reflected in a notable email on 21st July 2008…

> “I did say I had drawn a line at Burns being involved, which Steve [FBU Lancashire Secretary-and Freemason] quickly accepted. David [CC O’Toole] seemed to like this development”;
>
> “CC O’Toole accepted at this point that it might be better to leave Burns out of the equation, especially when I added in my view he has made up his role as representative of the FSV[Fire Service Veterans] and his view is not shared by Thompsons and FBU.”;
>
> “I agreed we had to have a resolution if leaving him without his pension was not an option.”.
>
> “ David said he had expected him, when confronted with the information about his benefits to show the lies that have been presented to help CC.O’Toole’ to withdraw, I agreed but expressed the view that he was a wounded animal and these were his last throes”.”.
>
> “I undertook to provide a synopsis for any future meeting that is arranged of the contradictions and alterations in Burns position (with a view to the document or a separate document finding its way to CC Driver[Conservative LCC Leader] to show the lies that have been presented to help CC O’Toole’s position – I did not say this to David).”.
>
> “I am mindful that this is tricky territory but an agreed Service/CFA position might be useful to then follow up with Thomsons/FBU/Individuals. Also if email does arrive from

David then need to consider whether to extend invite to Audit Commission (NFI) and LCC representatives both pensions and legal. Bob".

261. Titles ~ At an early point Warren childishly challenged my use of the descriptor 'Fire Service Veterans' [FSV], a description introduced by PM Blair with a lapel decoration, which of course we had to buy! He also challenged my voluntary role in representation such was the level of his ignorance of Service matters.

262. Representation ~ In June 2007 The first of many appeals for assistance were made at my wife Jill's Service funeral. Jill, my wife of 37 years, who was unique for her generation because she was a retired senior ranking Officer in the LCFB in her own right - hence her Service funeral.

263. In June 2007 I had been approached for assistance principally by compulsorily retired disabled FSVs, my former colleagues/subordinates and their Widows, who had concerns about their pensions and the DWP Disability Benefits administration at the LCFA.
Ironically I was approached by these disabled Firefighters/Freemasons to provide leadership and a voice for their concerns to the LCFA who consistently failed to listen, or dialogue, and continued unwisely to support the inflexible public position they had adopted of imposing unlawful repayment without any explanation of how all this debacle had arisen in the first place?

264. It appeared that in late 2006 200+/- disabled Lancashire Firefighters and their Beneficiaries, including a significantly high proportion of Freemasons, were baselessly accused of having knowingly received DWP Disability pension 'overpayments' since their compulsory retirements. According to Hamilton this amounted to a collective pipe dream value of over £1mil because it was alleged, by these unqualified clerks/managers, that they had failed to inform the LCFA of material changes of personal circumstances affecting their DWP Disability Benefits though *in all cases* there was no Statutory duty for them to do so.

265. In 2008 almost without exception these disabled Firefighters were able to produce their own contemporaneous records which the LCFA, the LCC -'Your Pension Service', and the DWP were unable to match. The disabled Firefighters insisting that they *had* voluntarily and routinely informed these authorities of these changes to which there was no explanatory response.

266. In February 2008 Warren received a warning shot across his bows as we will hear from a retired senior Officer FSV-BB[Freemason] accused of receiving 'overpayments' but it took until 2010 before Warren was reined in after unusually putting himself in danger of being sacked.

267. So the pogrom continued and on or about 27th January 2010 Warren in a conspiracy with a Freemason at the office of the National Fraud Initiative obtained the password to the national NFI database *and took a screen shot of the results of a search of my 'subject data'.* The NFI were rightly appalled at this unlawful criminality and asked the LCFA/Warren for an explanation of his criminal act.

268. In a 'putting their excuses together', a 6 page email 27th January 2010, a letter was drafted for Warren by a Mr. Barry Ardis [Freemason] Senior Audit Assistant County Hall Preston

Lancs and approved by the LCC County Solicitor Mr. Ian Young[Freemason]; Mr Keith Mattinson[Freemason LCFA, and Mrs Diane Lister LCC Head of Pensions.

269. Warren on behalf of the LCFA replied in this email to the NFI in explanation for his criminal conspiracy: …

> "The screen print was obtained by one of the users who has access to the NFI pension results and this was forwarded in hard copy format to the Director of People and Development [Warren]".[Falsehood]
>
> "We are aware that the information from the NFI website should not have been released in this way and will endeavour to ensure this is not repeated".

Note how Warren shares his criminal responsibility by the use of the collective noun 'we' by locking in on paper his colleagues' 'approval' for his personal criminal act. This is another well-practised black art he uses perpetually at the LCFA. The word 'moral' never appears in his personal lexicon.

270. A narcissist by inclination whose self-love was only exceeded by his love of manipulative power which became palpable when he was challenged about his lack of integrity confirmed by the rising scale of his ritualised and manipulated mendacity the nearer one got to the truth. He completed *every* Service letter with a ritualised threat to the recipient dependent on who he was writing to and became vexed when I regularly sent letters by hand past him to the Chief Fire Officer and in mass communications by hand to all Elected Members none of whom could later deny knowledge of all these circumstances.

271. Warren insisted that all correspondence was to be sent directly to him without exception and by this methodology he took complete control of all the internal communications in respect of his pension debacle. His dissimulation of this information amounted to compete control of the content and extent he 'shared' with entirely bovine Elected Members of the LCFA who were totally happy with this arrangement, but ignorance of the law is no excuse.

272. A fascinating specimen whose self-survival instincts were driven of necessity by his self-protective need to collect, collate, and use acquired LFRS corrupt secrets against those of his politicians, colleagues and staff when their usefulness came to an end. When he got on "tricky ground", as he describes it, he never makes direct statements of personal decision making, but always attributes authorship and alludes the decision making to a third party. This clerk forgets that one fine day his tradeable assets will no longer be tradeable.

273. This clerk, a man of mystery, who over the years, publically declares a 'flexible' biography dependent on who was looking, or asking. Originally he stated he was the Director for HR at Bournemouth College of Further Education and on other occasions stating he was Director for HR at British Rail Northwest which makes one wonder what he is doing at the trivial LCFA? Currently he states that he has always been a Mancunion who currently lives in Stockport but who is without doubt someone who brought manipulative mendacity to an art form at his power grab zenith which is now past.
Attributes as a Member, I was usually more familiar with from Applicants to the Parole Board.

I once wrote after a Discipline Investigation… ‘we will hear from this man again’…and I did…and in Warren’s case… we will.

274. Mr B.Hamilton [Freemason]. Appointed Head of Human Resources April 2002.

Who comes from the mixed tribal backgrounds of Northern Ireland who colloquially became known to the ‘troops’ as ‘Brendan the Barbarian’ and not without justification exemplified by his ‘performance’ supported by Wisdom when carrying out ‘interviews’ with disabled Firefighters and their wives whom they had decided were plainly fraudsters rather like himself. An ‘interview’ with FSV~DA and his wife formally records their ‘experience’ in ‘Lancashire Pastoral Care’ ~ A Chapter in the Bugler.

275. A clerk with form who came from the Probation Service at Trafford Park Manchester. A female informant there stated he was another who ‘jumped ship before he was pushed’ leaving under a cloud involving bullying and harassment of female co-workers which ultimately required his resignation as an alternative to dismissal carried out under a curious Non-Disclosure Agreement an arrangement later confirmed by their Probation Service solicitor.

276. Hamilton had no pension scheme management, experience, knowledge, or qualification though he was designated as the delegate to the delegated Pension Fund manager Warren and by June 2009 was supposedly in charge of the 2006 pension ‘overpayments’ debacle with Wisdom when the Drinkall bubble finally burst.

277. Later he was to be literally frogmarched from the LFRS HQ by an Asst Chief with 2 years salary in his back pocket [£150k the price for his obmutescence] following a serious racialist incident with a black female nurse at the LFRS Occupational Health Department at SHQ.

278. This was the excuse needed by Winterbottom/Warren to dump his ‘deputy’ who was producing more waves than Warren could handle though of course, as usual, Warren was never the front ‘man’.

279. Apparently Hamilton’s morning ritual was to bound into HR shouting … “now who am I going to sack today?”…and occasionally when challenged … “You don’t know how high I go” [the nearest gibbet?]. Not realising on this *tragic* day that his time had finally come! He lives in Bolton spending his ill-gotten gains, but blackmailers always return to the honey pot.

280. In the interim a new female HR Head was transferred from the LCC.

281. Mr.Lee Gardiner [Freemason] Data Protection manager.
Appointed in autumn 2010, another appointment made without public advertisement of the post with the exclusive and express purpose of blocking all Applications for FOIA and Data Protection ‘subject data’ Requests. Applications which simply sought the Truth.

282. Gardiner who lives in Warrington Cheshire where the new North-West Regional Fire Control was constructed, who according to another observer spent 95% of his time playing Minesweeper on his IPad then decided as a break from monotony to take up fraud.

In learning by example from CC D. O'Toole Chair LCFA and *his fraudulent mileage claims and evasion of Income tax*, Gardner ever the opportunist fraudulently claimed his first and last daily journey from home to base [not claimable] was only a few non-claimable miles fraudulently then claiming that his actual base was at this new 'down-the-road' nearby Fire Control when in fact his base never altered remaining at the LFRS Service HQ Preston, 73 miles away.

283. Thus using the AA Mileage calculator which the LCC/LCFA use on official reimbursable mileage claims, Gardiner thought he would pull the oldest chestnut out of the fire by fraudulently claiming payment of a daily return journey of 73 miles @ 0.45 pence per mile between the Fire Control and his base at SHQ over an employment period of 4.5 years which amounted to £38,434.50.
This compared favourably with CC O'Toole's [Chair of the LCFA] equally fraudulent mileage claims over 13.5 year period amounting to £42,106.64.

284. Ironically his new LCC female, albeit temporary HR boss, who was also on the LCC 'essential car users scheme' spotted Gardner's fraud and reported it to Warren who used the opportunity to sack Gardiner just before Xmas in 2014.
But all was not lost and Gardiner using his collateral 'secrets' was quickly appointed to a holding post at another local authority in East Lancashire where in the space of a few weeks he reappeared in his old role of Data manager at Cheshire County Council FRS HQ.

285. No attempts was ever made by Mr K. Mattinson LCFA Treasurer to recover these Income Tax free fraudulent payments from either Gardiner and their boss CC D.OToole [Chair LCFA].

286. Needless to say the temp HR Head was returned to the LCC.

287. Mr.K.Mattinson [Freemason].Appointed 2001 LCFA Treasurer. Formerly with the NHS, an Accountant with the Chartered Institute of Public Finance and Accountancy.

Mattinson a rather insignificant looking person has no pension scheme management, experience, knowledge, or qualification. An informant, 'a concerned Firefighter', provided the location of Hamilton's obmutescent salary payoff which was subsequently found buried by Mattinson in the politically approved long grass annual statement of published LFRS Accounts under the title 'General'.
Mattinson, another man holding many fiscal secrets on behalf of his political Leaders.

288. Ms. Jayne Hutchinson. A Pension Clerk with attitude at the LFRS HR.

Currently first point of contact for Pension Fund Members seeking answers to simple pension queries none of which Ms.Hutchinson is capable of answering.
Drinkall's unsuccessfully mentored apprentice with even less accrued knowledge than Drinkall in perpetual contact with 'expert' Wisdom who she emulates in never having read or understood a single piece of pension legislation which she is supposed to administer.

289. Ms.Hutchinson when dealing with the LCC Pension Providers was unable to determine the difference between an 'Allowance' and a 'Benefit' though confusingly both are administered

by the DWP Industrial Disability Benefits Department [IDDB],e.g., Reduced Earnings Income Allowance. The Clue was in the title…

290. These Court released internal emails highlight the fact that she was unable to determine what might be an SI DWP Disability Benefit deductible from an Injury Award. Perpetually frustrated by lack of promotion. The Clue is she is not … 'one of Hollands boys'… or come to that 'girls'… but who knows?

291. Mrs.D. Lister, Lancashire County Council [LCC] Former Head of Pensions intended to replace this glaring shortfall in LCC/LCFA Pension Fund management competence?

The LCC 'Pensions Services' after the watershed of 1998 was eventually persuaded to become the contracted Pension Providers for the LCFA employing this former clerk from BAE Systems who admitted later in Court that she also had no formal Pension management qualifications when taking up her LCC employment in 2002 which in addition to the Fire Service Scheme required her to administer 120+ County Council Pension Schemes with their associated annual Pension Fund disbursements to the value of over £300Mil [2008].

292. Anecdotal gossip reports another who 'jumped ship before she was pushed' from BAE Systems but 14 years later after having risen to be considered for head of the leviathan multibillion £ national 'Local Government Pension Scheme' LGPS] she is now apparently taking a 'career break from current roles' a polite euphemism for having been reduced in status [or found out] but currently ensconced as Pensions Advisor to the Lancashire Constabulary. How the mighty are fallen. Still one assumes without a single qualification on Pension management qualification to her name? The Lord have mercy on the Chief Constable's pension!

293. On the 28th March 2008 Ms. Lister wrote to me on her vexed question of DWP/LCC/LCFA 'subject data' Benefit records. She unwittingly provided information as the LCFA Pension Provider that the LCC did not have this 'subject data' nor surprisingly was she able to acquire it from the LFRS where it ought to have been immediately available because clearly they did not have it either.
Neither did the DWP for the long time period she sought such records [the DWP retention period was mere a 3 years].

294. Furthermore she highlights her lack of procedural legal knowledge that the LFRS had a lawful Statutory duty to maintain and retain an accurate Statutory pension "account" which required a concluded 'Formal Arrangement' with the DWP to obtain these Disability Benefit 'subject data' records and because no such Arrangement ever existed the DWP's position was that they had no legal obligation to provide them to the LFRS, albeit that the DWP did initially supply them in breach of the 1998 Data Protection Act via a Freemason contact at the DWP Job Centre Plus Preston until 2008.

295. Lister Wrote:

> *'Unfortunately the current Scheme makes no specific provision which authorises LFRS to obtain the required information from DWP'*. It is correct that Fund members have no liability to provide such information nor to assist the LCFA in maintaining an 'account'. '

‘However, the provisions of the Scheme and the duties placed on LFRS in relation to the administration of the Scheme are unworkable without such information being provided and therefore your consent was requested to authorise DWP to disclose the information”.

It remains correct that Fund members have no liability to provide such information nor to assist the LCFA in maintaining an ‘account’. Then floundering around in complete legal ignorance…

‘A small number of individuals in receipt of injury pensions have however declined to consent to the disclosure of information by DWP as a result of which LFRS and Lancashire Pensions Services have reviewed the position and made a further approach to DWP asking them to provide the required information without the necessity for I individuals to consent to disclosure. In our view, the relevant provisions of the Scheme are unworkable without disclosure of the information and clearly it cannot have been the intention of the Scheme to make the operation of the provisions dependent upon obtaining the voluntary consent of the individuals concerned.’

The ‘intention of the Scheme’ always rests with the Statutory Instrument drafters and the legislature not the Members of a particular Scheme...

296. Following the theft of my ‘subject data’ from the Audit Commission/National Fraud Initiative[NFI] database by Warren the NFI’s curiosity’s was roused so they decided to examine the LCC Pension’s database and lo and behold they discovered that Lister was paying the dead pensions all 1000+ of them!
Found in TMB/Correspondence/Year 12/ PB01412 Audit Commission ~ LCC ~ National Fraud Initiative ~ Paying the Dead?

297. Ms. J. Wisdom. An LCC Pension Provider clerk ‘Caseworker’ and then ‘Performance Manager’ to the LCC.

Lister’s erstwhile ‘deputy’ and the LCFA’s ‘pension expert’ though she was in post before Lister arrived.
Initially employed by the LCC as a jobsworth clerk who then moved to LCC ‘Pensions Services’ without any pension qualifications [FOIA-out of the 67 employees not a single one had a pension management qualification] but she then rose to become a ‘Performance Manager’?

298. Myself and a Stalking Horse engaged her in a game of entrapment to explore the depth of her legislative knowledge; it was a short exercise amounting to nil.

299. Of limited intelligence Wisdom took particular delight in abusing power in her choreographed ‘interviews’ with Hamilton of the preordained ‘guilty’ and their families. Unwittingly revealing that the ‘information’ she was receiving from the DWP came over the phone in Preston from the Job Centre Plus [showing an informants degree of caution because he knew it was unlawful] which Wisdom hand drafted and then exposed her handwritten notes to the interviewees whilst inadvertently confirming that she had no DWP records at all.
Now some Firefighters might look a little thick but they attend Coroners Courts regularly as ‘close up’ expert Witnesses and they miss little.
Warren regularly accused me of having an informant…only one?… oh dear me.

300. Wisdom was like Lister considered for better things at the LGPS but has remained at the LCC as a ‘Technical Advisor’ in East Lancashire and the Northwest representative for the LPP-Local Pension Partnership. The LPP, an LCC offshoot organisation, a very wealthy investment management and pension services provider for Local Government Pension Schemes and other public sector pension funds managing around £23.6 billion of pensions assets for their investors which include 655,000 LGPS, Police and Firefighters’ pension scheme members across more than 2,100 employers.
Not bad for a clerk without a single qualification.

301. It is to be noted Wisdom no longer claims a pension management degree [note the case] because she was unable to answer the question which Educational Establishment granted her a ‘Degree’?
It is doubtful in her life if she ever read, or had the capability to read, any type of Pensions Act including SI 1992 No:129.

302. Mr. Craig Ainsworth [Freemason]. A jobsworth clerk aka Wisdom with no qualification at the LCC Pensions Providers.
Ironically a clerk who contributed originally to this pension debacle because of his laziness. A classic Freemason ‘foot soldier’ holding a ‘key position’ where he is called on to help ‘the family’ from time to time.
In this instance he was directed to ensure the prompt payment of underpaid Benefits to LFRS disabled Firefighters who were all Freemasons the largest amount being £45,000.0.[Not as the LFRS claimed £35k] to disabled FSV~JH a close colleague and outspoken Freemason who insisted in knowing where this ‘bounty’ was coming from in case they wanted it back?
Ainsworth rang him up and told him to stop asking repeated questions and to … “just spend the… money”.
Ainsworth received his reward; promoted to acting Casework Supervisor in August 2011 still knowing absolutely zero about pension management or REA.

303. These are just some shameless examples of the lack of integrity and dishonesty of those clerks set in charge within a lifesaving organisation the LCFA but who can blame them given the generous salaries, their nominated car parking spaces with their personalised number plated cars when the complete responsibility for this debacle rests unequivocally with the LCC/LCFA Elected Members and their political organisations.

304. Ms.Drinkall remained in post until her retirement in 2002 leaving behind a legacy of ineptitude for which she was awarded an MBE in 2000 for ‘Services to the Fire Service’, who were the only the net beneficiary of her malfeasant ‘policy’ of …’just make it up as you go along’…which became the ‘management’ practice of the new 1998 LCFA Firefighters Pension Fund because she had maleficently managed since that year to *underpay* at least 2000+ pensioners and beneficiaries their correct pensions, to date.

305. All of which was attributable to Drinkall’s legacy, but later as we shall see, she was called back from retirement to serve her purpose once more, the price for the MBE.

Appendix ~ 'A'. The Legacy feeds on itself ~ Mutating into more LCFA "drift".

306. Meantime the cracks in this facade of 'competence' driven by this last generation legacy of unparalled incompetence then mutated unabated into the new LCFA in 1998. Here is an historical example

307. During a serious incident in 1994 in which a young Firefighter was virtually cut in half by an LPG cylinder exploding and scything out of a farm barn fire the Firefighter FSV-DH [now deceased] was compulsorily medically retired in 1996.

308. In 1997 DH subsequently raised legal questions concerning his pension rights and payments associated with DWP Disability Benefits with Ms.Drinkall who was simply incapable of providing a technical answer and passed the buck to the pension 'experts' of Home Office Fire Department for the next 13 years!

309. In 2009 the LCFA's Hamilton [HR] who was also incapable of providing an answer commented on Ms.Drinkall's legacy in a July 17, 2009 internal email, part of a Court released evidential bundle of 362 such exhibits, stating in retrospection:

> *"In 1996 an injury pensioner [DH] queried the deduction of his injury pension as he was in receipt of IIDB as he felt it was not covered by the Industrial Injuries Benefit Act 1992. The matter was put to the home office who prevaricated for many months acknowledging the difficulty and advising legislation needed to be amended but advising that deductions should occur in principle. The pensioner was given the opportunity to have the deduction or await the outcome of legislative change but the matter drifted. The home office did not advice(sic)of any legislative development and after pursuing thenm(sic) for a further year the matter drifted here"…*

310. But like so much other flotsam and jetsam in this sea of corruption which was to float up onto the LCFA's filthy shores it simply presaged a storm of similar examples as the Drinkall bubble of laziness, disarray, disingenuity, dissimulation, manipulated mendacity and fraudulent disaster finally burst upon it.

Appendix ~ 'A'. The 2006 ~ 2012 Pension 'Overpayments' ~ The Birth of A Dispute.

311. In 2006 Drinkall's pigeons disastrously came home to roost.

312. In my Operational Command I had 10 Station Commanders, only the best.
In early 2006 the continuing deplorable state of the malfeasance of the LCFA Firefighter's Pension Fund was highlighted once more when a well-respected terminally ill retired Station Commander of mine disabled FSV-DW, who before and in retirement, was deeply involved in youth football in his Community, innocently and honestly raised an anticipated DWP Disability Benefit payment query, which in spite of repeated efforts went unanswered for over 7 months. Now we know why…

313. These queries involved envisaged changes affecting his DWP Disability Benefits paid directly to him by the DWP for his domestic terminal care arrangements undertaken by his wife, in that, if the LCFA did not take the appropriate action before her 60th birthday, *overpayments*

*to him **might*** occur. DW was a respected command Officer, a good administrator, who also just happened to be a popular Freemason.

314. The response when interminably it came from Wisdom, the LCC/LCFA 'expert', stated that:

> "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."
>
> **N.B. A great beginning Wisdom et al could not even get this figure correct. It was in fact £35,435.20, all attributable to their sheer lazy incompetence.**

315. No pastoral care, especially given his terminal condition; no sensitivity; no explanations why this malfeasance had been allowed to accumulate to the magnitude it had by the multiple failures of the LCFA, the LCC -'Your Pension Service', and the unfortunate DWP. What was there left to do after 7 months of this nightmare unfolded than to take immediate refuge in blaming the victim, this honest Officer?

316. I was privileged that before he died DW passed the complete and extensive copies of all his privately held contemporaneous pension records including those sent to the DWP; to the LCC 'Your Pension Service', and especially copies all sent to the LFRS for inclusion in his PRF where such documents were intended to be perpetually retained.
His widow CW was aware of his actions and approved. These detailed contemporaneous records tell their own story of his frustrated attempts to make anyone in either the DWP, the LCC, or the LCFA pay attention to his pension concerns.

317. By her unwitting ill crafted words Wisdom immediately confirmed several critical evidential facts in law which included why it had taken her 7 months to reply which was reflected in a carefully crafted multi co-authored letter written by people like herself who had no idea what they were doing, but Warren did.

318. Wisdom was unaware of DW's high profile medical condition bearing in mind that presciently she should have been anticipating taking serious decisions for the Widow's 'Half' Pension and Benefits and for the pastoral care, support and benefit, of his potential Widow, C.

319. Unforgivably, Wisdom assumed DW's dishonesty by immediately and unlawfully, without his consent, confirming the *facts he had honestly presented to her* by contacting Hamilton's informant at the DWP Preston Job Centre Plus who, equally unlawfully, confirmed his 'subject data' facts [by vox] in breach of the 1998 Data Protection Act (as amended);

320. Next, she uses the disingenuous phrase… "it has come to my attention". No it did not. DW brought it transparently and honestly to the attention of the LCFA/LCC, because of their collective failures to carry out their Statutory duties;

321. Wisdom simply did not know why the … “benefits received are greater than the injury pension due” and is either unable, because as we now know she had no records, or more likely she was incapable of giving a transparent technical explanation in law for these circumstances; nor does she quote who informed her that this was a ‘fact’; and on what legal basis?

322. Wisdom does not explain who paid the Duplicated Disability Benefits in error and why? Was it the LCC or LCFA? The legal responsibility for any, or all, of these errors resting entirely with these 2 agencies, the primary one of which held the Statutory duty, the LCFA?

323. Why did Wisdom not support her statement? …“should not have been paid” by going straight to the LCFA Pension Fund maintained Statutory “account” of which surely she held a mirror data image as the LCFA Pensions Provider contractor, and promptly identify the person/agency who should not have authorised or actually paid out these Duplicated Disability Benefits. But this would undoubtedly have taken transparent accountability too far and exposed the LCFA/LCC’s complete lack of Statutory records ?

324. What did examination of DW’s, LCFA PRF, actually reveal?
The confirmation that he had indeed informed these agencies of the status of his Disability Benefits *and* his concerns? Later, Hutchinson [Drinkall’s replacement] in emails stated that DW’s PRF was lost; then it was found; then it was lost again, and found again. Frankly the LCFA could not decide for itself which falsehood might provide the best protection for its publicly revealed malfescence. But this was before they got their mendacity in gear and before dissimulation became a practiced art in deceiving the Elected Members on the LCFA who had already been placed in a controlled cocoon of dissimulation by Warren.

325. DW’s detailed narrative reveals again and again that he had kept the LCFA informed of his DWP Disability Benefits status from the moment his Pensions had been put in payment. It is little wonder that the LCFA refuses to release DW’s PRF because neither their Pension Fund maintained Statutory “account”, nor will DW’s PRF show a single entry recording the contemporaneous pension information which DW did honestly and voluntarily supply to the LCFA/LCC but which none of these agencies did anything to record.

326. This was in spite DW, whilst he was still alive, re-producing his contemporaneous records of his own in their entirety which he sent to the LCFA which confirmed that the LCFA/LCC *had been regularly informed by him of his Benefit status,* but without a single response.

327. Finally when asked to produce *their records* and DW’s PRF by his Widow’s solicitor after having been put to the tactless proof by Harold/Gardiner that DW’s Widow was not the Executor of DW’s estate that they were not willing to do so which ultimately, to this day, have been denied to his Widow C.

328. Having vocationally dispensed compassion all his Service life it was clear from the outset that DW, his wife CW, and his family were to be denied common humanity emanating right from the top of this corrupt organisation to the point at which even Chief Fire Officer Holland whilst professing fraternal sympathy rejected direct hand written letters of appeal for help from his Widow, which I also retain.

329. All this deplorable inhumanity created a huge swell of resentment and rage within all ranks of the disabled FSVs many of whom were decent Freemasons, as is their right.

330. Meantime in the 7 months before they could provide any answers off went a gleeful Warren trawling in his usual mendacious way to identify these DWP Benefit 'fraudsters' which is rather rich, or so he thought, because it takes one to know one.

Appendix ~ 'A'. The Trawling.

331. The unforeseeable consequences of the 'game' of pension trawling by conspirators Winterbottom/Warren and their fellow conspirators, which many an honest trawler skipper has to deal with regularly, is what comes to the surface in the trawl which can be disturbingly unexpected and a rather threatening 'game' changer.

332. By mid-2007 Winterbottom/Warren/Hamilton/Wisdom/Hutchinson, to save their own skins, initially trawled up 167 disabled Fire Service Veterans from the Retirement List whom they viewed as 'fraudsters' which included to their dismay 84 Freemasons [later scaling up to 114 including some coerced non-Freemasons] all of who were issued with a 'Get out of Jail Free Card' under various pretexts including the use of unbridled thuggery on some of those I represented.
One such was a very disabled FSV~DA who allegedly owed £65,410.87 and understandably yielded under the remorseless Warren "Hardship Route"[His description] grinder.

333. The presence of these initial 84 Freemasons [out of the total of 167 alleged fraudsters] seemed to perplex these 'fishermen' but surely as Brethren like themselves they ought have known that this was bound to happen but sadly none of them are ever likely to become members of Mensa.

334. This initial, and by now extremely hostile group of 84 disabled Lamplighters, were also like FSV~DW to be placed on Warren's 'Hardship Route'. However, immediately after a flood of personal threatening messages from the Temples Warren recognised an awakened giant so he and his cohorts under the direction of Winterbottom quickly decided that all 84 were to be 'deemed by the LCFA' to be receiving the correct pension.
But how do *we* know that? Where is the evidence?

335. No data was ever published by the LCFA on the criterion it had applied to each of these 'pure in spirit' 84 FSVs to lead them to this conclusion? How could this have been achieved bearing in mind the LCFA's complete lack of Data to compare with that which they had unlawfully acquired from the DWP?
But, to every mystery there is usually a solution, where Warren et al are concerned, and it is perpetually, dissimulated mendacity.

336. The only lip service the LCFA Committee ever paid to due legal process was later on the 1st April 2008, to deter the curious, this debacle now being in its 3rd year, when the LCFA Resource Committee with its Special Pension Sub-Committee of 4 Members [2xLabour; 1xConservative;1x LibDem the membership of which the LCFA refused to publish ~ So much

for Democracy] but it was easy to find out the obvious that the 'packed' voting majority were all Freemasons holding the balance of power who also issued the following statement:

> "That the Authority place on record an undertaking that it would only attempt to recover further overpayment monies from the individuals when the Authority was entirely satisfied of the correct and precise amounts involved. In the event of any underpayments the Authority would refund these as quickly as possible.".

Not only did this carte blanc authority empower Warren to 'write off' any embarrassing problems like the 84+ but legitimised his corrupt activities before and after this statement to do precisely as he wished,[I will because I can], or so he thought he could.

337. Perhaps one should reflect on a single entry in Hutchinson's *first* spreadsheet generated on the 21st January 2008 … 'Written off as advised LFRS of change'… entered against compulsory discharged disabled FSV-BB who presented another unexpected challenge to Warren which we will return to later.

Appendix ~ 'A'. The Great Secret ~ LCFA Pension Fund Misfeasance continues to grow.

338. In summary what did the LCFA/LCC have to cover up? In a word, *Everything!*

339. But what had the LCFA done wrong? Put in legal speak the following…

- *Nonfeasance,* defined, when an authority intentionally fails to perform a required Statutory duty or obligation;

- *Malfeasance,* defined, when an authority deliberately causes injury to another on purpose, namely, the disabled Firefighters, their Widows, and Beneficiaries;

- *Misfeasance,* defined, when an authority performs an action incorrectly, or a legal act performed in an illegal manner;

340. This cover up confirmed *nonfeasance* when Holland was appointed as the Statutory Pension Fund manager in 1998. When next he appointed and delegated Warren as his Deputy Statutory Pension Fund manager in April 2002 when neither of them took any action to carry out a review of the 'health status' of the Lancashire Firefighter's Statutory Pension Fund 'account' to ensure its financial viability and to comply with the Pensions Regulators' regulatory regime [who were fully aware of this debacle and did nothing] and the Statutory Instrument governing its Pension Fund sustainability with the LCFA's fiscal competency to operate the Lancashire Firefighters Pension Scheme and its Fund.

341. This cover up confirmed *malfescence* within the LFRS in particular its clerks' complete and collective abject failure to control and audit a Statutory Pension Fund; in particular their failure to maintain a Statutory daily ledger 'account'; and their abject failure to retain and record Pension Fund Members' 'subject data' voluntarily supplied to them of frequent changes to, their individual DWP Disability Benefits.
All of which caused purposeful injury to disabled Firefighters, their Widows, and Beneficiaries.

342. This cover up confirmed *misfeasance* when the LCFA/LCC failed to set up the Statutory mechanisms, “formal agreements” to ensure that the DWP were required to inform the LCFA of *any and all* routine Disability Benefit implementation or changes to be included in Pension Fund Members PRF Records.

343. This cover up confirmed *fraud* when the LCFA/LCC by their subsequent fraudulent and deceitful actions simply endorsed the common knowledge of Members of the Pension Fund that the LCFA/LCC never routinely acknowledged the receipt of any information voluntarily sent to them, and consequently they had neither retained nor recorded this critical information in their daily ledger Statutory ‘account’, nor in the Members’ PRFs which led to the inevitable kneejerk cover-up reaction when exposed to public scrutiny by claiming, in a blatant public falsehood that the victims of the LCFA’s *Nonfeasance/Malfesance/Misfesance* had failed to inform them of routine changes to DWP Disability Benefits, when in fact they had.

344. Repeatedly in the Court released 362 emails in the 5 ‘Reviews’ presented to the LCFA Elected Members the last being in December 2009 it allegedly identified 167[the LCFA could not even get this statistic correct initially identifying 169] of allegedly ‘overpaid’ disabled Firefighters using a column entry in their ‘reviews’ in which these clerks recorded against individuals… “no notification on file”… in spite of ample contradictory evidence from individual’s own contemporaneous records that the LCFB/LCFA had been regularly *and voluntarily* informed of Benefit changes which clearly confirmed that Drinkall had not been remotely minded to make a daily ledger entry in the Statutory “account” nor to submit the information to a Member’s PRF where they were expected to be lodged.

345. But this “no notification on file” statement was itself a patent falsehood announced whilst knowing that the LCC Pensions Services had confirmed to them that it did not hold such voluntary records either.

346. The fact of the matter was that it was not until 2002 four years after the LCFA was created that it commenced creating databases with digitised records of any description, including pensions.

347. Furthermore the LCFA had no DWP records whether digitised or not of its own which by default permitted the automatic payments by Duplication in Statutory error to completely innocent disabled FSVs in direct breach of the LCFA’s Statutory duty.

348. It is well documented in this first awful and cynical case of gross abuse and breach of trust exemplified by terminally ill DW’s Officer’s reaction in that *he believed and accepted what he was told* by Warren/Hamilton/Wisdom because he had not the time left in this life to argue his case but was perforce, for the sake of his wife’s envisaged hardship circumstances, to obtain at very short notice a bank loan to pay back an agreed £15,000 by cheque [which was never acknowledged] thus adding insult to injury and completely enraging FSV~DW’s Lancashire FRS Veterans, colleagues, and friends.

349. This nightmare for the LCFA commenced in November 2006 and continued until February 2013 when the LCFA thought they had brought their nightmare to end but in fact it continues

today on Easter Monday 10th April 2023, 17 years later.

350. This self-created nightmare has consumed the financial, manpower, and man-hours resources of the LFRS HR Department involving at least 50 people to say nothing of the DWP, The National Fraud Initiative, the Home Office Fire Department, Chief Constables and endless bovine local politicians.

351. Given all these appalling circumstances a mature and lawful Authority would surely have called immediately for an Inquiry using independent legal advice supported by an accomplished audit company having accomplished practice in examining the health of a Pension Scheme, but the LCFA did not.

352. But of course this would have been an anathema to Winterbottom/Warren/Hamilton/ Wisdom/Hutchinson's reputations and career prospects who did not hesitate to manipulate the LCFA to take none of these normal remedial steps but transferred the matter to the LCFA Resources Committee who then set up a faux 4 person Special sub-Committee [whose names were never published] with delegated powers which Winterbottom and Warren then 'packed' with Freemasons to produce the gerrymandered voting results they required.

Appendix ~ 'A'. Lies, Damned Lies, and Statistics.

353. So next we enter the LCFA confused and confusing world of *their* lies, *their* damned lies, and *their* awful statistics as these clerks fought for the survival of their own employment Contracts, when they ought to have been sacked against a rising tide of evidence which continued to mount and point in only one direction, *their collective* and continuing misfeasance.

354. The first question the famous four under Winterbottom's direction, namely Warren, Hamilton, Hutchinson, and LCC Wisdom, who were unequivocally in charge of the LCFA Pension Fund had to address was how far the LCFA's collective misfeasance been allowed to grow and fester since 1998 though finally brought to their attention on the 27th November 2006?

355. From a policy standpoint they decided that no rational explanation was to be Publicly offered why the LCFA Pension Fund was heading for bankruptcy and how much money had been lost from the Pension Fund? Nor was a Public apology was ever to be offered to either the Public at large or in particular to their disabled FSVs for the worrying melt down *of their Pension Fund*.

356. The implementation of the Limitations Act 1998 by the disabled FSVs acting unilaterally against enforced restitution was unlawfully dismissed even though the errors leading to the loss of Funds from the Firefighters Pension Fund was entirely attributable to the LCFA and its Contractor the LCC Pensions Services.

357. It was against this backdrop of a continuing severe threat to their employment that these four next had to determine a division of labour.

358. Warren, under Winterbottom's direction, was to be exclusively in charge though at a careful distance from responsibility but with the ultimate power to 'write off' Duplicated overpayments which was authorised retrospectively [to protect Winterbottom/Warren] on 1st April 2008 by a 'packed' LCFA Special Pension Sub-Committee. Corruption knew no boundaries.

359. Hamilton was to carry the pragmatic daily 'burden' of establishing just how much Public Funds the LCFA/LCC had jointly lost from LCFA Firefighters Pension Fund?

360. Hutchinson was to take the lead in preparing and maintaining [it ought to have been on a daily and monthly basis] generated MS 'Excel' spreadsheets of accumulating and enforced recovery of Duplicated 'overpayments' to be credited to LCFA Pension Fund and its Members.

361. Wisdom/Lambert [the LCC contracted 'legal' and 'pension' experts] with Hamilton were to acquire the missing Pension Fund 'subject data'.

362. It is worth recalling the fact of the matter that it was not until 2002, four years after the LCFA was created that it commenced creating databases with digitised records of any description, including pensions.

363. To their collective dismay they then discovered that the subject data back to 1992 could only be retrieved surreptitiously and unlawfully from the DWP because the LCC/LCFA could find no comprehensive records of their own. Not even in individual Fund Members' PRFs which were randomised paper folios, although in the main, they had been regularly and voluntarily notified by the majority of Fund Members of Benefit changes which Drinkall failed to take any action on.

364. This did not present a particular difficulty because Winterbottom/Warren/Hamilton simply contacted a 'key' Freemason at the local Preston DWP Preston Jobcentre Plus for assistance but this was unlawful 'tricky territory' , as Warren puts it, which took time and it was not until late September 2007, 10 months after being informed by disabled FSV~DW that Warren was in a position to report provisional headline statistics [a study of economy of truth] to the 'controlled' LFCA Elected Members, the actual Pension Fund managers, about deficits which were not nominally finalised until December 2009.

The initial corrected headlines [disregarding the copious errors] were:

Disabled Pension Fund Members in receipt of DWP Benefits	167.
Disabled Pension Fund Members Underpaid	17.
Disabled Pension Fund Members allegedly overpaid in breach of Statute by Duplication of payments	45.
Pension Fund Members deemed to be receiving the correct pension	105.
Total	167.

365. Meantime to achieve the minutiae for these statistics Hamilton[until he was fired] Wisdom/Lambert/Hutchinson continued unlawfully to resort to using unlogged phone calls with their anonymous contact at DWP Preston who was extremely wary of sending unlawful DWP

‘subject data’ in hard copy [which proved patchy and incorrect] which Wisdom/Hutchinson had of necessity to hand draft from these phone calls which Wisdom/Lambert later reproduced in ‘interviews’ with disabled FSVs and their families who noticed the odd hand drafting of their Data.

366. The criminal activity of unlawfully obtaining DWP data was highlighted to the Permanent Secretary at the DWP in early 2008 and this practice was ceased, at least ‘officially’.

367. By now, into its 2nd year, Hutchinson finally produced her first spreadsheet on the 21st January 2008 which was amended 4 times the last being 20th November 2008.

Of particular interest is the ‘Comments’ column set against a named individual. These are examples of incompetence:

- ‘Letters never sent’;
- ‘Blank ~ ‘No Explanation given’;
- ‘Benefits paid for second injury not overpaid’;
- ‘FBU Case’;
- ‘No longer overpaid’;
- ‘Jayne dealing’?
- ‘Written off’[A matter of special interest as we shall see]

368. Of particular interest is the impact these comments had on the Duplication ‘overpayments’ statistic which varied from 27 to 45 to 36 which also impacted on the statistic [increasing] of Pension Fund Members deemed to be receiving the correct pension which clearly confirmed that Duplication ‘overpayments’ had been ‘written off’ without explanation.

369. There was no provision made to record 167 individual audits of DWP Benefits being received set against the LCFA criterion being applied for this ‘test’ in order to accurately report that every one of the 167 individually audited payments were correct or not?

370. So where in audit terms were recovered monies tabulated/recorded presuming that they would automatically be credited to the Firefighters Pension Fund?

371. On the 27th October 2009 Hutchinson’s Court released statistical reporting totalled five documents. The fifth document of 6 pages was clearly from an independent [redacted] Barrister’s Opinion reporting to the LCC Pension Services at a time it was common knowledge that, yet again, relationships between the Contractor [LCFA] and the Contractee [LCC] were fraught.

This Opinion concluded in Annex ‘C’ page 6…

“The total amount of injury pensions found to be underpaid as a result of the review was £151,613. The total amount of injury pensions found to be overpaid as a result of the review was £622,934. The recovery of these amounts is a matter for the LFRS.”.

372. The 6th page was useful as it provided a final snap shot of the statistical analyses on 27th October 2009 in the 3rd year of this debacle. This summary is verbatim:

Disabled Pension Fund Members in receipt of DWP Benefits		167.
Disabled Pension Fund Members	Underpaid	17.
Disabled Pension Fund Members allegedly overpaid in breach of Statute by Duplication of payments		36.
Pension Fund Members deemed to be receiving the correct pension		114.
Total		167.

373. The amounts of loss to the LCFA Firefighters Pension Fund as of 2011 was as follows:

Pension Fund Members allegedly Overpaid [36] in breach of Statute by Duplication of payments to the restitutional value of	£622,934.0.
Less Disabled Pension Fund Members Underpaid [17]. The last payment to disabled FSVs being made in July 2009 to the total value of	£151,613.40.
Less Written off/Deemed to be receiving the correct Pensions [114] to the value of	£1,972,624.33.
Less Enforced Restitution	£622,934.0.
Net Loss to LCFA Firefighters Pension Fund	£1,349,690.33.
Less[Audit Commission Report of 2011 on the LCC] paying pensions to 1007 deceased pensioners including LCFA Firefighters [NFI data currently not to hand] but to the estimated value of	£7,786,674.99.

374. This LCFA Net Loss amount is a combination of Employees and Employers Pension Contributions, the latter being Public funds which the LCFA are Statute bound to recover within the 6 year limit of the 1998 Limitations Act.
In the first place there was a haphazard attempt to collect and collate data whilst remembering the LCFA had lazily, carelessly, and wantonly disbursed these Duplicated payments in error in to the living and then there is, in the second place, the outstanding matter of paying an of indeterminate number deceased Firefighters pensions to their estates in full, in the second place?

375. Before we leave Hutchinson's nightmare spreadsheets it is important to explore the role of Mattinson the LCFA Director of Finance who ought to have been directing Hutchinson's efforts. Studying these spreadsheets highlights the fact that there were no extra column provisions made to include space for recovered Duplicated disbursements/net losses even though the Director of Finance Mattinson (bound by accountancy rules] would surely have needed this data for reports to the LCFA Elected Members; in particular for the Annual Audit of the LCFA; and especially for compliance by the LCFA to the Statutory rules which are governed by the District Auditor but Mattinson gives no accounting?

376. At an early point on the 22nd November 2007 Hamilton's fevered imagination got the better of him [Presumably in between attempting to beat up disabled Firefighters, their families and any other black LFRS female nurses he might come across] when emailing Warren, on behalf of his associates, to present Warren an hypotheses of envisaged income for the benefit of

LCFA Committee:

> ... "*If I extrapolate the present sample to the whole population* [Eh?] *we are talking of recovery between £0.5 million and £1 Million and with an annual saving of £50k to £80k in reduced pension payments."*.

So much for his hypotheses with a net loss of £1,349,690.33.,[using LCFA data] from the Firefighters Pension Fund which Winterbottom/Warren/Hamilton and Wisdom/Hutchinson will be asked to explain when finally they are all arrested, for at the very least, producing a false instrument presented to the LCFA Committee.

Appendix ~ 'A'. FSV~BB Challenges Hamilton and Warren.

377. On the 21st January 2008, marked on her *first* generated spreadsheet, Hutchinson's made a single entry, which perhaps one might ponder over when she entered against compulsory discharged disabled FSV-BB the following… 'Written off as advised LFRS of change '…on the 22nd February 2008.

378. On the 25th February 2008 BB wrote to me for assistance stating that on this day he had received the following… "I have today received(sic) a letter from LCC telling me they have overpayed(sic) me by £3088.13." …and so on.

379. Clearly before the 21st January 2008 Warren at the direction of Winterbottom had already secretly and fraudulently written off the 114 Freemasons FSVs trawled up with alleged 'overpayments' stating on the record to the LCFA Committee in September 2007 that the 114 were deemed to have been paid the correct pension but without indicating that he had applied any form of audit test, or demonstrating an audit trail, or even informing his associated Brethren.

380. Nevertheless the damage had been done. At this point one might assume that *all these alleged debts would be written off*, but that did not occur because Warren had made such a fist of it that he found himself between a rock and a hard place having had to pay back the 17 'underpaid' disabled FSV's amounting to £151,613.40., *and* having to write off all other 'overpayment' claims involving Freemasons without Wisdom/Hutchinson being informed or even his fraternal Brethren.

381. Then of course his next problem was the 36 Non-Freemasons some of who had commenced their enforced restitution and those who had not, including myself, which *in toto* can only be described as pure discrimination and a blatant miscarriage of Justice.

382. This deplorable position is supported by a straw pole with discreet disabled Freemasons who all stated they had never received any communication from the LCFA with reference to their Pension, nor had they been asked to pay any money back. This is either the 'party line' or more likely the truth but it is nevertheless Public Money.

383. Disabled FSV-BB who had emerged from the Brethren's ranks was a very determined compulsory retired disabled Officer who was not at all happy with his treatment by Hamilton and then Warren who he considered had accused him without evidence of being a fraudster

and of failing to inform the LCFB [Drinkall] of changes to his DWP Benefits which he was particularly enraged about.

384. Let us digress for a few minutes to shed a little Light in the Darkness, as Freemasons like to put it, to explain that it is rather a paradox that Freemasonry actually runs its own hierarchical system.
It is a quirk of Freemasonry when it collides with the good order and discipline of any 'Service' that a Freemason may well hold the lowest rank in a Service but when he dons his regalia he may well outrank his Service colleagues at the Temple.

385. What follows, is a brief study into such circumstances which are unusually reflected in tones of address and subservient attitudes both demonstrated by Hamilton and Warren to FSV~BB.

386. FSV~BB was in earlier service under my command rising to become my opposite number in another Division. FSV~BB was 'old Brigade' and proud of it. Like myself he also became a Statutory Discipline Officer appointed by the Secretary of State. This identified Officers with 'clean sheet' integrity and high Service standards which were never regarded as a burden, but as an honour.

387. FSV~BB was not 'popular' nor did he desire to be so but to be respected by the lower ranks as a 'fair, firm, if not too friendly, Officer. FSV~BB's very interesting correspondence was generously supplied to me by him for publication and is found on the Bugler at Pension Law/Libraries/ Correspondence/Year 2008.

388. The correspondence is self-explanatory but of especial interest is a letter from a very chastened Warren to FSV~BB on the 18th May 2008 *uniquely admitting culpability* stating in the concluding paragraph the following:

> "It would appear that the Service did not then make the appropriate deduction from your injury award. Indeed the Service went further and advised you that you did not need to notify us of future inflation increases.
> I consider this to be poor administration and feel it is inappropriate to ask you to reimburse the Service this overpayment that resulted. I therefore intend finalising this matter by writing off the overpayment.".

389. All a bit rich when one considers that Warren was in charge of this 'poor administration''. This FSV~BB correspondence finally concluded on the 12th June 2009 in the usual LCFA inimitable fashion; lazy and late.

390. Nevertheless the damage had been done and at this point one might assume that *all these alleged 'overpayments' would be written off*, but that did not occur because Warren had made such a fist of it that he found himself between a rock and a hard place having to pay back the 17 'underpaid' disabled FSV's amounting to £151,613.40. Then having to write off all other claims involving Freemasons whom he had neither found, processed, nor 'written off'. Then of course his next problem was the 36 Non-Freemasons who had commenced their enforced restitution and those who had not, including myself, though I was never a statistic?

Appendix ~ ‘A’. Some are More Equal than Others.

391. An Extract from a letter dated 24th February 2011 from disabled FSV~FG to be located in… Law Libraries/Correspondence Year 2011. Entitled FSV~FG and Bugler Correspondence on the Lamplighters to Mr. Warren and CFO.

> “At this point I refer you to correspondence between Mr BB and yourselves, concerning alleged overpayment of his injury pension. In particular I refer to the last two paragraphs in one of your letters in which you admit that there was indeed ‘poor administration’. Mr BB circumstances were very similar to my own, but clearly we have been treated differently. This is a matter which I find very disturbing.
> Recently it has come to my attention that anecdotal or actual evidence exists which seems to indicate that two or more ‘standards’ were applied by the LFRS in resolving individual alleged ‘overpayments’. It would appear that, for example, if one was a Freemason, any alleged debt was dealt with by using a different ‘standard’ to that applied to non-Freemasons.
> I suggest to you that in practice Freemasons did not repay any of their alleged ‘debt’, whilst non-Freemasons are continuing to repay their debt or have repaid it in full whether due to you or not. If this is the case, then it would be an appalling state of affairs with foreseeable grave consequences for those personally involved.
> I request your personal written assurance and the personal written assurance of your deputy, Mr Hamilton, who is responsible for the day-to-day administration of the LFRS Pension Scheme, that there is no foundation whatsoever in these rumours and that all those affected Fire Service Veterans, regardless of their membership of any particular organisation, have been treated fairly and with exactly the same ‘standard’. Yours sincerely,”.

Disabled FSV~FG as one had come to expect received neither an acknowledgement nor response.

Appendix ~ 'B'. The Shining Knight of Integrity.

392. As the 'Journey for Truth' continued in August 2012 quite by my good fortune I was introduced to a retired barrister who lived in my vicinity. Mr. John Copplestone-Bruce[JCB] who is a Life Member of the Inner Temple. This peer group Honour of Life Membership allows JCB, without constraint, to continue to practice at will for life.

393. Our common interest was inventing and Patenting our creations. In my case I had won a Government 'Smart Award' [£50k] for inventing and patenting into preproduction after 10 years research work and a further personal investment of £50k, a Public Warning System using Powerline Communications which included successful highly sensitive military field trials.

394. JCB was and remains in retirement an extraordinary high performing barrister who unusually spent two years of his early tutelage reading pure Law specifically the 'meaning of words' all of which he has taught me during my 11 years enjoyable and at times challenging tutelage under him. I always had a great passion for Human Rights and the Law as a consequence of being raised a second class Citizen in the North of Ireland.

395. JCB was, as he puts it, 'when at the top of his game' the highest performer in Personal Injury claims in the UK, and, unsolicited, generously offered his pro bono services to me and other disabled Firefighters both retired and serving. JCB had not only been an Officer in the British Army but specifically as a Fire Officer.
JCB is to be found at Current Affairs Vol 38 15th June 2021.

Appendix ~ 'B'. The Attrition and Haemorrhage of Truth.

396. In late 1996 I attended an LCC preretirement course which included other uniformed LCFB personnel and LCC employees. We were given a look ahead in legal terms of the life changing circumstances surrounding our envisaged retirement which in my case was by compulsory medical discharge which occurred at midnight 31st January 1997. Ms. Drinkall represented the LCFB.

397. In 1999 I became aware that I was entitled to an obscure DWP Allowance called Reduced Earnings Income Allowance [REA] which I ought to have been informed of by Ms. Drinkall.

398. I subsequently wrote to Ms. Drinkall informing her that I intended to apply for this Allowance and surprisingly in a letter to me she informed me she had filled in my Application Form and sent it off indicating to me that if in the event I was successful would I inform her. This I subsequently did by phone call making a contemporaneous note *on her original letter* to this effect by stating … "Rang Joan and told her yes"… This is recorded in my own PRF records as PRF39 found at 'Correspondence, Year 1999.

399. I had no further contact with Ms.Drinkall nor the newly created LCFA until 2008 when I peremptorily informed without any pastoral care or pleasantries which one usually expected from my former employers the LCFB that without explanation or substantiation I had been

overpaid the DWP REA element of my Injury Award and that the amount, which was not specified, was to be deducted at source.

400. This highlighted an existing inconsistency throughout the UK in both the practice and implementation of the law concerning Allowance deductions from an Injury Award, which is not surprising.
This was highlighted in a letter to a disabled FSV in Northern Ireland to be seen in 'Correspondence, Year 2010[second entry] which effectively states that the NIFRS do not deduct this Allowance from an Injury Award?

Appendix ~ 'B'. Attempts at Amelioration and Resolution.

401. The tone of this original LCFA letter to FSVs, including myself, was regarded as offensive, aggressive, and unacceptable and the LCFA was informed so. Eventually a running battle ensued. I was initially asked to represent Widows and Beneficiaries which inevitably extended to 166 other disabled FSVs and I did so reluctantly having just lost my wife in 2007[uniquely a Senior Ranking Officer in her own right] to cancer.

402. I made contact with the chair of the LCFA called Wilkinson, a former Firefighter, a rather slippery and mendacious character who made an admirable politician and who unsuccessfully attempted to be an unenthusiastic member of my Watch when I was his junior ranking Watch Commander.

403. I made repeated serious attempts at amelioration with Wilkinson and made numerous written pragmatic proposals for resolution when eventually I grasped what the problem was but these reasonable proposals received the usual stonewalling treatment. A hostile dialogue developed with Wilkinson which is recorded in 'Correspondence, Year 2008, reflected in the first two entries for that year and continued henceforth with the LCFA until the present.

404. **Appendix ~ 'B'. Winterbottom's " Best in the World" , Justice Butler.**

405. By 2010 Mr. Max Winterbottom, Clerk to the LCFA and also the senior Freemason in Lancashire decided to bring this attrition of the Truth to a halt and cease the Public haemorrhaging of the Truth by continuing to ignore all overtures for a common-sense resolution.
Winterbottom's solution in direct discrimination was to issue proceeding solely against me in Court whilst ignoring the fact that he had received documentary proof from me that I *had in deed* informed the LCFA of the commencement of my single minor REA, DWP Allowance.

406. Eventually in an old tactic and an abuse of due process the LCFA knowingly issued their proceeding in the High Court a strategy used to intimidate Defendants especially Litigants-in-Person[LiP] which was not only the wrong Court but because the issue did not cross the High Court benchmark for such proceeding.
So when intimidation did not succeed the LCFA then spent a considerable amount of time and money to have the proceeding reissued at the County Court but it was unable to determine which 'Track' the issue should be placed on which simply confirmed their solicitor Harold's lack of professional nous.

407. Winterbottom and the Brethern then ordered up their on call “Best in the World” Lancashire Circuit Court Justice Philip Butler [Head of Preston Court and the Family Division] who was nominated to preside.
Eventually following several case management Hearings in late 2012 Butler decided that the matter was so grievous and the evidence so substantial, amounting to one annotated A4 sheet of paper, that it would require a 4 day Hearing with the Plaintiffs presenting their case over two days and the LiP, myself, having a further 2 days to present my Defence.
In the event I was not allowed to present any Defence, the Plaintiff being encouraged to blatantly filibuster, the remaining 2 days at Court.

408. Butler’s unimaginative corrupt abuse of due process was crystal clear the objective of which was crystal clear which was to not only ‘pack’ the Court and Bench with a predetermined ‘Judgement’ but to heavily load the costs to my personal detriment, pour les encourager les autres.

409. Within his fiefdom Butler had an appalling reputation with his Court staff as an unbalanced ranting thug and bully. Staff, which he was unaware of, which included part time Firefighters [and they should know] who were part of the ‘family’ but sympathetic faces nevertheless who originally came from my Division under my operational command.

410. During the Hearing commencing on Monday 11th February 2013 at which I appeared before His Honour[HH] Butler as an LiP. Repeatedly from the outset, to the point of boredom he boasted, that he was of Irish descent until I politely reminded him that the Irish knew all about the Butlers of Kilkenny which seemed to stall his enthusiasm somewhat.

411. Butler in fact did not know his alleged history for in fact his forbears were Anglo Normans. Part of a thieving horde who arrived with Strongbow in 1172 basing themselves in Kilkenny where after renaming themselves the Ormondes they remained until 1935 when they were ‘encouraged’ to sell up and abandon their stolen Irish ‘heritage’?

412. But in moving with the times their offspring have renamed themselves in Gaelic as ‘Buitléir’ which fools no one in Kilkenny or elsewhere in Ireland.

413. The Hearing, as with many things in life, did not go according to the Winterbottom/Buitléir ‘plan’, being interwoven with 4 noteworthy ‘Events’ which occurred beyond Buitléir’s ranting control which partly explains the late morning arrivals and irregular adjournments; a man of such great honour and stature in the Holy Roman Catholic Church, who unashamedly rigged and ‘packed’ his Court of Justice against myself, my disabled colleagues many of whom like himself were Freemasons, and their Beneficiaries.

Appendix ~ ‘B’. HH Buitléir’s self-inflicted immolation by losing Control.

414.

a) As an LiP although procedurally inexperienced I was not phased by either by the Court [through regular professional attendances], or Buitléir’s ill manners who at an early point intervened twice to call me ‘bolshie’ ; but I did not rise to the bait.

As US President Biden puts it succinctly … " I may be Irish but I am not stupid".

b) The second intervention was an appalling matter [which was to have a sequel] of the 'Zombie' children found by the Police and Lancashire Social Services in quite dire circumstance in a notorious part of Leyland, my old Station stamping ground, which required Butler's adjournment time repeatedly;

c) The third intervention was blatant Perjury by Ms.Drinkall MBE whilst being 'coached' by Warren and Lister from the Public Gallery using unlawful electronic devices and various gesticulations, first witnessed by 2 Court ushers who lodged vox complaints with Butler in Chambers and a further 4 independent witnesses in the Public Gallery of the Court who lodged written Witness statements at the suggestion of the Preston Court Manager;

d) Finally, Barrister JCB's fourth written intervention following his discovery that the LiP, Lancashire disabled Firefighters, and the nation's disabled Firefighters, Widows and Beneficiaries were being underpaid [by 25%] of their due disability pensions.

415. The issue of the 'Zombie' children arose during my Hearing when during yet another urgent adjournment Butler was tasked by the Police/LCC Social Services to issue an Order to immediately remove four children at risk to a place of safety which Butler refused.
When he returned to my Hearing he went into a rant about how unreasonable it was of the Police/LCC to ask him to put these children out of their accommodation in the middle for winter! But that was not what the Police/LCC were asking him for!
Butler one of the UK's Judicial "Best in the World" Justices was not only corrupt but was unimaginably unintelligent because there was a huge and personally expensive embarrassing sequel to pay.

416. On Tuesday afternoon 12th February 2013 I was permitted to cross examine Ms. Drinkall on her Evidence in Chief. During this cross examination I had to keep repeating my questions regularly. I thought perhaps Ms. Drinkall had like myself a hearing difficulty?
But because I had a worn hip I had a habit whilst standing of shifting my weight from one foot to the other. Later I came to the realisation that this involuntary movement disconcerted Ms. Drinkall because in fact my action unwittingly interrupted her 'line of sight' to her prompters in the Public Gallery.

417. The following Wednesday morning 13th February 2013 Butler bounded into Court clutching some papers which he proceed to wave vigorously about, ranting at the top of his voice as he marched up and down … "and now I have this!"
Remarks which he directed at me venting his spleen concerning some unexplained implied conspiracy.

418. When eventually he paused for breath I stood and said… " Your Honour it would be useful to know what I stand accused of and perhaps you might kindly share these documents with me" which he refused to do oddly passing them to the Plaintiff's barrister.

The explanation came from an example of one of these documents which is to be found in ‘Correspondence; Year 2014 ; first entry.

419. The reflection of hindsight led me to the conclude that in reality Butler was greatly upset at Warren and Lister’s unnecessary and obvious ‘assistance’ because he had the pre written Judgment to hand and the control of proceeding firmly in his grip in reaching the corrupt preordained conclusion that he and Winterbottom had already agreed to.

420. Wednesday late morning on the 13th February 2013 I handed Barrister JCB’s comprehensive conclusive analyses to Butler stating simply that this was my Counterclaim for over £3 Million GBP.

421. After luncheon Butler handed the Counterclaim over to the Plaintiff’s barrister with the direction that he would not deal with this at this stage in the Hearing but directed the Plaintiff to liaise with me in reaching a conclusion which naturally they failed to do until reminded twice of the Court’s Direction which then initiated further Court time only this time at ~ The Pension Ombudsman ~ who regards himself in some ultra vires fashion as part of the Judicial system?

422. In Mr. J.M.Copplestone-Bruce’s legal research, pension law reading, and Opinion was communicated directly to the sitting Circuit Court Justice Butler [which he promptly ignored] was that myself and the other 166 disabled Lancashire Firefighters [and their Beneficiaries] far from being ‘overpaid’ were in point of law being underpaid 25% of our pensions since their inception; as indeed were the Nations’ other 11,000 disabled Fire Service Veterans and their Beneficiaries.

423. The following morning on Thursday 14th February His Honour **J**ustice Buitléir without ceremony or reading time [rather gleefully I thought] handed down his Judgement the contents of which were hardly remotely surprising.

424. The ‘Judgement’ was that I was unlawfully forced to pay ‘restitution’ of £18,000.0[including interest]; plus Court costs of £27,468.0; to a total of £45,468.0. Because I and 166 other disabled FSVs had the temerity to challenge, not only the LCFA’s corruption and fraud, but Justice Buitléir’s as well.

Appendix ~ ‘B’. Raw Corruption ~ A Mistrial ~ A Miscarriage of Justice.

425. I lodged a Letter of Appeal against Buitléir’s Judgement complemented by a legal analyses of his gross misconduct. There was neither acknowledgement nor response from the “Best in the World”. This is the ‘Leave to Appeal’ verbatim:

My Ref: PB01613, **Case Number PR090110**

Leave to Appeal.

I, Paul Peter Patrick Burns, acting in personam in the absence of legal aid and as Litigant-in-Person, seek leave to Appeal to the Court of Appeal and a Stay against the Judgment of HH Justice Butler handed down on Friday 12th April 2013 in Case No: PR090110 between

Lancashire Combined Fire Authority (Claimants) and Paul Peter Burns (Defendant and Counter-claimant), held at Preston in the County Palatine of Lancashire.

Grounds for Leave to Appeal.

The Judge:

1.0. Wrongly decided that the Claimant's Claim was not avoided by the Statute of Limitations. He found against the weight of evidence and in contradiction of his own findings as set out in his judgment.

2.0. Wrongly decided that the Defendant had not informed the Claimant that he notified them that he was in receipt of a benefit, viz Reduced Earnings Income Allowance.

3.0. And/or in the alternative; if as claimed an oral notification was not made or; if as was evidenced, it was made but went un-noticed by the Claimant, the Justice wrongly decided that the Defendant's failure otherwise to reply to a request for information, constituted any deliberate concealment on the part of the Defendant such as to deny him judgment by operation of section 32(1) of the Limitation Act 1980.

4.0. And/or in the alternative, the Justice was wrong to hold that the Claimant was entitled to judgment by reason of any mistake avoiding any limitation period.

4.1. Having rightly stated the law requiring the Claimant to prove that it could not have discovered the relevant concealment or mistake earlier than it did without taking exceptional measures that it could not reasonably have been expected to take: Paragon Finance v DB Thaksrar and Company [1999] 1 All ER 400 (at 418 per Millett LJ). The Justice misdirected himself by wrongly deciding that the Claimant's servant's conduct constituted reasonable diligence due in the case of a pension provider to come to know if a statutory benefit was being paid to a pensioner

4.2. The Justice was wrong to lend insufficient weight to the fact that the Claimant had in these proceedings and in their skeleton arguments admitted that not only had they made a mistake but that this mistake had led to overpayments to the Defendant.

4.3. The Justice confirmed that there was a "problem" with the effective administration of the pension scheme though he lends no weight to the point that a 'mistake', and maladministration in the case of the Defendant, was yet another example of this "Problem".

5.0. The Justice was wrong to lend insufficient weight to the evidence of a Ms.Drinkall, retired, though formerly employed by the Claimant, who provided evidence in her letter of 23rd August 1999 that she had been informed by the Department of Work and Pensions that the Defendant had 'applied for a payment of a benefit' and that she had been 'unable to obtain the information (as to an award) from him' and that 'the statutory pension regulations require any such award to be taken into account' to which end she asks 'if you have made an award to Mr. Burns and the amount payable'?

5.1. The Justice was wrong to avoid the legal consequences of her being clearly well seized of her need to do her duty as evidenced by her letter to the Defendant written on 19th July 1999 telling him. “I have received an enquiry from the Benefits Agency in respect of your application before them to pay you a Benefit and have now completed and returned the form to them on your behalf. I should be glad if you would let me know if you are successful in your application as the terms of the Firefighters' Pension Scheme require such benefits to be taken into account in respect of the calculation of injury awards."

5.2. The Justice was wrong to dismiss as of no weight or effect the fact that Ms.Drinkall twice ‘diarised’ the matter forward between the two letters.

5.3. The Justice misdirected himself in finding that Ms.Drinkall had exercised reasonable diligence in then letting the matter drop apparently on the basis of a note of which she had no recollection at the trial 13 years later, being unable to say more than identify her initials on it, but apparently made by unidentified writer (though only two other people were employed) and which does not answer the question she requires to be answered but directly contradicts her understanding of the position, for it says no claim has been made when she knows for certain that is incorrect.

5.4. The Justice further misdirected himself in finding as a matter of law that Ms.Drinkall had exercised the diligence due to the conduct of the business of a pension provider in not troubling herself to call the number provided to query the message. Had she (and the Justice at trial) so troubled themselves they would have found that no Ms. Murray was employed by the DWP.

5.5. The Justice further misdirected himself in finding that, though Ms. Drinkall had no recollection of it - in his judgment noting “Asked if it was possible that she might have received the call but not recalled it, she frankly conceded that she could not be sure because she got a lot of phone calls at the time and of course she was being asked to recall an event which had allegedly occurred more than thirteen years ago’ - the Defendant’s evidence of a note by him contemporaneously written on the letter he received from her in July 1999 answering the question she asked with ‘Rang Joan and told her yes’ was not to be relied upon.

5.6. The Justice further misdirected himself in construing the words ‘Rang Joan and told her yes’ as ‘ambiguous’ or capable of meaning ‘that it was simply a confirmation that Mr .Bums would inform Ms. Drinkall if successful at some later date (the word "yes" being ambiguous)’.

5.7. The Justice was inconsistent and further misdirected himself by failing to apply the consequences of Ms. Drinkall’s ‘frank’ concession to having no recollection of an event which she also professed to recall with remarkable and wholly inconsistent clarity when it suited her. Despite the clear contradiction the Justice noted and relied on what plainly was not from the witness’s memory ‘She told me in evidence, and I believe her to have been telling the truth, that the reason that she took no steps to verify the statement was that she interpreted it in a manner consistent with what she knew, that is to say she interpreted it to mean that no award had been made’ when the documentary evidence indicated otherwise. To reverse herself required her to read ‘claim’ as ‘award’ though as a pension provider she was well aware of the distinction. It would seem

that the Justice did not wish the evidence to stand in the way of the conclusions he wished to draw.

5.8. The Justice further misdirected himself in finding that Ms.Drinkall's conduct was only consistent with the Defendant not telling her on the phone that he had been given an award, when on her own evidence, she concedes he may have called her. If so, his information lacked the vital information which was the sum of the award to be taken into account – which was the sine qua non for the completion of her duty.

5.9. The Justice further misdirected himself in finding that an unsubstantiated, uncorroborated, and untested 3rd party note, of no known origin or author, and which did not answer the question, should be preferred to the documentary evidence produced by the Defendant and attested to under oath by him, a retired Divisional Fire Officer commanding some 400 men and women, and of 35.5+ years standing, of impeccable and unimpeachable record, and of international repute.

5.10. The Justice further misdirected himself by failing to consider the scope and effect of what legally constituted 'reasonable diligence'. A matter of considering other contexts in which the concept had been used to define such a standard of required conduct. Inter alia as the legally accepted guidance in defence under Section 173 of the Road Traffic Acts that, in terms, in many instances courts have considered due diligence to be discharged by 'doing one's reasonable best' which on any evaluation was a standard of which Miss Drinkwater's conduct fell short. Indeed, it was casual and even had it, on the face of it, given her the information she sought, accurately and in full, such information would have needed written confirmation to enable the provider's pension contractor to properly make deductions from any pension. Not to do so in the tax payer's interest is mutatis mutandis in this case and would have been no less a failure in diligence.

5.11. The Justice further misdirected himself by not being persuaded by the action taken to discover the Defendant's benefits position in 2011, by the simple expedient of making an ex parte Application, that it was not a failure in reasonable diligence in 1999 to so discover the fact.

6.0. The Justice further misdirected himself in any event that 'an agreement to inform' signed as part of the processing of the initial pension provision, could be taken in law to supplant the Claimant's Statutory Duty, relieving them of their duty to exercise independent reasonable diligence, due in a pension provider.

6.1. The Justice further misdirected himself by failing to consider the manner and the methodology by which the Defendant was required to "inform" the Claimant of a receipt of any benefit when patently no definition or methodology existed on the form the Defendant was compelled to sign.

6.2. The Justice wrongly failed to consider the constancy of the Defendant in 'informing' that before extensive correspondence ensued the Defendant's method of dealing with his pension provider was consistent throughout. On both occasions when pension queries were raised with him he responded by telephone; and on both occasions after informing the Claimant of the required information he completed contemporaneous notes.

6.3. In his Judgment the Justice confirms that the Claimant was in informed twice at the very least (Defendant's first call to Drinkall) of his receipt of a benefit but wrongly insufficient weight was attached to both these disclosures.

6.4. The Justice was wrong to accept hindsight, hearsay, conjecture, and speculation as facts on the thoughts and actions of a 3rd party witness Mrs. Lambert (Defendant's second call to Lambert) but who had made no Statement; had not been subpoenaed; was not present; and had in fact retired from the LCC Pension Service in 2008.

7.0. The Justice was at length to explore the wording of a single 'consent' form but either failed during his read in day or was unaware that there were 5 different editions of the same form in circulation confirmed in the Defendant's Statement. He gave no weight to the subtleties of law or legality in the different wording in these 5 forms by different authors and authorities including the DWP; the provider's contractor; or the provider.

8.0. The Justice notes in paragraph one of his Judgment, 'He (the Defendant) said that he was not embittered by being compulsorily retired, but it was clear to me that he had not regarded it as an unalloyed blessing. At the date of his compulsory retirement he was aged only 53 years 7 months'.
This finding was in direct contradiction to the recorded sanguinity of the Defendant's evidence. The Justice failed to consider that the Fire Service, as in the police and armed forces, makes provision for an early retirement from a hazardous and arduous employment, that in reality 35.5+ years is considered a very long service well past the pensionable time of 30 years service.
He failed to accord the Defendant his internationally acclaimed service thereafter including his operational work recognised in the USA and globally, and otherwise his internationally published *works* used universally as a 'standard' within Fire Services including by the Claimant. The Justice was wrong to draw invidious conclusions and assume an MBE, though no doubt well deserved, should accord Ms. Drinkall the credibility which he denied the Defendant.

9.0. Without a scintilla of medical or anecdotal evidence the Justice decided that he could not rely on the Defendant's evidence because he considered the Defendant so over taxed by his wife's sudden death in June 2007 as to make him unreliable in November 2007. The Defendant repeatedly sought to distance himself from any such assumptions or assertions during the trial because such matters were entirely private and had no bearing whatsoever at the time or subsequently on his stance on the issues before the Court.

10.0. The Justice shaded the evidence and prejudiced himself on no evidence against the Defendant's interest in various ways and times during the trial.
On more than one occasion the Justice lost his temper and abruptly left the Court returning later without apology.
Describing the Defendant as 'bolshie' twice was uncalled for and untoward and conduct unbecoming a Justice but more to the point it indicates the judge's personal animus and pre-disposition against the Defendant who had no wish to have to seek to defend himself but in absence of legal aid had no option but to seek to do his best as a layman.

The Appellant feels that he was denied an impartial hearing and was denied justice in the face of judicial irritability, petulance, and bias throughout the trial.

11.0. On the 17th January 2012 in Case Management the case was transferred from the High Court to the County Court.
On the 18th January 2013 at a Pre Trial Review, one year later, acting on a written suggestion of the Defendant to make some progress, the Justice had ruled that he would try the Claim (Part 1) and the Counter-Claim(Part 2) one after the other as separate issues.

11.1. If the County Court was administratively unable due to workload, jurisdictionally incapable, or the Counter-claim in quantum exceeded CC jurisdiction as the Justice stated during his 12th April Judgment then the Pre Trial Review was the point at which the Defendant ought to have been appraised of these limitations rather than waste 5 days of Court time and the Defendant's potential costs to finally refer the matter back to the High Court from whence it had come.

11.2. Instead during the trial of the Part 1 Claim the Justice departed from the procedure of a Two Part Trial which he had agreed with both parties and which he had laid down at this Review, by admitting a great deal of Part 2 evidence, thus muddying the waters, evidence which went to the heart of the Defendant's Part 2 Counter-claim, as is apparent in his Judgment, allowing himself to be much prejudiced by these matters which should have been dealt with in Part 2 of the trial.
Part 2 issues which were not tested by the Defendant who understood he was dealing with the Part 1 Claim only at that point but which were subsequently included in the Judgment.

11.3. It was not until late on the third day of the trial that the Justice admitted that he had not read either of the Defendant's Statements in spite of having a reading-in day, he was uncertain which edition the Defendant preferred as his primary statement. The Defendant found this disconcerting because it was the principal plank of his Defence and Counter-claim.

11.4. The Justice decided without informing the Defendant at any point that he would abandon dealing with his Part 2 Counter-claim reserving this decision to be communicated during his Judgment.
Throughout the trial the Judge's time and Court management was in general poor, admitting in his Judgment that he had in effect underestimated the time required even though he had a read-in day to determine this. The management of the trial time was poor, rarely starting on time, and when commenced regularly informing both parties that at a certain time stipulated the Justice had to be elsewhere.
It was clear to the Defendant that at no point was the Justice comfortable when dealing with his case.
In the Judgment the Defendant was peremptorily informed that if wished to pursue his Counter-claim he would have to plead his case in the High Court– though both sides had accepted his original jurisdiction-thus ultimately denying the Defendant justice and a fair hearing and in the process putting fair play beyond his financial means in a punitive denial of Justice.

12.0. The Justice was at pains to seek to discover the Defendant's political and religious affiliations by commenting that he (HHJ) had "Irish blood in him"; further commenting on the Defendant's activities during the forthcoming St. Patrick's Day; and commenting on St. Peter and Paul's Day

(the Defendant's birthday) in which he identified that the Defendant's names were the 'wrong way round' Paul before Peter, bringing into the case ethnicity and religion whilst making the point by confiding to the Defendant and the Court that he, the Judge, could not sit during 'Holy Week'.

12.1. The Defendant, who was distinctly uncomfortable and confused by the 'flagging up' of these personal observations, has served loyally since the early 60's in the UK wide Fire Service with distinction, and indeed has been recognised by HM Queen and three other Nations.
He felt strongly that his allegiances were being questioned and that whatever his religious and political persuasions if any were, and may or may not be, these should not be at issue in a Court of Law and it was wholly wrong of the Justice to prejudice the proceedings in such a way, or to in any way introduce such matters into the proceedings for purpose of an 'agenda' which the Defendant was unable to determine.

13.0. At the opening of the Judgment hearing the Justice explained the inordinate delay in reaching his judgment was occasioned by him seeking to accommodate both the Defendant and the Claimant's barrister in terms of leave they had sought making no reference to 'Holy Week' as previously. This is simply his economical recollection. No such Application was ever made by the Defendant simply because as he understood it the Court had primacy in such matters. Perhaps the election of a new Pope weighed more heavily in the circumstances?

13.1. The judgment Hearing which was set down for 3 hours on the 8th April 2013 was rescheduled to the 12th April 2013 and extended to a full day trial without explanation to the Defendant who was uncertain what this extension in time meant in defence preparatory terms but reasonably assuming his Part 2 Counter-claim was to be heard.
Considerable dialogue ensued during this daylong session after which the Defendant discovered that an Order had been made under CPR PD 39A Para6.1. that no court recording should be made.
This was never made clear at the opening of this session nor was any explanation proffered why it was necessary, thus final recourse to comments expressed during this session on the incapability of the County Court to hear Part 2 of the Counter-claim, which have been denied the Defendant, also inhibits any Appellant Courts' investigation that it might wish to mount.

13.2. Rather than adjourn judgment until the Part 2 Counter-Claim was dealt with the Justice gave judgment against the Defendant requiring him to make payment to the Claimants in a sum of over £46,000, though he well knew and had allowed into the Hearing, and accepted for a late claim to which the pension provider the Claimant took no exception, that the pension the Defendant had been paid over 15 years was patently not correctly calculated to the formulae prescribed by the material SI129 – that an underpayment of some £20,000.00 pa (subject to actuarial calculation) had been made when they well knew this Defendant, as with all pensioners, unquestioningly relied on their trust, integrity, and due diligence.

13.3. In view of the fact that the Claimant had already been unlawfully recovering the alleged debt (another matter which the Justice did not deal with properly) by the stoppage of his Injury award (£400pm) from 1st July 2008, the Defendant in exhibiting compliance to pay, asked the Court to approve his repayment of the alleged debt (some £13,000.00) over the period it had allegedly accrued.

This was denied.
The Defendant regarded such an action by the Justice as deliberately punitive and unwarranted in a trial which required subtleties of fair play in judgment in complex circumstances.

13.4. The Justice, in his method of delivering his judgment, departed from the usual procedure in seeking to avoid unnecessary appellate work by circulating a draft judgment to the parties for comment *before* it was handed down.
On this occasion the Justice afforded a Court adjourned reading time of 45 minutes which provided no opportunity for the Defendant to properly read and absorb the detail, well knowing the hardship that this would impose on the Defendant acting as Litigant-in-Person in seeking to mount any appeal, let alone to separately pursue his claim for his unpaid pension in the High Court.

13.5. In the event leave to Appeal was denied without reasons being given even though no such Application had been made, and which could not in any event have been given by the manner in which the Judgment was handed down.

13.6. In all these matters for the Justice to have so acted, in absence of any legal aid for the Defendant and given the time constraints imposed, the Justice has denied the Defendant Justice.

14.0. The serious matter which follows was neither alluded nor referred to in the Judgment.

14.1. On a morning following an earlier session of the Hearing the Justice received four written complaints from members of the public gallery and two reports from his Court officials(all confirmed by handwritten Witness Statements submitted via the Preston Court Office at the direction of one of these Court officials) of alleged irregularities taking place in his Court.

14.2 It appeared to these six witnesses that Miss Drinkall was being 'coached' through her evidence from the public gallery by the Claimant's pension manager, a Mr. Warren and the Lancs CC Pensions Manager Mrs. Lister, both using IPads(or similar banned devices), whilst Ms.Drinkall was under cross examination by the Defendant on her witness statement, which may account for her clarity at times on what detail may have otherwise escaped her and being described by the Justice as an "impressive oral witness".

14.3. The Justice who stated he did not personally observe any irregularities was palpably enraged by these complaints, and after waving the statements around, then passed them to Counsel for the Claimant though they were never passed to the Defendant at any point for his elucidation.

14.4. The Justice then drew groundless conclusions without any investigation, even superficial, and without foundation commenced haranguing the Defendant wrongly accusing him of complicity and conspiracy with the Complainants in the gallery and including, one presumes, his own Court Officials and of making an Application on this matter, all of which the Defendant strenuously rejected.

14.5. The Public present, presumably including the Complainants, were then harangued for their obvious complicit action in conspiracy with the Defendant, actions which the Justice regarded as

counterproductive stating that their actions could well cause an adverse judgment on the Defendant in his case.

14.6. Next the Court officials were petulantly taken to task for not interrupting the proceedings at the time and drawing the Judge's attention to these irregularities which they had clearly identified, observed, and witnessed, and which they subsequently reported to him.

14.7. Quite wrongly the Justice irately asked the Defendant what he wanted done and insisted on an answer and took offence when the Defendant considered it to have nothing to do with him in a matter which allegedly occurred behind his back whilst engaged in cross examining Ms.Drinkall on her Statement and that any alleged misconduct in Court was exclusively a matter for the Justiceto deal with, not he.

14.8. The Justice persisted stating that there was no official guidance available to him in such matters; that he had never come across such a matter before; and words to the effect that 'he was having to make it up as he went along' but would seek official guidance during his lunch recess.

14.9. Nevertheless the Judge, in an abrogation of his duty, was insistent that the Defendant propose a course of action to the Justice which he reluctantly did, though the Justice subsequently failed to follow the Defendant's suggestions up.

14.10. At no time did the Justice take immediate action to suspend the proceedings whilst he investigated these serious allegations ultimately deciding not to refer the matter to the Police for the investigation of the criminal suborning of the Claimant's principal witness in the Witness Box by the Claimant's own other witnesses all under oath in his Court even though the matter was subsequently reported by a member of the Public to the Police and ultimately to the Office for Judicial Complaints.

15.0. The Judge's reaction to this peculiar situation was simply unacceptable; without even superficial investigation he jumped to incorrect conclusions; he impugned the Defendant, the Public, and his own Court Officials integrity; he failed to take a mature measured approach after seeking senior judicial advice(if he did so), preferring to act on immediate personal animus and whimsy which was fundamentally wrong and unfair; all of his indecisiveness and miscalculations led to a fundamental failure to stamp his authority on his Court and by failing to do so brought himself and his Court into disrepute.

15.1. Unfortunately the Defendant was incapable of calling for a mistrial at this point in these extraordinary circumstances because he was unable to contemplate what the necessary court procedure was.

16.0. And the Defendant seeks leave of the honourable court to Appeal, a stay in execution of the Judgment being appealed until after determination of the Counter-claim; a Counterclaim which could far exceed the claim and pending an investigation of misconduct by the Claimant's staff in suborning their own primary witness Ms.Drinkall whilst she was under oath and under cross examination by the Litigant-in-Person.

Statement of Truth.

Insofar as the matters to which I refer in this document are within my own knowledge and recollection, they are true; insofar as they are not within my own direct knowledge they are true to the best of my knowledge and belief.

Paul P. Burns.
Litigant-in-Person.

Appendix ~ 'B'. The Sequels and Consequences of Buitléir's Raw Corruption.

426. Deeply concerned over how blatantly and publicly corruptly Justice Buitléir had dealt wirth this deplorable this so called 'trial 'I decided to take the matter up starting with the Court Manager Mrs Kelly:

The Court Manager Mrs Kelly.
The Law Courts, Fulwood,
Openshaw Place,
Ring Way,
Preston,
Lancashire,
PR1 2LL.

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

Monday, 1st December, 2013.

My Ref: PB02914.
Your Ref:PR090110.

Case No: PR090110
LFRS

-v-

Mr. Paul P Burns

Dear Mrs Kelly,

1. I visited the Court this morning and asked to speak with you. In your absence I met and spoke with Ms. Julia Fleming in the Private Interview Room at 10:35hrs concluding at 10:50hrs.

2. On 12th February 2013, in front Circuit Court Justice Butler, I, as Litigant-in-Person, was examining the LFRS principal witness Ms. J. Drinkall.

3. Two other LFRS staff with an interest, a Mr. Warren and a Mrs. Lister, both sitting behind me together, so out of my sight, were apparently so blatantly coaching Ms. J. Drinkall in the giving of her evidence, that it was independently noted by 4 members of the public, as well as, separately, the Clerk to the Court (Male) and his principal Usher (Female).

4. When raised by a member of the public both Court Officials indicated they would be reporting these events to Justice Butler, but in the interim the Clerk to the Court instructed these four persons to immediately report their observations to the Court Manager, which they did, Statements were taken and were duly handed to the Justice by the Court Officials. I subsequently learnt that you, Mrs Kelly, were that manager, on whose good advice each prepared a contemporaneous Witness Statement, all of which were handed in. As a serious matter, I have assumed both the Court Officials mentioned also noted the event.

5. With the benefit of Ms. J. Drinkall's evidence Mr. Warren briefly gave further evidence.

6. Having been told of the matter, with Statements in hand as he resumed sitting, the Justice was clearly angry. He accused me of influencing what I had known nothing at all about. I made that plain to him, indeed, clearly I could have had nothing to do with what I could not see and I could not have influence what court officials present or the public saw sufficient to alarm all of them independently. He then abruptly asked me, to the best of my recollection, "What do you expect me to do about it?", to which I replied "It is not for me to say, your Honour, it is your Court". The Judge, after brief thought, resumed the hearing and nothing else was done, or heard of about it.

On mature reflection and advice I now think the Justice was wrong. I believe the impartial course of action would have been to hold that the Court had been held in contempt and that perjury and conspiracy to pervert the course of justice had taken place. I also think the Justice should have taken particular note of the passage of the evidence being given when the conduct complained of was active.

This was when Ms. J. Drinkall recalled seeing some 15 years ago, a note, which, unusually since it affected a pension entitlement, had not, prompted any usual expected formal written confirmation at the time, or later. What she otherwise recalled in her evidence was that the note had been casually written in pencil across the corner of a page of one of her files, but not by her, nor in the hand of anyone else employed neither in her office, nor by anyone else who might have had access to files in her office. Noted was, on the face of it, a phone message made by someone from the DWP dealing with the file there, but who, on investigation was as unknown to the DWP as was the recipient to the LRFS. The witness seems not, at the time, to have made any enquiry. The Justice accepted on this evidence that the LRFS had knowledge to avoid a statutory limitation period for a claim of overpayment.

7. Later the Justice gave a verdict against me based on Ms. J. Drinkall's evidence.

8. Though in my 70's I remain sufficiently disturbed and concerned that others may feel less than served well by the system as it is, to take this matter forward to the Attorney General, as a criminal matter within his purview, the Lord Chief Justice, as a matter of Judicial concern, and the Minister of Justice/Lord Chancellor's Office for investigation and review.

9. Accordingly I would be obliged if you would provide me with copies of the six witness statements of those who witnessed these events.

Unfortunately I am unable to proffer the two names of your staff who were involved; no doubt your records will identify those on duty and present in the Court.

I append the names of the four members of the public who made statements to you:

a) Mr. R. Berry,
b) Mr. W. Hewitt (deceased) though I have a supplementary statement from his widow who was also present,
c) Mrs. P. Galpin,
d) Mr. J. S. Hinton.

Should you require contact details, I can supply them but I would imagine they are in their statements.

This is a formal letter of request for the record and to note my meeting with your deputy Ms Julia Fleming, who very patient and kindly undertook to locate the statements for me.

Yours Sincerely,

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

****

Appendix ~ 'B'. The Public Price of Judicial Corruption.

427. There was of course a price to pay in the reputational damage to the Judiciary over all and in particular to the person of HH Buitléir's for his raw corruption**.**
Needless to say my Application to the High Court Seeking Leave to Appeal to the High Court was neither acknowledged, nor responded to, which as I progressed into the Judicial system starting with The Pension Ombudsman became the strict etiquette of stone walling obmutescence a 'standard' set by a "Best in the World" the UK's Lord Chief Justice Burnett, as under his direction they all closed ranks.

428. In the case of recovering the Witness Statements lodged at Preston Crown Court I received an unsolicited 'coded' written warning from Buitléir via Warren[*of all people*] and then a subsequent formal reply from Butler inviting me for a cosy chat in his Chambers if he could spare the time to see me and no doubt deliver his intimidation first hand.

429. I politely declined because in any event I continue hold copies of the original statements.

430. I was a volunteer at the magnificent St.Walburge's Catholic Church in Preston, in fact I was head of the 'vacuum' squad and some time later and lo and behold Buitléir appeared at an early Mass one morning.
Post Communion he seemed overtly anxious to meet me perhaps his conscience was troubling him or other storm clouds had arisen? But I studiously ignored his presence. At a distance I followed him out onto an appropriately named Maudland Bank where he climbed into his Range

Rover and went off with his problems to his fiefdom in rather a maudlin mood one imagines?

431. A few months later his blatant corruption, lack of integrity, and pure dishonesty was to be his undoing both because of my so called 'Trial' and another coupled two Hearings involving the infamous case in Lancashire of the 'Zombie' children over which Butler presided as the Head of the Family Court.
In spite of issuing an edict that he would sack anyone who spoke out from his Court he refused to be interviewed by the BBC over this tardy affair but because he could not suppress, contain nor publicly silence the Truth of this next embarrassment was forced into early retirement at the astonishing age of 53 as an 'independent', 'impartial', and 'incorruptible', "Best in the World" Justice who actually ought to have been jailed.

432. Ms Jen Mills reported the following on the 'Zombie' children on Thursday 9th March 2017 in the local press.

"Parents have been sentenced for child neglect after they left their four kids in conditions so bad they were described as 'zombies'.

The four children, all under five, were rescued by chance after police saw the walls covered in excrement and used nappies strewn across bare floors.

They lived in 'feral and dangerous' conditions in the property in Leyland, Lancashire, a court heard. Police visited the house for an unrelated reason and were left retching by an overpowering stench, with one of them throwing up in his mouth.

They found the children, dirty, dishevelled and wearing only nappies or T-shirts, living in the disgusting conditions.

The court heard the youngsters did not show emotion and were 'for all intents and purposes dumb – described as like zombies.'

They were so thirsty and hungry that officers went to buy them food because there was nothing in the kitchen except cannabis in a slow cooker.

A screaming girl was trapped under a bed frame in a room full of faeces and flies, police said.

Two toddlers were in a bedroom with excrement smeared on walls, soiled bedding and exposed carpet rods.

Officers found a baby was in a bouncer two feet away from a halogen heater, naked except for a nappy. After police raised concerns, the children were taken into care.

However, they were allowed back to live with their birth parents after a Family Court [HH Justice Philip Butler ~ Best in the World] 3 years earlier decided it was in their best interests.

Their parents, who cannot be named to protect the children's identities, each admitted four counts of child neglect when they appeared at Preston Crown Court yesterday.

The father, aged 23, was jailed for 14 months, while the mother, 29, also received a 14-month jail sentence but this was suspended for two years, with a rehabilitation requirement to deal with her mental health conditions.

Detective Constable Lee Bradshaw-Wood, of Lancashire Police, said: ‘These people displayed an abject failure to provide basic care for such young, vulnerable children.

‘The investigation established the feral and dangerous conditions that these poor children were living in.

Justice Mark Brown[another “Best in the World”] , criticised the council’s approach to the case, asking why the parents had been given ‘chance upon chance upon chance’ after learning their access to the children had continued.

Amanda Hatton, director of children’s services, Lancashire County Council, said: ‘We put this matter before a Family Court and recommended that the children be looked after away from the family home with extended family as their permanent placement.

However, the Family Court [“Best in the World”] Butler did not agree with this position and the children were placed back in the care of their parents with the local authority undertaking close monitoring of the case.

We are now working with extended family members to ensure the ongoing safety and wellbeing of the children.”.’

****

Appendix ‘C’ : An ‘Extraordinary Appeal’ to the Supreme Court’.

433. Provides in full the UK final *“Extraordinary Appeal”* [bundle-203 pages] lodged at and through the Court of Appeal to the Supreme Court and subsequently denied de facto ‘due process’ and the Human Right to Justice by means of the Rejection by Judicial Obmutescent and Stonewalling, at the UK Supreme Court by the President of the Supreme Court Lord Reed, Baron Reed of Allermuir PC, via his Registrar Mrs. Louise de Mambros PC who declared in writing that President Lord Reed… *“could not help”*…but does not state whether or not it was presented to the Lord President or his fellow Justices?

434. This *“Extraordinary Appeal”* was copied and Recorded Delivery to the Lord Chief Justice, Lord Ian Duncan Burnett, Baron Burnett of Maldon PC,[“Best in the World”] who throughout, maintained an arm’s length denial of the existence of this *“Extraordinary Appeal”* whilst obstructing de facto ‘due process’ and the Human Right to Justice by means of Rejection by Judicial Obmutescent and Stonewalling, including neither acknowledging nor responding.

435. This *“Extraordinary Appeal”* was also copied and Recorded Delivery to the [“Best in the World”] Master of the Rolls Rt. Hon Sir Geoffrey Vos PC, who also throughout, maintained at arm’s length a denial of de facto ‘due process’ and the Human Right to Justice by Rejection by Judicial Obmutescent and Stonewalling with the active and directed complicit assistance of his ‘key’ Freemason Civil Servants, and the President of the Supreme Court and the Lord Chief Justice.

****

42 Fountains Avenue
Simonstone
BURNLEY
BB12 7PY

27th April, 2021.

Private and Personal To:

The Rt Hon Lord Reed of Allermuir,
President of the Supreme Court of the United Kingdom.

Parliament Square,
London SW1P 3BD .

My Ref: FG124 Reed; G-v-LCFA.
Your Ref: 2020/PI/10670.

Francis Michael Galpin
~V~
Lancashire Fire & Rescue Authority

My Lord President,

I apologise in advance for presenting these documents directly to you.

I am afraid that I have lost trust in the judiciary's administration and in particular the Registry department at the Court of Appeal.

From the very outset of my journey for justice I have been subjected to all manner of obstructions, some designed, some deliberate, some invented, but all intended to bring about closure of this case.

The rocky road to the Supreme Court has left me bemused at times but still determined to bring about the aim of this long action which is to secure justice for those Fire Service Veterans, including myself, their Widows and Beneficiaries who have been paid the wrong pensions.

In my line of work trust was, and is, a vital element.

If that element was to become breached the Service would fail in its duty to save life, save property, and render humanitarian services.

My faith in the democratic structures that knit our country together has been severely dented; not by their principals but unfortunately by most of the people I have had dealings with within those structures.

Along the way, Sir, I have been made to feel unwelcome, a nuisance, a distraction, a source of work that no one wanted, and to my great disappointment I have experienced a lack of common courtesy from those in authority who ought to know better.

Having said that, the shining light was my experience in the Court of Sir Paul Maguire in Belfast who, together with the Court staff, were welcoming and helpful in every way.

My belief is that no one and no organisation should be, or is, above the law. It is with that principle in mind that I submit these documents to the Supreme Court for your consideration.

If I can in any manner help you to advance the cause of Justice by, for example, providing additional documentation please do not hesitate to contact me. I will treat such correspondence in the strictest confidence.

Yours Sincerely,

Francis M Galpin M.I.Fire E.

Litigant-in-Person.

In the Supreme Court of the United Kingdom

PTA Form

This application for permission to appeal is filed on behalf of Francis Michael Galpin

On appeal from

Court Court of Appeal
Decision being appealed dated 8th April 2021
Judges Fancourt

In that court the proceedings were between

Francis Michael Galpin(Litigant-in-Person)

(Appellant/~~Respondent~~ in the Supreme Court)

——V——

Lancashire Combined Fire Authority

(~~Appellant~~/Respondent in the Supreme Court)

Case Number 2020/PI/10670

This form was filed on 27/APR/2021
(D D / M M M / Y Y Y Y)

Appellant's solicitors in the Supreme Court

Litigant-in-Person

Respondent's solicitors in the Supreme Court

Mr.Mark Nolan Clerk to Fire Authority

Appellant

Appellant's full name: Francis Michael Galpin

Original status: ☒ Claimant/Pursuer ☐ Defendant/Defender ☐ Petitioner ☐ Respondent

Solicitor

Name: Litigant-in-Person

Address:
42 Fountains Ave
Simonstone
Burnley
BB12 7PY

Telephone no. 01281775937

Fax no.

DX no.

Postcode: B B 1 2 7 P Y

Ref. FG 02 123 SC

Email: francisgalpin@aol.com

How would you prefer us to communicate with you?

☐ DX ☒ Email

☒ Post ☐ Other *(please specify)*

Is the appellant in receipt of public funding/legal aid?

☐ Yes ☒ No

If Yes, please give the certificate number

Counsel

Name: Mr John Copplestone-Bruce (Inner Temple) Pro Bono

Address:
30 Broadway
Fulwood Preston

Telephone no. 01772 712857

Fax no.

DX no.

Postcode: P R 2 9 T H

Email: jmcbruce@gmail.com

Counsel

Name

Address

Telephone no.

Fax no.

DX no.

Postcode

Email

Respondent

Respondent's full name: Lancashire Combined Fire Authority

Original status

☐ Claimant/ Pursuer ☐ Defendant/ Defender

☐ Petitioner ■ Respondent

Solicitor

Name: Mr.Mark Nolan

Address: Mr.Mark Nolan
Clerk to Fire Authority
LFRS SHQ

Telephone no.: 01772862545

Fax no.

DX no.

Postcode: PR2 3LH

Ref.

Email: justinjohnston@lancsfirerescue.org.uk Chief Fire Officer

How would you prefer us to communicate with you?

☐ DX ■ Email

■ Post ☐ Other *(please specify)*

Is the respondent in receipt of public funding/legal aid?

☐ Yes ■ No

If Yes, please give the certificate number

Counsel

Name: Not Known

Address

Telephone no.

Fax no.

DX no.

Postcode

Email

Counsel

Name

Address

Telephone no.

Fax no.

DX no.

Postcode

Email

Decision being appealed

Name of Court: Court of Appeal

Names of Judges: Justices Fancourt & Newey

Date of order/ Interlocutor/decision: 08/APR/2021

Information about the decision being appealed

You should attach the following on separate sheets

This should include

- Narrative of the facts
- Statutory framework
- Chronology of proceedings
- Relevant orders made in the Courts below
- Issues before the Court appealed from
- Treatment of issues by the Court appealed from
- Proposed grounds of appeal
- Reasons why permission to appeal should be granted

Other information about the appeal

Are you applying for an extension of time?

☐ Yes ■ No

If Yes, please explain why

What order are you asking the Supreme Court to make?

Order being appealed

■ set aside ☐ vary

Original order

■ set aside ☐ restore ☐ vary

Does the appeal raise issues under the:

Human Rights Act 1998?

■ Yes ☐ No

Are you seeking a declaration of incompatibility?

■ Yes ☐ No

Are you challenging an act of a public authority?

■ Yes ☐ No

If you have answered Yes to any of the questions above please give details below:

See 'Second Addendum' in Bundle

Court's devolution jurisdiction?

☐ Yes ■ No

If Yes, please give details below:

Are you asking the Supreme Court to:

depart from one of its own decisions or from one made by the House of Lords?

☐ Yes ■ No

If Yes, please give details below:

depart from European Union Law?

☐ Yes ■ No

If Yes, please give details below:

Will you or the respondent request an expedited hearing?

■ Yes ☐ No

If Yes, please give details below:

LiP ~ Age (77) and disablement.

Certificate of Service

Either complete this section or attach a separate certificate

The date on which this form was served on the

1st Respondent 27 / APR / 2021 (D D / M M M / Y Y Y Y)

2nd Respondent ___ / ___ / ____ (D D / M M M / Y Y Y Y)

I certify that this document was served on

27th April 2021

by

Appellant ~ Francis Micheal Galpin

by the following method

Email & Recorded Delivery

Signature

Other relevant information

Neutral citation of the judgment appealed against e.g. [2009] EWCA Civ 95

References to Law Report in which any relevant judgment is reported.

Contained in 'Second Addendum' in Bundle

Subject matter catchwords for indexing.

'clearly got it wrong'

Please return your completed form to:

The Supreme Court of the United Kingdom, Parliament Square, London SW1P 3BD

DX 157230 Parliament Square 4

Telephone: 020 7960 1991/1992 Fax: 020 7960 1901

email: registry@supremecourt.uk

www.supremecourt.uk

IN THE SUPREME COURT

From

COURT OF APPEAL
ENGLAND AND WALES
CIVIL DIVISION

Case No: 2020/PI/10670

BETWEEN

FRANCIS MICHAEL GALPIN
Appellant (Litigant-in-Person)

~V~

LANCASHIRE COMBINED FIRE AUTHORITY
Respondent

LEAVE TO RE-OPEN *FIRST* APPEAL
AGAINST
LORD JUSTICE SIR TIMOTHY FANCOURT

INTER ALIA

INVITATION TO 'REVIEW'
BY
MASTER MEACHER

DENIAL OF THE *FIRST* APPEAL
BY
LORD JUSTICE NEWEY

APPLICATION TO SUPREME COURT
UNDER
EXTRAORDINARY CIRCUMSTANCES

SECOND ADDENDUM

RES IPSA LOQUITOR

Executive Summary.

1. Section 54(4) of the Access to Justice Act denying him a right to appeal, save by way of the rules of court , the Appellant, a Litigant-in-Person, seeks Leave to Re-Open an Approved Judgement by first instance Mr. Justice Fancourt and second instance Mr. Justice Newey pursuant to, CPR 52.17,(1),(2), or CPR 52.30, otherwise, as Justice requires.

2. The Appellant appeals to remedy "errors in law", Dicta Lord Reed in Henderson (Respondent) v Foxworth Investments Ltd & Anor (2014) UKSC 67; the Respondent unlawfully denying him some £11,500 of his pension due in 1998 (continuing), for Supreme Court correction.

3. By reason of misapplication of the law the Appellant is being paid a non-compensatory Rule B1 Ordinary Pension under the guise of it satisfying his enhanced compensating Rule B3 ill-Health Pension (Awarded by the Respondent) for financial loss provided for him by the 1992 Fireman's Pension Scheme Order, Statutory Instrument No: 129, on being compulsorily discharged from the Fire and Rescue Service, 5 years early, through a no-fault, 'qualifying' injury.

4. The Deputy Pensions Ombudsman (on an Ombudsman precedent ~2011~ after willful misrepresentation by the Respondents of the Home Office 'Commentary' to the PO); then on appeal to Mrs Justice Falk, (who, initially, adopted the Deputy Ombudsman's 'Determination'); and latterly Mr Justice Fancourt, have all erred in law, applying the wrong law within the Statutory Instrument, Rule G1, to the Appellant's Rule B3 ill-Health pension, enabling the Respondents to continue to defraud him.

5. Apart from the inconvenience the delay causes the Appellant, where the essence of time is declining, the Respondents, making no appearances, are not prejudiced by it.

6. The Appellant has caused no delay, always acting in good faith seeking no advantage, and thus the matter in law, remains 'at large' for the Supreme Appellate Court.

7. The Appellant now appeals to the Supreme Court against the decisions and actions of the Judicature of the lower Court, the Court of Appeal.

Mr. Justice Sir Timothy Fancourt.

8. Following the exemplary analysis of the advising Pro Bono barrister, Mr. John Copplestone–Bruce (Life Member ~ Inner Temple), of Mr. Justice Fancourt's Approved Judgement it is clear to any lay reader that the learned judge simply got it wrong; not on a Point-of-Law, here or there, but from beginning to end, in toto.

9. In particular, and repeatedly, Mr.Justice Fancourt's findings of *his* facts of law were unsupported by the Statutory law contained within the evidence presented by the Appellant, which were critical to his case.

Master Meacher ~ Mrs. Justice Rimmer-Bancroft ~ Mr. Justice Newey.

10. The Appellant was invited by Master Meacher (or did she?) at the hand of Mr. Chowdhury Registry Manager and his colleague Mr.Cobourn to have a 'review' of his Appeal (Bundle-Doc 17), he read it, as it was intended to be read; an offer of a 'review' which he accepted as a Litigant-in-Person on its face value; no attempt was made by Mr. Chowdhury/Cobourn to provide any clarification to the Appellant what this procedural language might actually mean; they could not do so because they were exploiting the ignorance of an LiP.

11. Furthermore, it is clear that Mrs.Angus, 'a jurisdictional lawyer', claimed earlier in 2020 writing to the Appellant that she had placed all his Appeal papers before Mrs Justice Rimmer-Bancroft when, in falsehood, she had not. An alleged act, later challenged by the named Justice, which prompted the Angus 'apology'?

12. Unwittingly the Appellant then wrote to Master Meacher and MR Vos confirming his acceptance for his Appeal to be reviewed (Bundle-Docs 18,20); although previously he had received an acknowledgement to an earlier letter from the MR(via Mr. Caton) 'that there was nothing he could do' (Bundle -Doc15).

13. Mr.Justice Newey then became engaged, or so Registry stated, not, as the Appellant believed in a total case review, but to review the 'Directions' which had been ongoing since the 4th February 2020 when the case was first issued at the High Court.

14. The next questions arising given the background of the Rimmer-Bancroft falsehood did in fact Mr. Justice Newey actually review all, or any, of these 'Directions' possibly because he was unaware of the plethora of 'Directions' which preceded his involvement, or was he in fact never engaged at all?

15. Whilst the Appellant waited patiently in hope for a 'review' to advance his Appeal to Justice it finally came in the form of an oddly abrupt statement issued by the Court of Appeal Registry …

> *"The Court of Appeal has no jurisdiction to entertain an appeal from either Falk J or Fancourt J. The papers should not be issued.".*

16. What is clear was that there were ample evidential grounds for a fair minded man to conclude that the named staff at the CoA Registry were determined over an extended period of time to pervert the course of Justice and did not hesitate on no less than three occasions to use any sleight of hand, subterfuge, and unforgivably to exploit the obvious ignorance of a Litigant-in-Person and did not hesitate to manipulate at least three Judges for their own highly questionable purposes.

17. Now returning to Mr.Justice Fancroft, an Appellate court is bound, unless there is compelling reason to the contrary, to assume that the trial judge has taken the *whole* of the evidence into his consideration: *Thomas v Thomas* 1947 SC (HL) 45, 61; [1947] AC 484, 492, per Lord Simonds; see also *Housen v Nikolaisen* [2002] 2 SCR 235, para 72; though in the case of Mr. Justice Fancourt the tape of the brief Hearing mitigates against this, given his obvious lack of time devoted to preparedness and/or the brief Court hearing.

18. The Supreme Court, the UK Court of last resort, could therefore set aside a judgment, on the basis that Mr.Justice Fancroft failed to give the law and evidence full considered balanced evaluation, and as a consequence his decisions were both irrational and insupportable.

19. The Supreme Court has to be satisfied, in the first instance, that the decision given by Mr. Justice Fancroft was based on full judicial scrutiny of the Appellant's evidential facts and the law; and in the second instance, it has to be further satisfied that Mr. Justice Fancroft did not fail to take full advantage of examining the case, the law, and the Appellant, though the brevity of the Hearing mitigates against that, where a second Hearing could have been used to advantage in what is a relatively complex case of national significance and public interest but by failing to follow through Mr. Justice Fancourt misdirected and disadvantaged himself and more importantly the Appellant and as a consequence, the matter has now become at large for the Supreme Court.

Opinions (Dicta) of Legal Significance ~ 'Plainly Wrong'

Historical Dicta and Quotes by Lord Reed in Henderson (Respondent) v Foxworth Investments Ltd & Anor (2014) UKSC 67.

20. A dictum from the opinion of Lord President Hamilton in *Hamilton v Allied Domecq plc* [2005] CSIH 74; 2006 SC 221, para 85, concerned a situation where "findings of fact are unsupported by the evidence and are critical to the decision of the case". In the Appellant's case Mr. Justice Fancourt simply ignored the countless supporting Points-of-Law and the facts of the Appeal in order to fulfil his preconceived criteria to reject the Appeal.

21. The dictum of Lord Macmillan in *Thomas v Thomas* 1947 SC (HL) 45, 59; [1947] AC 484, 491, outlined where, after mentioning some specific errors which might justify the intervention of an Appellate Court, his Lordship added that the trial judge may be shown to "otherwise to have gone plainly wrong".

22. This was also cited by Lord Hope of Craighead in *Thomson v Kvaerner Govan Ltd* [2003] UKHL 45; 2004 SC (HL) 1, para 16, where he in turn also cited Lord Shaw of Dunfermline's statement in *Clarke v Edinburgh and District Tramways Co Ltd* 1919 SC (HL) 35, 37 that the duty of the Appellate Court was to ask itself whether it was in a position to come to a clear conclusion that the trial judge was "plainly wrong".

23. Given that the Supreme Court has correctly identified that an Appellate Court can interfere where it is satisfied that the trial judge has gone "plainly wrong", and considered that that this criterion is met in the present Appellant's case, there may be some value in considering the meaning of that phrase. There is a risk that it may be misunderstood.

    The adverb "plainly" does not refer to the degree of confidence felt by the Appellate Court that it would not have reached the same conclusion as the trial judge. It does not matter, with whatever degree of certainty, that the Appellate Court considers that it would have reached a different conclusion.
    What matters is whether the decision under Appeal is one that no reasonable judge could have reached.

24. In *Thomas* itself, Lord Thankerton, with whose reasoning Lord Macmillan, Lord Simonds and Lord du Parcq agreed, said that in the absence of a misdirection of himself by the trial judge, an Appellate Court which was disposed to come to a different conclusion on the evidence should not do so "unless it is satisfied that any advantage enjoyed by the trial judge by reason of having seen and heard the witness (concerning which there was itself a significant question regarding the accuracy of the brief Court Tape finally produced for the Fancourt J Hearing) could not be sufficient to explain or justify the trial judge's conclusion": 1947 SC (HL) 45, 54; [1947] AC 484, 487-488.

25. Lord du Parcq's speech is to similar effect. Distinguishing the instant case from "those very rare occasions" on which an Appellate Court would be justified in finding that the trial judge had formed a wrong opinion, he said:
"There are, no doubt, cases in which it is proper to say, after reading the printed record, that, after making allowance for possible exaggeration and giving full weight to the judge's estimate of the witnesses, no conclusion is possible except that his decision was wrong." (1947 SC (HL) 45, 63; [1947] AC 484, 493) emphasised the need for the Appellate Court to consider whether the trial judge's decision could reasonably be regarded as justified:
"If there is no evidence to support a particular conclusion (and this is really a question of law), the Appellate Court will not hesitate so to decide. But if the evidence as a whole can reasonably be regarded as justifying the conclusion arrived at, at the trial, and especially if that conclusion has been arrived at on conflicting testimony by a hearing which heard the witness, the Appellate Court will bear in mind that it has not enjoyed this opportunity and that the view of the trial judge as to where credibility lies is entitled to great weight." (1947 SC (HL) 45, 47; [1947] AC 484, 486).

26. These dicta are couched in different nuanced language to that which a layman Appellant(Litigant-in-Person) might use, but they are to the same general effect, and assist in understanding what Lord Macmillan is likely to have intended when he said that the trial judge might be shown "otherwise to have gone plainly wrong".

This is consistent with the approach adopted by Lord Thankerton, in particular, the phrase can be understood as signifying that the decision of the trial judge cannot reasonably be explained or justified.

27. It follows that, in the absence of some other identifiable error, such as (without attempting an exhaustive account) a material errors of law; or the making of a critical finding of fact which has no basis in the evidence; or a demonstrable misunderstanding of relevant evidence; or a demonstrable failure to consider relevant evidence; an Appellate Court will interfere with the findings of fact made by a trial judge only if it is satisfied that his decision cannot reasonably be explained or justified.

28. In the extraordinary circumstances both surrounding and in this presented Appeal it is the Appellant's opinion that there is a sound proper basis for the Supreme Court to intervene by concluding that not only did Mr. Justice Fancourt repeatedly misdirect himself on the Points-of-Law submitted to him but he failed to give satisfactory reasons for the factual conclusions which he reached (on the truncated the evidence he chose to address in an all too brief Hearing) and thus for the Appellant and the Supreme Court to conclude that he had 'plainly gone wrong'.

29. Where, as here, a single judge of the Court of Appeal refuses an application for permission to appeal on specific grounds, that is generally the end of the matter.

Nevertheless, CPR Part 52.17(1) and (2) enables the Court of Appeal to reopen the final determination of an application for permission to appeal if (cumulative):

(a) It is necessary to do so in order to avoid real injustice; it is clear on the record of the brief proceedings of the Appellant's case that this particular aspect was simply not considered by Mr. Justice Fancourt and expressions of sad apology simply will not 'cut the mustard' where detailed Points-of-Law are concerned and especially in these exceptional circumstances;

(b) The circumstances are exceptional and make it appropriate to reopen the appeal; firstly, the removal of an engaged Justice (Falk J) without explanation at the last minute prior to a Hearing; secondly the extraordinary misconduct of the Registry Manager and certain named staff; and thirdly the fact that the Judge of first instance 'plainly got it wrong' are all exceptional (if not appalling) circumstances in this case;

(c) There appears to be no alternative effective remedy at the lower Court of Appeal, nor does it desire so, leading to a fair-minded and informed observer to conclude that there is a real possibility, indeed a real danger, that the lower Court of Appeal had by the misconduct of certain of its staff given the appearance of bias coupled with judicially unauthorised acts leading to a denial of the fundamental Human Right to Justice.

30. The Appellant has the right under Article 6 of the Human Rights Act 1998 to a transparent explanation in detail of how the Court of Appeal reached the judicial decisions it did, and by whom; and by failing to do so, in all these extraordinary circumstances, they have denied the Appellant the right to a fair trial and his Human Right to Justice.

31. The lower Court of Appeal have refused to properly and assiduously address the relevant Law and CPR in complete transparency in its fundamental duty to Public interest and Opinion and in avoiding a real injustice the Appellant's Appeal should be placed before the transparent supreme Appellate Court at the UK Supreme Court.

Mr.F.M.Galpin M.I.Fire.E

Signed this 27TH Day April 2021_____

Litigant-in-Person.

IN THE COURT OF APPEAL
ENGLAND AND WALES
CIVIL DIVISON. Case No: 2020/PI/10670

BETWEEN:

FRANCIS MICHAEL GALPIN
Appellant (Litigant-in-Person)

AND

LANCASHIRE COMBINED FIRE AUTHORITY
Respondent

LEAVE TO APPEAL OUT OF TIME

Nutshell.

1. Section 54(4) of the Access to Justice Act denying him a right to appeal, save by way of the rules of court, the Appellant, a Litigant-in-Person, seeks permission to Appeal an Approved Judgement out of time pursuant to, CPR 52.15, or otherwise, as justice requires.

2. The Appellant appeals to remedy "errors in law", Dicta Lord Reed in Henderson (Respondent) v Foxworth Investments Ltd & Anor (2014) UKSC 67; the Respondent unlawfully denying him some £11,500 of his pension due in 1998 (continuing), for Court of Appeal correction.

3. By reason of misapplication of the law the Appellant is being paid a non-compensatory Rule B1 Ordinary pension under the guise of it satisfying his compensatory Rule B3 ill-health pension for financial loss provided for him by the Fireman's Pension Scheme Order, SI 1992 No. 129, [SI] on being compulsorily discharged from the Fire Service early through a no-fault 'qualifying' injury.

4. Apart from difficulties the delay causes the Appellant, the Respondents, making no appearance, are not prejudiced by it. But the Appellant has not caused any delay.

5. The Deputy Ombudsman (on an Ombudsman precedent after misrepresentation by the Respondents of the Home Office Commentary to the SI), then on appeal to Mrs Justice Falk, (who, initially, adopted the Deputy Ombudsman's Adjudication), and

latterly Mr Justice Fancourt, have all applied the wrong law within SI, Rule G1, to the Appellants B3 pension, enabling the Respondents to continue to defraud him.

Delay.

6. (i) The Appellant filed his Appeal against the Ombudsman's Adjudication on a point of law of 4th. February 2020.

   (ii) On 2nd April 2020, the Honourable Mrs. Justice Falk wrongly found the Appellant's point of law 'a nonsense', and that '*by reference to'* was to be taken to mean '*is*', but with ratio decidendi insufficient to know, beyond whim, her legal basis for so deciding.

   (iii) With the point of law decided against him, the Appellant appealed to the Court of Appeal. However, it appears that it was diverted back to Mrs. Justice Falk who then, of her own volition, re-engaged to give Directions on 6th May 2020 for work to be done, and to set a hearing for 3rd July 2020.

   (iv) With nothing more required of her after her refusal of permission, her re-engagement and Orders suggests she intended to grant permission to confront and deal with 'the point of law' on 3rd July 2020.

   (v) On the 2nd July 2020, without explanation, the Appellant was told the hearing would not now be before the fully seised, Mrs. Justice Falk, but Mr. Justice Fancourt.

   (vi) On 3rd July 2020, albeit without identifying or touching on the 'point of law', Mr. Justice Fancourt found it to be 'unarguable'. It follows, whether he knew it or not, that construing 'by reference to' as 'is', in the context of the SI, turns its provision into a reductio ad absurdam.
   Not that that is apparent until a later stage in construction of priorities, of what the SI requires to be differing amounts, which the synonym construction denies.

   (vii) Fancourt J having decided the point at law to be unarguable, the Appellant again made a full appeal to the Court of Appeal. It appears this was administratively mislaid, never issued, but returned to the Appellant on 18th January 2020.

   (viii) In any event, Fancourt J subsequently delivered a written, fully reasoned "Approved Judgement" on 28th October 2020 (17 weeks later), in which it became plain why the point at law '*by reference to*' has been persistently wrongly construed as a synonym for '*is'* in SI provision by Sch. 2, Pt. III, Paragraph 5 (2) of Rule B3, rendering reductio ad absurdam all the Rule B3 ill-health compensatory provision. Making it all redundant to become a non-compensatory Rule B1 Ordinary pension provision.

7. The Deputy Ombudsman, Falk J and Fancourt J had all quoted Rule G1 rightly as their authority, SI Rule G1 (4) does, indeed, provide the day on which pay is to be taken on which to calculate pension but all were wrong in applying Rule 1 (4) (a) to the Rule B3 ill-health provision, which is excluded from the specifying list to be calculated under its provision; Rule B3 falling with all else, under Rule G1(4)(b).

8. Finally in that approved judgment it becomes clear that Respondents, Deputy Ombudsman, Falk J and Fancourt J could only construe 'by reference to' as 'is' by wrongly applying Rule G1 (4) (a) to the Rule B3 ill-health provision instead of G1 (4) (b).

9. It is an error in law of public importance. It is causing very real injustice. It is also an error of such magnitude as to entirely deny any effect to the compensating Statutory B3 ill-health pension, to which the Appellant was entitled as a Firefighter compulsorily discharged from Service through a no-fault 'qualifying' injury, for which the Respondents are statutorily liable. In legal effect, the misconstruction renders the statutory provision meaningless, a reductio ad absurdam.

10. In a word the Respondents have systematically been defrauding the Appellant of the whole of his compensating Rule B3 ill-health pension, under the deception that a non-compensatory fully accrued Rule B1 Ordinary pension was his compensatory Rule B3 ill-health pension, since 1998, continuing.

11. To facilitate the fraud the Respondents suppressed, the SI promulgating authority's plain language Home Office Commentary, and misrepresented it to the Ombudsman.

12. Being wrong in law the Appellant again Appeals to the Court of Appeal. Each Judge misapplied the law in 1992 Statutory Instrument No 129.

13. The Appellant received a letter on 2nd January 2021 denying leave to appeal Falk J on 2nd April 2020.

14. The Appellant has only ever made the one application to a Judge in the High Court in England. Mr. Justice Fancourt was in error to think the hearing on 3rd July was on a Second Application by the Appellant, it was not. It was a hearing on the first application first refused, but then re-opened, of her own volition, by Mrs Justice Falk.

15. If required the Appellant seeks leave to Appeal the Approved Judgement of the Honourable Mr. Justice Fancourt, he being so manifestly wrong in law as to render it a reductio ad absurdam permitting the Respondents, his fiduciary pension provider, to continue to defraud the Appellant his Rule B3 pension amount to which, by law, he became entitled in 1998 – continuing.

Mr. Francis Michael Galpin.
Litigant-in-Person

Signed this 1st Day April 2021_____.

John M. Copplestone-Bruce
Inner Temple (PB).

IN THE COURT OF APPEAL
ENGLAND AND WALES
CIVIL DIVISON. Case No: 2020/PI/10670

BETWEEN:

FRANCIS MICHAEL GALPIN
Appellant (Litigant-in-Person)

AND

LANCASHIRE COMBINED FIRE AUTHORITY
Respondent

GROUNDS OF APPEAL

1. Sec 54(4) of the Access to Justice Act 1999 acting as no bar to justice where the rules provide, the Appellant, a Litigant-in-Person, understands CPR 52 to deny interference by the Court of Appeal unless a judge had gone 'plainly wrong', meaning material decisions cannot be reasonably explained or justified.

2. Mr Justice Fancourt, in his 'Approved Judgement' dated 3rd July 2020, delivered on 28th October 2020 (17 weeks), has gone 'plainly wrong' in a variety of the ways, all within material grounds for appeal found by Lord Reed in Henderson (Respondent) v Foxworth Investments Ltd & Anor (2014) UKSC 67, to be *"material error in law, making a critical finding of fact which has no basis in the evidence, demonstrable misunderstanding of relevant evidence, or a demonstrable failure to consider relevant evidence".* (Paragraph 66).

3. Fancourt J introduced many errors of construction in the Approved Judgement (note Appeal) not hitherto understood to be problematic. But many are errors born of seeking consistency within a judgement predicted on the wrong law, which explains the misconstruction by Fancourt J in misdirecting himself in law to find '*by reference to',* to mean *'is',* or *'using'.*

4. Why (the Respondents; Deputy Ombudsman; Falk J) and Fancourt J, orally on 3rd July 2020, all construed *'by reference to'* wrongly as a synonym for *'is'* was unclear because 'nonsense' or 'unarguable' is insufficient ratio decidendi to know why they misconstrued, until, finally, the lights went on with the 'Approved Judgement' delivered by Fancourt J on 28th October 2020.

5. Fancourt J (at al) rightly relies on Rule G1 to provide the day, on which to take pay, on which to calculate pension, but he wrongly applied (wittingly or not) section, G 1 (4) (a) to be the Appellant's Rule B3 pension. Wrongly, because the compensating Rule B3 ill-health pension is specifically excluded by (a) from its provision; though it does apply to a Rule B4 Injury Award. Instead, a Rule B3 award falls under G1 (4) (b) for calculation. A Correct application of G1 (4) (b), and other provision in the SI, denies – absolutely - taking '*by reference to',* to mean *'is',* or *'using'*. Correct construction avoids the absurdity the synonym creates.

6. By his misconstruction Fancourt J renders provision made by Fire Service Pensions legislation, 1992 Statutory Instrument No129 [SI], reductio ad absurdam, leaving the Court of Appeal no option but to allow the Appeal. And in so doing correctly construe the law on a matter of public importance, to avoid a *mischief* (Dicta, Lord Coke in Heyden's case (1584) 76 ER 637).

7. In this case, of a public body denying statutory provision to calculate and pay pensions, as prescribed by law the fiduciary Respondents, servants, or agents of the government, have been systematically deceiving and defrauding their pensioner, the Appellant, since 1998 when he was compulsorily discharged from the through a no-fault 'qualifying' injury – continuing.

8. Apropos the question of promotion in Rank in the Appellant's present Appeal, *Thomas v Thomas* 1947 SC (HL) 45, 59; [1947] AC 484, 491, is on point, dicta Viscount Simon *"If there is no evidence to support a particular conclusion (and this is really a question of law), the appellate court will not hesitate so to decide".* Fancourt J, entering the arena, found against evidence, with which the Respondents took no issue that, but for injury, the Appellant would have been promoted.

9. Fancourt J so construed the SI, Rule B3 ill health pension provision as to render to no effect, formulaic Paragraph 4 of Rule B3 provision, denying statutory requirement to provide.

10. The Appellant appeals pursuant to CPR 52.7. (2) (a), on the grounds:

(i) That the Appeal has a real chance of success, and;

(ii) That it raises important matters of pubic principle, that Courts construe legislative provision in accordance and consistent with law and settled legal principles including, to so construe the law that Her Majesty's Government honour its statutory, so contractual, pension obligations to its servants, the Appellant's case being, in part, mutatis mutandis, The Lord Chancellor & Anor v McCloud (2018) EWCA Civil.

11. And the Appellant appeals pursuant to CPR 52.7 (2) (b), there being other compelling reasons for the Court to hear it:

- No English Court can be seen to favour arbitrary and oppressive conduct by servants or agents of Her Majesty's Government to deny lawful provision of pension due;

- No English Court can be seen to condone fraudulent practice;
- Should a judge enter the arena, the Court of Appeal must be seen to intervene.

12. The Appellant appeals to avoid a 'real injustice' without other remedy (CPR 52 3 (1) (a)) :

(i) He is just being paid a fully accrued before injury, non-compensatory, Rule B1 Ordinary pension in substitution when he is entitled (by an original statutory decision of the Respondent) to be paid an enhanced compensatory Rule B3 ill-health pension having been compulsorily discharged through a no-fault 'qualifying' injury;

(ii) He has long been defrauded his Rule B3 enhancement of £11,516.24 (index linked) to compensate him for his financial loss first falling due in 1998 – continuing;

(III) His pension - His 'property' being long wrongfully retained (more each month) in an arbitrary and oppressive abuse of power by the Respondents, servants of the government over which he has no control, or remedy, save intervention by the Court of Appeal, the High Court having made material errors in law.

13. The Respondents are in breach of the Human Rights Act 1998, Schedule 1 Part ll, The First Protocol, Article 1 providing that, "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest".

Mr. Francis Michael Galpin
Litigant-in-Person

Signed this 1st Day April 2021_____.

John M. Copplestone-Bruce Inner Temple (PB).

IN THE COURT OF APPEAL

ENGLAND AND WALES.

CIVIL DIVISION

BETWEEN:

FRANCIS MICHAEL GALPIN

Appellant (Litigant-in-Person)

AND

LANCASHIRE COMBINED FIRE AUTHORITY

Respondent

APPEAL

Nutshell.

1. The Appellant's Fire & Rescue Service employer and fiduciary pension provider, on misconstruing provision to reductio ad absurdam, are paying him an accrued, non-compensatory, Rule B1 Ordinary pension, denying him his enhanced compensatory Rule B3 ill-health pension, provided by 1992 Statutory Instrument No.129 [SI] in compensation for his financial loss, to which he became entitled when compulsorily discharged with a 'qualifying' injury, for which the Respondents are statutorily liable.

2. The Respondent's Chief Fire Officer, seeking neither counsel's opinion nor judicial review explaining "*I am unable to see any reference in the Statutory Instrument to this being compensation".* The Respondents have entered no appearance.

3. In effect the Appellant pension was wrongly calculated in 1998 at £21,936 (B1), instead of his entitlement to £33,452.24 (B3 subsuming B1), defrauding the Appellant his B3 pension of £11,516.24 in 1998, and every year since - index linked.

Law 'bull point.'

1992 SI No:129, Rule G1(4) provides the date on which to take pay, to calculate pension:

> *"(a) for the purposes of rules B 4 (injury award), C2 (spouse's special award), C7 (spouse's award where no other award payable), D2 (child's special allowance), D3 (child's special gratuity) and E2 (adult dependent relative's special pension), the*

date of the person's last day of service as a regular firefighter, and '
(b)for all other purposes, the date of his last day of service in a period during which pension contributions were payable under Rule G2".

(i) In his Approved Judgement (AJ) at AJ 19, Fancourt J finds "*a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service"*. A notional retirement pension is a Rule B3 provision. In common with those before him, Mr Justice Fancourt refers to 'Rule G1' several times, but never which part he had in mind.

(ii) Perhaps, on simple mistake of misreading D3 as B3, or on taking application of 'Rule G1' on trust from those before him, Fancourt J did not consider (a) or (b) adequately, or at all, before, unwittingly, predicating his whole judgement wrongly in law on Rule G1 (4) (a). Unwittingly, of course, for otherwise would be to conspire to defraud;

(iii) Rule B3 falls within 'for all other purposes" to be calculated under Rule G1 (4) (b) on the APP paid on the *last day of service in a period during which pension contributions were payable* which, but for injury, for which the Respondents are statutorily liable, would have been when the Appellant was retired aged 60;

(iv) For the Appellant the last day of service as a regular Firefighter was the day before injury when he was 54 (the Rule G1 (4) (a) date) but, absent injury he would have paid pension contributions until aged 60 (the Rule G1(4) (b) date). Injury, for which the Respondents are liable, denying him his highest salary years and promotion, and higher pension, all occasioning him financial loss;

(v) His Rule B3 Ill-health pension was wrongly calculated on Rule G1 (a), when (b) applied;

(vi) On misconstruction of Rule G1 it also follows, for consistency, that 'the point of law' had to be misconstrued. Fancourt J holding at AJ 22 "*In my judgement, the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay*". Wrongly consistent with G1 (4) (a): inconsistent G1 (4) (b);

(vii) On such misconstruction, the Rule B3 pension becomes, de facto, the amount of a non-compensatory, Rule B1 Ordinary pension, denying the Appellant his enhanced compensatory Rule B3 ill-health pension entitlement in law;

(viii) Given a Rule B4 Injury Award for injury and loss of amenity; a Rule B3 pension can only serve one purpose in law, to compensate for financial loss, for which an unknown APP has to be found "*by reference to*" a known APP, on which to calculate the Rule B3 notional retirement pension. Correctly construed two 'APPs' are required, not the one 'APP', Fancourt finds in error in law on applying Rule G1 (4) (a);

(ix) It follows that Fancourt J omitted to consider or confront the law, or conflicts with the provision arising from his misconstruction, rendering the statutory Rule B3 ill-health enhanced compensatory pension provision, reductio ad absurdam.

Synopsis.

1. The judgement here appealed, is that of The Honourable Mr. Justice Fancourt, [Fancourt J] who, in his Approved Judgement [AJ], delivered on 28th October 2020, after appeal to the Court of Appeal against his oral judgement at Mrs. Justice Falk's intended hearing on 3rd July 2020, misdirected himself in law to uphold the Respondent's unlawful practice by finding that Rule G1 (4) (a) instead of Rule G1 (4) (b) of 1992 Statutory Instrument No. 129 [SI] applied to the calculation of the Appellant's pension, finding at AJ18, "*a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service",* denying the compensatory enhanced Rule B3 ill-health pension provided by the statute.

2. (i) 1992 Statutory Instrument No. 129 [SI] Rule B1 provides for accrual of entitlement during active service of a non- compensatory (no financial damage suffered), time served Ordinary pension on retirement from the Fire & Rescue Service by right, which Rule B1 also denies to any Firefighter becoming entitled to a compensatory enhanced Rule B3 ill-health pension;

   (ii) In addition to a Rule B3 ill-health pension, the SI provides a Rule B4 'Injury Award'(calculated from a Rule B3 pension) in compensation for pain, suffering, incapacity and loss of amenity, to those compulsorily discharged from Service on receipt of a no-fault 'qualifying' injury, suffered in the course of their employment.

3. The Respondents and Fancourt J deny the purpose of compensatory enhanced Rule B3 provision, in the amount above an already fully accrued, non-compensating Rule B1 Ordinary pension though, in law, the only possible purpose of SI Rule B3 provision is for an accrued Rule B1 pension to be subsumed within the greater Rule B3 "ill-health Pension", for payment in compensation for financial loss in pay and pension that "*could have been earned until required to retire on account of age"* by the Appellant, but for no-fault 'qualifying' injury, (quoting the Home Office Commentary which correctly construes their 1992 Statutory Instrument No. 129, making the provision at Rule B3) and to compensate the Appellant for his future loss of earning capacity.
4. Fancourt J, rendering the compensatory enhanced Rule B3 provision reductio ad absurdam denying legislation legal effect was wrong in law (in many ways) to uphold the Respondent's practice; a practice both repugnant and contrary to law; a practice in an arbitrary and oppressive abuse of power by a servant of government by defrauding a retired Firefighter of his lawfully provided compensatory enhanced Rule B3, entitlement.

5. In breach of fiduciary duty and unlawfully, the Respondents have been paying the Appellant a non-compensating Rule B1 Ordinary pension of £21,936 since 1998, under the pretense of it being his B3 ill health legal entitlement when, had it been lawfully construed, he would have been paid his compensating enhanced Rule B3 ill-health pension of £33,452.24 in compensation for his financial loss of earnings and pension, denied him by a no-fault injury, and in compensation for his reduced

future earning capacity.
The defrauded index linked £11,516.24 shortfall being unlawfully retained by the Respondents, the servants or agents of Her Majesty's Government – continuing.

Errors in Law and Misdirections.

1. (i) 1992 Statutory Instrument No.129 [SI], Rule G1 (4) specifies the *'relevant date',* from which average pensionable pay [APP] is taken on which to calculate pension. The *relevant date* being either (a) the day last worked, or, (b) the day, absent injury, of last pension contribution (aged 55 or 60);

   (ii) By conflating (a) with (b) both to mean (a) in misapplication of Rule B3, Fancourt J premised his judgement on a misdirection in law, rendering reductio ad absurdam, the SI Rule B3, Paragraph 5 ill-health provision, making it redundant and indistinguishable from a Rule B1 Ordinary time served pension, denying legislative meaning.

2. In misunderstanding the promulgating authority's ''Home Office Commentary" to the SI, Fancourt J wrongly transposed it into misconstruction of the SI provision, to misdirect himself to think that years, not pay, may accrue, where the SI made no provision for years to accrue, but does so for pay to accrue.

3. Fancourt J misunderstood the SI and misdirected himself to provide what the SI did not provide, that years may accrue where to do so would be to no legal effect. All Rule B3 ill-health pension is provided either by fixed formulae, calculated on unalterably established pay being paid, and on years already served; or, in the alternative, on a notional retirement pension, being a notional Rule B1 Ordinary, full service, 40/60^{ths} of the Appellant's notional APP; a pension, which more years, had they been available, could not affect.

4. Fancourt misdirects himself that all pensions are limited to 40/60^{ths} of APP, (see Appendix 'A').

5. Fancourt J misconstrued provision made at B3 1 (2) and 5 (2) by conflating different words of provision, '*by reference to'* to be a synonym of '*is*', in a reductio ad absurdam, avoiding statutory intent, purpose, meaning, and legal effect.

6. Fancourt J so failed to construe the Rule B3 ill-health pension provision as to ignore, and render to no effect, formulaic Paragraph 4 of the Rule B3 provision and misdirected himself on the purpose and meaning of Rule B3, Paragraph 5 (1) (b).

7. Fancourt J further misconstrued *'by reference to',* and the meaning and purpose of Rule B3, Paragraph 5 (2) denying Rule B3, Paragraph 5 its legal affect.

8. Fancourt J misdirected himself, the Respondents being liable, to find that the Appellant's financial loss occasioned by no-fault 'qualifying' injury, so denying him Service, and so promotion, during the final 5 year period of intended career, may not be taken into account in calculating an ill-health pension.

9. Fancourt J misdirected himself to be unmindful of the general intention of the statute, evinced by Rule L4 (3) that where two amounts may satisfy the same award, the highest is paid.

10. By finding that a non-compensatory Rule B1Ordinary pension satisfied the Appellant's entitlement to a compensatory enhanced Rule B3 ill-health pension, Fancourt J found contrary to law, rendering the whole of the Rule B3 provision of the SI redundant to a Rule B1 provision, reductio ad absurdam, to no legal effect and repugnant to law.

Particulars.

Common Ground.

1. Having filed his appeal after receiving Mr Justice Fancourt's transcribed oral judgment of 3rd July 2020, the Appellant received a further considered written 'Approved Judgement' on 28th. October 2020 [AJ]. In it the judge sets out common ground that "*Mr Galpin is a retired firefighter and he has a pension under the Fireman's Pension Scheme* [AJ 2], and, but for being '*forced to retire, as a fireman, through ill-health as a result of an accident at the age of 54. He would otherwise have been entitled to continue to work until the age of 60",* [AJ 3], and that Mr. Galpin's considers he is "*wrongly paid a Rule B1 ordinary pension, rather than a Rule B3 ill-health pension"* [AJ 4]*.*

2. Also that [AJ 13], "*The issue is*, *and is accepted to be, purely a question of the true interpretation of the Pension Scheme.."* and [AJ 14]. "*The relevant provisions of the scheme are, first, in appendix one, where Part B differentiates between an ordinary pension, at paragraph B1, and an ill-health award, at paragraph B3. It is common ground that Mr Galpin is entitled to an ill-health award and not an ordinary pension".*

Non-compensatory B1 and compensatory B3.

3. (i) Fancourt J failed, however, to consider and distinguish between a Rule B1and a B3 pension, and grasp the intrinsic SI, Rule B3 intent of enhancement of pension for Firefighters denied full fire service careers by no-fault 'qualifying' injury, made plain by, inter alia, the ill-health formulae providing more than a 40/60ths non-compensatory time served Rule B1Ordinary pension.

(ii) A Rule B1 Ordinary pension entitlement accrues with each year served until, on 25 years' service, a 30/60ths of APP pension accrues, rising to 40/60ths on 30 years' Service, thereafter the only variable multiplicand is the average pensionable pay, or APP.

Rule B1 denies the award of a non-compensating Rule B1Ordinary pension to anyone entitled to a compensating enhanced Rule B3 ill-health pension, [SI Rule B1.At AJ 24, Fancourt J confuses years with pay, finding that *"Read in the context in which they are used in the commentary, the two instances of what could have been earned by compulsory retirement age are references to the number of years of service that could be achieved, not the average pensionable pay. In both cases, the calculation*

described is based on a maximum of 40 years' service or the length of service that could have been earned by compulsory retirement age.".

(iii) Having misdirected himself that years not APP may accrue (his fallacia consequentis below) the judge has also mistakenly taken the 40 in 40/60^{ths} to be 40 years, though simply 40 parts of 60 parts to give 2/3rds, as a fraction of APP.

(iv) 40/60^{ths} is the maximum part, 2/3rds, of final pay arrived at on 30 pensionable years completed Service to give a full non-compensatory, time served Rule B1 Ordinary pension which falls due anytime after age 50, until paid, in any event, at the service retirement age of 55 or 60.

(v) 60^{ths} is a convenient measure used to provide affordable units of pension that can be purchased by anyone whose accrued pension falls short of 40/60^{ths}, who can then buy 60^{ths} to reach the maximum 2/3rds, or 40/60^{ths} x APP, for a maximum Rule B1 Ordinary pension.

B3. B4.

4. A compensating enhanced Rule B3 ill-health pension falls due on a Firefighter being required to retire early on account of a no-fault 'qualifying' injury for which, by provision of the SI, the Respondents are liable, both for its financial and physical sequellae.

5. Rule B3 provides a pension in two ways. First, by way of formulae on which to calculate, depending on length of service, an *ill health pension amount* (Paragraphs 2 – 4) using two fixed multiplicands, the years served and extant APP. Second, in the alternative, by way of a Paragraph 5 1 (a) *notional retirement pension* calculated as a full service, notional, Rule B1 pension, calculated on a notional APP, reflecting what a Firefighter could have earned '*until he could be required to retire on account of age'*.

6. Though denied a Rule B1Ordinary pension on becoming entitled to a Rule B3 pension, those forced to retire on account of ill-health, and/or injury receive, in addition to the Rule B3 *ill-health pension*, a Rule B4 *Injury Award,* calculated from a Rule B3 pension, in compensation for physical disablement, pain, suffering and loss of amenity. There can be no reason in law for the Rule B3 provision other than to provide for a compensation for financial loss.

7. Fancourt J. misled himself in finding that the Appellant, on being paid an accrued, non-compensatory, Rule B1 Ordinary pension, was/is in receipt of his correct compensating enhanced Rule B3 ill-health pension.

The Home Office Commentary.

8. (i) On promulgating the SI, the Home Office published a Commentary for lay guidance intended for general use by everyone concerned. The Appellant, a

Firefighter, with no notion of pension law, relied on his pension providers to know and properly apply it.

(ii) Not only did they not properly apply it, but the Respondents suppressed the Commentary's existence (the wording of which they subsequently misrepresented to a past lay Pensions Ombudsman on a similar case).

(iii) Had the Appellant seen it, as intended by the Home Office, he would have seen from its plain English guidance, that his B3 pension was to be calculated by formulae (set out), or on what, but for injury, he "*could have been earned until required to retire on account of age".* It was not just intended for lay administrators, but in addressing retirees put it in the subjective, pension on what "*you could have earned until required to retire on account of age"*. The guidance accords with the SI provision.

9. In effect, the SI codifies the common law damages for Firefighters suffering no-fault injury in course of their employment. Fancourt J in seeking to uphold the Respondent's practice, finds otherwise. The Commentary is not law but Fancourt J relied on it in his misapprehension and misconstruction of the law.

Misconstruction the Commentary.

10. At AJ 27 Fancourt J misdirects himself in a compendium of ways in finding that "*the commentary and guidance uses a phrase which is ambiguous, namely 'or what could have been earned by compulsory retirement age'. However, in context, and by reference to the examples given in the guidance, one of which, example seven, is inconsistent with Mr Galpin's case, it is reasonably clear that that phrase is intended to connote the number of years of service that would have been achieved by compulsory retirement and has nothing to do with any promotion".*

Years confused with pay.

11. (i) Fancourt J misconstrues *'what could have been earned by compulsory retirement age'* by taking it out of context to mean years can be added, where none can. Rule B3 formulaic provision is calculated on established pensionable years served and last paid APP. Both multiplicands once finitely established on actually ending service, and are then fixed in law.

(ii) The alternative Rule B3 provision at paragraph 5.1(a), provides a *notional retirement pension* predicated on having "*continued to serve until he could be required to retire on account of age'.* When compulsorily discharged injured, credit is given for a notional full career Rule B1 Ordinary pension limited to 40/60^{ths} to which more years can add nothing and are, indeed, irrelevant.

(iii) At [AJ 19] Fancourt J takes the confusion further in saying "*He supports his argument* (for promotion) *by reference to guidance in the form of a commentary that was issued by the Home Office at the time when the pension scheme came into effect. The relevant part of that guidance says as follows:*

"How much is the pension? The sums are set out in examples one and four to seven, the basis of the calculations is explained here. 'A firefighter's basic ill-health pension

is never less than 1/60th of average pensionable pay, APP, and never more than 40/60th, two-thirds of APP or what could have been earned by compulsory retirement age".

(iv) Fancourt J misconstrues the Commentary to mean at [AJ 23], that *"What could have been earned by compulsory retirement age are references to the number of years of service that could be achieved, not the average pensionable pay"*. Yet the SI is silent on years save and except as 'pensionable years' (SI definitions) which can only accrue from being actually served.

(v) In so finding Fancourt J finds on no legal authority, the SI making no provision that any period of years can ever be added or subtracted from the pensionable years served. Once served the number is an absolute event, even to the number of days served.

Correction.

(vi) The statutory provision is at Pt. lll, B3, ill health pension, pargraph "5 (1) Where:
(a) if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension (the notional retirement pension)"

(vii) It escaped Fancourt J that those required to retire on grounds of ill health are credited with a full service career which, but for injury, would have been served. Meaning the 5(1) notional pension is a maximum B1 full service career pension to which they would have become entitled, absent injury, had they served until required to retire on account of age. A 5(1) B3 pension is a notional full career B1 pension

(viii) No years can be added of subtracted from a B3 notional retirement ill health pension because it is, in effect, a B1 full career, absent injury, 40/60^{ths} of a notional APP, arrived at by reference to his actual APP.

(ix) Rule B1 provides that a pension could be taken at 50, after 25 to 30 years Service providing a pension rising from 30/60^{ths} to 40/60^{ths} of the final pay.

(x) If, on final reckoning, a retired Firefighter's pension fell short of 40/60^{ths} there was no remedy in years earned, as Fancourt J thought, but any 60ths short of 40 could be purchased. What was not in any way variable is the number of years which can only be acquired by Service.

(xi) Even if a retired Firefighter, on the grounds of ill-health fell short on that credit (a late entrant) he/she cannot acquire more pensionable years than notionally s/he would have served, absent injury, to normal retirement. But s/he could maximize his/her notional ill-health pension by buying real 60^{ths} to make it up to the notional full 40/60^{ths}, pension.

(xii) As already set out there is no provision to add or subtract years. The only variable is the APP and only in terms of Paragraph 5 (1) (a) to calculate a notional retirement

pension on a notional APP.

(xiii) It follows that Fancourt J misunderstands the guidance given by the Commentary, which has nothing to do with years, but tells its reader that an ill-health pension is '*two thirds of APP* '(at the time of injury used in the formulae) 'or two thirds of the 'APP' that *could have been earned by compulsory retirement age',* (60) (notional pension) when earning capacity ended. It is the APP that is at large. There is no provision in the SI for years to be earned. His construction is inconsistent with both the Commentary and the Statutory Instrument.

Ambiguity where there is none.

(xiv) Fancourt J finds the Commentary 'ambiguous'. The statutory (SI) provision at Rule B3 paragraph 5, 1 (a) specifies an amount of notional pension due, as though he had *'continued to serve until he could be required to retire on account of age'.* The Commentary, puts it more simply as on '*what could have been earned by compulsory retirement age".* Both phrases are of a single meaning. What he *'could have earned by compulsory retirement age'* is the APP '*that he would have earned had he continued to serve until he could be required to retire on account of age'*. They are expressions of but one nexus. One phrase is dotting the i's and crossing the t's for lawyers, the other giving colloquial sense to laymen. If ambiguous, it is not the words that create an ambiguity but a reader's misconstruction.

Error on what Example 7 supports.

(xv) Fancourt J, found Example 7 to be inconsistent with the Appellant's case.

(a) Example 7, predicates a 54 year man with 27 years and 161 days service, and begins with "*Gross ordinary pension at age limit: 35.4411/60 x £15124 = £8933.52.* But, then states *'Gross ill-health pension: £8933.52'.* Rule B1Ordinary pension is correctly calculated on using the Rule B1 formula of 30/60 x (twice up to 5 years served over 25 years) x APP/60, but it is not transposable into the *Gross ill-health pension* because the Rule B3, Paragraph 4, ill-health formula is not the Rule B1 formula; it is 7xAPP/60 + 20xAPP/60 + (twice years served over 20) x APP/60, so, correctly, 'Gross ill-health pension' is, 42.4411/60^{ths} x 15,124 = £10,697.99.

(b) When corrected, Example 7 is not only wholly consistent with the Appellant's case, but makes plain the purpose of the SI, in providing a compensatory enhanced Rule B3 pension, most clearly and intentionally more than payable under a non-compensatory Rule B1Ordinary pension.

(c) Indeed, given a B4 Injury award in compensation for injury, loss of amenity, pain and suffering, a Rule B3 award can, in law, only be to compensate for financial loss. As in Example 7's case, where even a loss of 204 days pay of £2,473.71, (£8,452.87 pay loss, mitigated by pension of £5,979.16) is within the Rule B3 compensatory provision.

A loss suffered by a 54 year old being retired early on injury in the year s/he would, absent injury, have been retired on account of age – so his/her RuleB1 and Rule B3 pensions are both calculated on the same APP of £15,124 making plain that an enhanced RuleB3 pension is compensatory where a Rule B1 is

not.
If the law were as Fancourt J found it to be then a Rule B1 would indeed be a Rule B3, making the SI Ill-health provision redundant.

(d) Example 7's enhanced Rule B3 ill-health pension compensates not just for immediate financial loss, but for the future loss in earning capacity. Emergencies demand exceptionally fit Firefighters, right up to time of retirement. But when those tools of work are damaged, by no-fault injury requiring compulsory discharge, a retirement (for the safety of others), the retired Firefighter is denied the future earning capacity s/he would have had when, if fully fit on retirement, s/he could look forward to other, active, well paid work, for a decade or more. The exigencies of Emergency Services making it the policy to retire people early at 55 or, if senior, 60. Fitness is part of the job specification for all ranks, so Chief Fire Officers, in their late 50's, remain in action.

Error in 40/60^{ths}.

12. (i) Fancourt J has predicated his judgment on a premise that no pension may be awarded of more than 40/60^{ths} of APP, but that is not the law(see Appendix 'A').

(ii) He quotes the Commentary, which if not read carefully, may mislead. At page B3 – 3, it says '*The pensionable service is enhanced by 7/60ths ("ill-health enhancement") subject to it not exceeding what he would have reckoned by the age of compulsory retirement (55) or 40/60^{ths} in total'.* There is no overarching restriction to 40/60^{ths} in the Statute. The Commentary's ostensible error at B3–3 is to conflate the Rule B3, Paragraph 4 formula, which is enhanced by 7/60^{ths}, with the Paragraph 5 notional pension, which is restricted to 40/60^{ths}. But there is no nexus. The SI imposes no general 40/60^{ths} restriction. Each provision is wholly unrelated, save in making alternative provision, for the higher to be paid. Throughout the SI each rule of provision determines its own criteria, thus:

(iii) Rule B1 does limit the pension it provides to a maximum of 40/60^{ths}.

"The amount of an ordinary pension is-
30xA/60 + 2xAxB/60
where-

"A is the person's average pensionable pay, and B is the period in years (subject to a maximum of 5 years) by which his pensionable service exceeds 25 years.".

(iv) But a Rule B3, Paragraph 4, provision is not restricted to 40/60^{ths}

"*Where a person has served more than 10 years pensionable service the amount of his ill health pension is the greater of :–*
20xA/60,
or,
7xA/60 + AxD/60 + 2xAxE/60

where:–
D is the period of his pensionable service up to 20 years, and
E is the period by which his pensionable service exceeds 20 years".

(v) The restriction imposed by the SI on a Rule B1 calculation (supra) '*subject to a maximum of 5 years'* is absent from the B3 formulaic provision which is not otherwise restricted. The commentary is also in error in detaching part of a cohesive formula. 7/60^{ths} is not a detachable entity. But by whatever route Mr Justice Fancourt arrived at thinking that Rule B3 pensions were capped at 40/60^{ths}, he misdirected himself in law to think so.

Reductio ad absurdam on Rule G1.

13. The Statutory Instrument provides, as part of its Rule B3 ill-health provision, a Paragraph 5 notional pension (11 (vi) supra) which Fancourt J refers to, at [AJ 18[, correctly quoting the Paragraph 5, (2) method of finding the APP on which to calculate the notional B3 pension, before then misdirecting himself in law.
He says, "*Paragraph 5(2) says that that Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay. Average pensionable pay, for the purposes of the scheme, is defined in rule G1 as the average pensionable pay of a regular firefighter and is, subject to paragraphs five to seven, the aggregate of his pensionable pay during the year ending with the relevant date, and the relevant date is the last day of the firefighter's service as a regular firefighter".*

However, SI Rule G1 (4) provides otherwise:

The relevant date is:
(i) *for the purposes of rules B 4 (injury award), C2 (spouse's special award), C7 (spouse's award where no other award payable), D2 (child's special allowance), D3 (child's special gratuity) and E2 (adult dependent relative's special pension), the date of the person's last day of service as a regular firefighter, and ' for all other purposes, the date of his last day of service in a period during which pension contributions were payable under Rule G2".*

(ii) Fancourt J misdirected himself to find that a Rule B3 notional pension is to be calculated on the APP as provided by (a), being last day of active service where (a) specifically excludes Rule B3 from its provision, leaving a Rule B3 'Notional Retirement Pension' to fall within Rule G1 (4) (b) – 'for all other purposes' – to be calculated to normal retirement on age until when, absent injury for which the Respondents are liable, his *'pensions contributions were payable'*.

(iii) To seek to remain consistent in his wrongly predicated judgement, Fancourt J misconstrues meaning and effect of Paragraph 5(2) at [AJ 17["*Paragraph 5(1) therefore requires a cap to be imposed on the amount of the ill-health pension that would otherwise be calculated under paragraphs 3 or 4 of Schedule 2 by reference to the amount of the Notional Retirement Pension that the retired firefighter would have achieved had he continued to work until the age of retirement".*

(iv) Fancourt J misdirects himself to provide a 'cap' to ill-health pension where there is no 'cap' provided by the SI. Rule G1 exists in two parts to avoid such a 'cap'. Its purpose is to enable distinctions to exist between pensions by calculating them on an APP taken from various relevant dates, (as set out above). These *'relevant dates'* as provided by Rule G1 (4) (a) and, G1 (4) (b). From his judgement it would appear that Fancourt J was unaware that Rule G1 lay in two parts.

(v) By misapplying Rule G1 (4) (a) to a B3, Paragraph 5(1) 'notional retirement pension' Fancourt J reduces it to the same basis of calculation as a Rule B1 Ordinary pension so he wrongly 'caps' the Rule B3, Paragraph 5 notional compensatory amount to a Rule B1 Ordinary pension amount.

(vi) Fancourt J also finds that 'capping' the Rule B3, Paragraph 5 notional retirement pension also 'caps' Paragraph 3 or 4 amounts, but that requires a misconstruction of Paragraph 5 (1) (b), dealt with below.
But on his finding Paragraphs 3 and 4 ill-health formulaic provision are denied effect being 'capped' by the notional retirement pension, capped by a Rule B1 Ordinary pension amount.

(vii). Fancourt J misdirects himself in law to hold at [AJ 18], "*Paragraph 5(2) says that the Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay - (as at) - the last day of the firefighter's service as a regular firefighter".*
It is a fundamental error of great magnitude because its effect, in practice, is to replace a compensatory enhanced Rule 3 ill-health provision with a non-compensatory Rule B1 Ordinary pension provision.

Corollary 1.

14. Were Fancourt J to be correct, that a Rule B3 notional pension is to be calculated as provided by the Rule G1 (4) (a) then that is to use the same APP as used to calculate a Rule B1 Ordinary pension, both on the APP being paid on '*the last day of service as a regular firefighter'.*

(i) It would follow, since B1 and B3 pensions are both to be calculated on the same APP and since both are on a full service 40/60^{ths}, then on this construction an ordinary non-compensatory Rule B1and a compensatory Rule B3 pension are indistinguishable in law and effect.

(ii) It is what the Respondents say is the law as they continue to pay the Appellant an actual Rule B1 Ordinary pension as though in satisfaction of a correct Rule B3 ill-health pension, which is wrong in law, indeed, they are defrauding the Appellant of his pension.

(iii) By upholding the practice Fancourt J sets rule G1 and rule B3 into conflict but more importantly renders a Rule B3 provision redundant to a Rule B1 provision,

making it meaningless, with no legal effect, and repugnant to law, a reductio ad absurdam.

Correction allows B3 its purpose to compensate for financial loss.

15. Correctly applying Rule G1 (4) (b) in place of (a) brings no benefit in terms of years since the Appellant had already accrued a full 40/60^{ths} pension on 30 years service (he served 37 years) and, in any event, a 'notional retirement pension' (save for very late entrants) credits a full service 40/60^{ths} Paragraph 5 (1) (a) pension, but there may be benefit from a higher APP on which to calculate his Paragraph 5 'notional retirement' pension: his career could have notionally progressed in the final period of service until required to retire on account of age, but for being denied him by injury.

Conflict.

16. There are other errors, muddles and inconsistencies in the AJ. At [AJ 14[, Fancourt J finds that "*Mr Galpin is entitled to an ill-health award and not an ordinary pension",* which predicates a distinction between the two, yet he also finds at [AJ18], *"It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service",* the latter contention is only sustainable on misapplication in law of Rule G1 (4) (a).

Notional B3 pension APP.

17. Though Fancourt J finds B1, in all but name, a B3, the SI requires that a B3 be differentiated and be distinguished from a B1. The SI provided direction on the way to separate them by application of Rule G1. Calculation of a B1 is on extant APP at time of retirement (provided by Rule B1). But a B3 notional retirement pension is to be calculated as provided by Rule G1 (4) (b). That is on the notional APP when, absent injury, pension contributions would stop on normal retirement on age. The SI requires that the APP be identified in a specific way.

18. Mrs. Justice Falk having initially denied permission, on reading the appeal against her judgement, re-engaged on her own initiative before, fully seised, she was replaced, with no explanation, by Mr Justice Fancourt who at [AJ 13[adopts and repeats Mrs. Justice Falk who:
"*encapsulated the issue in her order of 6 May 2020 in the following terms, and I quote:"*

"Whether as a matter of statutory construction of paragraph 5 of part 3 of Schedule 2 contained in Schedule 2 to the Fireman's Pension Scheme Order, SI 1992 No. 129, the requirement to calculate the notional retirement pension "by reference to" actual average pensionable pay means either:

(a) as the respondent contends, that the calculation must be done using actual pay the year to the date of retirement, or,

(b) as the appellant contends, that the calculation must be done by reference to the pay scales in place at the date of retirement, but assuming that the individual would have continued to progress through those pay scales and achieve available promotions until the date he or she could have been required to retire, absent ill-health or injury".

19. Fancourt J, having wrongly applied Rule G1 (4) (a), it follows that he finds, also wrongly, Mrs. Justice Falk's variant (a) to be right, as he makes plain at[AJ 26["*In my judgement, the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay". There is no warrant for interpreting that as referring to any theoretical pensionable pay that might have been achieved by a later date"* .

'By reference to', synonym fo, 'using', or 'is'.

20. At AJ 25 Fancourt J found "*In my judgement there is no scope at all for construing paragraph 5(2) of Schedule 2 to the order so as to incorporate a requirement to take account of what promotion may or may not have been achieved by a firefighter between the date of early retirement and the normal retirement age".*

(i) While consistent with misapplication of Rule G1 (4) (a), (pension on APP of last active day) Fancourt J omits to consider the meaning and effect of Rule B3 in specifying what APP is to be used in calculating a Rule B3 ill-health 'notional retirement pension provision?

(ii) The SI, Rule B3 makes two different provisions which Fancourt ignores in arriving at his judgement at [AJ 27] "*In my judgement, the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension" is to be calculated using the person's actual average pensionable pay*".

(iii) At [AJ 27] he conflates the meaning of 1(2) and 5(2) to mean 'All ill-health pension calculation is calculated on actual APP". But the SI provides otherwise:

SI Rule B3 provides:

1. (2). In paragraphs 2 to 4, A is the person's average pensionable pay".
(2) The Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay".

Corollary 2.

(iv) If the intention was for the two instructions to mean the same thing, as Fancourt J finds, (note [AJ 19], "*It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service*)", then to avoid repetition, Paragraph

5(2) the legislative draftsmen would have omitted the words *'by reference to'* to read, as Fancourt J would have it read. '*The Notional Retirement Pension is to be calculated using the person's actual average pensionable pay'.* If intended, so it would have been drafted, it is the sole purpose of parliamentary draftsmen and women.

(v) Yet more logically and economically, Rule B3 1 (2) could simply read '*In Paragraphs 2 to 5, A is the person's average pensionable pay'*, making Paragraph 5(2) redundant. The finding at [AJ 19[defeats the purpose of the legislation.

(vi) Law apart, the logic excludes Mr. Justice Fancourt's synonym. With the legislation specifying that Paragraphs 2 – 4 are to be calculated on the actual APP as a multiplicand, '*A is the person's average pensionable pay',* and the Paragraph 5 APP multiplicand is to be arrived at *'by reference to'* that actual APP, they cannot be one and the same APP. So construction of '*by reference to'* requires two actors, not the one 'APP', as found by Fancourt J'.

General Construction.

21. (i) In Grey v Pearson (1857) 6HL Cas. 61, Lord Wensleydale established that in construction "The grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity and inconsistency, but no further".

(ii) The OECD, Oxford Lexico, et al, makes plain the ordinary usage of '*by reference to*'. The ordinary English use of the word 'reference' in the SI context is to mean to look or think of something known to identify an unknown. There are two entities.

(iii) Thus as used in the SI so here, "One can find the date *by reference to* a calendar" "Tax is usually calculated '*by reference to*' the value of the estate'. "Enemy at 9 o'clock" means "the 9 o'clock position is calculated '*by reference to'* the actual twelve o'clock", or, here, [Paragraph 5 (2)] "*The notional retirement pension is to be calculated by 'reference to' the person's actual APP'*.

Construction of 'by reference to' in context the SI.

22. It follows that the way to calculate a 'notional retirement pension' provided at Rule B3, 5 (2) cannot, in law, be construed as Fancourt J misconstrues the law, for example at [AJ 19] having wrongly applied Rule G1 (4) (a) to Rule B3 to misconstrue and wrongly declare "*It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension is to be calculated"* on the same APP, to then correctly take a line of provision at Paragraph 5 (2) *by reference to the person's actual average pensionable"* to then tack onto it what the SI does not provide *"during the last day or service"* to enable the declaration, wrong in law, at [AJ 27[, "*the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension" is to be calculated using the*

person's actual average pensionable pay", is to pervert provision to deny legislative purpose, intent and provision. If the statute intended to provide *"the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay"* it would have said so. And it could have said so if Rule B3 has been included with the provision made by Rule G1 (4) (a). But it did not and the Judge gives no reason why he did.

(i) Rule G1 (4) (b) denying Fancourt J his application of Rule G1 (4) (a), the notional APP is to be properly calculated as at the time, absent injury, of retiring on account of age. Not Fancourt J's tacked on (supra) *"during the last day of service"* [G1(4)(a)].

(ii) The logic (20 (ii) supra) supports the construction of the SI as instructing a pension's administrator to calculate Paragraphs 2 – 4 on the person's actual APP (last day worked), as one, of two, actors.

(iii) The second actor is calculated 'by reference to' that first 'actual APP' actor, to discover the second actor, the notional APP, absent injury, of the Rank or Pay Point on the Pay Scales at retirement on age (but on the then current scale – see below).

(iv) Fancourt J's misconstruction requires him to replace 'by reference to' by synonyms of 'is' or 'using' for him to be able to find at [AJ 27]...*"the 'Notional Retirement Pension' is to be calculated using the person's actual average pensionable pay"* .

(v) But words of provision can only ever be changed from those provided in the legislation if those words lead to a patent absurdity.

(vi) Rule B3 provisions depends upon the ordinary meaning being given to 'by reference to' as a term of art, the proper construction of, which leads to no absurdity, or inconsistency, but is the legal means to open the door for Rule B3, compensatory purposes of the Statutory Instrument, to be expressed.

(vii) To find what APP is the right one on which to calculate the notional Rule B3 retirement pension, two APPs are needed to calculate a Rule B3 provision, not the one premised by Fancourt J, in error in law, at his [AJ 26] "...*"the 'Notional Retirement Pension' is to be calculated using the person's actual average pensionable pay"...".* (19 supra).

Notional APP scale.

23. (i) By correctly construing *'by reference to'* at Paragraph 5 (2), on the correct application of Rule G1 (4) (b), some meaning can begin to be given to what the Appellant could have earned "*had he continued to serve until he was required to retire on account of age*".

(ii) Having established that, *'by reference to the person's actual APP*', signposts where to look for the unknown APP and because the reference is to an APP that is within a Pay Scale, it follows, in absence of any other direction, that the unknown

APP must, of necessity, be found on the same Pay Scale.

(iii) That is a most important step because it avoids speculation and nails down pension calculation to the reality of anchoring the unknown APP to the same Scale of Pay as the actual APP, or in the Appellant's case, to 1998 Rates of Pay.

Rank or pay point.

24. The next step is to establish what Rank, and/or Pay Point (within a Pay Scale) the Appellant could have reached, absent injury, at the point of normal retirement; Service completed.

(i) Two letters from two peer group senior officers were given in evidence to Mrs. Justice Falk that, uninjured, the Appellant could have looked forward to being promoted to Divisional Officer Grade II [DO II].

(ii) The Respondents take no issue with that. Indeed, they provided Pay Scales for year 1997 – 2003 pointing out to Mrs. Justice Falk the APP for the rank of a DO II in 2003, when the Appellant could have been required to retire on account of age, at 60.
On basic pay it would have been of £43,053.60 pa, More than £10,000 pa higher than his pay when he was required to retire on ill-health. So he suffered a substantial financial loss. With allowances it may well be that the gap in pay is greater than basic.

A Finding on no evidence.

25. Fancourt J finds otherwise at [AJ 25], *"In my judgment, there is no scope at all to take account of what promotion may or may not have been achieved by a firefighter between the date of early retirement and the normal retirement age."*. With respect, the judge ceased to be impartial and entered the arena to find against the Appellant on a point against the evidence, not in issue.

Conflict.

26. (i) Mr Justice Fancourt's finds [AJ 18] "*a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service",* which cannot be the law, if the law is, as he found it to be at [AJ 16[, '*the amount of the Notional Retirement Pension that the retired firefighter would have achieved had he continued to work until the age of retirement.".*

(ii) Only one can be the correct construction. By wrongly basing his judgment as at [AJ 18], on Rule G1 (4) (a), Fancourt J, in finding the Respondents to be correct to compulsorily discharge a no-fault injured('qualifying') Firefighter without compensation, renders the purpose and Rule B3, Paragraph 5 provision reductio ad absurdam, without meaning, or legal effect.

Reductio ad absurdam, B3 1 (1.).

Cap.

27. Fancourt J omitted to consider the meaning and effect of Rule B3, Paragraph 1(1), providing *"Paragraphs 2 to 5 have effect subject to Parts VII and VIII* (pension reductions) *of this Schedule and paragraphs 3 and 4 have effect subject to paragraph 5",* because it predicates different amounts and priorities inconsistent with his construction of the SI, Rule B3 provision.

(a) In seeking consistency throughout a judgement, wrongly predicated on Rule G1 (4) and in seeking to uphold the Respondent's practice (and in support of his own brief erroneous oral judgement of 3rd July 2020), Fancourt J 'discovered' what the statutory instrument did not provide, a '*cap*', with which to eliminate differing amounts and priorities.

(b) A 'cap' which, with no ratio decidendi, Fancourt J decided constricted the SI formulaic provision, finding at [AJ 17] that "*Paragraph 5(1) therefore requires a cap to be imposed on the amount of the ill-health pension that would otherwise be calculated under paragraphs 3 or 4 of Schedule 2 by reference to the amount of the Notional Retirement Pension",* is nowhere to be found within the SI provision:

> *5.(1) Where:*
> *(a) if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension, "the Notional Retirement Pension" and*
> *(b) the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension, the amount of the ill-health pension is that of the Notional Retirement Pension.*

(c) On the correct construction of SI, Rule B3, 5 (1) provides no 'cap' on higher sums by a lower sum 'notional retirement pension' – which would be absurd. The provision is for alternatives, the most beneficial to be paid – or there is no point to the provision. (Further dealt with at 30, to give legal effect to the correct construction of 'by reference to').

(d) Fancourt J's Rule G1 (4) (a) 'cap' renders the compensatory enhanced Rule B3, 5(1) 'notional retirement pension' into a non-compensatory Rule B1 Ordinary pension.

(e) Yet SI Rule B1 specifically only provides an Ordinary pension to a Firefighter *"if he then does not become entitled to an ill health award under Rule B3"* , [B1 (1) (c)].

(f) Notwithstanding Rule B1(1) (c), the lay Respondents, the Appellant's 'trusted' fiduciary pension providers pay him a non-compensatory, fully accrued, Rule B1Ordinary pension under the deception that he was being paid the full compensatory enhanced Rule B3 ill-health pension to which he was entitled.

Contrary to law, no compensatory payment was provided for his financial loss.

Some Inconsistencies.

(g) The Respondent's practice was upheld by Fancourt J, but on construction made possible only by misapplication of Rule G1 (4) (a) to enable '*by reference to*' to be taken to mean '*is', or 'using',* (synonyms for each other) denying "different amounts and priorities".(Pensions calculated on different APPs, prioritised in payment by amount).

(h) "Different amounts and priorities" are inconsistent with his AJ 28 "*it is reasonably clear that that phrase is intended to connote the number of years of service that would have been achieved by compulsory retirement and has nothing to do with any promotion"* - so no possibility of increase in the APP pension multiplicand.

(i) "Different amounts and priorities" are inconsistent with [AJ 19], "*that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service".*

(j) "Different amounts and priorities" are inconsistent with [AJ 18], *"the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service",* et al.

Some Failures to confront.

(k) Where Fancourt J found the direction he was giving to himself and the SI to be in conflict from as earlier [AJ 15], "*Mr Galpin is entitled to an ill-health award and not an ordinary pension".*
Rather than confront and deal with the predicated distinction between the two which may have avoided the Rule G1 fundamental error on law, the judge ignores it, finding at [AJ 18], *"It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service";* Finding Rule B1 and Rule B3 the same.

(l) Mr. Justice Fancourt also did not confront or deal with Rule B3, 5 (1) (a), "*if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension, 'the Notional Retirement Pension, '* Rule G1 (4) (a) replacing 'by age', by 'last day served', which on injury is earlier than on age.

(o) Indeed, as he further misdirected himself to find at AJ 27 *the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay* "

(p) It follows, though Fancourt J gives no ratio decidendi, that having found at [AJ 17], "*Paragraph 5(1) therefore requires a cap to be imposed on the amount of the ill-health pension that would otherwise be calculated under paragraphs 3 or 4",* that whatever the formulaic ill-health pension amount may be on calculation, it is

'capped' by the Paragraph 5 notional pension, itself 'capped' by the Rule B1 amount. He did not confront the absurdity of his conclusion or confront that being absurd, since the legislation cannot be absurd, his construction was incorrect.

(q) It follows that to be consistent Fancourt J had no option but to construe, albeit to himself, Rule B3, 1 (1) *"Paragraphs 2 to 5 have effect subject to Parts VII and VIII* (pension reductions) *of this Schedule and paragraphs 3 and 4 have effect subject to paragraph 5",* [27 supra], to mean the only pension that gets paid is the Rule B3, Paragraph 5 1 (a) notional pension, 'capped' as a non-compensating Rule B1 Ordinary pension; as paid guilefully by the Respondents.

B3 Paragraph 4 – denied legal effect.

(r) It follows that if the law were to be as Fancourt J and the Respondents would have it be, since a Paragraph 4 formulaic amount is not paid out as the Rule B3 ill-health pension when greater in amount than a Paragraph 5 notional pension, and it is not paid out when it is a smaller amount, it never gets paid.

(s) It follows, with Paragraph 3 or 4 amounts being 'capped' by the notional pension amount, with itself being calculated as a Rule B1 on misapplication of Rule G1 (4) (a), that all that ever gets paid is the accrued non-compensatory B1Ordinary pension:

a. It follows that, to be consistent, Fancourt J construed Rule B3, 5 (1) (b) '*the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension, the amount of the ill-health pension is that of the Notional Retirement Pension',* to mean that, whatever the product of the formulae, only the 'notional retirement pension' is paid.

b. As demonstrated by Example 7, when corrected (11 (xv) supra), the Rule B3 formulaic Paragraphs 3 and 4 provision is, essentially, a Rule B1 provision enhanced.

c. It follows that if the Rule B3 notional pension is in a Rule B1 amount, then a Paragraph 4 amount (which applies to the Appellant) will always 'exceed' the Rule B1 amount.

d. But construed as Fancourt J construed the law, the lesser sum, notional pension B1 is paid because the paragraph 4, greater amount, is 'capped' by the B3 5(2) (B1 amount) pension. So his paragraph 4 ill health pension is not paid when more, nor when less than the notional retirement pension – which is the Respondent' practice approved by Mr. Justice Fancourt.

In effect, Fancourt J so construes the SI as to render the whole of the SI, Rule B3 provision redundant to Rule B1, making the Statutory Instrument an exercise in futility, the legislative provision being to no legal effect – a reductio ad absurdam.

Rule B3, 1 (1).

28. (i) For SI Rule B3, 1 (1) – *"Paragraphs 2 to 5 have effect subject to Parts VII and VIII* (pension reductions) *of this Schedule and paragraphs 3 and 4 have effect subject to paragraph 5"* – to have its intended legal effect, to compensate for financial loss, (in law, given payment of a Rule B4 Injury Award, there is no other liability to be met and there can be no other lawfully required purpose for a Rule B3 provision, other than to compensate for financial loss).
The words of provision "*paragraphs 3 and 4 have effect*" need to be ordinarily construed to mean "*paragraphs 3 and 4 are paid*", and the words "*subject to 5*" to mean "*subject to 5 not being the greater amount"*. 'Having effect' being to act dependent upon something other talking priority, which would be an absurdity were a lesser amount to take priority, rendering formulaic provision pointless.

(ii) Such construction making plain, on correct application of Rule G1 (4) (b), the intent of the words of provision at Rule B3 1 (1), to compensate for financial loss to the greatest extent provided by the Statutory Instrument.

To take stock.

29. Having established:

- That the Statutory Instrument requires Rule G1 (4) (b) to apply to Rule B3;
- That the Approved Judgement incorrectly applied Rule G1 (4) (a);
- H.O.Commentary, is not ambiguous but on all fours with SI provision;
- Example 7, supports the Appellant's contention that Rule B3 is compensatory;
- That more, or less years, are not provided nor suggested in Commentary;
- That pay, not years, are the variable in 'notional retirement pension' calculation;
- There is no overarching 40/60^{ths} limitation on Rule B3.
- Each SI Rule sets own criteria;
- That a 'notional retirement pension' is not 'capped' by a Rule B1 Ordinary amount;
- That the 'notional retirement pension' does not cap Rule B3,Paragraphs 3, or 4;
- That the 'notional retirement pension' is calculated on the Rank or Pay Point on the Pay Scale which, but for injury, *could* have been achieved by normal retirement age;
- That the amount of the notional APP of the notional Rank or Pay Point is to be taken from the Pay Scale (1998) in being at time of being compulsorily retired on account of a no-fault 'qualifying' injury;
- That a non-compensatory Rule B1 Ordinary pension cannot be a compensatory enhanced Rule B3 ill-health pension.
- That a Rule B3 ill-health pension is a SI provision to compensate for financial loss;
- That a Rule B4 Injury Award (Calculated from a Rule B3 pension) is an Injury Award to compensate for loss of amenity on being compulsorily retired through a no-fault 'qualifying' injury;
- That Rule B3, 1 (1) properly construed means *Paragraphs 2 to 5 have*

effect subject to Parts VII and VIII (pension reductions) *of this Schedule and paragraphs 3 and 4 have effect – are paid – subject to paragraph 5 not being the greater amount ".*

- Rule B3, 1 (2) and 5 (2) avoids *''by reference to"* as a synonym for *'is'* or *"using'. ;*
- The AJ omits consideration the Rule B3, Paragraph 3, or 4, formulaic provisions.
- Rule B3, Paragraphs 3, or 4, formulaic provisions are not 'capped' by the Paragraph 5 'notional retirement pension';
- AJ omitted to consider Rule B3, 5 (1) (b);
- It was established without demur from the Respondents, that the Rank the Appellant *could* have achieved was Divisional Officer II;
- Finding a Rule B3 as the correct Rule B1 amount which the Respondents applyin their Pension Scheme; Fancourt J looked no further.

Having cleared away what denied the correct construction of 'by reference to', it remains to construe its legal effect which depends on construction of Rule B3, 5 (1) (b).

Rule B3, 5 (1) (b); Construed on the error of Rule G1 (4) (a).

30. Rule B3, 5 (1) (b) provides: *Where "the amount calculated in accordance with Paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension, the amount of the ill- health pension is that of the Notional Retirement Pension":*

(i) Fancourt J having misdirected himself to find that a 40/60^{ths}, Rule B1 Ordinary pension was a Paragraph 5 (1) (a) 'notional retirement pension', in an amount that 'capped' formulaic Paragraphs 3 and 4, the corollary of his construction of Paragraph 5. (1) (b) is, "*Where the ill health pension exceeds the notional retirement pension the amount of the ill health pension is that of* – is replaced by – *the notional retirement pension*", which is a non-compensating Rule B1Ordinary pension (as construed by Fancourt J at [AJ 18 et al] as paid by the Respondents to the Appellant under guise of a Rule B3 ill-health pension.

(ii) So, as Fancourt J and the Respondents, would have it, the Rule B3 ill-health pension (the specified product of the formulae) has been 'replaced' by a Rule B3 notional retirement pension; itself 'capped' by a Rule B1 Ordinary pension amount.

(iii) There is no suggestion by the Respondents of paying any pension less than a Rule B1 Ordinary pension.

(iii) It follows that the Rule B3 formulaic provision is not paid when more, and not paid when less, than the notional retirement pension, so the Rule B3 provisions are denied effect in law.

(iv) Construed to be consistent with misapplication of Rule G1 (4) (a); the Rule B3

notional retirement pension being 'capped' as a Rule B1Ordinary pension, has the effect of doing away with, neutering, Rule B3 entirely, which is patently absurd.

(v) So another construction has to be found to give legal effect to Rule B3 5(1) (b), to express the legislative provision made by Paragraphs 3, 4, and 5 of the SI, so that all have use.

Rule B3, 5 (1) (b). Construction based on Rule G1 (4) (b).

31.(i) The assumption made at 28 supra was that the SI requires a construction of Rule B3, 1 that *'have effect'* and '*subject to'* are to be construed as providing that a Paragraph 3 or 4 health amount is payable, unless the notional retirement pension is greater.

(ii) To be consistent with that priority of payment, the priority must also, of necessity, be consistent with the meaning the SI intends to be given Rule B3, 5 (1) (b), which provides that, "*Where the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension, the amount of the ill-health pension is that of the Notional Retirement Pension".*

32. (i) Whilst a construction (30 (ii) & (iv) supra) of the words '*is that of*', to mean '*replaced by*' creates an absurdity, there is no absurdity in a construction of "*Where the ill health pension exceeds the notional retirement pension the amount of the ill health pension is that of* – becomes, replaces, or is what constitutes – *the notional retirement pension".* It is a question of priority, decreed by amount, or there is no point;

(ii) Things then fall into place, as parliamentary draftsmen intend legislation to do, In this instance, with the Paragraph 3 or 4 Ill health amount paid, if higher than the notional retirement pension, if not, then the notional retirement pension gets paid, thus giving legal effect to all of the Rule B3 provisions, no longer subject to or redundant to Rule B1, as deceitfully practiced by the Respondents, perhaps to save the fund money and enhance personal pay and rewards;

(iii) Given the Appellant's notional rank of DOII, with its APP arrived at on the proper construction of *'by reference to',* and the correct application of Rule G1 (4) (b) to B3, and on correct construction of Rule B3, 5 (1) (b), then the SI Rule B3 provision is no longer rendered absurd and to no effect, but has purpose to provide for financial loss to be given legal effect by those who are to administer it, by doing what they are required to do.

(a) To arrive at the Rule B3 ill-health pension, calculations must be done to arrive at the amount of the Paragraph 3, or 4, *ill-health pension* amount, and the Paragraph 5 (1) (a) *notional retirement pension* amount;

(b) On being calculated, the two amounts must be compared;

(c) Pursuant to Paragraph 5 (1) (b), the *greater* is awarded as the compensating

enhanced Rule B3 ill health pension.

General Intent.

33. (i) Whilst Rule L4 (3) is not specifically provided for a Rule B3 provision, it makes the general legislative spirit and intent of the SI clear, "*Where this rule applies only one of the pensions or allowances shall be paid in respect of the period in question; if they are for the time being unequal in amount, the one to be paid is the largest of them.". So*, mutatis mutandis Rule B3, the *larger* amount, not the lesser, is paid.

(ii) Of course, on calculation, had it been correctly done in 1998, there would have been a time in which either the Appellant's Paragraph 4, or his notional retirement pension, could have become his Rule B3 Ill-Health pension. It is consistent with Rule L4 (3) that the *greater* be paid, but inconsistent with dicta, this case, Fancourt J.

The Provision in operation.

34. (i) Fancourt J found difficulty with the H.O.Commentary (which contains errors but is not the law). On the law, Fancourt J expressed himself at [AJ 22[, "*the detailed provisions are highly complex and, with respect, not easy for someone who is not very technically minded to understand".*

(ii) Two examples may avoid the complexity which denied Mr. Justice Fancourt any attempt at an explanation to the Appellant which he may have understood; why it is he is being paid a non-compensating Rule B1Ordinary pension in place of a compensating enhanced Rule B3 ill-health pension.

Example A.

(a) A 49 year old 'high flyer' graduate, Senior Divisional Officer, with 29 years service, employed on the HQ staff (all of whom remain operational) on becoming injured, is required to retire on account of ill health in 1998, when his/her APP ['A'] was c£42,000. His/her Statutory B3 paragraph 4 formulaic calculation would have *been (7 x A) + (20 x A) + (9 x 2 x A/60),* or 45/60^{ths} his/her £42,000 APP, to provide him/her with *an ill-health pension amount* of £31,500 pa.

(b) His/her Paragraph 5 alternative is a *notional retirement pension*, which would depend on what Rank those concerned with his/her career thought, but for injury, s/he *could* have achieved. Say, Assistant Chief Fire Officer with a 1998 APP of £55,000.

(c) His alternative Paragraph 5 1 (a) *notional retirement pension* amount would have been 40/60^{ths} x £55,000, to give him a notional retirement pension of £36,667 pa.

(d) Paragraph 5 1 (b) requires the higher Paragraph 5 1 (a) *notional retirement pension*, to be paid as a compensating enhanced Rule B3 ill-health pension. His B3 ill health pension award is £36,667, paid solely in compensation for his financial

loss.
A Rule B4 Injury Award(Calculated from the Rule B3 pension) is also granted to compensate him/her for his/her 'qualifying' injury, loss of amenity, pain and suffering.

Example B.

(a) Not a high flyer, but a first rate 'Qualified' Firefighter, aged 49, with 29 years service, at the top of his/her APP scale at £27,000 and unlikely to be promoted above his/her then Rank, of Leading Firefighter, before being required to retire on account of age (at 55). His/her Paragraph formulaic 4 amount would be *7 x A + 20 x A + (9 x 2 x A)/60,* or (as in Example A), 45/60^{ths} of £27,000 APP, or £20,250pa *Ill-health pension amount*.

(b) His/her Paragraph 5 (1) (a) *notional retirement pension* would be 40/60^{ths} of the APP of the Rank or Pay Point on the current Pay Scales s/he could have achieved by 55. In his/her case no more than his/her current APP or Rank on the 1998 Pay Scale, so his/her notional pension would have been 40/60^{ths} of £27,000 = £18,000 pa. Indeed, he/she could have retired within months on that non compensatory pension, fully fit and 5 years before being required to retire on age at 56, not senior enough in Rank to go to 60.

(c) Paragraph 5 (1) (b) requires the *higher* amount to be paid. The Paragraph 4 Formulaic, Rule B3 *ill-health pension amount,* paid solely in compensation for his/her financial loss.
A Rule B4 Injury Award (Calculated from the Rule B3 pension) is also granted to compensate him/her for his/her no-fault 'qualifying' injury, loss of amenity, pain and suffering.

35.(i) In Example A. The high flyer is being compensated not just for loss of a much higher pension, absent injury, falling due at 60, but the very substantial loss of pay over his/her last, and by far the most fruitful 11 years for which the employer is liable. With no lump sum provided by the Rule B3 provision, the effect of his/her loss is that it is subsumed into his/her annual ill-health pension, almost as though what, in damages, Court would have awarded as a lump sum, is invested by HMG to increase ill-health pension.

(ii) Example B. S/He is correctly paid at 45/60^{ths} of APP in enhancement above a Rule B1 pension, fairly reflecting limited future financial loss until he would have retired on account of age in 5 or 6 years in which he was doing a good job, but essentially working his time out.

Non-compensatory Rule B1 Ordinary Pension.

36. (i) As Fancourt J found the law to be, each of these example Firefighters, under the guise of satisfying enhanced Rule B3 statutory entitlement to compensation for their financial loss, would receive their non-compensatory Rule B1Ordinary entitlement of £28,000 and £18,000, respectively. If that was the law then the SI, Rule B3 provisions are to no legal effect.

37. (ii) It was, as mentioned, a pension each could have taken within months, on completing the year to their 50th birthday when, on a whim and as fit Firefighters they could have left on a fully accrued non-compensating Rule B1Ordinary pension calculated on their 'last best' 3 years pay.

38. But they would have been denied any compensation for financial loss of the 6 or 11 years of service, respectively, and its rewards, denied by injury.

39. Disabled and compulsorily discharged out, each would no longer have the future earning capacity they would have had on time served retirement, fit and well.

The Appellant.

40. At 54, the Appellant could have taken his non-compensating Rule B1Ordinary pension at any time he liked from aged 50 – uninjured. Fancourt J misdirected himself that a Rule B3 formulaic pension was restricted to 40/60^{ths} and misdirected himself that a compensating enhanced Rule B3 notional retirement pension was to be calculated under Rule G1 (4) (a) et al.

41. Turning to the Appellants provision. When required to pre-empt his career on account of a no-fault 'qualifying' injury in 1998, the Appellant's APP was £32,904pa. He was expecting promotion. The Respondents provided Mrs. Justice Falk with the 2003 starting APP of £43,058pa, for the rank of Divisional Officer II, the senior Rank the Respondents accepted the Appellant, aged 54 and with 37 years service, *would* have reached, absent injury.

42. The Appellant anticipated being promoted in the year of his injury. His final APP could have been greater than the starting APP, and his pension commensurately so. His financial loss cannot be known but is a substantial sum for amortisation within a pension providing no lump sum (save on commutation which reduces income).

43. 1992 SI No:129, at Rule B3, Paragraph 4, applies in the Appellant's case providing a formula on which to calculate his compensatory enhanced 1998 ill-health pension as [7A + 20A + 17 (years service above 20) x 2A/60], or 61/60^{ths} of 'A', his actual APP of £32,904pa, or £33,452.24pa, to be considered for his Rule B3 ill-health pension award.

44. The Appellant's 1998 Paragraph 5 calculation is 40/60^{ths} of his notional DOII, APP of £36,541pa (not as at 2003 but 1998) providing him with a notional retirement pension of £24,364.67pa to also be considered for the Rule B3 ill-health pension award. If in contention this figure, would need careful revision for, with allowances, the APP is well above the basic APP for the Rank.

Correction.

45. (i) The Appellant's Rule B3, Paragraph 4 amount being *greater* than his Rule

B3, 5 (1) amount, the Rule B3 *ill health pension* amount of £33,452.24pa is what properly should have been awarded to the Appellant in 1998 as his compensating enhanced Rule B3 ill-health pension.

(ii) Since his notional DOII pension with all allowances could not have amounted to the £50,000 APP it would have to have become, to compete with his Paragraph 4 amount, his correct 1998 confirmed entitlement to a compensating enhanced Rule B3 ill-health pension £33,452.24 pa - index linked.

46. The Appellant is being paid an index linked pension of 40/60^{ths} of his last earned APP of £32,904pa, providing him with a non-compensating Rule B1Ordinary pension, as at 1998, of £21,936pa.

47. (i) It follows that the Appellant's Rule B3 pension was underprovided by £33,452.24pa less £21,936pa, the non-compensating Rule B1Ordinary pension awarded him purporting to be his compensating enhanced Rule B3 ill-health pension entitlement; so a wrongful denial of pension due in the sum of £11,516.24pa, since commencement in 1998.

(ii). To adjust the 1998 Rule B1Ordinary pension paid to the Rule B3 ill-health pension entitlement requires a shortfall of £11,516.24 to be added to the paid £21,963pa to pay the correct £ 33,452.24pa.

(iii) The initial 'error' is corrected by adding 52.5% to the Rule B1 pension B1 to correct it to Rule B3 pension.

48. The Appellant's B4 Injury Award is calculated within the Rule G1 (4) (a) provision and will need revision or amendment.

49. The Respondents provided Mrs. Justice Falk with the DOII APP on appointment as at his retirement on account of age date in 2003 at c£43,000pa. He would have expected to be in that Rank for two or three years before retirement at 60. With allowances his APP could well have been c£48,000+ on which aged 60 he would have retired on a non-compensating Rule B1 Ordinary pension of £32,000+. From which it may be thought that the Home Office, more or less, pitched its compensation for financial loss about right.

50. The Appellant, with respect, appeals the judgement of the Honourable Mr. Justice Fancourt on the grounds that he was so wrong in his construction of the law as to confound its meaning, making it, as he sought to find on it, inexplicable. Leaving the Court of Appeal no option but to correct him; he being wrong in law and on important legal principles of public importance.

51. Under common law an employer found liable for injury causing financial loss may pay damages to restore that person to their former position, in so far as money can, Fancourt J misdirected himself to so construe the SI as to deny compensation, where not denied by the Statute.

52. Fancourt J omitted to consider and apply the doctrine of contra preferentem in his construction. The Respondents rely on their interpretation of the law between them, as force majeure administrators, which they practiced in malfeasance.

The Appellant Seeks:

That his Appeal be Allowed (even out of time).

Judgement for the sums due to him, interest, and Exemplary Damages.

A Declaration.

53. "That the law is that in calculation of an ill-health pension pursuant to 1992 Statutory Instrument No.129, the Rule B3, Paragraph 5 notional retirement pension was to be, and is to be, as though the enforced ill-health retirement had not cut short a career before being required to retire on account of age, and on the APP of the Rank, or at the Pay Point in the Pay Scales, the disabled Firefighter could have reached, but for ill-health or no-fault injury.
Such APP for such Rank or Pay Point to be taken from the Pay Scales in force when he/she was compulsorily required to retire on grounds of a no-fault 'qualifying' injury and then; on comparison between calculations of the Paragraph 3, or 4 amount, and the Paragraph 5 amount, the *greater* to be paid as the compensating enhanced Rule B3 ill -health pension".

Exemplary Damages.

54. The Appellant seeks Exemplary Damages:

(i)The Chief Fire Officer seeks to exculpate the Respondents by claiming *"I am unable to see any reference in the Statutory Instrument to this being compensation"*. But it was his delegated duty, and those he delegated, to administer the Respondent's Firefighters Pension Scheme in compliance with the law and to find out what the law was and implement it.

(ii)The Respondent knew, or ought to have known, that they were under a legal obligation of fiduciary duty to put all Pension Scheme Members interests first including the Appellant. They failed to do so.

(iii) Denial of pension payment was not openly done but was done under the guise of it being a compensating enhanced Rule B3 ill-health pension entitlement which the SI required the Respondents to pay to the Appellant.
It was done in breach of duty to make sure the right amount was paid as a compensating enhanced Rule B3 ill-health pension. It was achieved by the Respondents maintaining the trust of their disabled Retired Firefighters, by deceiving them.
Deception included the most deliberate misrepresentation in an earlier case at

the Pensions Ombudsman on the same facts as the Appellant's case.
It has been dishonesty in public office, to which turning a blind eye to the law is no defence.

(iv)The Appellant seeks meaningful exemplary damages to punish the Respondents for deception and suppression of the Home Office Commentary to the SI, on whose plain language the Appellant would have immediately realised that a non-compensating Rule B1 Ordinary pension could not possibly be a compensating enhanced Rule B3 ill-health pension amount.

(v) The Respondents have been dishonest in public office. By their deception to save their Firefighters Pension Fund disbursements as required by law, perhaps to earn performance pay or bonuses, but by such conduct they have casually and malignly denied the Appellant much of the quality of his life over the last 24 years, intended and provided by statute for him, and which his correct pension would have afforded him.
Deceiving the Appellant that his paid non-compensatory Rule B1Ordinary pension was his entitlement and, paying it to him denied him the amenity his proper, 52.5% *higher,* compensating enhanced Rule B3 ill-health pension would have afforded him, and his family, from 1998 onwards.

(vi)The Respondents' unconscionable and unlawful conduct, has been deliberately to frustrate legislative provision, directly at the Appellant's personal financial loss, by an egregiously arbitrary and oppressive abuse of power by servants of the government, such abuse extending into delay from 2015. The Appellant contends the Respondents have taken the law into their own hands to defraud the Appellant of his lawful pension.

(vii)On complaint, rather than immediately seek to correct it, the lay Chief Fire Officer took no advice and sought no judicial review but preferred not to understand the law in order to continue the wrongdoing.

(viii)Contrary to section 15(1) of the Equality Act 2010 the Respondents compulsorily discharged the Appellant on account of his no-fault injury and ill-health, wrongfully discriminated (continuing) against him by denying him the pension provided by law to others require to retire on account of ill-health. Paying him a non-compensatory Rule B1Ordinary pension when the 1992 Statutory Instrument No:129, Rule B3, provides him with an ill-health pension in compensation of his financial loss.

(xix)The Respondents deny the Appellant's human right to protection of his property, his pension, unlawfully withheld from payment being his legal property though not in his possession, and are in breach of the Human Rights Act 1998, Schedule 1 Part ll, The First Protocol, Article 1 providing that " Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest".

(x) (a)The Appellant also seeks exemplary damages, dicta Lord Devlin in

Rookes v Barnard (1964) UKHL 1, (1964) AC 1129. The Respondent's conduct has been a long, persistent, and egregiously arbitrary and oppressive abuse of power by servants of the government.
They have long fostered by deceit, and by abuse of their powers they have protected their 'system' to be dishonest in public office, even to the contamination of the Pensions Ombudsman and to the direct financial damage of the Appellant. They have unlawfully retained monies as they fell due, to his detriment, depriving him of his property, but to the benefit of the Firefighters Pension Fund they manage, and perhaps personally, improved 'performance' usually being reflected in personal pay and rewards.

(b) Their conduct continues to be unlawful. It remains arbitrary and oppressive conduct in abuse of the Appellant interest, which it is the Respondents' duty in law to protect,

(c) The Respondents' conduct is repugnant and criminally unlawful contrary to s1-4 of the Fraud Act 2006, the Respondents, their servants or agent, being servants of HMG, unlawfully denying the Appellant his property.

An Account.

55. (i) An account of each monthly Rule B3 pension payment to which the Appellant became entitled from the first month of wrongful deprivation in 1998, to the date of payment of monies wrongly denied the Appellant. And interest compounded thereon monthly at the rate of 8% above base rate.

(ii) The Appellant refers the Honourable Court to Man Nutzfahrzeuge AG v Freightliner Ltd [2005] EWHC 2347 (Comm), Moore-Bick LJ dictum at para 321.

> "*There has been an increasing willingness to recognise that an award of simple interest does not fully compensate the injured party for the loss caused by being kept out of his money, nor does it adequately reflect the benefit to the wrongdoer of having had the use of it. As a result it has become routine for arbitrators to award compound interest in the exercise of their powers".*

(iii) The Appellant also refers the Honourable Court to Perry -v- Raleys Solicitors [2017] EWCA Civ 314 **t** Dicta**,** Lady Justice Gloster in her consideration of the arguments in relation to interest:

> *"62. In my judgment, the appropriate interest rate, in the particular circumstances of this case, for the entire period from 1 December 2006[10] to the date of judgment in this court is the judgment rate of 8% per annum*
>
> *63. Had it not been for Raleys' negligence, the reasonable chances are that by 1 December 2006 at the latest, Mr Perry would have received the sum of £14,556.15 from the Scheme as a services claim award. This would have included an element of interest at the Scheme rate up until December 2006. If he were only to be awarded simple interest thereafter at the special account rate – 6% until 31 January 2009, 3% from February to May 2009, 1.5% in June*

2009 and 0.5% from1 July 2009 until judgment – he would not, in my judgment, be adequately compensated for the lack of the use of that money in the intervening period not least because of the erosion of the value of the fund due to inflation.".

(iv) The Appellant would also wish to refer the Honourable Court to the reality of modern life for those not so well off on credit card debt and Bank Overdraft being above, sometime well above, 16%, bank rate having no presence in the High Street or with ordinary people.

Orders of the Court.

56. The Appellant seeks the following Orders of the Court, or such other orders, as the Honourable Court may think fit to make.

That within 14 Days of Judgment, the Respondents do provide the Appellant for his approval and agreement:

1. A First Schedule showing each monthly pension payment made to him to the next payment date following judgment.
2. A Second Schedule showing each amount uplifted by 52.5% to correct from a Rule B1 pension to Rule B3 pension.
3. A Third Schedule showing the shortfall, month by month, of the Rule B1 payment to the Rule B3 entitlement, wrongly retained by the Respondent's Firefighters Pension Fund.
4. A Fourth Schedule taking the shortfall debt arising month by month and applying bank base rate + 8% pa compound interest, or such rate of interest as the Honourable Court considers just and lawful, to each monthly retained sum, to be added monthly, from the date of wrongful retention, to the pay day following the Judgment.
5. Making payment of all amounts to be paid including costs, as the Appellant directs within 14 days of the Appellant's agreement to the Scheduled amounts.
6. The Respondents supply on demand and render any assistance the Appellant, his servants or agents, may require to settle the matter to his satisfaction.
7. The Respondents shall pay any professional costs incurred should the Appellant be unable to agree the Respondent's Schedules.
8. The Appellant may apply to the Honourable Court for Directions ex parte at any time.
9. On disagreement on any point, the Respondents to bear the costs of proceedings or arbitration, at the Appellant's choice.
10. The Respondents to indemnify the Appellant against payment by him of any sum arising from judgement of monies and payment to him of what, but for the Respondents unlawful retention of his moneys, would have been paid as pension as it fell due attracting no such sum.
11. The Respondents to uplift the Appellant's pension, scheduled to be paid next after the next pay day after judgement to his correct current Rule B1 Ordinary pension amount by + 52.5% to in future pay him his correct

compensating enhanced Rule B3 ill-health pension entitlement.

12. The Respondents to retain 20% of the judgement debt in full and final settlement of tax payable, it falling to the Respondents as his pension administrators to settle any HMRC demand for tax in any guise, in full, arising from any payment made under the judgement.
13. The Respondents resuming normal deductions from first payment of the corrected Rule B3 compensating pension.
14. The satisfaction of the judgment to be registered with the Honourable Court.
15. To pay any sum awarded by the Honourable Court by way of aggravated and/or exemplary damages within 30 days of judgement.

And/or such other relief, or order as The Honourable Court may consider appropriate and be disposed to grant.

57. And Costs.

Mr. Francis Michael Galpin_____.

Litigant-in-Person

Filed this 1st Day of April 2021,

John M. Copplestone-Bruce
Inner Temple (PB)

Appendix 'A' Research – A Layman's briefing note on Two Pension Schemes.

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

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

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

From: Paul P Burns GIFireE.

Dear J.M. Copplestone-Bruce,

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

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

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

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

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

3. The FSR are clearly more modern. Highlighted in pension calculation where broadly the FSR uses years, 60ths, and applied formulae in the calculation of pensions as opposed to just 60ths in the PSR.
The PSR B3 uses a 'reference' base APP whilst the FSR uses both the 'actual' APP and a 'reference' APP for calculation purposes and is therefore much more wide ranging and generous in its compensation potential than its counterpart.

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

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

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

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

"the purpose is to help those who use the Scheme to understand its provisions, bearing in mind that such guidance cannot replace or override those provisions".

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

"The broad purposes of your ill-health pension are to compensate you for the interruption of your career, and (once you reach the age when you could have retired with a pension) <u>to take</u> <u>the place of a retirement pension</u>.". **(my underline).**

8. Next to a broad understanding of accrual rates.

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

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

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

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

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

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

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

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

Your pension will only grow beyond 40/60ths if the scheme rules say so. Certainly legislation will not prohibit this, but it does not require it to happen.".

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

- Both sets of Regulations are subordinate to the Pensions Acts.
  Repeated searches of the Pensions Act 1995; the Pensions Act 2004; and the Public Service Pensions Act 2013, fail to elicit any reference to the 60ths of any description.
- The 1973 FSR-SI categorically states that an ill health pension is limited, or if you like, 'capped' at 40/60ths.
- The 1987 PSR-SI categorically states that an ill health pension is 'capped' at 40/60ths.
- The 1992 FSR-SI does not categorically state a 'cap' or limitation of 40/60ths to any pension or formulae throughout its main text.
  However, in the entire FSR-SI there is only one direct reference to a 40/60ths 'cap' of a Short Service or ill-Health pension which is contained in(Sorry the lead in is tortuous), Schedule 11(Page Substitution); Special Cases; Part IV; Rule J6; Modification For Persons Serving On 10th July 1956; Page 82;Para 17 'For Parts I to III of Schedule 2 substitute...Part I and Part II.

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

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

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

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

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

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

11. Rounding up broadly on the 60ths issue.

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

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

- The B1 'Ordinary' formula *always* calculates out to 40/60ths but there is no statutory 40/60ths stated 'cap' for this position in the SI.
- The FSR Rule B3 (Paragraph 4) formula consisting of 3 elements and is constructed as follows(Reading left to right).

    - ❖ The first *enhancement* element calculates ***up to*** 7/60ths for long(er) service; plus,
    - ❖ The second core element calculates ***up to*** 20/60ths for the first 20 years of service; plus,
    - ❖ The third core element calculates ***up to*** 20/60ths for the second 20 years of service: plus,

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

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

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

14. In the FSR-SI, a 'Notional Retirement Pension' is specifically referred to in Rule B3(Para 5) and a formula for its calculation is provided in Rule B5 (Para 2.(2).
It is actuarially constructed in a different manner. It is mathematically possible to calculate to 40/60ths but there is no statutorily stated 'cap' to 40/60ths of this Notional Retirement Pension formulae and for it to be then whimsically applied would also be mathematically and legislatively absurd.

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

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

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

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

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

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

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

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

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

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

Paul P.Burns GIFireE

5th May 2015.

****

In the High Court of Justice
Business and Property Courts of England and Wales
Chancery Appeals (ChD)
On appeal from a decision of the Deputy Pensions Ombudsman on 10 September 2019 (ref: PO-19150)
Appeal ref: CH-2020-000043

BETWEEN

FRANCIS MICHAEL GALPIN

Appellant

and

LANCASHIRE COMBINED FIRE AUTHORITY

Respondent

ORDER

Before **the Honourable Mrs Justice Falk** sitting at the Rolls Building, 7 Rolls Building, Fetter Lane, London, EC4A 1NL on the 2nd day of April 2020

UPON considering the applications for an extension of time to file the Appellant's notice and for permission to appeal

AND UPON reading the appeal bundle

AND UPON reading a letter from Counsel to the Pensions Ombudsman dated 20 February 2020 in connection with the extension of time application

IT IS ORDERED THAT

1. Permission is granted to the Appellant to bring this appeal out of time, and time is extended to 4pm on 4 February 2020.

2. The Appellant's application for permission to appeal on the merits is refused.

3. The Appellant may, within seven days of receipt of this order, apply for a hearing at which he may renew his application for permission to appeal. Such application may be made by to the High Court Appeal Centre Rolls Building, 7 Rolls Building, Fetter Lane, London, EC4A 1NL, or by email to ChanceryJudgesListing@justice.gov.uk, in each case quoting the above appeals reference number. Any such application must also be served on the Respondent and the Pensions Ombudsman.

4. This order has been made by the court under paragraph 7.1 of Practice Direction 52B, as the court has disposed of an application

without hearing the Respondent. Under para 7.3 of that Practice Direction, any party may apply to have the extension of time under paragraph 1 of this order set aside or varied within 7 days of the date of service upon that party, and must serve a copy of the application on the other party and the Pensions Ombudsman at the same time.

5. Any application made under paragraph 3 or 4 must confirm the correct identity of the Respondent to this appeal.

6. Any hearing of an application made under paragraph 3 or 4 may be on a remote basis, using Skype for Business (if possible) or otherwise a conference call, and will be a public hearing. The judge will consider written submissions on the communication method that should be used.

REASONS:

Extension of time:
The Appellant had a right to appeal the decision of the Deputy Pensions Ombudsman (the "Decision") on a point of law within 28 days, under s 151(4) of the Pension Schemes Act 1993 and pursuant to a general direction for England and Wales that has been made by the Pensions Ombudsman that appeals should be made within 28 days. Given that both the Appellant and Respondent are based in England, the appeal should have been filed in the High Court in England and Wales. However, an appeal was instead filed in the High Court in Northern Ireland on 23 September 2019, 13 days after the date of the Decision. The reason for this appears to have been related to the fact that the Appellant has been assisted by an ex-colleague, a Mr Burns, who is resident in Northern Ireland.

On 6 November 2019 Maguire J struck the appeal out for want of jurisdiction. It appears from the Appellant's notice that the appeal was then relodged in London on 3 December 2019, but with the Court of Appeal rather than the High Court. It was returned on 13 January when the Appellant was advised to resubmit the appeal to the Chancery Division.

I accept that the Appellant acted promptly after the Decision was issued. I also accept that the information issued with the Decision about appeals does not explain precisely when an appeal may be brought in Northern Ireland or elsewhere. Against that there is no indication that the Appellant took any steps to identify the correct route of appeal, and it is possible that his decision to appeal in Northern Ireland may have been affected by the fact that no permission is required in that jurisdiction.

It is also the case that there were delays between 6 November and 3 December, and again between 13 January and lodging the appeal in the Chancery Division, which according to the court's filing system was first attempted on 31 January. There is no obvious good reason for these delays. However, each delay is of a relatively moderate length.

Time limits are important, and they apply to litigants in person in the same way that they apply to litigants who benefit from professional advice. However, although the overall delay between the expiry of the 28 day time limit and the appeal being filed in the Chancery Division is significant, I think it is outweighed by the fact that there are some reasons for the delay, that there is no indication that the Respondent has been prejudiced by the delay, and by the fact that, in the interests of justice, I consider it preferable to address the substantive merits of the appeal.

I have therefore concluded that in all the circumstances it is appropriate to extend time and deal with the permission to appeal application on its merits.

Permission to appeal:
The appeal bundle contains a significant amount of material, including details of complaints and allegations of a serious nature that are not relevant to this appeal. I confine my comments to the points identified in the grounds of appeal as alleged errors of law by the Deputy Pensions Ombudsman, which I can summarise as follows:

(a) incorrectly interpreting the legislation and therefore failing to identify that the Appellant was wrongly being paid a B1 ordinary pension rather than the enhanced B3 ill-health award to which he was entitled;
(b) wrongly using an example in a Home Office commentary on the legislation to support that result;
(c) failing to recognise that firefighters had had common law entitlements removed, and that the statute should be interpreted in a way that did not deprive the B3 ill-health provision of meaning; and
(d) failing to recognise that rule K3 provides for an ill-health award to be reduced in certain circumstances, which was inconsistent with concluding that the pension due to the Appellant was the irreducible B1 pension.

In my view this appeal has no real prospect of success, and there is no other compelling reason for it to be heard.

The legislation at issue is Schedule 2 to The Firemen's Pension Scheme Order 1992/129 (the "1992 order"). I have proceeded on the basis that the correct version to consider is that in force at the date of the Appellant's retirement, which was 22 July 1998. On that basis the legislation originally enacted, available on the legislation.gov.uk website, appears to be the correct version since although certain changes had been made to the 1992 order by that date, the provisions at issue in this appeal appear not to have been amended.

Part B deals with personal awards, the relevant provisions being B1 and B3. Relevant extracts are as follows:

"Ordinary pension

B1.—(1) Subject to paragraph (2), this rule applies to a regular firefighter who retires if he then—
(a) has attained the age of 50, and
(b) is entitled to reckon at least 25 years' pensionable service, and
(c) does not become entitled to an ill-health award under rule B3.
…
Ill-health award
B3.—(1) This rule applies, unless immediately before his retirement an election under rule G3 not to pay pension contributions had effect, to a regular firefighter who is required to retire under rule A15 (compulsory retirement on grounds of disablement).
(2) A person to whom this rule applies becomes entitled on retiring—
(a) if he is entitled to reckon at least 2 years' pensionable service or the infirmity was occasioned by a qualifying injury, to an ill-health pension calculated in accordance with Part III of Schedule 2, and
(b) in any other case, to an ill-health gratuity calculated in accordance with Part IV of Schedule 2.
Schedule 2 Part III: Ill-health pension
1.—(1) Paragraphs 2 to 5 have effect subject to Parts VII and VIII of this Schedule, and paragraphs 3 and 4 have effect subject to paragraph 5.
(2) In paragraphs 2 to 4, A is the person's average pensionable pay.
2. Where the person has less than 5 years' pensionable service, the amount of the ill-health pension is—

$$\frac{A \times B}{60}$$

where B is the greater of one year and the period in years of his pensionable service.
3. Where the person has at least 5 but not more than 10 years' pensionable service, the amount of the ill-health pension is—

$$\frac{2 \times A \times C}{60}$$

where C is the period in years of his pensionable service.
4. Where the person has more than 10 years' pensionable service, the amount of the ill-health pension is the greater of—

$$\frac{20 \times A}{60}$$

and

$$\frac{7 \times A}{60} + \frac{A \times D}{60} + \frac{2 \times A \times E}{60}$$

where D is the period in years of his pensionable service up to 20 years, and E is the period in years by which his pensionable service exceeds 20 years.
5.—(1) Where—
(a) if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension ("the notional retirement pension"), and
(b) the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the notional retirement pension,
the amount of the ill-health pension is that of the notional retirement pension.
(2) The notional retirement pension is to be calculated by reference to the person's actual average pensionable pay."

Pensionable pay is determined under paragraph G1. That provides that average pensionable pay is, subject to some exceptions, the aggregate of the individual's pensionable pay during the year ending with the "relevant date", which is essentially when the individual retired.

The Appellant retired on 22 July 1998, a few months short of his 55th birthday. By the date of his 50th birthday on 17 December 1993 he had already achieved 31 years of pensionable service, and by that stage was already able to choose to retire with a maximum ordinary pension under B1 (see the letter dated 19 February 2016 from LFRS included at tab 3 of the appeal bundle). As I understand it, absent ill-health he could have been required to retire at the age of 55, on 17 December 1998.

In fact the Appellant retired on grounds of ill-health at a time when he had over 35 years of service. There is no dispute that because he retired on grounds of ill-health he is entitled to an ill-health award under B3(1). It is clear that that means that he may not receive a pension under B1: see B1(1)(c).

The real dispute relates to paragraph 5 of Part III of Schedule 2 (confusingly, not Schedule 2 to the 1992 order but instead a Schedule included within Schedule 2 to the 1992 order). The Deputy Ombudsman upheld the Respondent's decision that the Appellant's pension was "capped" at the amount of an ordinary pension under B1, calculated using average pensionable pay determined at the date of retirement. That ordinary pension amount, calculated (given the length of service) on a 40/60 basis under Part I of Schedule 2, was obviously less than the amount that would have been payable under paragraph 4 of Part III (set out above).

I can detect no possible error of law in this conclusion. The key question is to determine the "notional retirement pension" under paragraph 5. If the amount calculated under paragraph 4 is higher than that amount then the amount of the pension payable under B3 is equal to that "notional retirement pension". It is worth emphasising that the pension is still payable under B3, not B1, but the calculation is determined by reference to the ordinary pension.

The Appellant argues that there is significance in the words "by reference to" in paragraph 5(2), in contrast to the word "is" when used to refer to average pensionable pay in paragraph 1(2) of Part III. What it is said that the rules contemplate is that the Respondent should have determined the pay level that the individual could have achieved if he had actually worked up to his normal retirement date, using pay scales available at the time and assuming pay increases and promotions, rather than using actual pay in the year to retirement. (It is not made clear what, if any, difference this would actually make on the facts of this case.)

There is no basis for reading the legislation in this way. What is referred to in paragraph 5(2) is actual average pensionable pay. As already mentioned that is defined under paragraph G1 by reference to the year to retirement. The reason that paragraph 5(2) uses the words "by reference to" is that the word

"is" would not make sense. What it is saying is that the notional retirement pension has to be calculated *using* actual average pensionable pay.

The Appellant also relies on a commentary published by the Home Office. The text relied on, set out at Appendix 2 to the Decision, refers to capping in terms that the pension can never be more than "could have been earned" or that the person "could have earned" by compulsory retirement age. This text has no force of law and cannot affect the clear wording of the legislation. In any event, the text can be read as referring to the pension available by reference to length of service (so if, for example, there would only have been 20 years' service at normal retirement, the pension would be lower than the 40/60ths maximum referred to). In addition, as indicated by the Decision, Example 7 in the commentary appears not to assist the Appellant's case.

I do not agree with the submission that this interpretation deprives B3 of meaning or effect, or that there are no circumstances when paragraph K3 could apply. There will be many situations where either paragraph 3 or paragraph 4 of Part III will produce a result which is lower than the notional retirement pension, and therefore where the pension payable would be determined by those paragraphs. This would be likely to be the case if retirement on grounds of ill health occurred earlier in a firefighter's career, rather than close to retirement. For example, assume retirement on grounds of ill-health after 20 years of service at age 40, and that the individual could otherwise have been required to retire at 55. The calculation under paragraph 4 would produce a pension of 27/60ths of average pensionable pay. If the individual had continued to work until retirement he would have had 35 years' service and a 40/60ths pension. On those facts paragraph 5 would have no application because the amount calculated under paragraph 4 would not exceed the notional retirement pension.

Identity of the Respondent

The Appellant has named the respondent to the appeal as Lancashire Combined Fire Authority. The respondent named in the Decision is Lancashire Fire and Rescue Service, and I would have expected that entity to be the respondent to the appeal.

SERVICE OF THIS ORDER: The court has provided a copy of this Order to:
Mr FM Galpin, francisgalpin@aol.com
Mr D Howell (solicitor) Lancashire Fire & Rescue Service dominichowell@lancsfirerescue.org.uk
The Pensions Ombudsman (ref PO-19150), enquries@pensions-ombudsman.org.uk and david.craddock@pensions-ombudsman.org.uk

CH-2020-000043

In the High Court of Justice
Business and Property Courts of England and Wales
Chancery Appeals (ChD)
On appeal from a decision of the Deputy Pensions Ombudsman on 10 September 2019 (ref: PO-19150)
Appeal ref: CH-2020-000043

BETWEEN

FRANCIS MICHAEL GALPIN

Appellant

and

LANCASHIRE COMBINED FIRE AUTHORITY

Respondent

ORDER

Before **the Honourable Mrs Justice Falk** sitting at the Rolls Building, 7 Rolls Building, Fetter Lane, London, EC4A 1NL on the 6th day of May 2020

UPON correspondence with the Appellant, in which the Appellant confirmed that he does wish to proceed with an oral renewal hearing, **AND UPON** correspondence with both parties in connection with the factual context for the appeal and the legal issue raised

IT IS ORDERED THAT

1. The oral renewal hearing of the appeal shall be listed on the first available date on or after 1 July 2020.

2. The Respondent shall no later than 8 May 2020 (or by such later date as the court may agree following a written request for an extension) provide to the Appellant a draft brief summary of relevant facts, covering (so far as is reasonably available) (a) the Appellant's compulsory retirement age, (b) the way in which the Appellant's pension was calculated (currently assumed by the court to be 40/60 x actual pay in the year to retirement) and (c) some information about the relevant pay scales and promotion arrangements, in particular as to whether progression was automatic.

3. The Appellant shall promptly provide any reasonable comments on the draft summary of facts so provided. Those comments must be limited to any necessary corrections to address inaccuracies and to those issues referred to in paragraph 2 of this order.

4. The Appellant and Respondent shall thereafter seek to agree the summary of facts, with a view to the Respondent filing at court and serving on the Appellant an agreed summary of relevant facts by no

later than 4 pm on Friday 22 May. If the summary is not agreed the Respondent should file and serve its version of the summary on that date. In that event the Appellant is at liberty to file and serve a version showing the points with which he does not agree. However, the court will ***not*** entertain additional written submissions, and anything filed by the Appellant must be limited to the matters referred to in paragraph 3 of this order.

5. Following correspondence with the parties, the court confirms its understanding of the legal issue in the appeal as the following:

   Whether, as a matter of statutory construction of paragraph 5 of Part III of Schedule 2, contained in Schedule 2 to The Firemen's Pension Scheme Order SI 1992/129, the requirement to calculate the notional retirement pension "by reference to" actual average pensionable pay means either:

   a. (as the Respondent contends) that the calculation must be done using actual pay in the year to the date of retirement; or
   b. (as the Appellant contends) that the calculation must be done by reference to the pay scales in place at the date of retirement, but assuming that the individual would have continued to progress through those pay scales, and achieved available promotions, until the date that he or she could have been required to retire absent ill health or injury.

REASONS

The hearing is to be relisted not before 1 July for the reasons referred to in the order of 1 May 2020, namely a) to allow the Appellant to seek legal assistance and b) allow time for the facts to be clarified. The Respondent has kindly agreed to assist the court in relation to b).

The court also considers that, in view of the written submissions provided by or on behalf of the Appellant (including lengthy submissions addressed to the Court of Appeal and received by this court on 24 April 2020) it is important to clarify what appears to be the single legal issue in dispute in this appeal. This is reflected in paragraph 5 of the order.

The sole purpose of seeking a summary of the facts, as contemplated by paragraphs 2 to 4 of the order, is to assist the court in providing a factual context for determining whether permission to appeal should be granted in respect of the legal issue in dispute.

SERVICE OF THIS ORDER: The court has provided a copy of this Order to:
Mr FM Galpin, francisgalpin@aol.com
Mr D Howell (solicitor) Lancashire Fire & Rescue Service dominichowell@lancsfirerescue.org.uk
The Pensions Ombudsman (ref PO-19150) david.craddock@pensions-ombudsman.org.uk

ORAL HEARING 3rd July 2020

Note for Case

In accordance with Judges Order, Galpin v Lancs Comb Fire Auth.

Instructions were received for me (the appellant) to take part in a hearing with Mrs Justice Falk on the above date at 1030 am.

Prior to that date I received instructions on how to go about making the necessary contact with the Court and was given a choice of communication systems; I chose Skype.

At 10 am I went through the motions of contacting the Court but found that the Hearing app would not load into my iPad. I found this situation quite stressful which added to my apprehension about the forthcoming proceedings.

I rang Mrs. Justice Falk's clerk, M/s Saleem, to report the problem.
I gave her my name and said that I have a hearing with Mrs Justice Falk at 1030
M/s Saleem cut me short and said "no you don't you have a hearing with Mr. Justice Fancourt and then gave me a telephone number for Mr Justice Fancourt's clerk.
M/s Saleem's manner was brusque which surprised me as I had spoken to her previously and, at that time, had found her to be amiable.

Within a minute or two I received a call from Mr Steven Brilliant, Mr. Justice Fancourt's clerk.
He had been asked to ring me by M/s Saleem
Mr Brilliant talked me through the alternative hearing procedure which was by telephone.
Mr Brilliant was most efficient, understanding and helpful throughout the proceedings and has been so on further contact.

Mr. Justice Fancourt was a few minutes late in arriving.

He stated that this would be a short hearing and asked if I had anything to add to correspondence already received. Mr Justice Fancourt's manner was formal and business like.

I must say that I did expect him to ease me into the event but he chose not to.

I referred him to the Barrister's Advice which was sent to the Deputy Ombudsman following her Determination. In her Determination she included advice that I could appeal in a Court of Law against the Determination providing it was restricted to points of law only. I stated that Mr Copplestone Bruce had produced in his 'Advice' the points of law relevant to the DPO's Determination.

After a moment he asked if that was a Mr Locke in 2015 ?

I told him it was Mr Copplestone Bruce in 2019 and it was dated 15th or 19th of September.
I repeated what I had just said for his benefit.

There followed much shuffling of papers before he, I assume, found the document.

He asked me to give him the details again and then said there would be a “silence” whilst he read the document.

I had read the Advice to the Deputy Ombudsman three times previously and found it hard going as it had been written in “lawyer speak”. I read it again during the “silence” and reached only item 16 of the 44 items written by Mr. Copplestone Bruce when the Judge brought the “silence” to an end and stated that he had read the document.

I found this hard to believe and particularly as there are references in the Advice that should be read in conjunction with the Ombudsman’s Determination.

Mr. Justice Fancourt stated that the issue is about “further promotion” (which it is not) and in my case before I was 60 when I would have formally retired.

The judge said that promotion was not a ‘given’ and went on to say that prediction for promotion amounts to guesswork. He said Mrs. Justice Falk encapsulated the matter by her reference to there being a cap imposed (I didn’t follow this).
He said that what the Commentary says is highly complex and it has no statutory force.
He stated that there was no realistic argument in law and therefore he refused permission to appeal.
I believe that twice he stated that Mrs Justice Falk “encapsulated” matters in her Judgement.

I put to him the fact that this was not just about me but about those disabled FSVs that are still with us, those who have gone before, and their widows and beneficiaries that struggle on what remains of a pension.

He stated that he was sympathetic but the Judgement had to be made on argument of law.

I await the bill now which had to be pre-paid before the transcript company produce Mr Justice Fancourt’s JUDGEMENT. I had asked for the JUDGEMENT only. NOT the whole transcript.

FMG

Addendum…NEEDS A DATE…. MAKE IT THE LAST EMAIL

I contacted UBIQUS and contracted them to prepare a transcript of the hearing.

Later I changed my mind about having the Judge’s summary only and asked them to complete the whole of the transcript. I have received their transcript which is missing the first 21 minutes or so, and the Judge’s summary, immediately prior to him declaring the Judgement.

I have requested UBIQUS to ask the Court about releasing the summary and I have asked them to make enquiries about whether or not there might have been a secondary system to record the whole of the hearing?

I have also asked the Court the same questions in a recent e-mail. I await an answer from the Court.

Neutral Citation Number: [2020] EWHC 2789 (Ch) Appeal Ref: CH-2020-000043

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
CHANCERY APPEALS (ChD)

The Rolls Building
7 Rolls Buildings
Fetter Lane
London
EC4A 1NL

Date: 03/07/2020

Before:

THE HONOURABLE MR JUSTICE FANCOURT

Between:

FRANCIS GALPIN

Intended Appellant (the "Appellant")

and

LANCASHIRE COMBINED FIRE AUTHORITY

Intended Respondent (the "Respondent")

- -
- -

The Applicant appeared In Person
No appearance was made by or on behalf of **the Respondent**

Hearing date: 3 July 2020

- -

Approved Judgment

.....

MR JUSTICE FANCOURT:

1. This is a renewed application by Mr Galpin for permission to appeal against a decision of the Pensions Ombudsman, which was given on 10 September 2019. The original application for permission to appeal on a question of law was considered by Falk J on the papers, and on 2 April 2020 she refused permission to appeal, essentially on the basis that the legal issue raised was unarguable. Mr Galpin, as he is entitled to do, renewed his application for permission to appeal.

2. Mr Galpin is a retired firefighter and he has a pension under the Fireman's Pension Scheme.

3. He was forced to retire, as a fireman, through ill-health as a result of an accident at the age of 54. He would otherwise have been entitled to continue to work until the age of 60.

4. Mr Galpin made a complaint to the Pensions Ombudsman on 10 October 2017 and the complaint, at that stage, was that he was wrongly being paid a Rule B1 ordinary pension, rather than a Rule B3 ill-health pension.

5. The complaint was considered first by a senior adjudicator at the Pensions Ombudsman's office, who wrote an opinion on 13 March 2019 saying that the complaint should not be upheld. Mr Galpin, as he was entitled to do, did not agree with that opinion and accordingly his complaint was further considered by the Pensions Ombudsman, in fact the Deputy Pensions Ombudsman, who gave her decision for not upholding the complaint on 10 September 2019.

6. Mr Galpin sought to appeal to the High Court and after one or two false starts, via the Court of Appeal in Northern Ireland and then the Court of Appeal in this Country, the appeal was finally properly issued in the High Court on 4 February 2020. It was therefore significantly out of time but Falk J considered that there were sufficient reasons to justify an extension of time, and she made that order for an extension of time on 2 April but then refused permission to appeal by the same order.

7. She gave detailed reasons why she considered that, on the true interpretation of the relevant parts of Schedule 2 to the Fireman's Pension Scheme Order 1992, the Ombudsman had clearly been right and therefore Mr Galpin's appeal had no reasonable prospect of success.

8. After the application for permission to appeal was renewed, Falk J made a further order on 6 May 2020, adjourning the hearing that was due to take place to enable various matters to be done in the interim so as to give Mr Galpin the best possible chance of advancing his arguments on the basis of the relevant facts of the case. The relevant facts, in accordance with Falk J's direction, were set out in a document that the employer Fire Authority prepared, dated 6 May 2020, and Mr Galpin then responded directly, and very helpfully, by adding in his points of disagreement, such as they are, in the same document, which I have before me.

9. The relevant facts are that, as I have already said, Mr Galpin was forced to retire early, aged 54, as a result of a road traffic accident when he was on duty. That was a compulsory

retirement for the purposes of the pension scheme. Given his rank at the time of Assistant Divisional Officer, he was entitled to retire at 60 and so he was effectively forced to retire more than five years early.

10. The total pay, to which he was entitled with flexible duty allowance at the date of his retirement, was £32,904.00.

11. The issue between Mr Galpin and the Pension Scheme is that, he says, the rules of the scheme require to be taken into account the chance of the firefighter obtaining further promotion before what would otherwise have been his normal retirement age, and Mr Galpin's case, set out in his amendment to the facts document, is that there was a good chance, as he saw it, of promotion to the rank of Divisional Officer 2 by the age of 60. He says that, in effect, he was doing that work and had that responsibility in any event, and that therefore he considered he had a good chance of promotion.

12. With that promotion the pay, as at the date of his actual retirement, would have been £36,547.72. At one stage, it appeared that part of Mr Galpin's argument was that, not only any promotion should be taken into account, but also any increase in the pay for the relevant rank by the normal retirement age should also be taken into account. But Mr Galpin now accepts that the second point is not a good point. Nevertheless he maintains his case that the prospect of promotion by the normal retirement age of 60 should have been taken into account.

13. The issue is, and is accepted to be, purely a question of the true interpretation of the Pension Scheme comprised in the relevant statutory instrument.

14. Falk J encapsulated the issue in her order of 6 May 2020 in the following terms, and I quote:

> *"Whether as a matter of statutory construction of paragraph 5 of part 3 of Schedule 2 contained in Schedule 2 to the Fireman's Pension Scheme Order, SI 1992 No. 129, the requirement to calculate the notional retirement pension "by reference to" actual average pensionable pay means either:*
>
> *(a) as the respondent contends, that the calculation must be done using actual pay in the year to the date of retirement, or,*
> *(b) as the appellant contends, that the calculation must be done by reference to the pay scales in place at the date of retirement, but assuming that the individual would have continued to progress through those pay scales and achieve available promotions until the date he or she could have been required to retire, absent ill-health or injury".*

15. The relevant provisions of the scheme are, first, in appendix one, where Part B differentiates between an ordinary pension, at paragraph B1, and an ill-health award, at paragraph B3. It is common ground that Mr Galpin is entitled to an ill-health award and not an ordinary pension.

16. In schedule two to that appendix, there are then detailed provisions for the calculation of an ill-health pension. By virtue of his long years of service, Mr Galpin falls within paragraph 4

of that schedule. However, it is the terms of paragraph 5 that are directly in issue and they provide as follows:

> *"(1) Where:*
> *(a) if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension, "the Notional Retirement Pension" and*
> *(b) the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension,*
> *the amount of the ill-health pension is that of the Notional Retirement Pension.*
> *2. The Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay".*

17. Paragraph 5(1) therefore requires a cap to be imposed on the amount of the ill-health pension that would otherwise be calculated under paragraphs 3 or 4 of Schedule 2 by reference to the amount of the Notional Retirement Pension that the retired firefighter would have achieved had he continued to work until the age of retirement.

18. However, paragraph 5(2) says that that Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay. Average pensionable pay, for the purposes of the scheme, is defined in rule G1 as the average pensionable pay of a regular firefighter and is, subject to paragraphs five to seven, the aggregate of his pensionable pay during the year ending with the relevant date, and the relevant date is the last day of the firefighter's service as a regular firefighter.

19. It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service. However, Mr Galpin's argument is that the significance of the words 'by reference to' in paragraph 5(2) of the order is that they require the prospects of promotion during the remaining years of what would otherwise have been normal service to be taken into account. He argues that the words 'by reference to' signifies something different from what the word "is" would have signified, as for example it is used in an earlier part of the appendix: "the pension is the person's actual average pensionable pay".

20. He supports his argument by reference to guidance in the form of a commentary that was issued by the Home Office at the time when the pension scheme came into effect. The relevant part of that guidance says as follows:

> *"How much is the pension? The sums are set out in examples one and four to seven, the basis of the calculations is explained here. A firefighter's basic ill-health pension is never less than 1/60th of average pensionable pay, APP, and never more than 40/60th, two-thirds of APP or what could have been earned by compulsory retirement age".*

21. Mr Galpin fastens on the last words in that quotation and say that requires the scheme to consider what the firefighter could have earned had he continued to work until compulsory retirement on grounds of age.

22. The commentary and guidance is provided to give practical guidance to those considering

their pension entitlement on the way that the detailed provisions of the pension scheme operate. The detailed provisions are highly complex and, with respect, not easy for someone who is not very technically minded to understand.

23. The guidance has no statutory force, however; it is the scheme itself that has to be construed. The significance of the guidance was addressed by the Ombudsman in his decision. He referred to the paragraph to which I have referred, and he said, as follows:
'I find that the commentary does not support Mr N's interpretation' (I interpolate Mr N, in the decision, was Mr Galpin), and then he referred to a further argument in relation to the scheme.

24. He said Mr Galpin suggests that the figure of average pensionable pay should be determined by the Chief Fire Officer, based on what they think the likely salary could have been at the point of compulsory retirement. However, that interpretation implies a level of guesswork and forecasting that simply is not reflected in the methodology prescribed by the order or illustrated in the commentary. Read in the context in which they are used in the commentary, the two instances of what could have been earned by compulsory retirement age are references to the number of years of service that could be achieved, not the average pensionable pay. In both cases, the calculation described is based on a maximum of 40 years' service or the length of service that could have been earned by compulsory retirement age.

25. In my judgment, there is no scope at all for construing paragraph 5(2) of Schedule 2 to the order so as to incorporate a requirement to take account of what promotion may or may not have been achieved by a firefighter between the date of early retirement and the normal retirement age.

26. There is no machinery in the scheme enabling the scheme administrators to assess or predict, or guess, what that promotion might in any given case have been. There is nothing in the wording which suggests that that kind of exercise is required to be undertaken.

27. In my judgement, the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay". There is no warrant for interpreting that as referring to any theoretical pensionable pay that might have been achieved by a later date.

28. I am sympathetic to Mr Galpin in the sense that the commentary and guidance uses a phrase which is ambiguous, namely "or what could have been earned by compulsory retirement age". However, in context, and by reference to the examples given in the guidance, one of which, example seven, is inconsistent with Mr Galpin's case, it is reasonably clear that that phrase is intended to connote the number of years of service that would have been achieved by compulsory retirement and has nothing to do with any promotion.

29. It follows, accordingly, that I consider that there is no realistic prospect of the argument on the issue of law succeeding in Mr Galpin's favour. I consider that Falk J was right for the reasons that she gave. I therefore refuse permission to appeal.

End of Judgment

Transcript from a recording by Ubiqus
291-299 Borough High Street, London SE1 1JG
Tel: 020 7269 0370
legal@ubiqus.com

Ubiqus hereby certify that the above is an accurate and complete record of the proceedings or part thereof

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IN THE ROYAL COURTS OF JUSTICE

Case No. CH-2020-000043

Rolls Building
7 Rolls Buildings
Fetter Lane
Holburn
London
EH4 1NL

Page Count 6.

Friday, 3rd July 2020

before

THE HONOURABLE MR JUSTICE FANCOURT

GALPIN

- v -

LANCASHIRE COMBINED FIRE AUTHORITY

THE CLAIMANT appeared IN PERSON
NO APPEARANCE by or on behalf of the DEFENDANT

WHOLE HEARING

Case called at 10.30am.

MR GALPIN: As I said, I haven't got that in front of me, but as you say –

MR JUSTICE FANCOURT: Well, yes.

THE CLERK OF THE COURT: Sir, sorry to interrupt, my computer just unexpectedly decided to restart itself at about 10:57, so I've started recording again, but I don't know if, just for the sake of the recording, you want to just highlight what was discussed in the last minute or so, for the recording. It is entirely up to you, sir.

MR JUSTICE FANCOURT: For the sake of the recording, I have just had a short discussion with Mr Galpin to make sure I understand exactly how he says that paragraph 5.2 of Schedule 2 to the order works, and the position we have reached, is that if someone retires early through ill health, the pensionable pay is that at the date of the retirement through ill health, but it has to take account of any promotion that the fireman could have been expected to have achieved by the normal retirement date for a person of his rank, and in Mr Galpin's case that is the age of 60. That is right Mr Galpin, I think, is it not?

MR GALPIN: Yes, yes, My Lord.

MR JUSTICE FANCOURT: Well, Mr Galpin, I understand the argument. I think you place reliance on some guidance that -

MR GALPIN: The Home Office commentary, sir.

MR JUSTICE FANCOURT: The Home Office commentary, yes. Let me see if I can locate that in the bundle that I have got. If not, we will refer to it in the Ombudsman's decision, because I think he quotes from it.

Pause.

Mr JUSTICE FANCOURT: No, I cannot find the Guidance itself, so let us go to the decision of the Ombudsman, that he sets out.

Pause.

MR JUSTICE FANCOURT: Actually, he only sets out the particular sentence that you referred to, which is not very helpful. Let me see if I can locate the guidance somewhere else in this bundle. Yes, it is actually an appendix to the Ombudsman's decision. The commentary says how much is the pension, the sums are set out in Examples 1 and 4 - 7, the basis of the calculations is explained here: 'A firefighter's basic ill-health pension is never less that one sixtieth of average pensionable pay, and never more than 40 sixtieths of average pensionable pay or what could have been earned by compulsory retirement age.' And it is those words, is it not: 'What could have been earned by compulsory retirement age,' that you rely on.

MR GALPIN: The B3 pension, My Lord, was an agreed introduction by the union and the employers at the time that the statutory instrument was introduced in 1992. And it was designed, it may not have been written very clearly, but it was designed to replace the fact that people who were having to be retired injured out of the service, to get compensation were going to court, and that was expensive, not only for them but for the taxpayer and, you know, the government, and the unions decided that what was drafted was that B3, Pension B3 would hold compensation so that people did not have to go to court to gain their advantage. And they didn't - I and others feel that it wasn't worded awfully well, and I think that Mr [Copplestone Bruce?] feels the same way and has in his advice, has tried to explain that.

MR JUSTICE FANCOURT: Yes.

MR GALPIN: But B3, there is no, there is very little understanding of the fact that that B3 pension stands for compensation for anyone who has years to work, who has chances of promotion, would be compensated for, and in fact lose out that possibility. Yes.

MR JUSTICE FANCOURT: All right. Well, at the end of the day, the legal question is a vey limited one, as encapsulated by Mrs Justice Falk, and I think correctly encapsulated, and I think you agree that she correctly expressed the issue. It turns purely on the interpretation of Schedule 2 to the order.

MR GALPIN: It is the interpretation that –

JUDGE FALKCOURT: It is purely a legal point

MR GALPIN: It's a legal point, and I think this is why, well, I'm sure that Mr Copplestone Bruce felt strongly about this, and his last advice that you've read is, from my point of view, from our point of view, as good as it gets.

MR JUSTICE FANCOURT: Well, I quite understand what you say that, but Mr Copplestone Bruce is taking a rather broader approach to the merits of the pension scheme, and what I am concerned with is a much narrower question of the interpretation of the statutory instrument.

MR GALPIN: Yes, that's correct. Yes.

MR JUSTICE FANCOURT: Well, Mr Galpin, I have read Mr Copplestone Bruce's advice, I have read the relevant parts of the scheme, is there anything else that you want to say in support of your argument?

MR GALPIN: Well, except to say, and it hasn't been said previously, that from my point of view and I'm the one you are dealing with now, and has been sort of on this quest for so many years now, it's not from personal greed that I'm doing this.

There's a group of people, of us. The 1992 scheme meant that looking back, those I worked with, those I commanded, those I came out of a building on my hands and knees with, wreaked; a lot of them have died leaving widows and beneficiaries. And when they die the widow loses half the pension. They then lose the injury pension and then of course when that person dies, the state pension goes with them. So, the widows and beneficiaries, despite their husbands' paying 11% of their annual income into the pension scheme have got no advantage over anyone who has served the basic time to age 55 and got the same pension. They haven't had any advantage.

MR JUSTICE FANCOURT: Yes.

MR GALPIN: And I think, and I'm sure, that is why B3 was brought in, to compensate people who have been injured and have gone out of the service through no fault of their own, who have been put in harm's way, which of course is what you accept when you're in the job, and then when they die, their widows and beneficiaries don't get any advantage. We believe that the 1992 scheme, people who were on that scheme then, are being underpaid their pension, for those who were injured, anyway, and it amounts to a legal interpretation of the statutory instrument as to whether or not they are being underpaid or were being underpaid.

MR JUSTICE FANCOURT: Yes, indeed. All right. If there is nothing else that you wish to add, Mr Galpin, I will give a judgment.

MR GALPIN: Well, there is such a lot written, My Lord -

MR JUSTICE FANCOURT: Yes.

MR GALPIN: The bundle is, I meant this has been going on since I introduced, since I started it off in December 2015 by presenting the brigade with an IDRP1 which was in fact the first piece of paper they would receive from us, saying that we found something that really ought to be investigated, and the brigade have failed to do so, and we've got to this stage now. It's a long way down the road, but here we are.

MR JUSTICE FANCOURT: All right. I propose to give a short judgment, giving my reasons for the decision on your application.

Judgment given.

MR JUSTICE FANCOURT: Mr Galpin, I am sorry that that goes against you but as I explained, it is a pure question of law, interpretation of the language of the scheme and in my judgment the point is simply unarguable. There is no material within the wording of the scheme to support the argument, nor in my view would it make any practical sense. So that is the reason why I have dismissed your application. I am

sorry that I have had to do that but that is the position as a matter of law.

MR GALPIN: Thank you for your judgment My Lord. I will pass this on to those of us who are in this same position, that is to say hopeful[?]. Well, I suppose we have to swallow that but thank you again.

MR JUSTICE FANCOURT: Mr Galpin, you are entitled to request or maybe the Trades Union may want to request a transcript of the judgment to be prepared. My clerk when I put the phone down will be able to give you some assistance with how you go about that if that is something that you want to do.

MR GALPIN: Thank you for that. I would like to study it, as others would I am sure but would we have that in writing do you think or would it have to be…?

MR JUSTICE FANCOURT: No, you will get a full written judgment.

MR GALPIN: Yes, thank you.

MR JUSTICE FANCOURT: The transcribers will prepare it and I will make any small adjustments as a necessary to correct any obvious errors or bad expression that I used in my judgment that I have just given but otherwise it will be approved and then sent out.

MR GALPIN: Right.

MR JUSTICE FANCOURT: There is… It does not come free unless your financial circumstances are such that assistance, financial assistance will be given by the courts, which is why I mention that if it is of general importance as you indicated, I think earlier that it might be to a number of people.

MR GALPIN: Well, I am the stalking horse if you like, that is to say that my particular case was one that could be brought up. I am in a position unlike some of the people; I am still here for a start, the others have died. I had the rank and I had the certain possibility of being promoted in the last five years.

MR JUSTICE FANCOURT: Yes.

MR GALPIN: That's why it was my particular case that we decided to run.

MR JUSTICE FANCOURT: Right, I understand that. As I say, if you or others or a Trade Union decide they want a transcript then they are perfectly entitled to request one but there is a fee to pay to the transcribers to prepare the written transcript of the judgment.

MR GALPIN: Yes, okay. I'll pass that on.

MR JUSTICE FANCOURT: Thank you very much. Thank you Mr Galpin for your very courteous submission and I wish you good health and a long life.

MR GALPIN: Thank you My Lord.

MR JUSTICE FANCOURT: Goodbye.

MR GALPIN: Bye.

Court rises.

Transcript from a recording by Ubiqus
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Ubiqus hereby certify that the above is an accurate and complete record of the proceedings or part thereof

Page Count 6.

Case No: CH 2020-000043

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

Royal Courts of Justice
The Rolls Building
7 Rolls Buildings
London, EC4A 1NL

Date of hearing: Friday 3 July 2020

Page Count: 7
Word Count: 2239
Number of Folios: 31

Before:

MR JUSTICE FANCOURT

Between:

MR FRANCIS MICHAEL GALPIN **Appellant**

- and -

LANCASHIRE COMBINE FIRE AUTHORITY **Respondent**

- - - - - - - - - - - - - - - - - - - -
- - - - - - - - - - - - - - - - - - - -

THE CLAIMANT appeared as a **LITIGANT-IN-PERSON**
NO APPEARANCE by, or on behalf of, the **DEFENDANT**

- - - - - - - - - - - - - - - - - - - -

PROCEEDINGS

- - - - - - - - - - - - - - - - - - - -

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[Transcriber's note: transcript prepared without access to all case papers].

THE COURT CLERK: I should also, as I said in my email, Mr Galpin, just let you know, obviously, only the court should be making a recording of this hearing, and no one else, but I am just saying it for the record. I am sure you already saw that in my email.

MR JUSTICE FANCOURT: Steve, am I audible? Can you hear me?

THE COURT CLERK: Yes, I can hear you, sir.

MR JUSTICE FANCOURT: All right.

Is Mr Galpin there?

MR GALPIN: Is that Justice Fancourt?

MR JUSTICE FANCOURT: Mr Galpin, good morning.

MR GALPIN: Yes, good morning, My Lord.

MR JUSTICE FANCOURT: The hearing this morning, Mr Galpin, for reasons I am sure you will understand, is being conducted remotely, and I understand it is telephone in your case. It is, nevertheless, a public hearing because of the way the hearing was listed in the calls list. The court will make a recording of the hearing, which will be available, if necessary, but no one else may make a recording of this hearing. It is against the law to do so.

The purpose of the hearing this morning is to review the decision of Falk J, that she made on 2 April, I think it was, when she granted you an extension of time for your Appellant's notice but refused permission to appeal. So this is not a full substantive hearing of the argument on the appeal. This is just a short hearing, in which you have the chance to seek to persuade me that Falk J was wrong and that there is some significant argument that needs to be heard at a full hearing with the Fire Authority also present and represented.

MR GALPIN: Yes, My Lord.

MR JUSTICE FANCOURT: I have read the papers, Mr Galpin, so you do not need to explain the background to me. I have read the Adjudicator's decision, I have read the Ombudsman's decision, I have read your grounds of appeal, and I have read Falk J's orders, and I have read the document that was prepared between you and the Fire Authority since the last hearing in front of Falk J, setting out the relevant facts ---

MR GALPIN: Did you also ---

MR JUSTICE FANCOURT: --- so you do not need to explain any of that to me. You can just launch straight into why you say that there is a real argument as a matter of law about what the pension scheme means.

MR GALPIN: Well, I think the argument in law has been already explained by Mr Bruce, Mr John Bruce, who is a barrister. He sent what was headed "Advice" off to the Deputy Pensions Ombudsman, following her determination, initially, and I think a copy of that would also go to Falk J, and there are 44 points covered in that advice. I do not know whether you have read that. I have no way of knowing that.

MR JUSTICE FANCOURT: I do not think I have even got that. Let me just have a look and see if I can locate it. *(Pause)*. Yes, I have found it. Is it a document of 77 pages?

MR GALPIN: No, sir. No, My Lord. It is 44 points, 44 paragraphs, which the barrister produced following the determination from the Pensions Ombudsman. If you have not got it, I could get it to you.

MR JUSTICE FANCOURT: Well, let me tell you what I have got, because I have got two separate documents headed "Advice": one is written by Mr Locke QC, on 11 May 2015 – that is 25 paragraphs.

MR GALPIN: Yes, that is not it, sir.

MR JUSTICE FANCOURT: That is not it. Then separately, there is another document headed "Advice", which runs to 56-numbered paragraphs, and that has got Mr John Merlin Copplestone Bruce's name at the bottom of it.

MR GALPIN: That is right. He is the barrister. That was ---

MR JUSTICE FANCOURT: So have I got the right ---

MR GALPIN: Well, he may have sent; I am just checking. I have got some material on the iPad in front of me. Just let me check. *(Pause)*. No, that is not it.

MR JUSTICE FANCOURT: The first paragraph of the document I am looking at, Mr Galpin, says, "Mr David Locke QC has most kindly given an initial advice, setting out, as it were, the opposing forces." Is that the right document?

MR GALPIN: No. I have got it in front of me now. it says, "Advice. I am asked to advise on an appeal in Mr N's case". The Pensions Ombudsman has referred to me as "Mr N" ---

MR JUSTICE FANCOURT: Yes.

MR GALPIN: --- "…on a point of law from the Deputy Ombudsman's determination". Now, we were invited if we wanted to appeal against the determination to appeal on points of law, and we did. This is from Mr Copplestone Bruce, and there are 46 points, 47 points, and that was 13 September 2019, that was last year, in September.

MR JUSTICE FANCOURT: Bear with me a moment. I am still looking. I have rather a lot of papers in this matter, so it takes a while to ---

MR GALPIN: Well, it has been going on a long time, My Lord.

MR JUSTICE FANCOURT: Yes. *(Pause)*. No, I do not think that document is in the bundle. There are a good number of other documents written by Mr Copplestone Bruce, but not that one.

MR GALPIN: Well, this was 13 September, as I said, 2019, 40-odd points. These are the points of law that he prepared, on the invitation of the Pensions Ombudsman, because these are the points that we had permission to appeal on.

MR JUSTICE FANCOURT: Well, you have not go permission to appeal yet from me ---

MR GALPIN: No, no, that is to say that the Pension Ombudsman said, "If you are going to appeal, you have to do so on points of law".

MR JUSTICE FANCOURT: Yes.

MR GALPIN: These were prepared, as a consequence, and sent. I am sure that they were sent off to Falk J, but if you wish, I can email them to you.

MR JUSTICE FANCOURT: I think I have found it:

> "I am asked to advise on an appeal in Mr N's case on a point of law from the Deputy Ombudsman's determination on 10 September 2019."

Is that it?

MR GALPIN: Yes.

MR JUSTICE FANCOURT: Right.

MR GALPIN: Yes, that is the one, sir.

MR JUSTICE FANCOURT: Okay. *(Pause)*. Now, when you had a hearing before with Falk J ---

MR GALPIN: Well, that did not actually come to pass, Your Honour, My Lord. She changed it from 4 June, it was scheduled for, and then it was changed by herself, and this date is the one that she changed it to.

MR JUSTICE FANCOURT: Yes, I understand that. I am sorry, I meant the last order that she made. She set out what she understood to be the legal issue in the appeal, did she not? Do you remember…at 5 of the order of 6 May?

MR GALPIN: Yes, that is going back to…I have not got that handy, but yes.

MR JUSTICE FANCOURT: What she says, let me read it to you, it will refresh your memory, I think.

MR GALPIN: If you would, please.

MR JUSTICE FANCOURT:

"Following correspondence with the parties, the court confirms its understanding of the legal issue in the appeal as the following: whether, as a matter of statutory construction of paragraph 5 of part 3 of schedule 2, contained in schedule 2 to the Fireman's Pension Scheme Order, the requirement to calculate the notional retirement pension by reference to actual average pensionable pay means either:

a. as the Respondent contends that the calculation must be done using actual pay in the year to the date of retirement; or

b. as the Appellant contends, that the calculation must be done by reference to the pay scales in place at the date of retirement, but assuming that the individual would have continued to progress through those pay scales and achieved available promotions until the date that he, or she, could have been required to retire, absent ill-health or injury."

MR GALPIN: That is what we contend, that was our argument.

MR JUSTICE FANCOURT: Yes, and I think as a result of what she directed at that stage, the Fire Authority set out, first of all, what they thought were the relevant facts in your case, and then you responded to that document, and added some wording to show where you disagreed with anything that they had written.

MR GALPIN: Yes.

MR JUSTICE FANCOURT: I have got that document in front of me.

MR GALPIN: Right.

MR JUSTICE FANCOURT: But you accept, do you not, you say in that document, that Falk J correctly identified the legal issue?

MR GALPIN: Yes.

MR JUSTICE FANCOURT: Yes. So that is the question of law that potentially arises on the appeal.

MR GALPIN: Yes.

MR JUSTICE FANCOURT: What I have to decide is whether that is a point that is sufficiently arguable, that there should be full appeal hearing with you and the Fire Authority represented.

MR GALPIN: I see.

MR JUSTICE FANCOURT: She thought that there was not a sufficiently strong argument that you were right. She thought it was clear that the relevant pay was the pay for the rank that you had achieved at the date when you actually retired through ill-health.

MR GALPIN: Yes, well, if you were to read the advice from Mr Copplestone Bruce, he goes into that at great sort of depth and tries to explain, and does explain, the value of what of what we are saying in our argument. I think that followed, well, that was in September. I do not know whether Falk J had taken that into consideration by then.

MR JUSTICE FANCOURT: Well, shall I read it now? It is not very long. It is about eight pages or so.

MR GALPIN: It is. It is. If you wish, I would be happy for you to do that, sir, yes.

MR JUSTICE FANCOURT: Shall I do that? Then I can be sure that I have understood all the arguments that you want to rely on.

MR GALPIN: Yes.

MR JUSTICE FANCOURT: When I have read it, you can add anything else that you want to at that stage. So just give me a few minutes; it will take me a few minutes to read it. I will let you know ---

MR GALPIN: I will stay by the phone. I will stay on the phone.

MR JUSTICE FANCOURT: Stay on the phone. That is right.

MR GALPIN: Thank you, My Lord.

MR JUSTICE FANCOURT: *(Pause)*. Yes, all right, Mr Galpin. Well, I have read that.

MR GALPIN: Yes, all right, My Lord.

MR JUSTICE FANCOURT: The key point, I think – tell me if I am wrong about this – is that you say that the wording of paragraph 5 in part B3…sorry, bear with me. Let me just find it again and turn it up. *(Pause)*. Paragraph 5.2 of schedule 2 to the order says,

"The notional retirement pension is to be calculated by reference to the persons actual average…"

[Transcriber note: audio ended].

Marten Walsh Cherer hereby certifies that the above is an accurate and complete record of the proceedings or part thereof.

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Francis Michael Galpin
42 Fountains Avenue
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BB12 7PY

DATE 18 January 2021

YOUR REF:

OUR REF: 2020/PI/10670

Dear Sir/Madam,

Re: Galpin -v- Lancashire Combined Fire Authority

Your papers were referred to a Master of the Court of Appeal who has asked me to inform you of the following:

"Mr Galpin has filed an appellant's notice seeking permission to appeal the order of Mrs Justice Falk dated 2nd April 2020. That order refused permission to appeal from a decision of the Deputy Pensions Ombudsman. It is not possible to appeal the refusal of permission to appeal to the Court of Appeal. This is because if an appeal court (in this case Mrs Justice Falk) refuses permission to appeal it is not possible to appeal to a higher court (e.g. the Court of Appeal) against the refusal of permission to appeal.

This is the effect of s.54(4) Access to Justice Act 1999. As that decision was made on the papers it was possible for Mr Galpin to apply to the High Court for an oral hearing of his permission application. It is clear from the papers that you applied for an oral hearing of his permission application and, on 3 July 2020 Mr J Fancourt refused permission to appeal at an oral hearing (held via remote audio hearing).

Where a High Court Judge refuses permission to appeal at an oral hearing, that decision is final and cannot be further appealed (see section 54(4) of the Access to Justice Act 1999).

The decisions of Mrs Justice Falk and Mr Justice Fancourt cannot be further appealed and the papers are therefore returned unissued."

Mr Galpin is advised to cash the cheque refunding him the sum of £1199 previously paid by him to HMCTS.

Yours faithfully,

Yomi Oba
Registry Office

Paul,
Received this morning 19th Feb 2021

JUDICIARY OF ENGLAND AND WALES

ANDREW CATON
ASSISTANT PRIVATE SECRETARY TO THE DEPUTY HEAD OF CIVIL JUSTICE
ASSISTANT PRIVATE SECRETARY TO THE MASTER OF THE ROLLS

Mr F M Galpin
42, Fountains Avenue
Simonstone
Nr Burnley
Lancashire
BB12 7PY

17th February 2021

Dear Mr Galpin,

Thank you for your letter which was received by this Office on 17th February 2021.

I am sorry that you still feel aggrieved about your whole experience that occurred during the litigation you were involved in, but the fact remains that as explained in my e-mail to you on 15th January 2021 and during a telephone conversation with your advisor Mr Burns, the Master of the Rolls and this Office are unable to assist in this regard.

As before, I can only suggest that you seek independent legal advice as to the options, if any, that are open to you.

I do wish you all the best for the future.

Yours sincerely

Andrew Caton

Master of the Rolls Private Office Room E214 Royal Courts of Justice Strand London WC2A 2LL
Telephone 0207 947 7402 **Email** andrew.caton2@judiciary.uk
Website www.judiciary.uk

42 Fountains Avenue
Simonstone
BURNLEY
BB12 7PY

28th January, 2021

Mr. P Cobourn
Registry Office
Case Progression Section
Strand, Holborn,
London WC2A 2LL

My Reference: FG111.
Your Reference:2020/PI/10670

In the Court of Appeal **Case 2020/PI/10670**
England and Wales
Civil Division

FRANCIS MICHAEL GALPIN
Appellant (Litigant~in~Person)
and

LANCASHIRE COMBINED FIRE AUTHORITY
Respondent

Dear Mr. Cobourn,

1. I am in receipt your curious document.

2. As you might expect by now I treat all your communications with circumspection since I first became aware of your involvement at an early point after my Appeal was *issued* by the Court of Appeal on the 4th of February 2020 a fact later recorded by Fancourt LJ in an Approved Judgment.

3. From the outset of your involvement I have watched you manipulate each and every step of the way to the detriment of Justice not only for myself but for those veterans who served the public well and who through a no fault of their own in

Service injury were discharged and were underpaid their pensions to *their* loss and the loss of their Widows and Beneficiaries.

4. You are engaged in a dangerous ‘game’ which you will find have consequences.

5. In your latest manipulation in which you now abandon any pretext of subterfuge and engage in a blatant criminal act you seem to infer from its contents that this is a formal Judgment of the Court, though you do not state from which Court, or from which Judge the decision comes, and search as I may I cannot find a Listing at which this ‘Master of the Court’ as you have described him/her sat to reach an Approved Judgment ?

6. If I were new to this ‘game’ and gullible I might well be minded to ‘throw the towel in’. but in fact what you do is to simply encourage me and my comrades to investigate you, your role, and ultimately who you are working for because it cannot be by any stretch of the imagination be the Judiciary, Fair Play, or Justice.

7. I wonder who you really are because I find it noteworthy that you have never stated on a single documentation what your title is; what your responsibilities are; who you answer directly to in line management; and indeed what your Civil Service grade might be?

8. It seems after reviewing your contributions over the last year a clear picture emerges where other than obfuscate, block, delay, or run me around the chicanery, unlike your colleagues in the Belfast Registry, you have provided me as a Litigant-in-Person with no support whatsoever contrary to the Judicature policy on LiPs which governs your ‘work’. In fact overall you have acted with shameless criminality.

9. Indeed even though you write to me under the CoA Reference 2020/PI/10670 you even deliberately failed to inform me that this was the new Reference I was meant to use instead of the one issued by the Court of Chancery and thus you deliberately misled me with the vain hope I would get lost in the legal labyrinth.

10. Now however that you have finally excited my interest in you I have chosen to look at, not only your deliberately misleading ‘performance’ during the last year, but the lead in to your latest criminality.

11. But before I do so I should draw the many readers’ attention, those who will subsequently see this published letter, to your personal misconduct and abuse of authority in public office both of which may I remind you are also criminal offences.

12. What I find especially repugnant, as a former Senior Ranking Officer in the Fire Service, is that I suspect that you do not hesitate to misuse and abuse your authority over your subordinates who you unabashedly use to cloak your criminal activities by placing them under duress and by manipulating them into acquiescence under the threat of their continued employment.

13. Now in gathering evidence against you to present not only to the Lord Chief Justice but to the Commissioner of the Metropolitan Police I require you to indicate to me the following:

    - Who the 'Master of Court' was you state that you placed this matter before?
      No doubt the new Master of the Rolls(MR) will also be interested to know.

    - The Listing Date and Time at which this Judge gave an Approved Judgement on the documents you submitted to him/her.

    - I require a copy of ***all*** the documentation that you placed before that Judge including your written recommendations, whilst reminding you that all this documentation is under the Data Protection Act 2000(GDPR) my 'Subject data' ; you are to regard this paragraph as my formal request to acquire this 'subject data' within the legislative time framework allowed.

14. I must now deal assiduously with the 18th January 2021 the day at 07:36hrs on which I sent you an EFile and file copy of an Addenda to my Appeal.

15. This seems to have galvanised you into action in that you were able in a few short hours until 16:00hrs to get a Court Listing; Court time with a sitting Judge on an issue before the Court since 4th February 2020, and then get him/her to issue you with an Approved Judgment so that you could have a 'willing' subordinate draft, type, issue, and mail to me with your latest creative ideas all pursuant to obstructing Justice in a few stampeding hours.

16. I also presume you presented this Addenda to the Judge or did you in a further criminal act suppress its presence in a blatant act of Contempt of Court by deliberately obstructing due process?

17. When you send me my 'Subject data' no doubt this will be included as proof of your innocent actions and no doubt the Judge will ultimately confirm all that you stated in this letter to me.

18. Next I will examine your role in making legal statements purporting that these come from a 'Master' of the Court of Appeal because as a lay person clerk you

cannot make such statements and if you have done so then you act in ultra vires.

19. The alleged statements from a ‘Master’ do raise an interesting Point of Law in pragmatism.

20. Is this ‘Master of the Court’ to whom you state you have presented all these documents saying that there is no further Appeal process against Fancourt LJ who deliberately failed to understand my Points of Law advanced to him?

21. And if this is so why do we have a Supreme Court whose sole existence is posited on judging Points of Law presented to them if they are all refused at Court of Appeal level by mere layperson clerks or misguided ‘Masters’ ?

22. Now to your risible ‘law’ the briefest glance at which, namely, the ‘Access to Justice Act 1999 S 54’, which you deliberately misquote to mislead and confuse provides a prime example of how you have manipulated my legitimate actions over the preceding year where you cherry pick the quotes which serve your malignant and corrupt purposes counting on my assumed ignorance of the law to defeat my lawful purpose which I seek to attain namely, Justice.

23. In concluding there really is only one action necessary to prevent you and others from continuing to corruptly Misconduct yourself in Public Office and exploiting the innocent and that is to have the Metropolitan Police arrest you; to have you arraigned and charged before the Court, and ultimately to have you and those who direct, encourage, and condone your actions locked up.

24. The harm you and others have caused to Public Confidence in the Judiciary and in particular the Court of Appeal is incalculable.

25. I do so hope Mr. Cobourn that you understand my points of view and I wait your detailed response to all those Questions coupled with my DPA Request which I have raised with you and can no doubt expect you will deal with them with the same alacrity you have dealt with your last communication?

    I will give you 7 working days to respond before I report your criminality to Commissioner Dame Cressida Dick.

Yours Truly,

F M Galpin MIFireE

HM Courts & Tribunals Service

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Francis Michael Galpin
42 Fountains Avenue
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DATE 11 February 2021

YOUR REF:

OUR REF: 2020/PI/10670

BY EMAIL AND POST

Dear Mr Galpin

Re: Galpin -v- Lancashire Combined Fire Authority

Your email and letter of 28 January has been referred to Master Meacher of the Court of Appeal who has asked me to reply as follows:

Mr Galpin's letter of 28 January 2021 sent to the Civil Appeals Office and marked for the attention of Mr P Cobourn makes allegations against, and implies improper motives on the part of members of administrative staff in the Civil Appeals Office. The allegations are wholly unsubstantiated and simply have no basis in fact. The threats contained in the letter potentially amount to a breach of section 1 of the Malicious Communications Act 1988 and Mr Galpin should desist from such communications in any future correspondence. Mr Cobourn and other members of staff have simply sought to respond to the application filed by Mr Galpin and have obtained directions from legal colleagues as necessary.

The directions dated 18 January 2021 were given by the jurisdiction lawyer, Ms L Angus, who deals with all queries regarding the jurisdiction of the Court of Appeal, with the assistance of the Masters. The author of the directions of 18 January 2021 was inadvertently referred to as a Master and I apologise for that error. I confirm, however, that the content of the directions is correct. If, however, Mr Galpin would like the directions to be reviewed by a Lord or Lady Justice, he should confirm this in writing.

The only documents considered by Ms Angus when she gave the directions dated 18 January were documents filed by Mr Galpin (in particular the appellant's notice and a copy of the orders made in the lower court).
In any event, a request under the Data Protection Act does not entitle an individual to copies of documents from court records. The supply of documents on the court file to parties or non-parties is governed by the Civil Procedure Rules (CPR 5.4) As a party to proceedings, Mr Galpin is entitled as of right to the documents listed in CPR PD 5A Paragraph 4.2A (copy attached). Most of these documents do not apply in Mr Galpin's case, but if he would like any of the documents listed which do exist to be copied and sent to him, he should apply to that effect to the Civil Appeals Office. A copying fee is payable for each document (The Civil Proceedings Fees Order 2008, Schedule 1, paragraph 4.1). It should be noted, that the list of documents does not include correspondence of any sort.

If Mr Galpin wishes to obtain copies of any *other* documentation on the court file, he requires the court's permission. He must therefore make a formal application (on form N244) and pay the court fee of £528 (see CPR 5.4B and 5.4D attached).

Yours sincerely

Mr Mo Chowdhury
Registry Office
civilappeals.registry@justice.gov.uk

In accordance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018 that came into effect from 25th May 2018 if you would like to know more about how HMCTS handles your personal data please visit our website at www.gov.uk/hmcts. If you require a hard copy of the privacy notice please contact the court.

42 Fountains Avenue
Simonstone
BURNLEY
BB12 7PY

19th March, 2021.

Private and Personal To:

Master A Meacher
Royal Courts of Justice
Strand, Holborn,
London WC2A 2LL.

My Reference: FG119.
Your Reference: 2020/PI/10670.

Dear Master Meacher,

Thank you for your letter dated 11th February 2021, in which you invited me to request a review of the case in hand; being, ‘Galpin v Lancashire Combined Fire Authority’.

I wish to take up your kind invitation and attach herewith a document for your perusal.

Please be good enough to have your Clerk acknowledge receipt.

Yours Sincerely,

F M Galpin MIFireE

Copy - Lancashire Combined Fire Authority.

Truncated for brevity

John M Copplestone-Bruce
Inner Temple

30 Broadway
PR2 9TH
+44(0)1772 712 857
jmcbruce@gmail.com

6th March 2021

Andrew Caton Esq.,
APS Deputy Head of Civil Service,
APS Master of the Rolls,
andrew.caton2@judiciary.uk,

Dear Mr.Caton,

For the first time in my long life I find myself writing amicus curiae to ask you to help this to a reasonable and competent resolution.

Mr. Galpin is receiving an ordinary non-compensatory retirement pension although retired on ill health. He is entitled to an ill health pension to compensate him for his injury and loss of earnings on forcibly being retired early on injury and so was not present to be promoted to a higher rank and higher pay. He is being denied his ill health pension as if he had voluntarily taken early retirement while fit for duty.

May I refer you to the 18th January 2021 letter, attached. I think you had kindly discussed this earlier with Mr. Burns, which may have led to the letter referred to.

What you will see is that Mr. Galpin has been denied appeal to the Court of Appeal, but what you will not know, any more than did the Master, is that the decision to exclude Mr Galpin was on the judgement of one judge being judged by another judge, both refusing permission to appeal on wrong law. Had either looked at their Rule G1 authority, relied on by the ombudsman, provided by 1992 Statutory Instrument 129, they would have seen Rule G1 is in two parts.

There is G1 (4) (a) relied on to misconstrue *'by reference to*' (the point of law on appeal) as a synonym of '*is*' in provision, so it 'is' the actual pay on last day served that is to be used in calculation of a pension, or there is Rule G1 (4) (b) providing calculation *by reference to* actual pay to identify a notional pay point on that same scale which, but for

injury, could have been the man's pay when pension contributions would normally end, on being retired at 55 or 60.

The Ombudsman and both judges were wrong in law to apply G1 (4) (a). The section specifically excludes a fireman's B3 ill health pension from its calculation on pay of the last day worked, instead, a B3 pension is to be calculated pursuant to G1 (4) (b), on notional pay rate (taken from then current scale) of the notional rank he could have achieved had he served through to normal retirement age, denied by injury for which, by statute, the respondents are liable.

The Appellant has long been mystified by the judicial failure to properly construe the B3 provision. The difficulty being that as ombudsman and then judges construed it, the B3 ill health compensatory pension is replaced by, and is made redundant to, an ordinary non compensatory B1 pension, making the Statutory B3 provision absurd, and to no legal effect, which, as you will know, can not be how legislative wording of provision can be legally construed.

Then the lights went on. On 28th October 2020, Mr Justice Fancourt, produced his "Approved Judgement" and by his ratio decidendi finally makes plain why the point of law '*by reference to*' had been misconstrued by the ombudsman, then Mrs. Justice Falk, initially, and finally by Mr. Justice Fancourt who had rightly predicted his judgement on Rule G1 but on the wrong part, G1 (4) (a), so wrongly in law.

Denied access by the letter of 18th January 2021, the judicial process is now enabling the fiduciary pension provider, the government, by its respondent servants, to continue to systematically defraud Mr Galpin (contrary to ss 1-4 The Fraud Act 2006 and Theft Act 1968) of his ill health pension of c£33,000 (provided by 1992 SI 129 in compensation for financial loss), paying him his accrued ordinary pension of c£21,000 (1997) – continuing.

The Respondents have unlawfully deprived Mr Galpin of £11,516.24 of his property in 1997 and, index linked, each year – continuing. And sadly, and irrecoverably, they have deprived him of the amenity in life his pension would have afforded him over the last 24 years.

I regret to have to say that is not all that is amiss.

The letter of 18th January purports to quote, verbatim, a Master of the Court of Appeal denying further access to justice. Yet it is so economical with the truth as to misrepresent the effect of s 54(4). It is set in absolute terms "It is not possible to appeal to a higher court (e.g. the court of appeal) against the refusal of permission to appeal - This is the effect of s. 54(4) Access to Justice Act 1999".

It tells a half truth, would you not think, denying the other 'effect' of s 54(4) (*but this subsection does not affect any right under rules of court to make a further application for permission to the same or another court)*.

It is a matter for you but I doubt a jury would accept Mr Chowdhury's explanation that to write *"Your papers were referred to a Master of the Court of Appeal who has asked me to inform you of the following*" *followed by quotation verbatim*, was merely something "inadvertently referred to". I attach his letter of 11th February 2021.

Most would see such wording as a deliberate lie, a dishonest and arbitrary and oppressive abuse of power to claim authorship of an authority not given, to add power to the lie put into the authority's mouth to deny Mr. Galpin access to justice, having nothing to do with the merits of his case; his papers filed in appeal months ago going unread and returned to him to end his years of struggle.

It all suggests a process with a distinct bias that has lost sight of its purpose – to deliver justice. And with such fervour as to not shrink from, if not dishonesty in public office, then undoubtedly breaches of the Civil Service Code of Conduct.

I don't know what Mr Galpin intends but he has, you may think, reason for being distressed by the way his case has been dealt with. But to pass on - for it gets worse.

The author of the letter attached speaks of applications to tell Mr Galpin he has had two bites at the cherry, so with both appeals down, he's out.

Yet, the only application made was to the High Court, which Mrs. Justice Falk dealt with by refusing permission. This was appealed. Though intended for the Court of Appeal, it was apparently sent to Falk J, who, on reading the appeal against her judgement, and on her own initiative, re-opened the matter with directions on 6th May 2020 for work to be done by both sides (the Respondents without appearance) for a hearing on 3rd July 2020.

Having refused permission nothing more was required of her. If unhappy an appellant could appeal again (the second bite). There was no point in Falk J doing as she did if not to give permission for appeal. So Mr. Galpin was looking forward to Mrs. Justice Falk doing what the law required of her. But he had made no second application.

But, on 2nd July 2020, Mr Galpin was told, with no explanation, that the fully seised Mrs. Justice Falk had been replaced by Mr Justice Fancourt, who, next day, denied permission to appeal, finding the point of law 'unarguable'

The impression Mr Galpin got, before he suggested the judge refer to a document, which, when handed to him, he quickly moved on from, without picking up the point at issue, was that he didn't seem to have the papers in front of him. It took his clerk some time to find it.

When eventually Mr. Galpin got the transcript it was missing its first 27 minutes.

The day before the judge's clerk had assured Mr. Galpin, helpfully but without being sure of it, that he had no worries, his judge knew all about it. Thus disarmed, the load shifted

from having to try and present and argue a case, later avoided explanation by Mr Justice Fancourt, at 22 in his approved judgement, on the basis that "*The detailed provisions are highly complex and, with respect, not easy for someone who is not very technically minded to understand*, Mr Galpin was infinitely dismayed a few minutes into the oral hearing, to realise the judge knew nothing about it.

Mr Galpin, already upset on being told everyone must leave the room including his wife, in what for any laymen are alien proceedings, and further dismayed on being told he must make no recording, then spoke of what mattered to him including widows on much smaller pensions than their due. Having let him have his say, Fancourt J, with no ratio decidendi given and without identifying the point of law at issue, ended the hearing by a brief judgement in which he found, whatever the point of law was, to be 'unarguable'.

Mr Galpin appealed the brief judgement given at the oral hearing. He heard nothing back. Now it appears that it was simply passed to Fancourt J, who produced an 'approved judgment' some 4 months later, on 28th October 2020.

It is a judgement which, but for the letter of 18th January, would have been appealed, fully satisfying CPR 52.7.2 (a). (i). (ii), and (iii). criteria and the delay has not been Mr Galpin's.

Lord Reed in Henderson (Respondent) v Foxworth Investments Ltd & Anor (2014) UKSC 67, defined when the Court would intervene on: *"material error in law, making a critical finding of fact which has no basis in the evidence, demonstrable misunderstanding of relevant evidence, or a demonstrable failure to consider relevant evidence".* (66).

Mr justice Fancourt is in error in his 'approved judgment' in all ways set out by Lord Reed. And having predicated his judgment wrongly in law renders the whole of B3 provision reductio ad absurdam

In his letter of letter of 11th. February 2021 (attached) Mr. Chowdhury offers confirmation, by a Lady or Lord Justice of the order denying Mr. Galpin any appeal, but, on the papers seen by your jurisdiction lawyer, without the 'Approved Judgement' and its appeal making plain that what reads well is not the law, they could only confirm the order, on an assumption made in error they could not detect, that the orders made in the, lower court were right in law – when both were materially wrong in law.

May I suggest, with respect, that being more complex than simply predicating a judgement wrongly in law, this is a case for the Court of Appeal, to consider Mr. Galpin's Appeal against the Approved Judgement of Mr Justice Fancourt, to give full and precise directions on the way to apply the law to end a long instutionalised practice of defrauding pensioners, a matter quite as much in need of remedy as 'McCloud' remedied Judge's pensions. The appeal takes the matter through to B3 ill health templates to avoid future error.

On the assumption that the Master of the Rolls will wish justice to be done, It seems to me that the only sensible way forward is to move on and accept, flawed or not, the order now in being and for the Court of Appeal to re-open Mr Galpin's case pursuant to CPR 52.30

The test being that:
(a) The grounds of appeal had not been sufficiently confronted and dealt with, to the extent that the process had been critically undermined.
(b) There is a powerful probability that permission to appeal would have been granted if the judge had dealt adequately with the grounds
R(Goring-on-Thames Parish Council v South Oxfordshire District Council (2018) EWCA Civ. 860

Both judges citing Rule G1 as the law on which they relied in construing 'by reference to', but neither having understood that the B3 pension being provided 'by reference to' being excluded from the part of G1 they wrongly applied [G1 (4) (a)], meant that the grounds of appeal were not confronted adequately, or at all, and were not dealt with, critically undermining the process.

As for permission. Mr Justice Maguire (in false start in Belfast, on careless advice from the pensions ombudsman) declined jurisdiction but urged the Appellant not to give up on the 'very winnable case'. The full appeal had been filed in September 2019 and there were two hearings.

It is assumed that Mrs. Justice Falk, having refused permission on 2nd April 2021, re-engaged on 6th May 2020, after reading the appeal against her written refusal to give permission to appeal, precisely setting out the issue and contentions, though not the law behind it, only because she intended to grant permission to appeal - but was denied the opportunity on the case being taken from her. Which would seem to be irregular.

Had Mr. Justice Fancourt, who replaced Mrs. Justice Falk, confronted the law and dealt adequately with the grounds and not misdirected himself in law he would have granted permission to appeal. But denying confrontation he misconstrued the words of provision.

Mr Galpin also has claims under HRA (quiet enjoyment) and the Equality Act (denied ill health pension).

But that is not quite the end of it.

This is no mere error for correction as in the recent Judges' 'McCloud' case. This retention of monies remains at the hands of a pension provider who, far from simply being in breach of fiduciary duty, have long acted in an arbitrary and oppressive abuse of power as servants of the government.

When asked by Mr Galpin why he was being paid just his ordinary pension, the Chief Fire Officer, not moved by fiduciary duty to seek a judicial review, denied legal entitlement to

compensation on the laymen basis of "*I am unable to see any reference in the Statutory Instrument to this being compensation"*

From the beginning the Respondents have suppressed the Home Office Commentary to their SI and subsequently misrepresented its guidance to the earlier Lay Ombudsman who denied Mr. Burns relief on the same point, misconstruing 'by reference to' to mean 'is' so misapplying Rule G1 (4) (a) instead of (b) .

The Court of Appeal may well wish to mark such egregious conduct by exemplary damages (dicta Lord Devlin in Rookes v Barnard (1964) UKHL 1.)

You mention Mr Burns. If there is to be justice for Mr Galpin, may I suggest for economy of system resource and judicial time that Paul Burns's case, which is on precisely the same facts and law, be linked in to set a two case template to pre-empt more cases.

Should this recommend itself, Mr Burns could file the correct forms and pay the fees and in a short linking document appeal, sui generis, Galpin.

If it can be done may I suggest this letter be taken to be an application under CPR52.30 to ask the Court of Appeal to re-open the case out of time to consider Mr. Galpin's Appeal against Mr Justice Fancourt's Approved Judgement.

Perhaps you would be so kind as to let me know what is decided and I would count it a courtesy to know you have received this. I am grateful for your kind consideration when I well understand that Covid is, no doubt, causing immense difficulty. Indeed, I would think that if matters can now be satisfactorily resolved the distress suffered may fall away.

I am so sorry to have written at such length and to have troubled you, but I hope that bringing this problem to you in some detail, while still nascent, is helpful.

Yours sincerely,

John Bruce.

42 Fountains Avenue
Simonstone
BURNLEY
BB12 7PY

1st April, 2021.

Private and Personal To:

The Right Honourable Sir Geoffrey Vos,
Master of the Rolls,
President of the Court of Appeal of England and Wales, Civil Division.
Royal Courts of Justice
Strand, Holborn,
London WC2A 2LL.

My Ref: FG122; Galpin-v-Lancashire Combined Fire Authority.
Your Ref: Ch – 2020 – 000043 & 2020/PI/10670.

My Lord,

I received a letter from the Court dated 11th February 2021, in which I was invited to request a review of the case Galpin v Lancashire Combined Fire Authority.

The first line of the letter stated that the previous correspondence which I had sent to the Court (Registry) had been referred to Master Meacher of the Court of Appeal who had asked Mr. Chowdhury to reply to me on her behalf, and I quote:- “who has asked me to reply as follows”.

In what followed came an invitation for me to request a review which I did.

I believed, not unreasonably, that the invitation was instigated by and approved of by Master Meacher and so I wrote to her confirming my request to have the case reviewed.

I included a comprehensive draft of an appeal prepared for me at my request, by Mr. John Copplestone Bruce, my Pro Bono Barrister, which as you might observe took some time.
This, as I stated in my letter, was for her information.

Up to that point in the proceedings Master Meacher, as far as I knew, had not been involved in the case and so might welcome the draft as a personal briefing.

To date, disappointingly, I have had neither the common courtesy of an acknowledgement, nor any helpful administrative guidance how I might proceed as a Litigant-in-Person from this point forward.

I know, from Postal Records, that my correspondence was delivered to the Court and as it included this particular request in respect of the administrative advice above (seeking no advantage) which required an answer.

Given my previous experience I am no longer disappointed that I have yet to have a reply (covid apart).

In my quest for justice, not only for myself but for those disabled Fire Service Veterans, their Widows and Beneficiaries who were on, or associated with the 1992 Scheme; Statutory Instrument 129 Firemen's Pensions Scheme, and, like me, have been paid the wrong pensions, I have been subjected to all manner of spoiling tactics.

After 6 years of a struggle and having been invited to ask for a review of this case I now formally submit to you what I believe is all the material including your not inconsiderable fee (£1200) that the Court requires for consideration of this case.

Historically 'Firemen' were re-titled Fire Fighters which describes our nature as well as our occupation and so we can guarantee you that we will continue to "box on" in adversity.

Lest there be doubt, we seek no unfair advantage, nor 'secret deals', just that our Human Right to Justice, thus far denied to us and now it seems by the Court of Appeal also, be properly applied, 'win or lose'.

Please be kind enough to have your Clerk acknowledge receipt.

Yours Truly,

F M Galpin M.I.Fire E.

Copy – President of the Supreme Court.

Subject: Fw: RE: Standard Galpin -v- Lancashire Combined Fire Authority 2020/PI/10670
Date: 08 April 2021 16:44:47

On Thursday, April 8, 2021, 1:58 pm, Civil Appeals - Registry <civilappeals.registry@justice.gov.uk> wrote:

Dear Sir/Madam,

This is a follow up to my earlier email.

Your papers were referred to a Lord Justice of the Court of Appeal who has asked me to inform you of the following:

1. The Applicant sought to file an appellant's notice in April 2020. The papers were referred to the Masters for jurisdiction directions. Master Bancroft-Rimmer refused jurisdiction and the following directions were sent with the returned papers on 14 July 2020 (the delay was caused by the pandemic and backlog in working through hard copy documents sent to the Court).

"Mr Galpin has filed an appellant's notice seeking permission to appeal the order of Mrs Justice Falk dated 2nd April 2020. That order refused permission to appeal from a decision of the Deputy Pensions Ombudsman. It is not possible to appeal the refusal of permission to appeal to the Court of Appeal. This is because if an appeal court (in this case Mrs Justice Falk) refuses permission to appeal it is not possible to appeal to a higher court (e.g. the Court of Appeal) against the refusal of permission to appeal. This is the effect of s.54 (4) Access to Justice Act 1999.

Accordingly the Court of Appeal does not have jurisdiction in respect of this matter and Mr Galpin's papers and his cheque for the issue fee are returned to him. The order notes that as it was made on the papers Mr Galpin may seek a renewal of his permission to appeal hearing. Mr Galpin will now require an extension of time to seek such a renewal if he wishes to pursue this matter."

2. The applicant later re-filed an appellant's notice seeking permission to appeal the order made by Mrs Justice Falk. From the papers he had filed it was possible to see that he had renewed his application for permission to appeal in the High Court and Mr Justice Fancourt had refused permission to appeal at an oral hearing on 3 July 2020. The directions were sent out to Mr Galpin on 18 January 2021:

"*Mr Galpin has filed an appellant's notice seeking permission to appeal the order of Mrs Justice Falk dated 2nd April 2020. That order refused permission to appeal from a decision of the Deputy Pensions Ombudsman. It is not possible to appeal the refusal of permission to appeal to the Court of Appeal. This is because if an appeal court (in this case Mrs Justice Falk) refuses permission to appeal it is not possible to appeal to a higher court (e.g. the Court of Appeal) against the refusal of permission to appeal. This is the effect of s.54(4) Access to Justice Act 1999. As that decision was made on the papers it was possible for Mr Galpin to apply to the High Court for an oral hearing of his permission application. It is clear from the papers that he applied for an oral hearing of his permission application and, on 3 July 2020 Mr J Fancourt refused permission to appeal at an oral hearing (held via remote audio hearing).*

Where a High Court Judge refuses permission to appeal at an oral hearing, that decision is final and cannot be further appealed (see section 54(4) of the Access to Justice Act 1999).

The decisions of Mrs Justice Falk and Mr Justice Fancourt cannot be further appealed and the papers are therefore returned unissued. Mr Galpin is advised to cash the cheque refunding him the sum of £1199 previously paid by him to HMCTS."

3. Mr Galpin then wrote a letter of complaint to the Master of the Rolls which was passed to Master Meacher who replied as follows:

"*Mr Galpin's letter of 28 January 2021 sent to the Civil Appeals Office and marked for the attention of Mr P Cobourn makes allegations against, and implies improper motives on the part of members of administrative staff in the Civil Appeals Office. The allegations are wholly unsubstantiated and simply have no basis in fact. The threats contained in the letter potentially amount to a breach of section 1 of the Malicious Communications Act 1988 and Mr Galpin should desist from such communications in any future correspondence. Mr Cobourn and other members of staff have simply sought*

to respond to the application filed by Mr Galpin and have obtained directions from legal colleagues as necessary.

The directions dated 18 January 2021 were given by the jurisdiction lawyer, Ms L Angus, who deals with all queries regarding the jurisdiction of the Court of Appeal, with the assistance of the Masters. The author of the directions of 18 January 2021 was inadvertently referred to as a Master and I apologise for that error. I confirm, however, that the content of the directions is correct. If, however, Mr Galpin would like the directions to be reviewed by a Lord or Lady Justice, he should confirm this in writing.

The only documents considered by Ms Angus when she gave the directions dated 18 January were documents filed by Mr Galpin (in particular the appellant's notice and a copy of the orders made in the lower court).

In any event, a request under the Data Protection Act does not entitle an individual to copies of documents from court records. The supply of documents on the court file to parties or non-parties is governed by the Civil Procedure Rules (CPR 5.4) As a party to proceedings, Mr Galpin is entitled as of right to the documents listed in CPR PD 5A Paragraph 4.2A (copy attached). Most of these documents do not apply in Mr Galpin's case, but if he would like any of the documents listed which do exist to be copied and sent to him, he should apply to that effect to the Civil Appeals Office. A copying fee is payable for each document (The Civil Proceedings Fees Order 2008, Schedule 1, paragraph 4.1). It should be noted, that the list of documents does not include correspondence of any sort.

If Mr Galpin wishes to obtain copies of any other documentation on the court file, he requires the court's permission. He must therefore make a formal application (on form N244) and pay the court fee of £528 (see CPR 5.4B and 5.4D attached)."

Mr Galpin requested that the papers be referred to a Supervising Lord Justice, pursuant to *Jolly v Jay* [2002] EWCA Civ 277., to reconsider the jurisdiction directions. The papers were therefore referred to Lord Justice Newey, as supervising Lord Justice for appeals from the Chancery Division of the High Court, for a review of the jurisdiction directions, pursuant to *Jolly v Jay.* Lord Justice Newey has confirmed as follows:

"The Court of Appeal has no jurisdiction to entertain an appeal from either Falk J or Fancourt J. The papers should not be issued."

Accordingly, the papers will be returned and should not be re-filed and fees refunded. Mr Galpin should note that the Court of Appeal will not correspond further on this matter.

Kind Regards

Mr Yomi Oba

Civil Appeals Office| Room E308 | Royal Courts of Justice | Strand | London | WC2A 2LL | DX 44456 Strand |

Phone: 0207 947 7784

Email: civilappeals.registry@hmcts.gsi.gov.uk

Web: www.gov.uk/hmcts

42 Fountains Avenue
Simonstone
BURNLEY
BB12 7PY

1st April, 2021.

Private and Personal To:

The Right Honourable Sir Geoffrey Vos,
Master of the Rolls,
President of the Court of Appeal of England and Wales, Civil Division.
Royal Courts of Justice
Strand, Holborn,
London WC2A 2LL.

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Your Ref: Ch – 2020 – 000043 & 2020/PI/10670.

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Please be kind enough to have your Clerk acknowledge receipt.

Yours Truly,

F M Galpin M.I.Fire E.

Copy – President of the Supreme Court.

Click here to reset form | Click here to print form

Appellant's notice

(All appeals except small claims track appeals and appeals to the Family Division of the High Court)

For Court use only	
Appeal Court Ref. No.	
Date filed	

Notes for guidance are available which will help you complete this form. Please read them carefully before you complete each section.

SEAL

Section 1 Details of the claim or case you are appealing against

Claim or Case no. 2020/PI/10670

Fee Account no. (if applicable)

Help with Fees - Ref no. (if applicable) H W F – – –

Name(s) of the ☐ Claimant(s) ☑ Applicant(s) ☐ Petitioner(s)

Francis Michael Galpin

Name(s) of the ☐ Defendant(s) ☑ Respondent(s)

Lancashire Combined Fire Authority

Details of the party appealing ('The Appellant')

Name

Francis Michael Galpin

Address (including postcode)

Tel No.	
Fax	
E-mail	francisgalpin@aol.com

Details of the Respondent to the appeal

Name

Lancashire Combined Fire Authority

Address (including postcode)

Lancashire Combined Fire Authority
Lancashire Fire & Rescue Service HQ
Fulwood, Preston, Lancs.
PR2 3LH

Tel No.	01772 862545
Fax	
E-mail	justinjohnston@lancsfirerescue.org.uk

Details of additional parties (if any) are attached ☐ Yes ☑ No

Section 2 Details of the appeal

From which court is the appeal being brought?

☐ The County Court at

☐ The Family Court at

☑ High Court

- ☑ Queen's Bench Division
- ☐ Chancery Division
- ☐ Family Division

☐ Other (please specify)

What is the name of the Judge whose decision you want to appeal?

What is the status of the Judge whose decision you want to appeal?

☐ District Judge or Deputy ☐ Circuit Judge or Recorder ☐ Tribunal Judge

☐ Master or Deputy ☑ High Court Judge or Deputy ☐ Justice(s) of the Peace

What is the date of the decision you wish to appeal against?

3rd July 2020.

Is the decision you wish to appeal a previous appeal decision? ☑ Yes ☐ No

Section 3 Legal representation

Are you legally represented? ☐ Yes ☑ No

If Yes, is your legal representative (please tick as appropriate)

☐ a solicitor

☐ direct access counsel instructed to conduct litigation on your behalf

☐ direct access counsel instructed to represent you at hearings only

Name of your legal representative

Litigant-in-Person.

The address (including postcode) of your legal representative

Tel No.	
Fax	
E-mail	
DX	
Ref.	

Are you, the Appellant, in receipt of a Civil Legal Aid Certificate? ☐ Yes ☑ No

Is the respondent legally represented? ☑ Yes ☐ No

If 'Yes', please give details of the respondent's legal representative below

Name and address (including postcode) of the respondent's legal representative

Mr. M Nolan & Mr. D.Howell(Solicitors)
Lancashire Combined Fire Authority
Lancashire Fire & Rescue Service HQ
Fulwood, Preston, Lancs.
PR2 3LH

Tel No.	01772 862545
Fax	
E-mail	DominicHowell@lancsfirerescue.org.uk
DX	
Ref.	

Section 4 Permission to appeal

Do you need permission to appeal? ☑ Yes ☐ No

Has permission to appeal been granted?

☐ **Yes** (Complete Box A) ☑ **No** (Complete Box B)

Box A

Date of order granting permission

Name of Judge granting permission

Box B

I Francis Michael Galpin

the Appellant('~~s legal representative)~~ seek permission to appeal.

If permission to appeal has been granted **in part** by the lower court, do you seek permission to appeal in respect of the grounds refused by the lower court? ☑ Yes ☐ No

Section 5 Other information required for the appeal

Please set out the order (or part of the order) you wish to appeal against

Appeals against Falk J and Fancourt LJ ~ all their Orders and Approved Judgments ~ on Points of Law.
First Lodged and Issued at the High Court/Court of Appeal on the 4th February 2020.

Have you lodged this notice with the court in time? (There are different types of appeal - see Guidance Notes N161A) ☐ Yes ☑ No

If **'No'** you must also complete **Part B of Section 10 and Section 11**

Section 6 Grounds of appeal

Please state, in numbered paragraphs, **on a separate sheet** attached to this notice and entitled 'Grounds of Appeal' (also in the top right hand corner add your claim or case number and full name), why you are saying that the Judge who made the order you are appealing was wrong.

☑ I confirm that the grounds of appeal are attached to this notice.

Section 7 Arguments in support of grounds for appeal

☑ I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' are set out **on a separate sheet** and attached to this notice.

OR (in the case of appeals other than to the Court of Appeal)

☐ I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' will follow within 14 days of filing this Appellant's Notice. A skeleton argument should only be filed if appropriate, in accordance with CPR Practice Direction 52B, paragraph 8.3.

Section 8 Aarhus Convention Claim

For applications made under the Town and Country Planning Act 1990 or Planning (Listed Buildings and Conservation Areas) Act 1990

I contend that this claim is an Aarhus Convention Claim ☐ Yes ☑ No

If Yes, and you are appealing to the Court of Appeal, any application for an order to limit the recoverable costs of an appeal, pursuant to CPR 52.19, should be made in section 10.

If Yes, indicate in the following box if you do not wish the costs limits under CPR 45 to apply. If you have indicated that the claim is an Aarthus claim set out the grounds below

Section 9 What are you asking the Appeal Court to do?

I am asking the appeal court to:-
(please tick the appropriate box)

☐ set aside the order which I am appealing

☑ vary the order which I am appealing and substitute the following order. Set out in the following space the order you are asking for:-

"That the law is that in calculation of an ill-health pension pursuant to 1992 Statutory Instrument No.129, the Rule B3, Paragraph 5 notional retirement pension was to be, and is to be, as though the enforced ill-health retirement had not cut short a career before being required to retire on account of age, and on the APP of the Rank, or at the Pay Point in the Pay Scales, the disabled Firefighter Appellant could have reached, but for ill-health or no-fault injury. Such APP for such Rank or Pay Point to be taken from the Pay Scales in force when he was compulsorily required to retire on grounds of a no-fault 'qualifying' injury and then; on comparison between calculations of the Paragraph 3, or 4 amount, and the Paragraph 5 amount, the greater to be paid to him as his compensating enhanced Rule B3 ill-health pension entitlement.

☐ order a new trial

Section 10 Other applications

Complete this section **only** if you are making any additional applications.

Part A

☐ I apply for a stay of execution. (You must set out in Section 11 your reasons for seeking a stay of execution and evidence in support of your application.)

Part B

☑ I apply for an extension of time for filing my appeal notice. (You must set out in Section 11 the reasons for the delay and what steps you have taken since the decision you are appealing.)

Part C

☐ I apply for an order that:

An original Appeal lodgment was issued on 4th February 2020. I made Application in June 2020 for an extension of time. It was acknowledged but no action was taken to place it before a Master, to date(continuing).

(You must set out in Section 11 your reasons and your evidence in support of your application.)

Section 11 Evidence in support

In support of my application(s) in Section 10, I wish to rely upon the following reasons and evidence:

1. In June 2020 prior to the 3rd July 2020 Hearing (Falk J-then-Fancourt LJ) I stayed my issued case at the Court of Appeal and subsequently made Application for an Extension of Time which was acknowledged but which(to date) no order was ever given.
2.On or about the 4th July 2020 I requested and paid for a transcript of this Oral Hearing . The transcript when it finally came was missing two sections of in total 27minutes from the recording ; my resultant requests for an explanation from Fancourt LJ have never been answered.
3. In August 2020 I was informed by a Mrs Angus a 'jurisdiction lawyer'(Without-admitted-a Master's order) that I had to lodge all my Appeal again; a 'lawyer' who did not acquaint herself with my issued case; stayed(?); lying on her EFile system which provided clear evidence of where my case was, for her to see.
4.Under lying all this there was continuing delay, 17 weeks in total, occasioned by Fancourt LJ's failure to respond to my reasonable questions on the missing parts of the transcript of the Oral Hearing with him on the 3rd July 2020 and/or his delay in producing an Approved Judgment which finally arrived on 27th October 2020.
5. This transcript, in part or whole, has still not been explained nor judicially Approved by anyone; the final part not arriving undated until 23rd February 2021.
6. All appropriate fees since 4th February 2020 were paid and as instructed by Mrs Angus re-claimed for a second time with the further instruction to send a reduced fee without explanation for all this embarrassing Order, Counter Order...Disorder.
7.I drew all these matters to the direct attention of the new Master of the Rolls, Judge Vos in personal letters which were acknowledged but with the comment that there was nothing he could , or would administratively do; all this recorded delay was not of my making.The Chancery Registry at one point sent the case file it to the wrong Court and when it arrived at the correct Court the jurisdictional 'lawyer' Mrs.Angus, without consulting a Master(which she has since admitted) decided to return all the case file papers to me and my fees; the latter which occasioned even more delays (as intended).
8.My earlier experience at the Royal Courts of Justice Northern Ireland could not have been more different as a Litigant-in-Person; the Registry Manager (an Englishman) was warm welcoming helpful in every detail, and on occasions suggesting administrative methods to be adopted; the judiciary were helpful, courteous, and civil in their demeanor and actions both in and out of Court via their Registry.
9. The Court of Appeal's Registry Manager Mr.M. Chouwdhury and his colleague Mr. Bourn, contrary to the published policies of the LCJ in respect of declared Litigants-in-Person, could not have been more obstructive if they tried, and try they did. Not a single word of encouragement, guidance, or clarity was ever provided to me indeed in joint malignancy the exact opposite clearly occurred; every bureaucratic hurdle that could be placed in front of me was perversely used, including the appalling exploitation by abuse of power over those subordinates forced under duress of employment or ignorance to carry out Messers Chowdhury and Cobourn's malignant wills.
10. To them must be attributed any and every deliberate delay which they manipulated and abused;not me.

Statement of Truth – This must be completed in support of the evidence in Section 11

I believe ~~(The appellant believes~~) that the facts stated in this section are true.

Full name Francis Michael Galpin

~~Name of appellant's legal representative firm~~

signed

Appellant ~~('s legal representative~~)

position or office held

(~~if signing on behalf of firm or company~~)

Section 12 Supporting documents

To support your appeal you should file with this notice all relevant documents listed below. To show which documents you are filing, please tick the appropriate boxes.

If you do not have a document that you intend to use to support your appeal complete the box over the page.

In the County Court or High Court:

- ☐ three copies of the appellant's notice for the appeal court and three copies of the grounds of appeal;
- ☐ one additional copy of the appellant's notice and grounds of appeal for each of the respondents;
- ☐ one copy of the sealed (stamped by the court) order being appealed;
- ☐ a copy of any order giving or refusing permission to appeal; together with a copy of the judge's reasons for allowing or refusing permission to appeal; and
- ☐ a copy of the Civil Legal Aid Agency Certificate (if legally represented).

In the Court of Appeal:

- ☑ three copies of the appellant's notice and three copies of the grounds of appeal on a separate sheet attached to each appellant's notice;
- ☑ one additional copy of the appellant's notice and one copy of the grounds of appeal for each of the respondents;
- ☑ one copy of the sealed (stamped by the court) order or tribunal determination being appealed;
- ☐ a copy of any order giving or refusing permission to appeal together with a copy of the judge's reasons for allowing or refusing permission to appeal;
- ☐ one copy of any witness statement or affidavit in support of any application included in the appellant's notice;
- ☑ where the decision of the lower court was itself made on appeal, a copy of the first order, the reasons given by the judge who made it and the appellant's notice of appeal against that order;
- ☑ in a claim for judicial review or a statutory appeal a copy of the original decision which was the subject of the application to the lower court;
- ☑ one copy of the skeleton arguments in support of the appeal or application for permission to appeal;
- ☑ a copy of the approved transcript of judgment; and
- ☐ a copy of the Civil Legal Aid Certificate (if applicable)
- ☐ where a claim relates to an Aarhus Convention claim, a schedule of the claimant's financial resources

Reasons why you have not supplied a document and date when you expect it to be available:-

Title of document and reason not supplied	**Date when it will be supplied**

Section 13 The notice of appeal must be signed here

Signed _____ Appellant~~('s legal representative)~~

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IN THE COURT OF APPEAL
ENGLAND AND WALES
CIVIL DIVISON. Case No: 2020/PI/10670

BETWEEN:

FRANCIS MICHAEL GALPIN
Appellant (Litigant-in-Person)

AND

LANCASHIRE COMBINED FIRE AUTHORITY
Respondent

LEAVE TO APPEAL OUT OF TIME

Nutshell.

1. Section 54(4) of the Access to Justice Act denying him a right to appeal, save by way of the rules of court, the Appellant, a Litigant-in-Person, seeks permission to Appeal an Approved Judgement out of time pursuant to, CPR 52.15, or otherwise, as justice requires.

2. The Appellant appeals to remedy "errors in law", Dicta Lord Reed in Henderson (Respondent) v Foxworth Investments Ltd & Anor (2014) UKSC 67; the Respondent unlawfully denying him some £11,500 of his pension due in 1998 (continuing), for Court of Appeal correction.

3. By reason of misapplication of the law the Appellant is being paid a non-compensatory Rule B1 Ordinary pension under the guise of it satisfying his compensatory Rule B3 ill-health pension for financial loss provided for him by the Fireman's Pension Scheme Order, SI 1992 No. 129, [SI] on being compulsorily discharged from the Fire Service early through a no-fault 'qualifying' injury.

4. Apart from difficulties the delay causes the Appellant, the Respondents, making no appearance, are not prejudiced by it. But the Appellant has not caused any delay.

5. The Deputy Ombudsman (on an Ombudsman precedent after misrepresentation by the Respondents of the Home Office Commentary to the SI), then on appeal to Mrs Justice Falk, (who, initially, adopted the Deputy Ombudsman's Adjudication), and

latterly Mr Justice Fancourt, have all applied the wrong law within SI, Rule G1, to the Appellants B3 pension, enabling the Respondents to continue to defraud him.

Delay.

6. (i) The Appellant filed his Appeal against the Ombudsman's Adjudication on a point of law of 4th. February 2020.

   (ii) On 2nd April 2020, the Honourable Mrs. Justice Falk wrongly found the Appellant's point of law 'a nonsense', and that '*by reference to'* was to be taken to mean '*is*', but with ratio decidendi insufficient to know, beyond whim, her legal basis for so deciding.

   (iii) With the point of law decided against him, the Appellant appealed to the Court of Appeal. However, it appears that it was diverted back to Mrs. Justice Falk who then, of her own volition, re-engaged to give Directions on 6th May 2020 for work to be done, and to set a hearing for 3rd July 2020.

   (iv) With nothing more required of her after her refusal of permission, her re-engagement and Orders suggests she intended to grant permission to confront and deal with 'the point of law' on 3rd July 2020.

   (v) On the 2nd July 2020, without explanation, the Appellant was told the hearing would not now be before the fully seised, Mrs. Justice Falk, but Mr. Justice Fancourt.

   (vi) On 3rd July 2020, albeit without identifying or touching on the 'point of law', Mr. Justice Fancourt found it to be 'unarguable'. It follows, whether he knew it or not, that construing 'by reference to' as 'is', in the context of the SI, turns its provision into a reductio ad absurdam.
   Not that that is apparent until a later stage in construction of priorities, of what the SI requires to be differing amounts, which the synonym construction denies.

   (vii) Fancourt J having decided the point at law to be unarguable, the Appellant again made a full appeal to the Court of Appeal. It appears this was administratively mislaid, never issued, but returned to the Appellant on 18th January 2020.

   (viii) In any event, Fancourt J subsequently delivered a written, fully reasoned "Approved Judgement" on 28th October 2020 (17 weeks later), in which it became plain why the point at law '*by reference to*' has been persistently wrongly construed as a synonym for '*is'* in SI provision by Sch. 2, Pt. III, Paragraph 5 (2) of Rule B3, rendering reductio ad absurdam all the Rule B3 ill-health compensatory provision. Making it all redundant to become a non-compensatory Rule B1 Ordinary pension provision.

7. The Deputy Ombudsman, Falk J and Fancourt J had all quoted Rule G1 rightly as their authority, SI Rule G1 (4) does, indeed, provide the day on which pay is to be taken on which to calculate pension but all were wrong in applying Rule 1 (4) (a) to the Rule B3 ill-health provision, which is excluded from the specifying list to be calculated under its provision; Rule B3 falling with all else, under Rule G1(4)(b).

8. Finally in that approved judgment it becomes clear that Respondents, Deputy Ombudsman, Falk J and Fancourt J could only construe 'by reference to' as 'is' by wrongly applying Rule G1 (4) (a) to the Rule B3 ill-health provision instead of G1 (4) (b).

9. It is an error in law of public importance. It is causing very real injustice. It is also an error of such magnitude as to entirely deny any effect to the compensating Statutory B3 ill-health pension, to which the Appellant was entitled as a Firefighter compulsorily discharged from Service through a no-fault 'qualifying' injury, for which the Respondents are statutorily liable. In legal effect, the misconstruction renders the statutory provision meaningless, a reductio ad absurdam.

10. In a word the Respondents have systematically been defrauding the Appellant of the whole of his compensating Rule B3 ill-health pension, under the deception that a non-compensatory fully accrued Rule B1 Ordinary pension was his compensatory Rule B3 ill-health pension, since 1998, continuing.

11. To facilitate the fraud the Respondents suppressed, the SI promulgating authority's plain language Home Office Commentary, and misrepresented it to the Ombudsman.

12. Being wrong in law the Appellant again Appeals to the Court of Appeal. Each Judge misapplied the law in 1992 Statutory Instrument No 129.

13. The Appellant received a letter on 2nd January 2021 denying leave to appeal Falk J on 2nd April 2020.

14. The Appellant has only ever made the one application to a Judge in the High Court in England. Mr. Justice Fancourt was in error to think the hearing on 3rd July was on a Second Application by the Appellant, it was not. It was a hearing on the first application first refused, but then re-opened, of her own volition, by Mrs Justice Falk.

15. If required the Appellant seeks leave to Appeal the Approved Judgement of the Honourable Mr. Justice Fancourt, he being so manifestly wrong in law as to render it a reductio ad absurdam permitting the Respondents, his fiduciary pension provider, to continue to defraud the Appellant his Rule B3 pension amount to which, by law, he became entitled in 1998 – continuing.

Mr. Francis Michael Galpin.
Litigant-in-Person

Signed this 1st Day April 2021_____.

John M. Copplestone-Bruce
Inner Temple (PB).

IN THE COURT OF APPEAL
ENGLAND AND WALES
CIVIL DIVISON. Case No: 2020/PI/10670

BETWEEN:

FRANCIS MICHAEL GALPIN
Appellant (Litigant-in-Person)

AND

LANCASHIRE COMBINED FIRE AUTHORITY
Respondent

GROUNDS OF APPEAL

1. Sec 54(4) of the Access to Justice Act 1999 acting as no bar to justice where the rules provide, the Appellant, a Litigant-in-Person, understands CPR 52 to deny interference by the Court of Appeal unless a judge had gone 'plainly wrong', meaning material decisions cannot be reasonably explained or justified.

2. Mr Justice Fancourt, in his 'Approved Judgement' dated 3rd July 2020, delivered on 28th October 2020 (17 weeks), has gone 'plainly wrong' in a variety of the ways, all within material grounds for appeal found by Lord Reed in Henderson (Respondent) v Foxworth Investments Ltd & Anor (2014) UKSC 67, to be *"material error in law, making a critical finding of fact which has no basis in the evidence, demonstrable misunderstanding of relevant evidence, or a demonstrable failure to consider relevant evidence".* (Paragraph 66).

3. Fancourt J introduced many errors of construction in the Approved Judgement (note Appeal) not hitherto understood to be problematic. But many are errors born of seeking consistency within a judgement predicted on the wrong law, which explains the misconstruction by Fancourt J in misdirecting himself in law to find '*by reference to',* to mean *'is',* or *'using'.*

4. Why (the Respondents; Deputy Ombudsman; Falk J) and Fancourt J, orally on 3rd July 2020, all construed *'by reference to'* wrongly as a synonym for *'is'* was unclear because 'nonsense' or 'unarguable' is insufficient ratio decidendi to know why they misconstrued, until, finally, the lights went on with the 'Approved Judgement' delivered by Fancourt J on 28th October 2020.

5. Fancourt J (at al) rightly relies on Rule G1 to provide the day, on which to take pay, on which to calculate pension, but he wrongly applied (wittingly or not) section, G 1 (4) (a) to be the Appellant's Rule B3 pension. Wrongly, because the compensating Rule B3 ill-health pension is specifically excluded by (a) from its provision; though it does apply to a Rule B4 Injury Award. Instead, a Rule B3 award falls under G1 (4) (b) for calculation. A Correct application of G1 (4) (b), and other provision in the SI, denies – absolutely - taking '*by reference to',* to mean *'is',* or *'using'*. Correct construction avoids the absurdity the synonym creates.

6. By his misconstruction Fancourt J renders provision made by Fire Service Pensions legislation, 1992 Statutory Instrument No129 [SI], reductio ad absurdam, leaving the Court of Appeal no option but to allow the Appeal. And in so doing correctly construe the law on a matter of public importance, to avoid a *mischief* (Dicta, Lord Coke in Heyden's case (1584) 76 ER 637).

7. In this case, of a public body denying statutory provision to calculate and pay pensions, as prescribed by law the fiduciary Respondents, servants, or agents of the government, have been systematically deceiving and defrauding their pensioner, the Appellant, since 1998 when he was compulsorily discharged from the through a no-fault 'qualifying' injury – continuing.

8. Apropos the question of promotion in Rank in the Appellant's present Appeal, *Thomas v Thomas* 1947 SC (HL) 45, 59; [1947] AC 484, 491, is on point, dicta Viscount Simon *"If there is no evidence to support a particular conclusion (and this is really a question of law), the appellate court will not hesitate so to decide".* Fancourt J, entering the arena, found against evidence, with which the Respondents took no issue that, but for injury, the Appellant would have been promoted.

9. Fancourt J so construed the SI, Rule B3 ill health pension provision as to render to no effect, formulaic Paragraph 4 of Rule B3 provision, denying statutory requirement to provide.

10. The Appellant appeals pursuant to CPR 52.7. (2) (a), on the grounds:

(i) That the Appeal has a real chance of success, and;

(ii) That it raises important matters of pubic principle, that Courts construe legislative provision in accordance and consistent with law and settled legal principles including, to so construe the law that Her Majesty's Government honour its statutory, so contractual, pension obligations to its servants, the Appellant's case being, in part, mutatis mutandis, The Lord Chancellor & Anor v McCloud (2018) EWCA Civil.

11. And the Appellant appeals pursuant to CPR 52.7 (2) (b), there being other compelling reasons for the Court to hear it:

- No English Court can be seen to favour arbitrary and oppressive conduct by servants or agents of Her Majesty's Government to deny lawful provision of pension due;

- No English Court can be seen to condone fraudulent practice;
- Should a judge enter the arena, the Court of Appeal must be seen to intervene.

12. The Appellant appeals to avoid a 'real injustice' without other remedy (CPR 52 3 (1) (a)) :

(i) He is just being paid a fully accrued before injury, non-compensatory, Rule B1 Ordinary pension in substitution when he is entitled (by an original statutory decision of the Respondent) to be paid an enhanced compensatory Rule B3 ill-health pension having been compulsorily discharged through a no-fault 'qualifying' injury;

(ii) He has long been defrauded his Rule B3 enhancement of £11,516.24 (index linked) to compensate him for his financial loss first falling due in 1998 – continuing;

(III) His pension - His 'property' being long wrongfully retained (more each month) in an arbitrary and oppressive abuse of power by the Respondents, servants of the government over which he has no control, or remedy, save intervention by the Court of Appeal, the High Court having made material errors in law.

13. The Respondents are in breach of the Human Rights Act 1998, Schedule 1 Part ll, The First Protocol, Article 1 providing that, "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest".

Mr. Francis Michael Galpin
Litigant-in-Person

Signed this 1st Day April 2021_____.

John M. Copplestone-Bruce Inner Temple (PB).

IN THE COURT OF APPEAL

ENGLAND AND WALES.

CIVIL DIVISION

BETWEEN:

FRANCIS MICHAEL GALPIN

Appellant (Litigant-in-Person)

AND

LANCASHIRE COMBINED FIRE AUTHORITY

Respondent

APPEAL

Nutshell.

1. The Appellant's Fire & Rescue Service employer and fiduciary pension provider, on misconstruing provision to reductio ad absurdam, are paying him an accrued, non-compensatory, Rule B1 Ordinary pension, denying him his enhanced compensatory Rule B3 ill-health pension, provided by 1992 Statutory Instrument No.129 [SI] in compensation for his financial loss, to which he became entitled when compulsorily discharged with a 'qualifying' injury, for which the Respondents are statutorily liable.

2. The Respondent's Chief Fire Officer, seeking neither counsel's opinion nor judicial review explaining "*I am unable to see any reference in the Statutory Instrument to this being compensation".* The Respondents have entered no appearance.

3. In effect the Appellant pension was wrongly calculated in 1998 at £21,936 (B1), instead of his entitlement to £33,452.24 (B3 subsuming B1), defrauding the Appellant his B3 pension of £11,516.24 in 1998, and every year since - index linked.

Law 'bullpoint.'

1992 SI No:129, Rule G1(4) provides the date on which to take pay, to calculate pension:

> *"(a) for the purposes of rules B 4 (injury award), C2 (spouse's special award), C7 (spouse's award where no other award payable), D2 (child's special allowance), D3 (child's special gratuity) and E2 (adult dependent relative's special pension), the*

date of the person's last day of service as a regular firefighter, and '
(b)for all other purposes, the date of his last day of service in a period during which pension contributions were payable under Rule G2".

(i) In his Approved Judgement (AJ) at AJ 19, Fancourt J finds "*a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service"*. A notional retirement pension is a Rule B3 provision. In common with those before him, Mr Justice Fancourt refers to 'Rule G1' several times, but never which part he had in mind.

(ii) Perhaps, on simple mistake of misreading D3 as B3, or on taking application of 'Rule G1' on trust from those before him, Fancourt J did not consider (a) or (b) adequately, or at all, before, unwittingly, predicating his whole judgement wrongly in law on Rule G1 (4) (a). Unwittingly, of course, for otherwise would be to conspire to defraud;

(iii) Rule B3 falls within 'for all other purposes" to be calculated under Rule G1 (4) (b) on the APP paid on the *last day of service in a period during which pension contributions were payable* which, but for injury, for which the Respondents are statutorily liable, would have been when the Appellant was retired aged 60;

(iv) For the Appellant the last day of service as a regular Firefighter was the day before injury when he was 54 (the Rule G1 (4) (a) date) but, absent injury he would have paid pension contributions until aged 60 (the Rule G1(4) (b) date). Injury, for which the Respondents are liable, denying him his highest salary years and promotion, and higher pension, all occasioning him financial loss;

(v) His Rule B3 Ill-health pension was wrongly calculated on Rule G1 (a), when (b) applied;

(vi) On misconstruction of Rule G1 it also follows, for consistency, that 'the point of law' had to be misconstrued. Fancourt J holding at AJ 22 "*In my judgement, the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay*". Wrongly consistent with G1 (4) (a): inconsistent G1 (4) (b);

(vii) On such misconstruction, the Rule B3 pension becomes, de facto, the amount of a non-compensatory, Rule B1 Ordinary pension, denying the Appellant his enhanced compensatory Rule B3 ill-health pension entitlement in law;

(viii) Given a Rule B4 Injury Award for injury and loss of amenity; a Rule B3 pension can only serve one purpose in law, to compensate for financial loss, for which an unknown APP has to be found "*by reference to*" a known APP, on which to calculate the Rule B3 notional retirement pension. Correctly construed two 'APPs' are required, not the one 'APP', Fancourt finds in error in law on applying Rule G1 (4) (a);

(ix) It follows that Fancourt J omitted to consider or confront the law, or conflicts with the provision arising from his misconstruction, rendering the statutory Rule B3 ill-health enhanced compensatory pension provision, reductio ad absurdam.

Synopsis.

1. The judgement here appealed, is that of The Honourable Mr. Justice Fancourt, [Fancourt J] who, in his Approved Judgement [AJ], delivered on 28th October 2020, after appeal to the Court of Appeal against his oral judgement at Mrs. Justice Falk's intended hearing on 3rd July 2020, misdirected himself in law to uphold the Respondent's unlawful practice by finding that Rule G1 (4) (a) instead of Rule G1 (4) (b) of 1992 Statutory Instrument No. 129 [SI] applied to the calculation of the Appellant's pension, finding at AJ18, "*a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service",* denying the compensatory enhanced Rule B3 ill-health pension provided by the statute.

2. (i) 1992 Statutory Instrument No. 129 [SI] Rule B1 provides for accrual of entitlement during active service of a non- compensatory (no financial damage suffered), time served Ordinary pension on retirement from the Fire & Rescue Service by right, which Rule B1 also denies to any Firefighter becoming entitled to a compensatory enhanced Rule B3 ill-health pension;

   (ii) In addition to a Rule B3 ill-health pension, the SI provides a Rule B4 'Injury Award'(calculated from a Rule B3 pension) in compensation for pain, suffering, incapacity and loss of amenity, to those compulsorily discharged from Service on receipt of a no-fault 'qualifying' injury, suffered in the course of their employment.

3. The Respondents and Fancourt J deny the purpose of compensatory enhanced Rule B3 provision, in the amount above an already fully accrued, non-compensating Rule B1 Ordinary pension though, in law, the only possible purpose of SI Rule B3 provision is for an accrued Rule B1 pension to be subsumed within the greater Rule B3 "ill-health Pension", for payment in compensation for financial loss in pay and pension that "*could have been earned until required to retire on account of age"* by the Appellant, but for no-fault 'qualifying' injury, (quoting the Home Office Commentary which correctly construes their 1992 Statutory Instrument No. 129, making the provision at Rule B3) and to compensate the Appellant for his future loss of earning capacity.
4. Fancourt J, rendering the compensatory enhanced Rule B3 provision reductio ad absurdam denying legislation legal effect was wrong in law (in many ways) to uphold the Respondent's practice; a practice both repugnant and contrary to law; a practice in an arbitrary and oppressive abuse of power by a servant of government by defrauding a retired Firefighter of his lawfully provided compensatory enhanced Rule B3, entitlement.

5. In breach of fiduciary duty and unlawfully, the Respondents have been paying the Appellant a non-compensating Rule B1 Ordinary pension of £21,936 since 1998, under the pretense of it being his B3 ill health legal entitlement when, had it been lawfully construed, he would have been paid his compensating enhanced Rule B3 ill-health pension of £33,452.24 in compensation for his financial loss of earnings and pension, denied him by a no-fault injury, and in compensation for his reduced

future earning capacity.
The defrauded index linked £11,516.24 shortfall being unlawfully retained by the Respondents, the servants or agents of Her Majesty's Government – continuing.

Errors in Law and Misdirections.

1. (i) 1992 Statutory Instrument No.129 [SI], Rule G1 (4) specifies the *'relevant date',* from which average pensionable pay [APP] is taken on which to calculate pension. The *relevant date* being either (a) the day last worked, or, (b) the day, absent injury, of last pension contribution (aged 55 or 60);

   (ii) By conflating (a) with (b) both to mean (a) in misapplication of Rule B3, Fancourt J premised his judgement on a misdirection in law, rendering reductio ad absurdam, the SI Rule B3, Paragraph 5 ill-health provision, making it redundant and indistinguishable from a Rule B1 Ordinary time served pension, denying legislative meaning.

2. In misunderstanding the promulgating authority's ''Home Office Commentary" to the SI, Fancourt J wrongly transposed it into misconstruction of the SI provision, to misdirect himself to think that years, not pay, may accrue, where the SI made no provision for years to accrue, but does so for pay to accrue.

3. Fancourt J misunderstood the SI and misdirected himself to provide what the SI did not provide, that years may accrue where to do so would be to no legal effect. All Rule B3 ill-health pension is provided either by fixed formulae, calculated on unalterably established pay being paid, and on years already served; or, in the alternative, on a notional retirement pension, being a notional Rule B1 Ordinary, full service, 40/60^{ths} of the Appellant's notional APP; a pension, which more years, had they been available, could not affect.

4. Fancourt misdirects himself that all pensions are limited to 40/60^{ths} of APP, (see Appendix 'A').

5. Fancourt J misconstrued provision made at B3 1 (2) and 5 (2) by conflating different words of provision, '*by reference to'* to be a synonym of '*is*', in a reductio ad absurdam, avoiding statutory intent, purpose, meaning, and legal effect.

6. Fancourt J so failed to construe the Rule B3 ill-health pension provision as to ignore, and render to no effect, formulaic Paragraph 4 of the Rule B3 provision and misdirected himself on the purpose and meaning of Rule B3, Paragraph 5 (1) (b).

7. Fancourt J further misconstrued *'by reference to',* and the meaning and purpose of Rule B3, Paragraph 5 (2) denying Rule B3, Paragraph 5 its legal affect.

8. Fancourt J misdirected himself, the Respondents being liable, to find that the Appellant's financial loss occasioned by no-fault 'qualifying' injury, so denying him Service, and so promotion, during the final 5 year period of intended career, may not be taken into account in calculating an ill-health pension.

9. Fancourt J misdirected himself to be unmindful of the general intention of the statute, evinced by Rule L4 (3) that where two amounts may satisfy the same award, the highest is paid.

10. By finding that a non-compensatory Rule B1Ordinary pension satisfied the Appellant's entitlement to a compensatory enhanced Rule B3 ill-health pension, Fancourt J found contrary to law, rendering the whole of the Rule B3 provision of the SI redundant to a Rule B1 provision, reductio ad absurdam, to no legal effect and repugnant to law.

Particulars.

Common Ground.

1. Having filed his appeal after receiving Mr Justice Fancourt's transcribed oral judgment of 3rd July 2020, the Appellant received a further considered written 'Approved Judgement' on 28th. October 2020 [AJ]. In it the judge sets out common ground that "*Mr Galpin is a retired firefighter and he has a pension under the Fireman's Pension Scheme* [AJ 2], and, but for being '*forced to retire, as a fireman, through ill-health as a result of an accident at the age of 54. He would otherwise have been entitled to continue to work until the age of 60",* [AJ 3], and that Mr. Galpin's considers he is "*wrongly paid a Rule B1 ordinary pension, rather than a Rule B3 ill-health pension"* [AJ 4]*.*

2. Also that [AJ 13], "*The issue is*, *and is accepted to be, purely a question of the true interpretation of the Pension Scheme.."* and [AJ 14]. "*The relevant provisions of the scheme are, first, in appendix one, where Part B differentiates between an ordinary pension, at paragraph B1, and an ill-health award, at paragraph B3. It is common ground that Mr Galpin is entitled to an ill-health award and not an ordinary pension".*

Non-compensatory B1 and compensatory B3.

3. (i) Fancourt J failed, however, to consider and distinguish between a Rule B1and a B3 pension, and grasp the intrinsic SI, Rule B3 intent of enhancement of pension for Firefighters denied full fire service careers by no-fault 'qualifying' injury, made plain by, inter alia, the ill-health formulae providing more than a 40/60ths non-compensatory time served Rule B1Ordinary pension.

(ii) A Rule B1 Ordinary pension entitlement accrues with each year served until, on 25 years' service, a 30/60ths of APP pension accrues, rising to 40/60ths on 30 years' Service, thereafter the only variable multiplicand is the average pensionable pay, or APP.

Rule B1 denies the award of a non-compensating Rule B1Ordinary pension to anyone entitled to a compensating enhanced Rule B3 ill-health pension, [SI Rule B1.At AJ 24, Fancourt J confuses years with pay, finding that *"Read in the context in which they are used in the commentary, the two instances of what could have been earned by compulsory retirement age are references to the number of years of service that could be achieved, not the average pensionable pay. In both cases, the calculation*

described is based on a maximum of 40 years' service or the length of service that could have been earned by compulsory retirement age.".

(iii) Having misdirected himself that years not APP may accrue (his fallacia consequentis below) the judge has also mistakenly taken the 40 in 40/60^{ths} to be 40 years, though simply 40 parts of 60 parts to give 2/3rds, as a fraction of APP.

(iv) 40/60^{ths} is the maximum part, 2/3rds, of final pay arrived at on 30 pensionable years completed Service to give a full non-compensatory, time served Rule B1 Ordinary pension which falls due anytime after age 50, until paid, in any event, at the service retirement age of 55 or 60.

(v) 60^{ths} is a convenient measure used to provide affordable units of pension that can be purchased by anyone whose accrued pension falls short of 40/60^{ths}, who can then buy 60^{ths} to reach the maximum 2/3rds, or 40/60^{ths} x APP, for a maximum Rule B1 Ordinary pension.

B3. B4.

4. A compensating enhanced Rule B3 ill-health pension falls due on a Firefighter being required to retire early on account of a no-fault 'qualifying' injury for which, by provision of the SI, the Respondents are liable, both for its financial and physical sequellae.

5. Rule B3 provides a pension in two ways. First, by way of formulae on which to calculate, depending on length of service, an *ill health pension amount* (Paragraphs 2 – 4) using two fixed multiplicands, the years served and extant APP. Second, in the alternative, by way of a Paragraph 5 1 (a) *notional retirement pension* calculated as a full service, notional, Rule B1 pension, calculated on a notional APP, reflecting what a Firefighter could have earned '*until he could be required to retire on account of age'*.

6. Though denied a Rule B1Ordinary pension on becoming entitled to a Rule B3 pension, those forced to retire on account of ill-health, and/or injury receive, in addition to the Rule B3 *ill-health pension*, a Rule B4 *Injury Award,* calculated from a Rule B3 pension, in compensation for physical disablement, pain, suffering and loss of amenity. There can be no reason in law for the Rule B3 provision other than to provide for a compensation for financial loss.

7. Fancourt J. misled himself in finding that the Appellant, on being paid an accrued, non-compensatory, Rule B1 Ordinary pension, was/is in receipt of his correct compensating enhanced Rule B3 ill-health pension.

The Home Office Commentary.

8. (i) On promulgating the SI, the Home Office published a Commentary for lay guidance intended for general use by everyone concerned. The Appellant, a

Firefighter, with no notion of pension law, relied on his pension providers to know and properly apply it.

(ii) Not only did they not properly apply it, but the Respondents suppressed the Commentary's existence (the wording of which they subsequently misrepresented to a past lay Pensions Ombudsman on a similar case).

(iii) Had the Appellant seen it, as intended by the Home Office, he would have seen from its plain English guidance, that his B3 pension was to be calculated by formulae (set out), or on what, but for injury, he "*could have been earned until required to retire on account of age".* It was not just intended for lay administrators, but in addressing retirees put it in the subjective, pension on what "*you could have earned until required to retire on account of age"*. The guidance accords with the SI provision.

9. In effect, the SI codifies the common law damages for Firefighters suffering no-fault injury in course of their employment. Fancourt J in seeking to uphold the Respondent's practice, finds otherwise. The Commentary is not law but Fancourt J relied on it in his misapprehension and misconstruction of the law.

Misconstruction the Commentary.

10. At AJ 27 Fancourt J misdirects himself in a compendium of ways in finding that "*the commentary and guidance uses a phrase which is ambiguous, namely 'or what could have been earned by compulsory retirement age'. However, in context, and by reference to the examples given in the guidance, one of which, example seven, is inconsistent with Mr Galpin's case, it is reasonably clear that that phrase is intended to connote the number of years of service that would have been achieved by compulsory retirement and has nothing to do with any promotion".*

Years confused with pay.

11. (i) Fancourt J misconstrues *'what could have been earned by compulsory retirement age'* by taking it out of context to mean years can be added, where none can. Rule B3 formulaic provision is calculated on established pensionable years served and last paid APP. Both multiplicands once finitely established on actually ending service, and are then fixed in law.

(ii) The alternative Rule B3 provision at paragraph 5.1(a), provides a *notional retirement pension* predicated on having "*continued to serve until he could be required to retire on account of age'.* When compulsorily discharged injured, credit is given for a notional full career Rule B1 Ordinary pension limited to 40/60^{ths} to which more years can add nothing and are, indeed, irrelevant.

(iii) At [AJ 19] Fancourt J takes the confusion further in saying "*He supports his argument* (for promotion) *by reference to guidance in the form of a commentary that was issued by the Home Office at the time when the pension scheme came into effect. The relevant part of that guidance says as follows:*

"How much is the pension? The sums are set out in examples one and four to seven, the basis of the calculations is explained here. 'A firefighter's basic ill-health pension

is never less than 1/60th of average pensionable pay, APP, and never more than 40/60th, two-thirds of APP or what could have been earned by compulsory retirement age".

(iv) Fancourt J misconstrues the Commentary to mean at [AJ 23], that *"What could have been earned by compulsory retirement age are references to the number of years of service that could be achieved, not the average pensionable pay"*. Yet the SI is silent on years save and except as 'pensionable years' (SI definitions) which can only accrue from being actually served.

(v) In so finding Fancourt J finds on no legal authority, the SI making no provision that any period of years can ever be added or subtracted from the pensionable years served. Once served the number is an absolute event, even to the number of days served.

Correction.

(vi) The statutory provision is at Pt. lll, B3, ill health pension, pargraph "5 (1) Where:
(a) if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension (the notional retirement pension)"

(vii) It escaped Fancourt J that those required to retire on grounds of ill health are credited with a full service career which, but for injury, would have been served. Meaning the 5(1) notional pension is a maximum B1 full service career pension to which they would have become entitled, absent injury, had they served until required to retire on account of age. A 5(1) B3 pension is a notional full career B1 pension

(viii) No years can be added of subtracted from a B3 notional retirement ill health pension because it is, in effect, a B1 full career, absent injury, 40/60^{ths} of a notional APP, arrived at by reference to his actual APP.

(ix) Rule B1 provides that a pension could be taken at 50, after 25 to 30 years Service providing a pension rising from 30/60^{ths} to 40/60^{ths} of the final pay.

(x) If, on final reckoning, a retired Firefighter's pension fell short of 40/60^{ths} there was no remedy in years earned, as Fancourt J thought, but any 60ths short of 40 could be purchased. What was not in any way variable is the number of years which can only be acquired by Service.

(xi) Even if a retired Firefighter, on the grounds of ill-health fell short on that credit (a late entrant) he/she cannot acquire more pensionable years than notionally s/he would have served, absent injury, to normal retirement. But s/he could maximize his/her notional ill-health pension by buying real 60^{ths} to make it up to the notional full 40/60^{ths}, pension.

(xii) As already set out there is no provision to add or subtract years. The only variable is the APP and only in terms of Paragraph 5 (1) (a) to calculate a notional retirement

pension on a notional APP.

(xiii) It follows that Fancourt J misunderstands the guidance given by the Commentary, which has nothing to do with years, but tells its reader that an ill-health pension is '*two thirds of APP* '(at the time of injury used in the formulae) 'or two thirds of the 'APP' that *could have been earned by compulsory retirement age',* (60) (notional pension) when earning capacity ended. It is the APP that is at large. There is no provision in the SI for years to be earned. His construction is inconsistent with both the Commentary and the Statutory Instrument.

Ambiguity where there is none.

(xiv) Fancourt J finds the Commentary 'ambiguous'. The statutory (SI) provision at Rule B3 paragraph 5, 1 (a) specifies an amount of notional pension due, as though he had *'continued to serve until he could be required to retire on account of age'.* The Commentary, puts it more simply as on '*what could have been earned by compulsory retirement age".* Both phrases are of a single meaning. What he *'could have earned by compulsory retirement age'* is the APP '*that he would have earned had he continued to serve until he could be required to retire on account of age'*. They are expressions of but one nexus. One phrase is dotting the i's and crossing the t's for lawyers, the other giving colloquial sense to laymen. If ambiguous, it is not the words that create an ambiguity but a reader's misconstruction.

Error on what Example 7 supports.

(xv) Fancourt J, found Example 7 to be inconsistent with the Appellant's case.

(a) Example 7, predicates a 54 year man with 27 years and 161 days service, and begins with "*Gross ordinary pension at age limit: 35.4411/60 x £15124 = £8933.52.* But, then states *'Gross ill-health pension: £8933.52'.* Rule B1Ordinary pension is correctly calculated on using the Rule B1 formula of 30/60 x (twice up to 5 years served over 25 years) x APP/60, but it is not transposable into the *Gross ill-health pension* because the Rule B3, Paragraph 4, ill-health formula is not the Rule B1 formula; it is 7xAPP/60 + 20xAPP/60 + (twice years served over 20) x APP/60, so, correctly, 'Gross ill-health pension' is, 42.4411/60^{ths} x 15,124 = £10,697.99.

(b) When corrected, Example 7 is not only wholly consistent with the Appellant's case, but makes plain the purpose of the SI, in providing a compensatory enhanced Rule B3 pension, most clearly and intentionally more than payable under a non-compensatory Rule B1Ordinary pension.

(c) Indeed, given a B4 Injury award in compensation for injury, loss of amenity, pain and suffering, a Rule B3 award can, in law, only be to compensate for financial loss. As in Example 7's case, where even a loss of 204 days pay of £2,473.71, (£8,452.87 pay loss, mitigated by pension of £5,979.16) is within the Rule B3 compensatory provision.
A loss suffered by a 54 year old being retired early on injury in the year s/he would, absent injury, have been retired on account of age – so his/her Rule B1 and Rule B3 pensions are both calculated on the same APP of £15,124 making plain that an enhanced Rule B3 pension is compensatory where a Rule B1 is

not.
If the law were as Fancourt J found it to be then a Rule B1 would indeed be a Rule B3, making the SI Ill-health provision redundant.

(d) Example 7's enhanced Rule B3 ill-health pension compensates not just for immediate financial loss, but for the future loss in earning capacity. Emergencies demand exceptionally fit Firefighters, right up to time of retirement. But when those tools of work are damaged, by no-fault injury requiring compulsory discharge, a retirement (for the safety of others), the retired Firefighter is denied the future earning capacity s/he would have had when, if fully fit on retirement, s/he could look forward to other, active, well paid work, for a decade or more. The exigencies of Emergency Services making it the policy to retire people early at 55 or, if senior, 60. Fitness is part of the job specification for all ranks, so Chief Fire Officers, in their late 50's, remain in action.

Error in 40/60^{ths}.

12. (i) Fancourt J has predicated his judgment on a premise that no pension may be awarded of more than 40/60^{ths} of APP, but that is not the law(see Appendix 'A').

(ii) He quotes the Commentary, which if not read carefully, may mislead. At page B3 – 3, it says '*The pensionable service is enhanced by 7/60ths ("ill-health enhancement") subject to it not exceeding what he would have reckoned by the age of compulsory retirement (55) or 40/60^{ths} in total'.* There is no overarching restriction to 40/60^{ths} in the Statute. The Commentary's ostensible error at B3–3 is to conflate the Rule B3, Paragraph 4 formula, which is enhanced by 7/60^{ths}, with the Paragraph 5 notional pension, which is restricted to 40/60^{ths}. But there is no nexus. The SI imposes no general 40/60^{ths} restriction. Each provision is wholly unrelated, save in making alternative provision, for the higher to be paid. Throughout the SI each rule of provision determines its own criteria, thus:

(iii) Rule B1 does limit the pension it provides to a maximum of 40/60^{ths}.

"The amount of an ordinary pension is-
30xA/60 + 2xAxB/60
where-

"A is the person's average pensionable pay, and B is the period in years (subject to a maximum of 5 years) by which his pensionable service exceeds 25 years.".

(iv) But a Rule B3, Paragraph 4, provision is not restricted to 40/60^{ths}

"*Where a person has served more than 10 years pensionable service the amount of his ill health pension is the greater of :–*
20xA/60,
or,
7xA/60 + AxD/60 + 2xAxE/60

where:–
D is the period of his pensionable service up to 20 years, and
E is the period by which his pensionable service exceeds 20 years".

(v) The restriction imposed by the SI on a Rule B1 calculation (supra) '*subject to a maximum of 5 years'* is absent from the B3 formulaic provision which is not otherwise restricted. The commentary is also in error in detaching part of a cohesive formula. 7/60^{ths} is not a detachable entity. But by whatever route Mr Justice Fancourt arrived at thinking that Rule B3 pensions were capped at 40/60^{ths}, he misdirected himself in law to think so.

Reductio ad absurdam on Rule G1.

13. The Statutory Instrument provides, as part of its Rule B3 ill-health provision, a Paragraph 5 notional pension (11 (vi) supra) which Fancourt J refers to, at [AJ 18[, correctly quoting the Paragraph 5, (2) method of finding the APP on which to calculate the notional B3 pension, before then misdirecting himself in law.
He says, "*Paragraph 5(2) says that that Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay. Average pensionable pay, for the purposes of the scheme, is defined in rule G1 as the average pensionable pay of a regular firefighter and is, subject to paragraphs five to seven, the aggregate of his pensionable pay during the year ending with the relevant date, and the relevant date is the last day of the firefighter's service as a regular firefighter".*

However, SI Rule G1 (4) provides otherwise:

The relevant date is:
(i) *for the purposes of rules B 4 (injury award), C2 (spouse's special award), C7 (spouse's award where no other award payable), D2 (child's special allowance), D3 (child's special gratuity) and E2 (adult dependent relative's special pension), the date of the person's last day of service as a regular firefighter, and ' for all other purposes, the date of his last day of service in a period during which pension contributions were payable under Rule G2".*

(ii) Fancourt J misdirected himself to find that a Rule B3 notional pension is to be calculated on the APP as provided by (a), being last day of active service where (a) specifically excludes Rule B3 from its provision, leaving a Rule B3 'Notional Retirement Pension' to fall within Rule G1 (4) (b) – 'for all other purposes' – to be calculated to normal retirement on age until when, absent injury for which the Respondents are liable, his *'pensions contributions were payable'*.

(iii) To seek to remain consistent in his wrongly predicated judgement, Fancourt J misconstrues meaning and effect of Paragraph 5(2) at [AJ 17["*Paragraph 5(1) therefore requires a cap to be imposed on the amount of the ill-health pension that would otherwise be calculated under paragraphs 3 or 4 of Schedule 2 by reference to the amount of the Notional Retirement Pension that the retired firefighter would have achieved had he continued to work until the age of retirement".*

(iv) Fancourt J misdirects himself to provide a 'cap' to ill-health pension where there is no 'cap' provided by the SI. Rule G1 exists in two parts to avoid such a 'cap'. Its purpose is to enable distinctions to exist between pensions by calculating them on an APP taken from various relevant dates, (as set out above). These *'relevant dates'* as provided by Rule G1 (4) (a) and, G1 (4) (b). From his judgement it would appear that Fancourt J was unaware that Rule G1 lay in two parts.

(v) By misapplying Rule G1 (4) (a) to a B3, Paragraph 5(1) 'notional retirement pension' Fancourt J reduces it to the same basis of calculation as a Rule B1 Ordinary pension so he wrongly 'caps' the Rule B3, Paragraph 5 notional compensatory amount to a Rule B1 Ordinary pension amount.

(vi) Fancourt J also finds that 'capping' the Rule B3, Paragraph 5 notional retirement pension also 'caps' Paragraph 3 or 4 amounts, but that requires a misconstruction of Paragraph 5 (1) (b), dealt with below.
But on his finding Paragraphs 3 and 4 ill-health formulaic provision are denied effect being 'capped' by the notional retirement pension, capped by a Rule B1 Ordinary pension amount.

(vii). Fancourt J misdirects himself in law to hold at [AJ 18], "*Paragraph 5(2) says that the Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay - (as at) - the last day of the firefighter's service as a regular firefighter".*
It is a fundamental error of great magnitude because its effect, in practice, is to replace a compensatory enhanced Rule 3 ill-health provision with a non-compensatory Rule B1 Ordinary pension provision.

Corollary 1.

14. Were Fancourt J to be correct, that a Rule B3 notional pension is to be calculated as provided by the Rule G1 (4) (a) then that is to use the same APP as used to calculate a Rule B1 Ordinary pension, both on the APP being paid on '*the last day of service as a regular firefighter'.*

(i) It would follow, since B1 and B3 pensions are both to be calculated on the same APP and since both are on a full service 40/60^{ths}, then on this construction an ordinary non-compensatory Rule B1and a compensatory Rule B3 pension are indistinguishable in law and effect.

(ii) It is what the Respondents say is the law as they continue to pay the Appellant an actual Rule B1 Ordinary pension as though in satisfaction of a correct Rule B3 ill-health pension, which is wrong in law, indeed, they are defrauding the Appellant of his pension.

(iii) By upholding the practice Fancourt J sets rule G1 and rule B3 into conflict but more importantly renders a Rule B3 provision redundant to a Rule B1 provision,

making it meaningless, with no legal effect, and repugnant to law, a reductio ad absurdam.

Correction allows B3 its purpose to compensate for financial loss.

15. Correctly applying Rule G1 (4) (b) in place of (a) brings no benefit in terms of years since the Appellant had already accrued a full 40/60^{ths} pension on 30 years service (he served 37 years) and, in any event, a 'notional retirement pension' (save for very late entrants) credits a full service 40/60^{ths} Paragraph 5 (1) (a) pension, but there may be benefit from a higher APP on which to calculate his Paragraph 5 'notional retirement' pension: his career could have notionally progressed in the final period of service until required to retire on account of age, but for being denied him by injury.

Conflict.

16. There are other errors, muddles and inconsistencies in the AJ. At [AJ 14[, Fancourt J finds that "*Mr Galpin is entitled to an ill-health award and not an ordinary pension",* which predicates a distinction between the two, yet he also finds at [AJ18], *"It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service",* the latter contention is only sustainable on misapplication in law of Rule G1 (4) (a).

Notional B3 pension APP.

17. Though Fancourt J finds B1, in all but name, a B3, the SI requires that a B3 be differentiated and be distinguished from a B1. The SI provided direction on the way to separate them by application of Rule G1. Calculation of a B1 is on extant APP at time of retirement (provided by Rule B1). But a B3 notional retirement pension is to be calculated as provided by Rule G1 (4) (b). That is on the notional APP when, absent injury, pension contributions would stop on normal retirement on age. The SI requires that the APP be identified in a specific way.

18. Mrs. Justice Falk having initially denied permission, on reading the appeal against her judgement, re-engaged on her own initiative before, fully seised, she was replaced, with no explanation, by Mr Justice Fancourt who at [AJ 13[adopts and repeats Mrs. Justice Falk who:
"*encapsulated the issue in her order of 6 May 2020 in the following terms, and I quote:"*

"Whether as a matter of statutory construction of paragraph 5 of part 3 of Schedule 2 contained in Schedule 2 to the Fireman's Pension Scheme Order, SI 1992 No. 129, the requirement to calculate the notional retirement pension "by reference to" actual average pensionable pay means either:

(a) as the respondent contends, that the calculation must be done using actual pay the year to the date of retirement, or,

(b) as the appellant contends, that the calculation must be done by reference to the pay scales in place at the date of retirement, but assuming that the individual would have continued to progress through those pay scales and achieve available promotions until the date he or she could have been required to retire, absent ill-health or injury".

19. Fancourt J, having wrongly applied Rule G1 (4) (a), it follows that he finds, also wrongly, Mrs. Justice Falk's variant (a) to be right, as he makes plain at[AJ 26["*In my judgement, the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay". There is no warrant for interpreting that as referring to any theoretical pensionable pay that might have been achieved by a later date"* .

'By reference to',* synonym fo, *'using',* or *'is'.

20. At AJ 25 Fancourt J found "*In my judgement there is no scope at all for construing paragraph 5(2) of Schedule 2 to the order so as to incorporate a requirement to take account of what promotion may or may not have been achieved by a firefighter between the date of early retirement and the normal retirement age".*

(i) While consistent with misapplication of Rule G1 (4) (a), (pension on APP of last active day) Fancourt J omits to consider the meaning and effect of Rule B3 in specifying what APP is to be used in calculating a Rule B3 ill-health 'notional retirement pension provision?

(ii) The SI, Rule B3 makes two different provisions which Fancourt ignores in arriving at his judgement at [AJ 27] "*In my judgement, the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension" is to be calculated using the person's actual average pensionable pay*".

(iii) At [AJ 27] he conflates the meaning of 1(2) and 5(2) to mean 'All ill-health pension calculation is calculated on actual APP". But the SI provides otherwise:

SI Rule B3 provides:

1. (2). In paragraphs 2 to 4, A is the person's average pensionable pay".
(2) The Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay".

Corollary 2.

(iv) If the intention was for the two instructions to mean the same thing, as Fancourt J finds, (note [AJ 19], "*It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service*)", then to avoid repetition, Paragraph

5(2) the legislative draftsmen would have omitted the words *'by reference to'* to read, as Fancourt J would have it read. '*The Notional Retirement Pension is to be calculated using the person's actual average pensionable pay'.* If intended, so it would have been drafted, it is the sole purpose of parliamentary draftsmen and women.

(v) Yet more logically and economically, Rule B3 1 (2) could simply read '*In Paragraphs 2 to 5, A is the person's average pensionable pay'*, making Paragraph 5(2) redundant. The finding at [AJ 19[defeats the purpose of the legislation.

(vi) Law apart, the logic excludes Mr. Justice Fancourt's synonym. With the legislation specifying that Paragraphs 2 – 4 are to be calculated on the actual APP as a multiplicand, '*A is the person's average pensionable pay',* and the Paragraph 5 APP multiplicand is to be arrived at *'by reference to'* that actual APP, they cannot be one and the same APP. So construction of '*by reference to'* requires two actors, not the one 'APP', as found by Fancourt J'.

General Construction.

21. (i) In Grey v Pearson (1857) 6HL Cas. 61, Lord Wensleydale established that in construction "The grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity and inconsistency, but no further".

(ii) The OECD, Oxford Lexico, et al, makes plain the ordinary usage of '*by reference to*'. The ordinary English use of the word 'reference' in the SI context is to mean to look or think of something known to identify an unknown. There are two entities.

(iii) Thus as used in the SI so here, "One can find the date *by reference to* a calendar" "Tax is usually calculated '*by reference to*' the value of the estate'. "Enemy at 9 o'clock" means "the 9 o'clock position is calculated '*by reference to'* the actual twelve o'clock", or, here, [Paragraph 5 (2)] "*The notional retirement pension is to be calculated by 'reference to' the person's actual APP'*.

Construction of 'by reference to' in context the SI.

22. It follows that the way to calculate a 'notional retirement pension' provided at Rule B3, 5 (2) cannot, in law, be construed as Fancourt J misconstrues the law, for example at [AJ 19] having wrongly applied Rule G1 (4) (a) to Rule B3 to misconstrue and wrongly declare "*It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension is to be calculated"* on the same APP, to then correctly take a line of provision at Paragraph 5 (2) *by reference to the person's actual average pensionable"* to then tack onto it what the SI does not provide *"during the last day or service"* to enable the declaration, wrong in law, at [AJ 27[, "*the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension" is to be calculated using the*

person's actual average pensionable pay", is to pervert provision to deny legislative purpose, intent and provision. If the statute intended to provide *"the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay"* it would have said so. And it could have said so if Rule B3 has been included with the provision made by Rule G1 (4) (a). But it did not and the Judge gives no reason why he did.

(i) Rule G1 (4) (b) denying Fancourt J his application of Rule G1 (4) (a), the notional APP is to be properly calculated as at the time, absent injury, of retiring on account of age. Not Fancourt J's tacked on (supra) *"during the last day of service"* [G1(4)(a)].

(ii) The logic (20 (ii) supra) supports the construction of the SI as instructing a pension's administrator to calculate Paragraphs 2 – 4 on the person's actual APP (last day worked), as one, of two, actors.

(iii) The second actor is calculated 'by reference to' that first 'actual APP' actor, to discover the second actor, the notional APP, absent injury, of the Rank or Pay Point on the Pay Scales at retirement on age (but on the then current scale – see below).

(iv) Fancourt J's misconstruction requires him to replace 'by reference to' by synonyms of 'is' or 'using' for him to be able to find at [AJ 27]...*"the 'Notional Retirement Pension' is to be calculated using the person's actual average pensionable pay"* .

(v) But words of provision can only ever be changed from those provided in the legislation if those words lead to a patent absurdity.

(vi) Rule B3 provisions depends upon the ordinary meaning being given to 'by reference to' as a term of art, the proper construction of, which leads to no absurdity, or inconsistency, but is the legal means to open the door for Rule B3, compensatory purposes of the Statutory Instrument, to be expressed.

(vii) To find what APP is the right one on which to calculate the notional Rule B3 retirement pension, two APPs are needed to calculate a Rule B3 provision, not the one premised by Fancourt J, in error in law, at his [AJ 26] "...*"the 'Notional Retirement Pension' is to be calculated using the person's actual average pensionable pay"...".* (19 supra).

Notional APP scale.

23. (i) By correctly construing *'by reference to'* at Paragraph 5 (2), on the correct application of Rule G1 (4) (b), some meaning can begin to be given to what the Appellant could have earned "*had he continued to serve until he was required to retire on account of age*".

(ii) Having established that, *'by reference to the person's actual APP*', signposts where to look for the unknown APP and because the reference is to an APP that is within a Pay Scale, it follows, in absence of any other direction, that the unknown

APP must, of necessity, be found on the same Pay Scale.

(iii) That is a most important step because it avoids speculation and nails down pension calculation to the reality of anchoring the unknown APP to the same Scale of Pay as the actual APP, or in the Appellant's case, to 1998 Rates of Pay.

Rank or pay point.

24. The next step is to establish what Rank, and/or Pay Point (within a Pay Scale) the Appellant could have reached, absent injury, at the point of normal retirement; Service completed.

(i) Two letters from two peer group senior officers were given in evidence to Mrs. Justice Falk that, uninjured, the Appellant could have looked forward to being promoted to Divisional Officer Grade II [DO II].

(ii) The Respondents take no issue with that. Indeed, they provided Pay Scales for year 1997 – 2003 pointing out to Mrs. Justice Falk the APP for the rank of a DO II in 2003, when the Appellant could have been required to retire on account of age, at 60.
On basic pay it would have been of £43,053.60 pa, More than £10,000 pa higher than his pay when he was required to retire on ill-health. So he suffered a substantial financial loss. With allowances it may well be that the gap in pay is greater than basic.

A Finding on no evidence.

25. Fancourt J finds otherwise at [AJ 25], *"In my judgment, there is no scope at all to take account of what promotion may or may not have been achieved by a firefighter between the date of early retirement and the normal retirement age."*. With respect, the judge ceased to be impartial and entered the arena to find against the Appellant on a point against the evidence, not in issue.

Conflict.

26. (i) Mr Justice Fancourt's finds [AJ 18] "*a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service",* which cannot be the law, if the law is, as he found it to be at [AJ 16[, '*the amount of the Notional Retirement Pension that the retired firefighter would have achieved had he continued to work until the age of retirement.".*

(ii) Only one can be the correct construction. By wrongly basing his judgment as at [AJ 18], on Rule G1 (4) (a), Fancourt J, in finding the Respondents to be correct to compulsorily discharge a no-fault injured('qualifying') Firefighte without compensation, renders the purpose and Rule B3, Paragraph 5 provision reductio ad absurdam, without meaning, or legal effect.

Reductio ad absurdam, B3 1 (1.).

Cap.

27. Fancourt J omitted to consider the meaning and effect of Rule B3, Paragraph 1(1), providing *"Paragraphs 2 to 5 have effect subject to Parts VII and VIII* (pension reductions) *of this Schedule and paragraphs 3 and 4 have effect subject to paragraph 5",* because it predicates different amounts and priorities inconsistent with his construction of the SI, Rule B3 provision.

(a) In seeking consistency throughout a judgement, wrongly predicated on Rule G1 (4) and in seeking to uphold the Respondent's practice (and in support of his own brief erroneous oral judgement of 3rd July 2020), Fancourt J 'discovered' what the statutory instrument did not provide, a '*cap*', with which to eliminate differing amounts and priorities.

(b) A 'cap' which, with no ratio decidendi, Fancourt J decided constricted the SI formulaic provision, finding at [AJ 17] that "*Paragraph 5(1) therefore requires a cap to be imposed on the amount of the ill-health pension that would otherwise be calculated under paragraphs 3 or 4 of Schedule 2 by reference to the amount of the Notional Retirement Pension",* is nowhere to be found within the SI provision:

> *5.(1) Where:*
> *(a) if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension, "the Notional Retirement Pension" and*
> *(b) the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension, the amount of the ill-health pension is that of the Notional Retirement Pension.*

(c) On the correct construction of SI, Rule B3, 5 (1) provides no 'cap' on higher sums by a lower sum 'notional retirement pension' – which would be absurd. The provision is for alternatives, the most beneficial to be paid – or there is no point to the provision. (Further dealt with at 30, to give legal effect to the correct construction of 'by reference to').

(d) Fancourt J's Rule G1 (4) (a) 'cap' renders the compensatory enhanced Rule B3, 5(1) 'notional retirement pension' into a non-compensatory Rule B1 Ordinary pension.

(e) Yet SI Rule B1 specifically only provides an Ordinary pension to a Firefighter *"if he then does not become entitled to an ill health award under Rule B3"* , [B1 (1) (c)].

(f) Notwithstanding Rule B1(1) (c), the lay Respondents, the Appellant's 'trusted' fiduciary pension providers pay him a non-compensatory, fully accrued, Rule B1Ordinary pension under the deception that he was being paid the full compensatory enhanced Rule B3 ill-health pension to which he was entitled.

Contrary to law, no compensatory payment was provided for his financial loss.

Some Inconsistencies.

(g) The Respondent's practice was upheld by Fancourt J, but on construction made possible only by misapplication of Rule G1 (4) (a) to enable '*by reference to*' to be taken to mean '*is', or 'using',* (synonyms for each other) denying "different amounts and priorities".(Pensions calculated on different APPs, prioritised in payment by amount).

(h) "Different amounts and priorities" are inconsistent with his AJ 28 "*it is reasonably clear that that phrase is intended to connote the number of years of service that would have been achieved by compulsory retirement and has nothing to do with any promotion"* - so no possibility of increase in the APP pension multiplicand.

(i) "Different amounts and priorities" are inconsistent with [AJ 19], "*that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service".*

(j) "Different amounts and priorities" are inconsistent with [AJ 18], *"the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service",* et al.

Some Failures to confront.

(k) Where Fancourt J found the direction he was giving to himself and the SI to be in conflict from as earlier [AJ 15], "*Mr Galpin is entitled to an ill-health award and not an ordinary pension".*
Rather than confront and deal with the predicated distinction between the two which may have avoided the Rule G1 fundamental error on law, the judge ignores it, finding at [AJ 18], *"It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service";* Finding Rule B1 and Rule B3 the same.

(l) Mr. Justice Fancourt also did not confront or deal with Rule B3, 5 (1) (a), "*if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension, 'the Notional Retirement Pension, '* Rule G1 (4) (a) replacing 'by age', by 'last day served', which on injury is earlier than on age.

(o) Indeed, as he further misdirected himself to find at AJ 27 *the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay* "

(p) It follows, though Fancourt J gives no ratio decidendi, that having found at [AJ 17], "*Paragraph 5(1) therefore requires a cap to be imposed on the amount of the ill-health pension that would otherwise be calculated under paragraphs 3 or 4",* that whatever the formulaic ill-health pension amount may be on calculation, it is

'capped' by the Paragraph 5 notional pension, itself 'capped' by the Rule B1 amount. He did not confront the absurdity of his conclusion or confront that being absurd, since the legislation cannot be absurd, his construction was incorrect.

(q) It follows that to be consistent Fancourt J had no option but to construe, albeit to himself, Rule B3, 1 (1) *"Paragraphs 2 to 5 have effect subject to Parts VII and VIII* (pension reductions) *of this Schedule and paragraphs 3 and 4 have effect subject to paragraph 5",* [27 supra], to mean the only pension that gets paid is the Rule B3, Paragraph 5 1 (a) notional pension, 'capped' as a non-compensating Rule B1 Ordinary pension; as paid guilefully by the Respondents.

B3 Paragraph 4 – denied legal effect.

(r) It follows that if the law were to be as Fancourt J and the Respondents would have it be, since a Paragraph 4 formulaic amount is not paid out as the Rule B3 ill-health pension when greater in amount than a Paragraph 5 notional pension, and it is not paid out when it is a smaller amount, it never gets paid.

(s) It follows, with Paragraph 3 or 4 amounts being 'capped' by the notional pension amount, with itself being calculated as a Rule B1 on misapplication of Rule G1 (4) (a), that all that ever gets paid is the accrued non-compensatory B1Ordinary pension:

a. It follows that, to be consistent, Fancourt J construed Rule B3, 5 (1) (b) '*the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension, the amount of the ill-health pension is that of the Notional Retirement Pension',* to mean that, whatever the product of the formulae, only the 'notional retirement pension' is paid.

b. As demonstrated by Example 7, when corrected (11 (xv) supra), the Rule B3 formulaic Paragraphs 3 and 4 provision is, essentially, a Rule B1 provision enhanced.

c. It follows that if the Rule B3 notional pension is in a Rule B1 amount, then a Paragraph 4 amount (which applies to the Appellant) will always 'exceed' the Rule B1 amount.

d. But construed as Fancourt J construed the law, the lesser sum, notional pension B1 is paid because the paragraph 4, greater amount, is 'capped' by the B3 5(2) (B1 amount) pension. So his paragraph 4 ill health pension is not paid when more, nor when less than the notional retirement pension – which is the Respondent' practice approved by Mr. Justice Fancourt.

In effect, Fancourt J so construes the SI as to render the whole of the SI, Rule B3 provision redundant to Rule B1, making the Statutory Instrument an exercise in futility, the legislative provision being to no legal effect – a reductio ad absurdam.

Rule B3, 1 (1).

28. (i) For SI Rule B3, 1 (1) – *"Paragraphs 2 to 5 have effect subject to Parts VII and VIII* (pension reductions) *of this Schedule and paragraphs 3 and 4 have effect subject to paragraph 5"* – to have its intended legal effect, to compensate for financial loss, (in law, given payment of a Rule B4 Injury Award, there is no other liability to be met and there can be no other lawfully required purpose for a Rule B3 provision, other than to compensate for financial loss).
The words of provision "*paragraphs 3 and 4 have effect*" need to be ordinarily construed to mean "*paragraphs 3 and 4 are paid*", and the words "*subject to 5*" to mean "*subject to 5 not being the greater amount"*. 'Having effect' being to act dependent upon something other talking priority, which would be an absurdity were a lesser amount to take priority, rendering formulaic provision pointless.

(ii) Such construction making plain, on correct application of Rule G1 (4) (b), the intent of the words of provision at Rule B3 1 (1), to compensate for financial loss to the greatest extent provided by the Statutory Instrument.

To take stock.

29. Having established:

- That the Statutory Instrument requires Rule G1 (4) (b) to apply to Rule B3;
- That the Approved Judgement incorrectly applied Rule G1 (4) (a);
- H.O.Commentary, is not ambiguous but on all fours with SI provision;
- Example 7, supports the Appellant's contention that Rule B3 is compensatory;
- That more, or less years, are not provided nor suggested in Commentary;
- That pay, not years, are the variable in 'notional retirement pension' calculation;
- There is no overarching 40/60^{ths} limitation on Rule B3.
- Each SI Rule sets own criteria;
- That a 'notional retirement pension' is not 'capped' by a Rule B1 Ordinary amount;
- That the 'notional retirement pension' does not cap Rule B3,Paragraphs 3, or 4;
- That the 'notional retirement pension' is calculated on the Rank or Pay Point on the Pay Scale which, but for injury, *could* have been achieved by normal retirement age;
- That the amount of the notional APP of the notional Rank or Pay Point is to be taken from the Pay Scale (1998) in being at time of being compulsorily retired on account of a no-fault 'qualifying' injury;
- That a non-compensatory Rule B1 Ordinary pension cannot be a compensatory enhanced Rule B3 ill-health pension.
- That a Rule B3 ill-health pension is a SI provision to compensate for financial loss;
- That a Rule B4 Injury Award (Calculated from a Rule B3 pension) is an Injury Award to compensate for loss of amenity on being compulsorily retired through a no-fault 'qualifying' injury;
- That Rule B3, 1 (1) properly construed means *Paragraphs 2 to 5 have*

effect subject to Parts VII and VIII (pension reductions) *of this Schedule and paragraphs 3 and 4 have effect – are paid – subject to paragraph 5 not being the greater amount ".*

- Rule B3, 1 (2) and 5 (2) avoids *''by reference to"* as a synonym for *'is'* or *"using'. ;*
- The AJ omits consideration the Rule B3, Paragraph 3, or 4, formulaic provisions.
- Rule B3, Paragraphs 3, or 4, formulaic provisions are not 'capped' by the Paragraph 5 'notional retirement pension';
- AJ omitted to consider Rule B3, 5 (1) (b);
- It was established without demur from the Respondents, that the Rank the Appellant *could* have achieved was Divisional Officer II;
- Finding a Rule B3 as the correct Rule B1 amount which the Respondents applyin their Pension Scheme; Fancourt J looked no further.

Having cleared away what denied the correct construction of 'by reference to', it remains to construe its legal effect which depends on construction of Rule B3, 5 (1) (b).

Rule B3, 5 (1) (b); Construed on the error of Rule G1 (4) (a).

30. Rule B3, 5 (1) (b) provides: *Where "the amount calculated in accordance with Paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension, the amount of the ill- health pension is that of the Notional Retirement Pension":*

(i) Fancourt J having misdirected himself to find that a 40/60^{ths}, Rule B1 Ordinary pension was a Paragraph 5 (1) (a) 'notional retirement pension', in an amount that 'capped' formulaic Paragraphs 3 and 4, the corollary of his construction of Paragraph 5. (1) (b) is, "*Where the ill health pension exceeds the notional retirement pension the amount of the ill health pension is that of* – is replaced by – *the notional retirement pension*", which is a non-compensating Rule B1Ordinary pension (as construed by Fancourt J at [AJ 18 et al] as paid by the Respondents to the Appellant under guise of a Rule B3 ill-health pension.

(ii) So, as Fancourt J and the Respondents, would have it, the Rule B3 ill-health pension (the specified product of the formulae) has been 'replaced' by a Rule B3 notional retirement pension; itself 'capped' by a Rule B1 Ordinary pension amount.

(iii) There is no suggestion by the Respondents of paying any pension less than a Rule B1 Ordinary pension.

(iii) It follows that the Rule B3 formulaic provision is not paid when more, and not paid when less, than the notional retirement pension, so the Rule B3 provisions are denied effect in law.

(iv) Construed to be consistent with misapplication of Rule G1 (4) (a); the Rule B3

notional retirement pension being 'capped' as a Rule B1Ordinary pension, has the effect of doing away with, neutering, Rule B3 entirely, which is patently absurd.

(v) So another construction has to be found to give legal effect to Rule B3 5(1) (b), to express the legislative provision made by Paragraphs 3, 4, and 5 of the SI, so that all have use.

Rule B3, 5 (1) (b). Construction based on Rule G1 (4) (b).

31.(i) The assumption made at 28 supra was that the SI requires a construction of Rule B3, 1 that *'have effect'* and '*subject to'* are to be construed as providing that a Paragraph 3 or 4 health amount is payable, unless the notional retirement pension is greater.

(ii) To be consistent with that priority of payment, the priority must also, of necessity, be consistent with the meaning the SI intends to be given Rule B3, 5 (1) (b), which provides that, "*Where the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension, the amount of the ill-health pension is that of the Notional Retirement Pension".*

32. (i) Whilst a construction (30 (ii) & (iv) supra) of the words '*is that of*', to mean '*replaced by*' creates an absurdity, there is no absurdity in a construction of "*Where the ill health pension exceeds the notional retirement pension the amount of the ill health pension is that of* – becomes, replaces, or is what constitutes – *the notional retirement pension".* It is a question of priority, decreed by amount, or there is no point;

(ii) Things then fall into place, as parliamentary draftsmen intend legislation to do, In this instance, with the Paragraph 3 or 4 Ill health amount paid, if higher than the notional retirement pension, if not, then the notional retirement pension gets paid, thus giving legal effect to all of the Rule B3 provisions, no longer subject to or redundant to Rule B1, as deceitfully practiced by the Respondents, perhaps to save the fund money and enhance personal pay and rewards;

(iii) Given the Appellant's notional rank of DOII, with its APP arrived at on the proper construction of *'by reference to',* and the correct application of Rule G1 (4) (b) to B3, and on correct construction of Rule B3, 5 (1) (b), then the SI Rule B3 provision is no longer rendered absurd and to no effect, but has purpose to provide for financial loss to be given legal effect by those who are to administer it, by doing what they are required to do.

(a) To arrive at the Rule B3 ill-health pension, calculations must be done to arrive at the amount of the Paragraph 3, or 4, *ill-health pension* amount, and the Paragraph 5 (1) (a) *notional retirement pension* amount;

(b) On being calculated, the two amounts must be compared;

(c) Pursuant to Paragraph 5 (1) (b), the *greater* is awarded as the compensating

enhanced Rule B3 ill health pension.

General Intent.

33. (i) Whilst Rule L4 (3) is not specifically provided for a Rule B3 provision, it makes the general legislative spirit and intent of the SI clear, "*Where this rule applies only one of the pensions or allowances shall be paid in respect of the period in question; if they are for the time being unequal in amount, the one to be paid is the largest of them.". S*o, mutatis mutandis Rule B3, the *larger* amount, not the lesser, is paid.

(ii) Of course, on calculation, had it been correctly done in 1998, there would have been a time in which either the Appellant's Paragraph 4, or his notional retirement pension, could have become his Rule B3 Ill-Health pension. It is consistent with Rule L4 (3) that the *greater* be paid, but inconsistent with dicta, this case, Fancourt J.

The Provision in operation.

34. (i) Fancourt J found difficulty with the H.O.Commentary (which contains errors but is not the law). On the law, Fancourt J expressed himself at [AJ 22[, "*the detailed provisions are highly complex and, with respect, not easy for someone who is not very technically minded to understand".*

(ii) Two examples may avoid the complexity which denied Mr. Justice Fancourt any attempt at an explanation to the Appellant which he may have understood; why it is he is being paid a non-compensating Rule B1Ordinary pension in place of a compensating enhanced Rule B3 ill-health pension.

Example A.

(a) A 49 year old 'high flyer' graduate, Senior Divisional Officer, with 29 years service, employed on the HQ staff (all of whom remain operational) on becoming injured, is required to retire on account of ill health in 1998, when his/her APP ['A'] was c£42,000. His/her Statutory B3 paragraph 4 formulaic calculation would have *been (7 x A) + (20 x A) + (9 x 2 x A/60),* or 45/60^{ths} his/her £42,000 APP, to provide him/her with *an ill-health pension amount* of £31,500 pa.

(b) His/her Paragraph 5 alternative is a *notional retirement pension*, which would depend on what Rank those concerned with his/her career thought, but for injury, s/he *could* have achieved. Say, Assistant Chief Fire Officer with a 1998 APP of £55,000.

(c) His alternative Paragraph 5 1 (a) *notional retirement pension* amount would have been 40/60^{ths} x £55,000, to give him a notional retirement pension of £36,667 pa.

(d) Paragraph 5 1 (b) requires the higher Paragraph 5 1 (a) *notional retirement pension*, to be paid as a compensating enhanced Rule B3 ill-health pension. His B3 ill health pension award is £36,667, paid solely in compensation for his financial

loss.

A Rule B4 Injury Award(Calculated from the Rule B3 pension) is also granted to compensate him/her for his/her 'qualifying' injury, loss of amenity, pain and suffering.

Example B.

(a) Not a high flyer, but a first rate 'Qualified' Firefighter, aged 49, with 29 years service, at the top of his/her APP scale at £27,000 and unlikely to be promoted above his/her then Rank, of Leading Firefighter, before being required to retire on account of age (at 55). His/her Paragraph formulaic 4 amount would be *7 x A + 20 x A + (9 x 2 x A)/60,* or (as in Example A), 45/60^{ths} of £27,000 APP, or £20,250pa *Ill-health pension amount*.

(b) His/her Paragraph 5 (1) (a) *notional retirement pension* would be 40/60^{ths} of the APP of the Rank or Pay Point on the current Pay Scales s/he could have achieved by 55. In his/her case no more than his/her current APP or Rank on the 1998 Pay Scale, so his/her notional pension would have been 40/60^{ths} of £27,000 = £18,000 pa. Indeed, he/she could have retired within months on that non compensatory pension, fully fit and 5 years before being required to retire on age at 56, not senior enough in Rank to go to 60.

(c) Paragraph 5 (1) (b) requires the *higher* amount to be paid. The Paragraph 4 Formulaic, Rule B3 *ill-health pension amount,* paid solely in compensation for his/her financial loss.

A Rule B4 Injury Award (Calculated from the Rule B3 pension) is also granted to compensate him/her for his/her no-fault 'qualifying' injury, loss of amenity, pain and suffering.

35.(i) In Example A. The high flyer is being compensated not just for loss of a much higher pension, absent injury, falling due at 60, but the very substantial loss of pay over his/her last, and by far the most fruitful 11 years for which the employer is liable. With no lump sum provided by the Rule B3 provision, the effect of his/her loss is that it is subsumed into his/her annual ill-health pension, almost as though what, in damages, Court would have awarded as a lump sum, is invested by HMG to increase ill-health pension.

(ii) Example B. S/He is correctly paid at 45/60^{ths} of APP in enhancement above a Rule B1 pension, fairly reflecting limited future financial loss until he would have retired on account of age in 5 or 6 years in which he was doing a good job, but essentially working his time out.

Non-compensatory Rule B1 Ordinary Pension.

36. (i) As Fancourt J found the law to be, each of these example Firefighters, under the guise of satisfying enhanced Rule B3 statutory entitlement to compensation for their financial loss, would receive their non-compensatory Rule B1Ordinary entitlement of £28,000 and £18,000, respectively. If that was the law then the SI, Rule B3 provisions are to no legal effect.

37. (ii) It was, as mentioned, a pension each could have taken within months, on completing the year to their 50th birthday when, on a whim and as fit Firefighters they could have left on a fully accrued non-compensating Rule B1Ordinary pension calculated on their 'last best' 3 years pay.

38. But they would have been denied any compensation for financial loss of the 6 or 11 years of service, respectively, and its rewards, denied by injury.

39. Disabled and compulsorily discharged out, each would no longer have the future earning capacity they would have had on time served retirement, fit and well.

The Appellant.

40. At 54, the Appellant could have taken his non-compensating Rule B1Ordinary pension at any time he liked from aged 50 – uninjured. Fancourt J misdirected himself that a Rule B3 formulaic pension was restricted to 40/60^{ths} and misdirected himself that a compensating enhanced Rule B3 notional retirement pension was to be calculated under Rule G1 (4) (a) et al.

41. Turning to the Appellants provision. When required to pre-empt his career on account of a no-fault 'qualifying' injury in 1998, the Appellant's APP was £32,904pa. He was expecting promotion. The Respondents provided Mrs. Justice Falk with the 2003 starting APP of £43,058pa, for the rank of Divisional Officer II, the senior Rank the Respondents accepted the Appellant, aged 54 and with 37 years service, *would* have reached, absent injury.

42. The Appellant anticipated being promoted in the year of his injury. His final APP could have been greater than the starting APP, and his pension commensurately so. His financial loss cannot be known but is a substantial sum for amortisation within a pension providing no lump sum (save on commutation which reduces income).

43. 1992 SI No:129, at Rule B3, Paragraph 4, applies in the Appellant's case providing a formula on which to calculate his compensatory enhanced 1998 ill-health pension as [7A + 20A + 17 (years service above 20) x 2A/60], or 61/60^{ths} of 'A', his actual APP of £32,904pa, or £33,452.24pa, to be considered for his Rule B3 ill-health pension award.

44. The Appellant's 1998 Paragraph 5 calculation is 40/60^{ths} of his notional DOII, APP of £36,541pa (not as at 2003 but 1998) providing him with a notional retirement pension of £24,364.67pa to also be considered for the Rule B3 ill-health pension award. If in contention this figure, would need careful revision for, with allowances, the APP is well above the basic APP for the Rank.

Correction.

45. (i) The Appellant's Rule B3, Paragraph 4 amount being *greater* than his Rule

B3, 5 (1) amount, the Rule B3 *ill health pension* amount of £33,452.24pa is what properly should have been awarded to the Appellant in 1998 as his compensating enhanced Rule B3 ill-health pension.

(ii) Since his notional DOII pension with all allowances could not have amounted to the £50,000 APP it would have to have become, to compete with his Paragraph 4 amount, his correct 1998 confirmed entitlement to a compensating enhanced Rule B3 ill-health pension £33,452.24 pa - index linked.

46. The Appellant is being paid an index linked pension of 40/60^{ths} of his last earned APP of £32,904pa, providing him with a non-compensating Rule B1Ordinary pension, as at 1998, of £21,936pa.

47. (i) It follows that the Appellant's Rule B3 pension was underprovided by £33,452.24pa less £21,936pa, the non-compensating Rule B1Ordinary pension awarded him purporting to be his compensating enhanced Rule B3 ill-health pension entitlement; so a wrongful denial of pension due in the sum of £11,516.24pa, since commencement in 1998.

(ii). To adjust the 1998 Rule B1Ordinary pension paid to the Rule B3 ill-health pension entitlement requires a shortfall of £11,516.24 to be added to the paid £21,963pa to pay the correct £ 33,452.24pa.

(iii) The initial 'error' is corrected by adding 52.5% to the Rule B1 pension B1 to correct it to Rule B3 pension.

48. The Appellant's B4 Injury Award is calculated within the Rule G1 (4) (a) provision and will need revision or amendment.

49. The Respondents provided Mrs. Justice Falk with the DOII APP on appointment as at his retirement on account of age date in 2003 at c£43,000pa. He would have expected to be in that Rank for two or three years before retirement at 60. With allowances his APP could well have been c£48,000+ on which aged 60 he would have retired on a non-compensating Rule B1 Ordinary pension of £32,000+. From which it may be thought that the Home Office, more or less, pitched its compensation for financial loss about right.

50. The Appellant, with respect, appeals the judgement of the Honourable Mr. Justice Fancourt on the grounds that he was so wrong in his construction of the law as to confound its meaning, making it, as he sought to find on it, inexplicable. Leaving the Court of Appeal no option but to correct him; he being wrong in law and on important legal principles of public importance.

51. Under common law an employer found liable for injury causing financial loss may pay damages to restore that person to their former position, in so far as money can, Fancourt J misdirected himself to so construe the SI as to deny compensation, where not denied by the Statute.

52. Fancourt J omitted to consider and apply the doctrine of contra preferentem in his construction. The Respondents rely on their interpretation of the law between them, as force majeure administrators, which they practiced in malfeasance.

The Appellant Seeks:

That his Appeal be Allowed (even out of time).

Judgement for the sums due to him, interest, and Exemplary Damages.

A Declaration.

53. "That the law is that in calculation of an ill-health pension pursuant to 1992 Statutory Instrument No.129, the Rule B3, Paragraph 5 notional retirement pension was to be, and is to be, as though the enforced ill-health retirement had not cut short a career before being required to retire on account of age, and on the APP of the Rank, or at the Pay Point in the Pay Scales, the disabled Firefighter could have reached, but for ill-health or no-fault injury.
Such APP for such Rank or Pay Point to be taken from the Pay Scales in force when he/she was compulsorily required to retire on grounds of a no-fault 'qualifying' injury and then; on comparison between calculations of the Paragraph 3, or 4 amount, and the Paragraph 5 amount, the *greater* to be paid as the compensating enhanced Rule B3 ill -health pension".

Exemplary Damages.

54. The Appellant seeks Exemplary Damages:

(i)The Chief Fire Officer seeks to exculpate the Respondents by claiming *"I am unable to see any reference in the Statutory Instrument to this being compensation"*. But it was his delegated duty, and those he delegated, to administer the Respondent's Firefighters Pension Scheme in compliance with the law and to find out what the law was and implement it.

(ii)The Respondent knew, or ought to have known, that they were under a legal obligation of fiduciary duty to put all Pension Scheme Members interests first including the Appellant. They failed to do so.

(iii) Denial of pension payment was not openly done but was done under the guise of it being a compensating enhanced Rule B3 ill-health pension entitlement which the SI required the Respondents to pay to the Appellant.
It was done in breach of duty to make sure the right amount was paid as a compensating enhanced Rule B3 ill-health pension. It was achieved by the Respondents maintaining the trust of their disabled Retired Firefighters, by deceiving them.
Deception included the most deliberate misrepresentation in an earlier case at

the Pensions Ombudsman on the same facts as the Appellant's case.
It has been dishonesty in public office, to which turning a blind eye to the law is no defence.

(iv)The Appellant seeks meaningful exemplary damages to punish the Respondents for deception and suppression of the Home Office Commentary to the SI, on whose plain language the Appellant would have immediately realised that a non-compensating Rule B1 Ordinary pension could not possibly be a compensating enhanced Rule B3 ill-health pension amount.

(v) The Respondents have been dishonest in public office. By their deception to save their Firefighters Pension Fund disbursements as required by law, perhaps to earn performance pay or bonuses, but by such conduct they have casually and malignly denied the Appellant much of the quality of his life over the last 24 years, intended and provided by statute for him, and which his correct pension would have afforded him.
Deceiving the Appellant that his paid non-compensatory Rule B1Ordinary pension was his entitlement and, paying it to him denied him the amenity his proper, 52.5% *higher,* compensating enhanced Rule B3 ill-health pension would have afforded him, and his family, from 1998 onwards.

(vi)The Respondents' unconscionable and unlawful conduct, has been deliberately to frustrate legislative provision, directly at the Appellant's personal financial loss, by an egregiously arbitrary and oppressive abuse of power by servants of the government, such abuse extending into delay from 2015. The Appellant contends the Respondents have taken the law into their own hands to defraud the Appellant of his lawful pension.

(vii)On complaint, rather than immediately seek to correct it, the lay Chief Fire Officer took no advice and sought no judicial review but preferred not to understand the law in order to continue the wrongdoing.

(viii)Contrary to section 15(1) of the Equality Act 2010 the Respondents compulsorily discharged the Appellant on account of his no-fault injury and ill-health, wrongfully discriminated (continuing) against him by denying him the pension provided by law to others require to retire on account of ill-health. Paying him a non-compensatory Rule B1Ordinary pension when the 1992 Statutory Instrument No:129, Rule B3, provides him with an ill-health pension in compensation of his financial loss.

(xix)The Respondents deny the Appellant's human right to protection of his property, his pension, unlawfully withheld from payment being his legal property though not in his possession, and are in breach of the Human Rights Act 1998, Schedule 1 Part ll, The First Protocol, Article 1 providing that " Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest".

(x) (a)The Appellant also seeks exemplary damages, dicta Lord Devlin in

Rookes v Barnard (1964) UKHL 1, (1964) AC 1129. The Respondent's conduct has been a long, persistent, and egregiously arbitrary and oppressive abuse of power by servants of the government.
They have long fostered by deceit, and by abuse of their powers they have protected their 'system' to be dishonest in public office, even to the contamination of the Pensions Ombudsman and to the direct financial damage of the Appellant. They have unlawfully retained monies as they fell due, to his detriment, depriving him of his property, but to the benefit of the Firefighters Pension Fund they manage, and perhaps personally, improved 'performance' usually being reflected in personal pay and rewards.

(b) Their conduct continues to be unlawful. It remains arbitrary and oppressive conduct in abuse of the Appellant interest, which it is the Respondents' duty in law to protect,

(c) The Respondents' conduct is repugnant and criminally unlawful contrary to s1-4 of the Fraud Act 2006, the Respondents, their servants or agent, being servants of HMG, unlawfully denying the Appellant his property.

An Account.

55. (i) An account of each monthly Rule B3 pension payment to which the Appellant became entitled from the first month of wrongful deprivation in 1998, to the date of payment of monies wrongly denied the Appellant. And interest compounded thereon monthly at the rate of 8% above base rate.

(ii) The Appellant refers the Honourable Court to Man Nutzfahrzeuge AG v Freightliner Ltd [2005] EWHC 2347 (Comm), Moore-Bick LJ dictum at para 321.

> "*There has been an increasing willingness to recognise that an award of simple interest does not fully compensate the injured party for the loss caused by being kept out of his money, nor does it adequately reflect the benefit to the wrongdoer of having had the use of it. As a result it has become routine for arbitrators to award compound interest in the exercise of their powers".*

(iii) The Appellant also refers the Honourable Court to Perry -v- Raleys Solicitors [2017] EWCA Civ 314 **t** Dicta**,** Lady Justice Gloster in her consideration of the arguments in relation to interest:

> *"62. In my judgment, the appropriate interest rate, in the particular circumstances of this case, for the entire period from 1 December 2006[10] to the date of judgment in this court is the judgment rate of 8% per annum*
>
> *63. Had it not been for Raleys' negligence, the reasonable chances are that by 1 December 2006 at the latest, Mr Perry would have received the sum of £14,556.15 from the Scheme as a services claim award. This would have included an element of interest at the Scheme rate up until December 2006. If he were only to be awarded simple interest thereafter at the special account rate – 6% until 31 January 2009, 3% from February to May 2009, 1.5% in June*

2009 and 0.5% from1 July 2009 until judgment – he would not, in my judgment, be adequately compensated for the lack of the use of that money in the intervening period not least because of the erosion of the value of the fund due to inflation.".

(iv) The Appellant would also wish to refer the Honourable Court to the reality of modern life for those not so well off on credit card debt and Bank Overdraft being above, sometime well above, 16%, bank rate having no presence in the High Street or with ordinary people.

Orders of the Court.

56. The Appellant seeks the following Orders of the Court, or such other orders, as the Honourable Court may think fit to make.

That within 14 Days of Judgment, the Respondents do provide the Appellant for his approval and agreement:

1. A First Schedule showing each monthly pension payment made to him to the next payment date following judgment.
2. A Second Schedule showing each amount uplifted by 52.5% to correct from a Rule B1 pension to Rule B3 pension.
3. A Third Schedule showing the shortfall, month by month, of the Rule B1 payment to the Rule B3 entitlement, wrongly retained by the Respondent's Firefighters Pension Fund.
4. A Fourth Schedule taking the shortfall debt arising month by month and applying bank base rate + 8% pa compound interest, or such rate of interest as the Honourable Court considers just and lawful, to each monthly retained sum, to be added monthly, from the date of wrongful retention, to the pay day following the Judgment.
5. Making payment of all amounts to be paid including costs, as the Appellant directs within 14 days of the Appellant's agreement to the Scheduled amounts.
6. The Respondents supply on demand and render any assistance the Appellant, his servants or agents, may require to settle the matter to his satisfaction.
7. The Respondents shall pay any professional costs incurred should the Appellant be unable to agree the Respondent's Schedules.
8. The Appellant may apply to the Honourable Court for Directions ex parte at any time.
9. On disagreement on any point, the Respondents to bear the costs of proceedings or arbitration, at the Appellant's choice.
10. The Respondents to indemnify the Appellant against payment by him of any sum arising from judgement of monies and payment to him of what, but for the Respondents unlawful retention of his moneys, would have been paid as pension as it fell due attracting no such sum.
11. The Respondents to uplift the Appellant's pension, scheduled to be paid next after the next pay day after judgement to his correct current Rule B1 Ordinary pension amount by + 52.5% to in future pay him his correct

compensating enhanced Rule B3 ill-health pension entitlement.

12. The Respondents to retain 20% of the judgement debt in full and final settlement of tax payable, it falling to the Respondents as his pension administrators to settle any HMRC demand for tax in any guise, in full, arising from any payment made under the judgement.
13. The Respondents resuming normal deductions from first payment of the corrected Rule B3 compensating pension.
14. The satisfaction of the judgment to be registered with the Honourable Court.
15. To pay any sum awarded by the Honourable Court by way of aggravated and/or exemplary damages within 30 days of judgement.

And/or such other relief, or order as The Honourable Court may consider appropriate and be disposed to grant.

57. And Costs.

Mr. Francis Michael Galpin_____.

Litigant-in-Person

Filed this 1st Day of April 2021,

John M. Copplestone-Bruce
Inner Temple (PB)

Appendix 'A' Research – A Layman's briefing note on Two Pension Schemes.

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

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

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

From: Paul P Burns GIFireE.

Dear J.M. Copplestone-Bruce,

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

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

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

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

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

3. The FSR are clearly more modern. Highlighted in pension calculation where broadly the FSR uses years, 60ths, and applied formulae in the calculation of pensions as opposed to just 60ths in the PSR.
The PSR B3 uses a 'reference' base APP whilst the FSR uses both the 'actual' APP and a 'reference' APP for calculation purposes and is therefore much more wide ranging and generous in its compensation potential than its counterpart.

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

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

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

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

"the purpose is to help those who use the Scheme to understand its provisions, bearing in mind that such guidance cannot replace or override those provisions".

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

"The broad purposes of your ill-health pension are to compensate you for the interruption of your career, and (once you reach the age when you could have retired with a pension) <u>to take</u> <u>the place of a retirement pension</u>.". (my underline).

8. Next to a broad understanding of accrual rates.

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

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

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

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

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

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

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

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

Your pension will only grow beyond 40/60ths if the scheme rules say so. Certainly legislation will not prohibit this, but it does not require it to happen.".

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

- Both sets of Regulations are subordinate to the Pensions Acts.
  Repeated searches of the Pensions Act 1995; the Pensions Act 2004; and the Public Service Pensions Act 2013, fail to elicit any reference to the 60ths of any description.
- The 1973 FSR-SI categorically states that an ill health pension is limited, or if you like, 'capped' at 40/60ths.
- The 1987 PSR-SI categorically states that an ill health pension is 'capped' at 40/60ths.
- The 1992 FSR-SI does not categorically state a 'cap' or limitation of 40/60ths to any pension or formulae throughout its main text.
  However, in the entire FSR-SI there is only one direct reference to a 40/60ths 'cap' of a Short Service or ill-Health pension which is contained in(Sorry the lead in is tortuous), Schedule 11(Page Substitution); Special Cases; Part IV; Rule J6; Modification For Persons Serving On 10th July 1956; Page 82;Para 17 'For Parts I to III of Schedule 2 substitute...Part I and Part II.

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

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

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

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

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

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

11. Rounding up broadly on the 60ths issue.

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

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

- The B1 'Ordinary' formula *always* calculates out to 40/60ths but there is no statutory 40/60ths stated 'cap' for this position in the SI.
- The FSR Rule B3 (Paragraph 4) formula consisting of 3 elements and is constructed as follows(Reading left to right).

    - ❖ The first *enhancement* element calculates ***up to*** 7/60ths for long(er) service; plus,
    - ❖ The second core element calculates ***up to*** 20/60ths for the first 20 years of service; plus,
    - ❖ The third core element calculates ***up to*** 20/60ths for the second 20 years of service: plus,

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

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

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

14. In the FSR-SI, a 'Notional Retirement Pension' is specifically referred to in Rule B3(Para 5) and a formula for its calculation is provided in Rule B5 (Para 2.(2).
It is actuarially constructed in a different manner. It is mathematically possible to calculate to 40/60ths but there is no statutorily stated 'cap' to 40/60ths of this Notional Retirement Pension formulae and for it to be then whimsically applied would also be mathematically and legislatively absurd.

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

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

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

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

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

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

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

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

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

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

Paul P.Burns GIFireE

5th May 2015.

****

CH-2020-000043

In the High Court of Justice
Business and Property Courts of England and Wales
Chancery Appeals (ChD)
On appeal from a decision of the Deputy Pensions Ombudsman on 10 September 2019 (ref: PO-19150)
Appeal ref: CH-2020-000043

BETWEEN

FRANCIS MICHAEL GALPIN

Appellant

and

LANCASHIRE COMBINED FIRE AUTHORITY

Respondent

ORDER

Before **the Honourable Mrs Justice Falk** sitting at the Rolls Building, 7 Rolls Building, Fetter Lane, London, EC4A 1NL on the 2nd day of April 2020

UPON considering the applications for an extension of time to file the Appellant's notice and for permission to appeal

AND UPON reading the appeal bundle

AND UPON reading a letter from Counsel to the Pensions Ombudsman dated 20 February 2020 in connection with the extension of time application

IT IS ORDERED THAT

1. Permission is granted to the Appellant to bring this appeal out of time, and time is extended to 4pm on 4 February 2020.

2. The Appellant's application for permission to appeal on the merits is refused.

3. The Appellant may, within seven days of receipt of this order, apply for a hearing at which he may renew his application for permission to appeal. Such application may be made by to the High Court Appeal Centre Rolls Building, 7 Rolls Building, Fetter Lane, London, EC4A 1NL, or by email to ChanceryJudgesListing@justice.gov.uk, in each case quoting the above appeals reference number. Any such application must also be served on the Respondent and the Pensions Ombudsman.

4. This order has been made by the court under paragraph 7.1 of Practice Direction 52B, as the court has disposed of an application

without hearing the Respondent. Under para 7.3 of that Practice Direction, any party may apply to have the extension of time under paragraph 1 of this order set aside or varied within 7 days of the date of service upon that party, and must serve a copy of the application on the other party and the Pensions Ombudsman at the same time.

5. Any application made under paragraph 3 or 4 must confirm the correct identity of the Respondent to this appeal.

6. Any hearing of an application made under paragraph 3 or 4 may be on a remote basis, using Skype for Business (if possible) or otherwise a conference call, and will be a public hearing. The judge will consider written submissions on the communication method that should be used.

REASONS:

Extension of time:
The Appellant had a right to appeal the decision of the Deputy Pensions Ombudsman (the "Decision") on a point of law within 28 days, under s 151(4) of the Pension Schemes Act 1993 and pursuant to a general direction for England and Wales that has been made by the Pensions Ombudsman that appeals should be made within 28 days. Given that both the Appellant and Respondent are based in England, the appeal should have been filed in the High Court in England and Wales. However, an appeal was instead filed in the High Court in Northern Ireland on 23 September 2019, 13 days after the date of the Decision. The reason for this appears to have been related to the fact that the Appellant has been assisted by an ex-colleague, a Mr Burns, who is resident in Northern Ireland.

On 6 November 2019 Maguire J struck the appeal out for want of jurisdiction. It appears from the Appellant's notice that the appeal was then relodged in London on 3 December 2019, but with the Court of Appeal rather than the High Court. It was returned on 13 January when the Appellant was advised to resubmit the appeal to the Chancery Division.

I accept that the Appellant acted promptly after the Decision was issued. I also accept that the information issued with the Decision about appeals does not explain precisely when an appeal may be brought in Northern Ireland or elsewhere. Against that there is no indication that the Appellant took any steps to identify the correct route of appeal, and it is possible that his decision to appeal in Northern Ireland may have been affected by the fact that no permission is required in that jurisdiction.

It is also the case that there were delays between 6 November and 3 December, and again between 13 January and lodging the appeal in the Chancery Division, which according to the court's filing system was first attempted on 31 January. There is no obvious good reason for these delays. However, each delay is of a relatively moderate length.

Time limits are important, and they apply to litigants in person in the same way that they apply to litigants who benefit from professional advice. However, although the overall delay between the expiry of the 28 day time limit and the appeal being filed in the Chancery Division is significant, I think it is outweighed by the fact that there are some reasons for the delay, that there is no indication that the Respondent has been prejudiced by the delay, and by the fact that, in the interests of justice, I consider it preferable to address the substantive merits of the appeal.

I have therefore concluded that in all the circumstances it is appropriate to extend time and deal with the permission to appeal application on its merits.

Permission to appeal:
The appeal bundle contains a significant amount of material, including details of complaints and allegations of a serious nature that are not relevant to this appeal. I confine my comments to the points identified in the grounds of appeal as alleged errors of law by the Deputy Pensions Ombudsman, which I can summarise as follows:

(a) incorrectly interpreting the legislation and therefore failing to identify that the Appellant was wrongly being paid a B1 ordinary pension rather than the enhanced B3 ill-health award to which he was entitled;
(b) wrongly using an example in a Home Office commentary on the legislation to support that result;
(c) failing to recognise that firefighters had had common law entitlements removed, and that the statute should be interpreted in a way that did not deprive the B3 ill-health provision of meaning; and
(d) failing to recognise that rule K3 provides for an ill-health award to be reduced in certain circumstances, which was inconsistent with concluding that the pension due to the Appellant was the irreducible B1 pension.

In my view this appeal has no real prospect of success, and there is no other compelling reason for it to be heard.

The legislation at issue is Schedule 2 to The Firemen's Pension Scheme Order 1992/129 (the "1992 order"). I have proceeded on the basis that the correct version to consider is that in force at the date of the Appellant's retirement, which was 22 July 1998. On that basis the legislation originally enacted, available on the legislation.gov.uk website, appears to be the correct version since although certain changes had been made to the 1992 order by that date, the provisions at issue in this appeal appear not to have been amended.

Part B deals with personal awards, the relevant provisions being B1 and B3. Relevant extracts are as follows:

"Ordinary pension

B1.—(1) Subject to paragraph (2), this rule applies to a regular firefighter who retires if he then—
(a) has attained the age of 50, and
(b) is entitled to reckon at least 25 years' pensionable service, and
(c) does not become entitled to an ill-health award under rule B3.
…
Ill-health award
B3.—(1) This rule applies, unless immediately before his retirement an election under rule G3 not to pay pension contributions had effect, to a regular firefighter who is required to retire under rule A15 (compulsory retirement on grounds of disablement).
(2) A person to whom this rule applies becomes entitled on retiring—
(a) if he is entitled to reckon at least 2 years' pensionable service or the infirmity was occasioned by a qualifying injury, to an ill-health pension calculated in accordance with Part III of Schedule 2, and
(b) in any other case, to an ill-health gratuity calculated in accordance with Part IV of Schedule 2.
Schedule 2 Part III: Ill-health pension
1.—(1) Paragraphs 2 to 5 have effect subject to Parts VII and VIII of this Schedule, and paragraphs 3 and 4 have effect subject to paragraph 5.
(2) In paragraphs 2 to 4, A is the person's average pensionable pay.
2. Where the person has less than 5 years' pensionable service, the amount of the ill-health pension is—

$$\frac{A \times B}{60}$$

where B is the greater of one year and the period in years of his pensionable service.
3. Where the person has at least 5 but not more than 10 years' pensionable service, the amount of the ill-health pension is—

$$\frac{2 \times A \times C}{60}$$

where C is the period in years of his pensionable service.
4. Where the person has more than 10 years' pensionable service, the amount of the ill-health pension is the greater of—

$$\frac{20 \times A}{60}$$

and

$$\frac{7 \times A}{60} + \frac{A \times D}{60} + \frac{2 \times A \times E}{60}$$

where D is the period in years of his pensionable service up to 20 years, and E is the period in years by which his pensionable service exceeds 20 years.
5.—(1) Where—
(a) if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension ("the notional retirement pension"), and
(b) the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the notional retirement pension,
the amount of the ill-health pension is that of the notional retirement pension.
(2) The notional retirement pension is to be calculated by reference to the person's actual average pensionable pay."

Pensionable pay is determined under paragraph G1. That provides that average pensionable pay is, subject to some exceptions, the aggregate of the individual's pensionable pay during the year ending with the "relevant date", which is essentially when the individual retired.

The Appellant retired on 22 July 1998, a few months short of his 55th birthday. By the date of his 50th birthday on 17 December 1993 he had already achieved 31 years of pensionable service, and by that stage was already able to choose to retire with a maximum ordinary pension under B1 (see the letter dated 19 February 2016 from LFRS included at tab 3 of the appeal bundle). As I understand it, absent ill-health he could have been required to retire at the age of 55, on 17 December 1998.

In fact the Appellant retired on grounds of ill-health at a time when he had over 35 years of service. There is no dispute that because he retired on grounds of ill-health he is entitled to an ill-health award under B3(1). It is clear that that means that he may not receive a pension under B1: see B1(1)(c).

The real dispute relates to paragraph 5 of Part III of Schedule 2 (confusingly, not Schedule 2 to the 1992 order but instead a Schedule included within Schedule 2 to the 1992 order). The Deputy Ombudsman upheld the Respondent's decision that the Appellant's pension was "capped" at the amount of an ordinary pension under B1, calculated using average pensionable pay determined at the date of retirement. That ordinary pension amount, calculated (given the length of service) on a 40/60 basis under Part I of Schedule 2, was obviously less than the amount that would have been payable under paragraph 4 of Part III (set out above).

I can detect no possible error of law in this conclusion. The key question is to determine the "notional retirement pension" under paragraph 5. If the amount calculated under paragraph 4 is higher than that amount then the amount of the pension payable under B3 is equal to that "notional retirement pension". It is worth emphasising that the pension is still payable under B3, not B1, but the calculation is determined by reference to the ordinary pension.

The Appellant argues that there is significance in the words "by reference to" in paragraph 5(2), in contrast to the word "is" when used to refer to average pensionable pay in paragraph 1(2) of Part III. What it is said that the rules contemplate is that the Respondent should have determined the pay level that the individual could have achieved if he had actually worked up to his normal retirement date, using pay scales available at the time and assuming pay increases and promotions, rather than using actual pay in the year to retirement. (It is not made clear what, if any, difference this would actually make on the facts of this case.)

There is no basis for reading the legislation in this way. What is referred to in paragraph 5(2) is actual average pensionable pay. As already mentioned that is defined under paragraph G1 by reference to the year to retirement. The reason that paragraph 5(2) uses the words "by reference to" is that the word

"is" would not make sense. What it is saying is that the notional retirement pension has to be calculated *using* actual average pensionable pay.

The Appellant also relies on a commentary published by the Home Office. The text relied on, set out at Appendix 2 to the Decision, refers to capping in terms that the pension can never be more than "could have been earned" or that the person "could have earned" by compulsory retirement age. This text has no force of law and cannot affect the clear wording of the legislation. In any event, the text can be read as referring to the pension available by reference to length of service (so if, for example, there would only have been 20 years' service at normal retirement, the pension would be lower than the 40/60ths maximum referred to). In addition, as indicated by the Decision, Example 7 in the commentary appears not to assist the Appellant's case.

I do not agree with the submission that this interpretation deprives B3 of meaning or effect, or that there are no circumstances when paragraph K3 could apply. There will be many situations where either paragraph 3 or paragraph 4 of Part III will produce a result which is lower than the notional retirement pension, and therefore where the pension payable would be determined by those paragraphs. This would be likely to be the case if retirement on grounds of ill health occurred earlier in a firefighter's career, rather than close to retirement. For example, assume retirement on grounds of ill-health after 20 years of service at age 40, and that the individual could otherwise have been required to retire at 55. The calculation under paragraph 4 would produce a pension of 27/60ths of average pensionable pay. If the individual had continued to work until retirement he would have had 35 years' service and a 40/60ths pension. On those facts paragraph 5 would have no application because the amount calculated under paragraph 4 would not exceed the notional retirement pension.

Identity of the Respondent

The Appellant has named the respondent to the appeal as Lancashire Combined Fire Authority. The respondent named in the Decision is Lancashire Fire and Rescue Service, and I would have expected that entity to be the respondent to the appeal.

SERVICE OF THIS ORDER: The court has provided a copy of this Order to:
Mr FM Galpin, francisgalpin@aol.com
Mr D Howell (solicitor) Lancashire Fire & Rescue Service dominichowell@lancsfirerescue.org.uk
The Pensions Ombudsman (ref PO-19150), enquries@pensions-ombudsman.org.uk and david.craddock@pensions-ombudsman.org.uk

CH-2020-000043

In the High Court of Justice
Business and Property Courts of England and Wales
Chancery Appeals (ChD)
On appeal from a decision of the Deputy Pensions Ombudsman on 10 September 2019 (ref: PO-19150)
Appeal ref: CH-2020-000043

BETWEEN

FRANCIS MICHAEL GALPIN

Appellant

and

LANCASHIRE COMBINED FIRE AUTHORITY

Respondent

ORDER

Before **the Honourable Mrs Justice Falk** sitting at the Rolls Building, 7 Rolls Building, Fetter Lane, London, EC4A 1NL on the 6th day of May 2020

UPON correspondence with the Appellant, in which the Appellant confirmed that he does wish to proceed with an oral renewal hearing, **AND UPON** correspondence with both parties in connection with the factual context for the appeal and the legal issue raised

IT IS ORDERED THAT

1. The oral renewal hearing of the appeal shall be listed on the first available date on or after 1 July 2020.

2. The Respondent shall no later than 8 May 2020 (or by such later date as the court may agree following a written request for an extension) provide to the Appellant a draft brief summary of relevant facts, covering (so far as is reasonably available) (a) the Appellant's compulsory retirement age, (b) the way in which the Appellant's pension was calculated (currently assumed by the court to be 40/60 x actual pay in the year to retirement) and (c) some information about the relevant pay scales and promotion arrangements, in particular as to whether progression was automatic.

3. The Appellant shall promptly provide any reasonable comments on the draft summary of facts so provided. Those comments must be limited to any necessary corrections to address inaccuracies and to those issues referred to in paragraph 2 of this order.

4. The Appellant and Respondent shall thereafter seek to agree the summary of facts, with a view to the Respondent filing at court and serving on the Appellant an agreed summary of relevant facts by no

later than 4 pm on Friday 22 May. If the summary is not agreed the Respondent should file and serve its version of the summary on that date. In that event the Appellant is at liberty to file and serve a version showing the points with which he does not agree. However, the court will ***not*** entertain additional written submissions, and anything filed by the Appellant must be limited to the matters referred to in paragraph 3 of this order.

5. Following correspondence with the parties, the court confirms its understanding of the legal issue in the appeal as the following:

   Whether, as a matter of statutory construction of paragraph 5 of Part III of Schedule 2, contained in Schedule 2 to The Firemen's Pension Scheme Order SI 1992/129, the requirement to calculate the notional retirement pension "by reference to" actual average pensionable pay means either:

   a. (as the Respondent contends) that the calculation must be done using actual pay in the year to the date of retirement; or
   b. (as the Appellant contends) that the calculation must be done by reference to the pay scales in place at the date of retirement, but assuming that the individual would have continued to progress through those pay scales, and achieved available promotions, until the date that he or she could have been required to retire absent ill health or injury.

REASONS

The hearing is to be relisted not before 1 July for the reasons referred to in the order of 1 May 2020, namely a) to allow the Appellant to seek legal assistance and b) allow time for the facts to be clarified. The Respondent has kindly agreed to assist the court in relation to b).

The court also considers that, in view of the written submissions provided by or on behalf of the Appellant (including lengthy submissions addressed to the Court of Appeal and received by this court on 24 April 2020) it is important to clarify what appears to be the single legal issue in dispute in this appeal. This is reflected in paragraph 5 of the order.

The sole purpose of seeking a summary of the facts, as contemplated by paragraphs 2 to 4 of the order, is to assist the court in providing a factual context for determining whether permission to appeal should be granted in respect of the legal issue in dispute.

SERVICE OF THIS ORDER: The court has provided a copy of this Order to:
Mr FM Galpin, francisgalpin@aol.com
Mr D Howell (solicitor) Lancashire Fire & Rescue Service dominichowell@lancsfirerescue.org.uk
The Pensions Ombudsman (ref PO-19150) david.craddock@pensions-ombudsman.org.uk

CH-2020-000043

In the High Court of Justice
Business and Property Courts of England and Wales
Chancery Appeals (ChD)
On appeal from a decision of the Deputy Pensions Ombudsman on 10 September 2019 (ref: PO-19150)
Appeal ref: CH-2020-000043

BETWEEN

FRANCIS MICHAEL GALPIN

Appellant

and

LANCASHIRE COMBINED FIRE AUTHORITY

Respondent

ORDER

Before **the Honourable Mrs Justice Falk** sitting at the Rolls Building, 7 Rolls Building, Fetter Lane, London, EC4A 1NL on the 6th day of May 2020

UPON correspondence with the Appellant, in which the Appellant confirmed that he does wish to proceed with an oral renewal hearing, **AND UPON** correspondence with both parties in connection with the factual context for the appeal and the legal issue raised

IT IS ORDERED THAT

1. The oral renewal hearing of the appeal shall be listed on the first available date on or after 1 July 2020.

2. The Respondent shall no later than 8 May 2020 (or by such later date as the court may agree following a written request for an extension) provide to the Appellant a draft brief summary of relevant facts, covering (so far as is reasonably available) (a) the Appellant's compulsory retirement age, (b) the way in which the Appellant's pension was calculated (currently assumed by the court to be 40/60 x actual pay in the year to retirement) and (c) some information about the relevant pay scales and promotion arrangements, in particular as to whether progression was automatic.

3. The Appellant shall promptly provide any reasonable comments on the draft summary of facts so provided. Those comments must be limited to any necessary corrections to address inaccuracies and to those issues referred to in paragraph 2 of this order.

4. The Appellant and Respondent shall thereafter seek to agree the summary of facts, with a view to the Respondent filing at court and serving on the Appellant an agreed summary of relevant facts by no

later than 4 pm on Friday 22 May. If the summary is not agreed the Respondent should file and serve its version of the summary on that date. In that event the Appellant is at liberty to file and serve a version showing the points with which he does not agree. However, the court will ***not*** entertain additional written submissions, and anything filed by the Appellant must be limited to the matters referred to in paragraph 3 of this order.

5. Following correspondence with the parties, the court confirms its understanding of the legal issue in the appeal as the following:

   Whether, as a matter of statutory construction of paragraph 5 of Part III of Schedule 2, contained in Schedule 2 to The Firemen's Pension Scheme Order SI 1992/129, the requirement to calculate the notional retirement pension "by reference to" actual average pensionable pay means either:

   a. (as the Respondent contends) that the calculation must be done using actual pay in the year to the date of retirement; or
   b. (as the Appellant contends) that the calculation must be done by reference to the pay scales in place at the date of retirement, but assuming that the individual would have continued to progress through those pay scales, and achieved available promotions, until the date that he or she could have been required to retire absent ill health or injury.

REASONS

The hearing is to be relisted not before 1 July for the reasons referred to in the order of 1 May 2020, namely a) to allow the Appellant to seek legal assistance and b) allow time for the facts to be clarified. The Respondent has kindly agreed to assist the court in relation to b).

The court also considers that, in view of the written submissions provided by or on behalf of the Appellant (including lengthy submissions addressed to the Court of Appeal and received by this court on 24 April 2020) it is important to clarify what appears to be the single legal issue in dispute in this appeal. This is reflected in paragraph 5 of the order.

The sole purpose of seeking a summary of the facts, as contemplated by paragraphs 2 to 4 of the order, is to assist the court in providing a factual context for determining whether permission to appeal should be granted in respect of the legal issue in dispute.

SERVICE OF THIS ORDER: The court has provided a copy of this Order to:
Mr FM Galpin, francisgalpin@aol.com
Mr D Howell (solicitor) Lancashire Fire & Rescue Service dominichowell@lancsfirerescue.org.uk
The Pensions Ombudsman (ref PO-19150) david.craddock@pensions-ombudsman.org.uk

Neutral Citation Number: [2020] EWHC 2789 (Ch) Appeal Ref: CH-2020-000043

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
CHANCERY APPEALS (ChD)

The Rolls Building
7 Rolls Buildings
Fetter Lane
London
EC4A 1NL

Date: 03/07/2020

Before:

THE HONOURABLE MR JUSTICE FANCOURT

Between:

FRANCIS GALPIN

Intended Appellant (the "Appellant")

and

LANCASHIRE COMBINED FIRE AUTHORITY

Intended Respondent (the "Respondent")

- -
- -

The Applicant appeared In Person
No appearance was made by or on behalf of **the Respondent**

Hearing date: 3 July 2020

- -

Approved Judgment

.....

MR JUSTICE FANCOURT:

1. This is a renewed application by Mr Galpin for permission to appeal against a decision of the Pensions Ombudsman, which was given on 10 September 2019. The original application for permission to appeal on a question of law was considered by Falk J on the papers, and on 2 April 2020 she refused permission to appeal, essentially on the basis that the legal issue raised was unarguable. Mr Galpin, as he is entitled to do, renewed his application for permission to appeal.

2. Mr Galpin is a retired firefighter and he has a pension under the Fireman's Pension Scheme.

3. He was forced to retire, as a fireman, through ill-health as a result of an accident at the age of 54. He would otherwise have been entitled to continue to work until the age of 60.

4. Mr Galpin made a complaint to the Pensions Ombudsman on 10 October 2017 and the complaint, at that stage, was that he was wrongly being paid a Rule B1 ordinary pension, rather than a Rule B3 ill-health pension.

5. The complaint was considered first by a senior adjudicator at the Pensions Ombudsman's office, who wrote an opinion on 13 March 2019 saying that the complaint should not be upheld. Mr Galpin, as he was entitled to do, did not agree with that opinion and accordingly his complaint was further considered by the Pensions Ombudsman, in fact the Deputy Pensions Ombudsman, who gave her decision for not upholding the complaint on 10 September 2019.

6. Mr Galpin sought to appeal to the High Court and after one or two false starts, via the Court of Appeal in Northern Ireland and then the Court of Appeal in this Country, the appeal was finally properly issued in the High Court on 4 February 2020. It was therefore significantly out of time but Falk J considered that there were sufficient reasons to justify an extension of time, and she made that order for an extension of time on 2 April but then refused permission to appeal by the same order.

7. She gave detailed reasons why she considered that, on the true interpretation of the relevant parts of Schedule 2 to the Fireman's Pension Scheme Order 1992, the Ombudsman had clearly been right and therefore Mr Galpin's appeal had no reasonable prospect of success.

8. After the application for permission to appeal was renewed, Falk J made a further order on 6 May 2020, adjourning the hearing that was due to take place to enable various matters to be done in the interim so as to give Mr Galpin the best possible chance of advancing his arguments on the basis of the relevant facts of the case. The relevant facts, in accordance with Falk J's direction, were set out in a document that the employer Fire Authority prepared, dated 6 May 2020, and Mr Galpin then responded directly, and very helpfully, by adding in his points of disagreement, such as they are, in the same document, which I have before me.

9. The relevant facts are that, as I have already said, Mr Galpin was forced to retire early, aged 54, as a result of a road traffic accident when he was on duty. That was a compulsory

retirement for the purposes of the pension scheme. Given his rank at the time of Assistant Divisional Officer, he was entitled to retire at 60 and so he was effectively forced to retire more than five years early.

10. The total pay, to which he was entitled with flexible duty allowance at the date of his retirement, was £32,904.00.

11. The issue between Mr Galpin and the Pension Scheme is that, he says, the rules of the scheme require to be taken into account the chance of the firefighter obtaining further promotion before what would otherwise have been his normal retirement age, and Mr Galpin's case, set out in his amendment to the facts document, is that there was a good chance, as he saw it, of promotion to the rank of Divisional Officer 2 by the age of 60. He says that, in effect, he was doing that work and had that responsibility in any event, and that therefore he considered he had a good chance of promotion.

12. With that promotion the pay, as at the date of his actual retirement, would have been £36,547.72. At one stage, it appeared that part of Mr Galpin's argument was that, not only any promotion should be taken into account, but also any increase in the pay for the relevant rank by the normal retirement age should also be taken into account. But Mr Galpin now accepts that the second point is not a good point. Nevertheless he maintains his case that the prospect of promotion by the normal retirement age of 60 should have been taken into account.

13. The issue is, and is accepted to be, purely a question of the true interpretation of the Pension Scheme comprised in the relevant statutory instrument.

14. Falk J encapsulated the issue in her order of 6 May 2020 in the following terms, and I quote:

> *"Whether as a matter of statutory construction of paragraph 5 of part 3 of Schedule 2 contained in Schedule 2 to the Fireman's Pension Scheme Order, SI 1992 No. 129, the requirement to calculate the notional retirement pension "by reference to" actual average pensionable pay means either:*
>
> *(a) as the respondent contends, that the calculation must be done using actual pay in the year to the date of retirement, or,*
> *(b) as the appellant contends, that the calculation must be done by reference to the pay scales in place at the date of retirement, but assuming that the individual would have continued to progress through those pay scales and achieve available promotions until the date he or she could have been required to retire, absent ill-health or injury".*

15. The relevant provisions of the scheme are, first, in appendix one, where Part B differentiates between an ordinary pension, at paragraph B1, and an ill-health award, at paragraph B3. It is common ground that Mr Galpin is entitled to an ill-health award and not an ordinary pension.

16. In schedule two to that appendix, there are then detailed provisions for the calculation of an ill-health pension. By virtue of his long years of service, Mr Galpin falls within paragraph 4

of that schedule. However, it is the terms of paragraph 5 that are directly in issue and they provide as follows:

> *"(1) Where:*
> *(a) if the person had continued to serve until he could be required to retire on account of age, he would have become entitled to an ordinary or short service pension, "the Notional Retirement Pension" and*
> *(b) the amount calculated in accordance with paragraph 3 or 4 exceeds the amount of the Notional Retirement Pension,*
> *the amount of the ill-health pension is that of the Notional Retirement Pension.*
> *2. The Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay".*

17. Paragraph 5(1) therefore requires a cap to be imposed on the amount of the ill-health pension that would otherwise be calculated under paragraphs 3 or 4 of Schedule 2 by reference to the amount of the Notional Retirement Pension that the retired firefighter would have achieved had he continued to work until the age of retirement.

18. However, paragraph 5(2) says that that Notional Retirement Pension is to be calculated by reference to the person's actual average pensionable pay. Average pensionable pay, for the purposes of the scheme, is defined in rule G1 as the average pensionable pay of a regular firefighter and is, subject to paragraphs five to seven, the aggregate of his pensionable pay during the year ending with the relevant date, and the relevant date is the last day of the firefighter's service as a regular firefighter.

19. It is therefore clear that a normal pension, under Section B1, and the Notional Retirement Pension are to be calculated using the average pensionable pay during the last year of actual service. However, Mr Galpin's argument is that the significance of the words 'by reference to' in paragraph 5(2) of the order is that they require the prospects of promotion during the remaining years of what would otherwise have been normal service to be taken into account. He argues that the words 'by reference to' signifies something different from what the word "is" would have signified, as for example it is used in an earlier part of the appendix: "the pension is the person's actual average pensionable pay".

20. He supports his argument by reference to guidance in the form of a commentary that was issued by the Home Office at the time when the pension scheme came into effect. The relevant part of that guidance says as follows:

> *"How much is the pension? The sums are set out in examples one and four to seven, the basis of the calculations is explained here. A firefighter's basic ill-health pension is never less than 1/60th of average pensionable pay, APP, and never more than 40/60th, two-thirds of APP or what could have been earned by compulsory retirement age".*

21. Mr Galpin fastens on the last words in that quotation and say that requires the scheme to consider what the firefighter could have earned had he continued to work until compulsory retirement on grounds of age.

22. The commentary and guidance is provided to give practical guidance to those considering

their pension entitlement on the way that the detailed provisions of the pension scheme operate. The detailed provisions are highly complex and, with respect, not easy for someone who is not very technically minded to understand.

23. The guidance has no statutory force, however; it is the scheme itself that has to be construed. The significance of the guidance was addressed by the Ombudsman in his decision. He referred to the paragraph to which I have referred, and he said, as follows:
'I find that the commentary does not support Mr N's interpretation' (I interpolate Mr N, in the decision, was Mr Galpin), and then he referred to a further argument in relation to the scheme.

24. He said Mr Galpin suggests that the figure of average pensionable pay should be determined by the Chief Fire Officer, based on what they think the likely salary could have been at the point of compulsory retirement. However, that interpretation implies a level of guesswork and forecasting that simply is not reflected in the methodology prescribed by the order or illustrated in the commentary. Read in the context in which they are used in the commentary, the two instances of what could have been earned by compulsory retirement age are references to the number of years of service that could be achieved, not the average pensionable pay. In both cases, the calculation described is based on a maximum of 40 years' service or the length of service that could have been earned by compulsory retirement age.

25. In my judgment, there is no scope at all for construing paragraph 5(2) of Schedule 2 to the order so as to incorporate a requirement to take account of what promotion may or may not have been achieved by a firefighter between the date of early retirement and the normal retirement age.

26. There is no machinery in the scheme enabling the scheme administrators to assess or predict, or guess, what that promotion might in any given case have been. There is nothing in the wording which suggests that that kind of exercise is required to be undertaken.

27. In my judgement, the words 'by reference to' are simply being used as a synonym for 'using' as if the paragraph had said "the Notional Retirement Pension is to be calculated using the person's actual average pensionable pay". There is no warrant for interpreting that as referring to any theoretical pensionable pay that might have been achieved by a later date.

28. I am sympathetic to Mr Galpin in the sense that the commentary and guidance uses a phrase which is ambiguous, namely "or what could have been earned by compulsory retirement age". However, in context, and by reference to the examples given in the guidance, one of which, example seven, is inconsistent with Mr Galpin's case, it is reasonably clear that that phrase is intended to connote the number of years of service that would have been achieved by compulsory retirement and has nothing to do with any promotion.

29. It follows, accordingly, that I consider that there is no realistic prospect of the argument on the issue of law succeeding in Mr Galpin's favour. I consider that Falk J was right for the reasons that she gave. I therefore refuse permission to appeal.

End of Judgment

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IN THE ROYAL COURTS OF JUSTICE

Case No. CH-2020-000043

Rolls Building
7 Rolls Buildings
Fetter Lane
Holburn
London
EH4 1NL

Page Count 6.

Friday, 3rd July 2020

before

THE HONOURABLE MR JUSTICE FANCOURT

GALPIN

- v -

LANCASHIRE COMBINED FIRE AUTHORITY

THE CLAIMANT appeared IN PERSON
NO APPEARANCE by or on behalf of the DEFENDANT

WHOLE HEARING

Case called at 10.30am.

MR GALPIN: As I said, I haven't got that in front of me, but as you say –

MR JUSTICE FANCOURT: Well, yes.

THE CLERK OF THE COURT: Sir, sorry to interrupt, my computer just unexpectedly decided to restart itself at about 10:57, so I've started recording again, but I don't know if, just for the sake of the recording, you want to just highlight what was discussed in the last minute or so, for the recording. It is entirely up to you, sir.

MR JUSTICE FANCOURT: For the sake of the recording, I have just had a short discussion with Mr Galpin to make sure I understand exactly how he says that paragraph 5.2 of Schedule 2 to the order works, and the position we have reached, is that if someone retires early through ill health, the pensionable pay is that at the date of the retirement through ill health, but it has to take account of any promotion that the fireman could have been expected to have achieved by the normal retirement date for a person of his rank, and in Mr Galpin's case that is the age of 60. That is right Mr Galpin, I think, is it not?

MR GALPIN: Yes, yes, My Lord.

MR JUSTICE FANCOURT: Well, Mr Galpin, I understand the argument. I think you place reliance on some guidance that -

MR GALPIN: The Home Office commentary, sir.

MR JUSTICE FANCOURT: The Home Office commentary, yes. Let me see if I can locate that in the bundle that I have got. If not, we will refer to it in the Ombudsman's decision, because I think he quotes from it.

Pause.

Mr JUSTICE FANCOURT: No, I cannot find the Guidance itself, so let us go to the decision of the Ombudsman, that he sets out.

Pause.

MR JUSTICE FANCOURT: Actually, he only sets out the particular sentence that you referred to, which is not very helpful. Let me see if I can locate the guidance somewhere else in this bundle. Yes, it is actually an appendix to the Ombudsman's decision. The commentary says how much is the pension, the sums are set out in Examples 1 and 4 - 7, the basis of the calculations is explained here: 'A firefighter's basic ill-health pension is never less that one sixtieth of average pensionable pay, and never more than 40 sixtieths of average pensionable pay or what could have been earned by compulsory retirement age.' And it is those words, is it not: 'What could have been earned by compulsory retirement age,' that you rely on.

MR GALPIN: The B3 pension, My Lord, was an agreed introduction by the union and the employers at the time that the statutory instrument was introduced in 1992. And it was designed, it may not have been written very clearly, but it was designed to replace the fact that people who were having to be retired injured out of the service, to get compensation were going to court, and that was expensive, not only for them but for the taxpayer and, you know, the government, and the unions decided that what was drafted was that B3, Pension B3 would hold compensation so that people did not have to go to court to gain their advantage. And they didn't - I and others feel that it wasn't worded awfully well, and I think that Mr [Copplestone Bruce?] feels the same way and has in his advice, has tried to explain that.

MR JUSTICE FANCOURT: Yes.

MR GALPIN: But B3, there is no, there is very little understanding of the fact that that B3 pension stands for compensation for anyone who has years to work, who has chances of promotion, would be compensated for, and in fact lose out that possibility. Yes.

MR JUSTICE FANCOURT: All right. Well, at the end of the day, the legal question is a vey limited one, as encapsulated by Mrs Justice Falk, and I think correctly encapsulated, and I think you agree that she correctly expressed the issue. It turns purely on the interpretation of Schedule 2 to the order.

MR GALPIN: It is the interpretation that –

JUDGE FALKCOURT: It is purely a legal point

MR GALPIN: It's a legal point, and I think this is why, well, I'm sure that Mr Copplestone Bruce felt strongly about this, and his last advice that you've read is, from my point of view, from our point of view, as good as it gets.

MR JUSTICE FANCOURT: Well, I quite understand what you say that, but Mr Copplestone Bruce is taking a rather broader approach to the merits of the pension scheme, and what I am concerned with is a much narrower question of the interpretation of the statutory instrument.

MR GALPIN: Yes, that's correct. Yes.

MR JUSTICE FANCOURT: Well, Mr Galpin, I have read Mr Copplestone Bruce's advice, I have read the relevant parts of the scheme, is there anything else that you want to say in support of your argument?

MR GALPIN: Well, except to say, and it hasn't been said previously, that from my point of view and I'm the one you are dealing with now, and has been sort of on this quest for so many years now, it's not from personal greed that I'm doing this.

There's a group of people, of us. The 1992 scheme meant that looking back, those I worked with, those I commanded, those I came out of a building on my hands and knees with, wreaked; a lot of them have died leaving widows and beneficiaries. And when they die the widow loses half the pension. They then lose the injury pension and then of course when that person dies, the state pension goes with them. So, the widows and beneficiaries, despite their husbands' paying 11% of their annual income into the pension scheme have got no advantage over anyone who has served the basic time to age 55 and got the same pension. They haven't had any advantage.

MR JUSTICE FANCOURT: Yes.

MR GALPIN: And I think, and I'm sure, that is why B3 was brought in, to compensate people who have been injured and have gone out of the service through no fault of their own, who have been put in harm's way, which of course is what you accept when you're in the job, and then when they die, their widows and beneficiaries don't get any advantage. We believe that the 1992 scheme, people who were on that scheme then, are being underpaid their pension, for those who were injured, anyway, and it amounts to a legal interpretation of the statutory instrument as to whether or not they are being underpaid or were being underpaid.

MR JUSTICE FANCOURT: Yes, indeed. All right. If there is nothing else that you wish to add, Mr Galpin, I will give a judgment.

MR GALPIN: Well, there is such a lot written, My Lord -

MR JUSTICE FANCOURT: Yes.

MR GALPIN: The bundle is, I meant this has been going on since I introduced, since I started it off in December 2015 by presenting the brigade with an IDRP1 which was in fact the first piece of paper they would receive from us, saying that we found something that really ought to be investigated, and the brigade have failed to do so, and we've got to this stage now. It's a long way down the road, but here we are.

MR JUSTICE FANCOURT: All right. I propose to give a short judgment, giving my reasons for the decision on your application.

Judgment given.

MR JUSTICE FANCOURT: Mr Galpin, I am sorry that that goes against you but as I explained, it is a pure question of law, interpretation of the language of the scheme and in my judgment the point is simply unarguable. There is no material within the wording of the scheme to support the argument, nor in my view would it make any practical sense. So that is the reason why I have dismissed your application. I am

sorry that I have had to do that but that is the position as a matter of law.

MR GALPIN: Thank you for your judgment My Lord. I will pass this on to those of us who are in this same position, that is to say hopeful[?]. Well, I suppose we have to swallow that but thank you again.

MR JUSTICE FANCOURT: Mr Galpin, you are entitled to request or maybe the Trades Union may want to request a transcript of the judgment to be prepared. My clerk when I put the phone down will be able to give you some assistance with how you go about that if that is something that you want to do.

MR GALPIN: Thank you for that. I would like to study it, as others would I am sure but would we have that in writing do you think or would it have to be…?

MR JUSTICE FANCOURT: No, you will get a full written judgment.

MR GALPIN: Yes, thank you.

MR JUSTICE FANCOURT: The transcribers will prepare it and I will make any small adjustments as a necessary to correct any obvious errors or bad expression that I used in my judgment that I have just given but otherwise it will be approved and then sent out.

MR GALPIN: Right.

MR JUSTICE FANCOURT: There is… It does not come free unless your financial circumstances are such that assistance, financial assistance will be given by the courts, which is why I mention that if it is of general importance as you indicated, I think earlier that it might be to a number of people.

MR GALPIN: Well, I am the stalking horse if you like, that is to say that my particular case was one that could be brought up. I am in a position unlike some of the people; I am still here for a start, the others have died. I had the rank and I had the certain possibility of being promoted in the last five years.

MR JUSTICE FANCOURT: Yes.

MR GALPIN: That's why it was my particular case that we decided to run.

MR JUSTICE FANCOURT: Right, I understand that. As I say, if you or others or a Trade Union decide they want a transcript then they are perfectly entitled to request one but there is a fee to pay to the transcribers to prepare the written transcript of the judgment.

MR GALPIN: Yes, okay. I'll pass that on.

MR JUSTICE FANCOURT: Thank you very much. Thank you Mr Galpin for your very courteous submission and I wish you good health and a long life.

MR GALPIN: Thank you My Lord.

MR JUSTICE FANCOURT: Goodbye.

MR GALPIN: Bye.

Court rises.

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Page Count 6.

Case No: CH 2020-000043

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

Royal Courts of Justice
The Rolls Building
7 Rolls Buildings
London, EC4A 1NL

Date of hearing: Friday 3 July 2020

Page Count: 7
Word Count: 2239
Number of Folios: 31

Before:

MR JUSTICE FANCOURT

Between:

MR FRANCIS MICHAEL GALPIN **Appellant**

- and -

LANCASHIRE COMBINE FIRE AUTHORITY **Respondent**

- - - - - - - - - - - - - - - - - - - -
- - - - - - - - - - - - - - - - - - - -

THE CLAIMANT appeared as a **LITIGANT-IN-PERSON**
NO APPEARANCE by, or on behalf of, the **DEFENDANT**

- - - - - - - - - - - - - - - - - - - -

PROCEEDINGS

- - - - - - - - - - - - - - - - - - - -

If this Transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

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[Transcriber's note: transcript prepared without access to all case papers].

THE COURT CLERK: I should also, as I said in my email, Mr Galpin, just let you know, obviously, only the court should be making a recording of this hearing, and no one else, but I am just saying it for the record. I am sure you already saw that in my email.

MR JUSTICE FANCOURT: Steve, am I audible? Can you hear me?

THE COURT CLERK: Yes, I can hear you, sir.

MR JUSTICE FANCOURT: All right.

Is Mr Galpin there?

MR GALPIN: Is that Justice Fancourt?

MR JUSTICE FANCOURT: Mr Galpin, good morning.

MR GALPIN: Yes, good morning, My Lord.

MR JUSTICE FANCOURT: The hearing this morning, Mr Galpin, for reasons I am sure you will understand, is being conducted remotely, and I understand it is telephone in your case. It is, nevertheless, a public hearing because of the way the hearing was listed in the calls list. The court will make a recording of the hearing, which will be available, if necessary, but no one else may make a recording of this hearing. It is against the law to do so.

The purpose of the hearing this morning is to review the decision of Falk J, that she made on 2 April, I think it was, when she granted you an extension of time for your Appellant's notice but refused permission to appeal. So this is not a full substantive hearing of the argument on the appeal. This is just a short hearing, in which you have the chance to seek to persuade me that Falk J was wrong and that there is some significant argument that needs to be heard at a full hearing with the Fire Authority also present and represented.

MR GALPIN: Yes, My Lord.

MR JUSTICE FANCOURT: I have read the papers, Mr Galpin, so you do not need to explain the background to me. I have read the Adjudicator's decision, I have read the Ombudsman's decision, I have read your grounds of appeal, and I have read Falk J's orders, and I have read the document that was prepared between you and the Fire Authority since the last hearing in front of Falk J, setting out the relevant facts ---

MR GALPIN: Did you also ---

MR JUSTICE FANCOURT: --- so you do not need to explain any of that to me. You can just launch straight into why you say that there is a real argument as a matter of law about what the pension scheme means.

MR GALPIN: Well, I think the argument in law has been already explained by Mr Bruce, Mr John Bruce, who is a barrister. He sent what was headed "Advice" off to the Deputy Pensions Ombudsman, following her determination, initially, and I think a copy of that would also go to Falk J, and there are 44 points covered in that advice. I do not know whether you have read that. I have no way of knowing that.

MR JUSTICE FANCOURT: I do not think I have even got that. Let me just have a look and see if I can locate it. *(Pause)*. Yes, I have found it. Is it a document of 77 pages?

MR GALPIN: No, sir. No, My Lord. It is 44 points, 44 paragraphs, which the barrister produced following the determination from the Pensions Ombudsman. If you have not got it, I could get it to you.

MR JUSTICE FANCOURT: Well, let me tell you what I have got, because I have got two separate documents headed "Advice": one is written by Mr Locke QC, on 11 May 2015 – that is 25 paragraphs.

MR GALPIN: Yes, that is not it, sir.

MR JUSTICE FANCOURT: That is not it. Then separately, there is another document headed "Advice", which runs to 56-numbered paragraphs, and that has got Mr John Merlin Copplestone Bruce's name at the bottom of it.

MR GALPIN: That is right. He is the barrister. That was ---

MR JUSTICE FANCOURT: So have I got the right ---

MR GALPIN: Well, he may have sent; I am just checking. I have got some material on the iPad in front of me. Just let me check. *(Pause)*. No, that is not it.

MR JUSTICE FANCOURT: The first paragraph of the document I am looking at, Mr Galpin, says, "Mr David Locke QC has most kindly given an initial advice, setting out, as it were, the opposing forces." Is that the right document?

MR GALPIN: No. I have got it in front of me now. it says, "Advice. I am asked to advise on an appeal in Mr N's case". The Pensions Ombudsman has referred to me as "Mr N" ---

MR JUSTICE FANCOURT: Yes.

MR GALPIN: --- "…on a point of law from the Deputy Ombudsman's determination". Now, we were invited if we wanted to appeal against the determination to appeal on points of law, and we did. This is from Mr Copplestone Bruce, and there are 46 points, 47 points, and that was 13 September 2019, that was last year, in September.

MR JUSTICE FANCOURT: Bear with me a moment. I am still looking. I have rather a lot of papers in this matter, so it takes a while to ---

MR GALPIN: Well, it has been going on a long time, My Lord.

MR JUSTICE FANCOURT: Yes. *(Pause)*. No, I do not think that document is in the bundle. There are a good number of other documents written by Mr Copplestone Bruce, but not that one.

MR GALPIN: Well, this was 13 September, as I said, 2019, 40-odd points. These are the points of law that he prepared, on the invitation of the Pensions Ombudsman, because these are the points that we had permission to appeal on.

MR JUSTICE FANCOURT: Well, you have not go permission to appeal yet from me ---

MR GALPIN: No, no, that is to say that the Pension Ombudsman said, "If you are going to appeal, you have to do so on points of law".

MR JUSTICE FANCOURT: Yes.

MR GALPIN: These were prepared, as a consequence, and sent. I am sure that they were sent off to Falk J, but if you wish, I can email them to you.

MR JUSTICE FANCOURT: I think I have found it:

> "I am asked to advise on an appeal in Mr N's case on a point of law from the Deputy Ombudsman's determination on 10 September 2019."

Is that it?

MR GALPIN: Yes.

MR JUSTICE FANCOURT: Right.

MR GALPIN: Yes, that is the one, sir.

MR JUSTICE FANCOURT: Okay. *(Pause)*. Now, when you had a hearing before with Falk J ---

MR GALPIN: Well, that did not actually come to pass, Your Honour, My Lord. She changed it from 4 June, it was scheduled for, and then it was changed by herself, and this date is the one that she changed it to.

MR JUSTICE FANCOURT: Yes, I understand that. I am sorry, I meant the last order that she made. She set out what she understood to be the legal issue in the appeal, did she not? Do you remember…at 5 of the order of 6 May?

MR GALPIN: Yes, that is going back to…I have not got that handy, but yes.

MR JUSTICE FANCOURT: What she says, let me read it to you, it will refresh your memory, I think.

MR GALPIN: If you would, please.

MR JUSTICE FANCOURT:

"Following correspondence with the parties, the court confirms its understanding of the legal issue in the appeal as the following: whether, as a matter of statutory construction of paragraph 5 of part 3 of schedule 2, contained in schedule 2 to the Fireman's Pension Scheme Order, the requirement to calculate the notional retirement pension by reference to actual average pensionable pay means either:

a. as the Respondent contends that the calculation must be done using actual pay in the year to the date of retirement; or

b. as the Appellant contends, that the calculation must be done by reference to the pay scales in place at the date of retirement, but assuming that the individual would have continued to progress through those pay scales and achieved available promotions until the date that he, or she, could have been required to retire, absent ill-health or injury."

MR GALPIN: That is what we contend, that was our argument.

MR JUSTICE FANCOURT: Yes, and I think as a result of what she directed at that stage, the Fire Authority set out, first of all, what they thought were the relevant facts in your case, and then you responded to that document, and added some wording to show where you disagreed with anything that they had written.

MR GALPIN: Yes.

MR JUSTICE FANCOURT: I have got that document in front of me.

MR GALPIN: Right.

MR JUSTICE FANCOURT: But you accept, do you not, you say in that document, that Falk J correctly identified the legal issue?

MR GALPIN: Yes.

MR JUSTICE FANCOURT: Yes. So that is the question of law that potentially arises on the appeal.

MR GALPIN: Yes.

MR JUSTICE FANCOURT: What I have to decide is whether that is a point that is sufficiently arguable, that there should be full appeal hearing with you and the Fire Authority represented.

MR GALPIN: I see.

MR JUSTICE FANCOURT: She thought that there was not a sufficiently strong argument that you were right. She thought it was clear that the relevant pay was the pay for the rank that you had achieved at the date when you actually retired through ill-health.

MR GALPIN: Yes, well, if you were to read the advice from Mr Copplestone Bruce, he goes into that at great sort of depth and tries to explain, and does explain, the value of what of what we are saying in our argument. I think that followed, well, that was in September. I do not know whether Falk J had taken that into consideration by then.

MR JUSTICE FANCOURT: Well, shall I read it now? It is not very long. It is about eight pages or so.

MR GALPIN: It is. It is. If you wish, I would be happy for you to do that, sir, yes.

MR JUSTICE FANCOURT: Shall I do that? Then I can be sure that I have understood all the arguments that you want to rely on.

MR GALPIN: Yes.

MR JUSTICE FANCOURT: When I have read it, you can add anything else that you want to at that stage. So just give me a few minutes; it will take me a few minutes to read it. I will let you know ---

MR GALPIN: I will stay by the phone. I will stay on the phone.

MR JUSTICE FANCOURT: Stay on the phone. That is right.

MR GALPIN: Thank you, My Lord.

MR JUSTICE FANCOURT: *(Pause)*. Yes, all right, Mr Galpin. Well, I have read that.

MR GALPIN: Yes, all right, My Lord.

MR JUSTICE FANCOURT: The key point, I think – tell me if I am wrong about this – is that you say that the wording of paragraph 5 in part B3…sorry, bear with me. Let me just find it again and turn it up. *(Pause)*. Paragraph 5.2 of schedule 2 to the order says,

"The notional retirement pension is to be calculated by reference to the persons actual average…"

[Transcriber note: audio ended].

Marten Walsh Cherer hereby certifies that the above is an accurate and complete record of the proceedings or part thereof.

ORAL HEARING 3rd July 2020

Note for Case

In accordance with Judges Order, Galpin v Lancs Comb Fire Auth.

Instructions were received for me (the appellant) to take part in a hearing with Mrs Justice Falk on the above date at 1030 am.

Prior to that date I received instructions on how to go about making the necessary contact with the Court and was given a choice of communication systems; I chose Skype.

At 10 am I went through the motions of contacting the Court but found that the Hearing app would not load into my iPad. I found this situation quite stressful which added to my apprehension about the forthcoming proceedings.

I rang Mrs. Justice Falk's clerk, M/s Saleem, to report the problem.
I gave her my name and said that I have a hearing with Mrs Justice Falk at 1030
M/s Saleem cut me short and said "no you don't you have a hearing with Mr. Justice Fancourt and then gave me a telephone number for Mr Justice Fancourt's clerk.
M/s Saleem's manner was brusque which surprised me as I had spoken to her previously and, at that time, had found her to be amiable.

Within a minute or two I received a call from Mr Steven Brilliant, Mr. Justice Fancourt's clerk.
He had been asked to ring me by M/s Saleem
Mr Brilliant talked me through the alternative hearing procedure which was by telephone.
Mr Brilliant was most efficient, understanding and helpful throughout the proceedings and has been so on further contact.

Mr. Justice Fancourt was a few minutes late in arriving.

He stated that this would be a short hearing and asked if I had anything to add to correspondence already received. Mr Justice Fancourt's manner was formal and business like.

I must say that I did expect him to ease me into the event but he chose not to.

I referred him to the Barrister's Advice which was sent to the Deputy Ombudsman following her Determination. In her Determination she included advice that I could appeal in a Court of Law against the Determination providing it was restricted to points of law only. I stated that Mr Copplestone Bruce had produced in his 'Advice' the points of law relevant to the DPO's Determination.

After a moment he asked if that was a Mr Locke in 2015 ?

I told him it was Mr Copplestone Bruce in 2019 and it was dated 15th or 19th of September.
I repeated what I had just said for his benefit.

There followed much shuffling of papers before he, I assume, found the document.

He asked me to give him the details again and then said there would be a “silence” whilst he read the document.

I had read the Advice to the Deputy Ombudsman three times previously and found it hard going as it had been written in “lawyer speak”. I read it again during the “silence” and reached only item 16 of the 44 items written by Mr. Copplestone Bruce when the Judge brought the “silence” to an end and stated that he had read the document.

I found this hard to believe and particularly as there are references in the Advice that should be read in conjunction with the Ombudsman’s Determination.

Mr. Justice Fancourt stated that the issue is about “further promotion” (which it is not) and in my case before I was 60 when I would have formally retired.

The judge said that promotion was not a ‘given’ and went on to say that prediction for promotion amounts to guesswork. He said Mrs. Justice Falk encapsulated the matter by her reference to there being a cap imposed (I didn’t follow this).
He said that what the Commentary says is highly complex and it has no statutory force.
He stated that there was no realistic argument in law and therefore he refused permission to appeal.
I believe that twice he stated that Mrs Justice Falk “encapsulated” matters in her Judgement.

I put to him the fact that this was not just about me but about those disabled FSVs that are still with us, those who have gone before, and their widows and beneficiaries that struggle on what remains of a pension.

He stated that he was sympathetic but the Judgement had to be made on argument of law.

I await the bill now which had to be pre-paid before the transcript company produce Mr Justice Fancourt’s JUDGEMENT. I had asked for the JUDGEMENT only. NOT the whole transcript.

FMG

Addendum…NEEDS A DATE…. MAKE IT THE LAST EMAIL

I contacted UBIQUS and contracted them to prepare a transcript of the hearing.

Later I changed my mind about having the Judge’s summary only and asked them to complete the whole of the transcript. I have received their transcript which is missing the first 21 minutes or so, and the Judge’s summary, immediately prior to him declaring the Judgement.

I have requested UBIQUS to ask the Court about releasing the summary and I have asked them to make enquiries about whether or not there might have been a secondary system to record the whole of the hearing?

I have also asked the Court the same questions in a recent e-mail. I await an answer from the Court.

42 Fountains Avenue
Simonstone
BURNLEY
BB12 7PY

28th January, 2021

Mr. P Cobourn
Registry Office
Case Progression Section
Strand, Holborn,
London WC2A 2LL

My Reference: FG111.
Your Reference:2020/PI/10670

In the Court of Appeal **Case 2020/PI/10670**
England and Wales
Civil Division

FRANCIS MICHAEL GALPIN
Appellant (Litigant~in~Person)
and

LANCASHIRE COMBINED FIRE AUTHORITY
Respondent

Dear Mr. Cobourn,

1. I am in receipt your curious document.

2. As you might expect by now I treat all your communications with circumspection since I first became aware of your involvement at an early point after my Appeal was *issued* by the Court of Appeal on the 4th of February 2020 a fact later recorded by Fancourt LJ in an Approved Judgment.

3. From the outset of your involvement I have watched you manipulate each and every step of the way to the detriment of Justice not only for myself but for those veterans who served the public well and who through a no fault of their own in

Service injury were discharged and were underpaid their pensions to *their* loss and the loss of their Widows and Beneficiaries.

4. You are engaged in a dangerous ‘game’ which you will find have consequences.

5. In your latest manipulation in which you now abandon any pretext of subterfuge and engage in a blatant criminal act you seem to infer from its contents that this is a formal Judgment of the Court, though you do not state from which Court, or from which Judge the decision comes, and search as I may I cannot find a Listing at which this ‘Master of the Court’ as you have described him/her sat to reach an Approved Judgment ?

6. If I were new to this ‘game’ and gullible I might well be minded to ‘throw the towel in’. but in fact what you do is to simply encourage me and my comrades to investigate you, your role, and ultimately who you are working for because it cannot be by any stretch of the imagination be the Judiciary, Fair Play, or Justice.

7. I wonder who you really are because I find it noteworthy that you have never stated on a single documentation what your title is; what your responsibilities are; who you answer directly to in line management; and indeed what your Civil Service grade might be?

8. It seems after reviewing your contributions over the last year a clear picture emerges where other than obfuscate, block, delay, or run me around the chicanery, unlike your colleagues in the Belfast Registry, you have provided me as a Litigant-in-Person with no support whatsoever contrary to the Judicature policy on LiPs which governs your ‘work’. In fact overall you have acted with shameless criminality.

9. Indeed even though you write to me under the CoA Reference 2020/PI/10670 you even deliberately failed to inform me that this was the new Reference I was meant to use instead of the one issued by the Court of Chancery and thus you deliberately misled me with the vain hope I would get lost in the legal labyrinth.

10. Now however that you have finally excited my interest in you I have chosen to look at, not only your deliberately misleading ‘performance’ during the last year, but the lead in to your latest criminality.

11. But before I do so I should draw the many readers’ attention, those who will subsequently see this published letter, to your personal misconduct and abuse of authority in public office both of which may I remind you are also criminal offences.

12. What I find especially repugnant, as a former Senior Ranking Officer in the Fire Service, is that I suspect that you do not hesitate to misuse and abuse your authority over your subordinates who you unabashedly use to cloak your criminal activities by placing them under duress and by manipulating them into acquiescence under the threat of their continued employment.

13. Now in gathering evidence against you to present not only to the Lord Chief Justice but to the Commissioner of the Metropolitan Police I require you to indicate to me the following:

    - Who the 'Master of Court' was you state that you placed this matter before?
      No doubt the new Master of the Rolls(MR) will also be interested to know.

    - The Listing Date and Time at which this Judge gave an Approved Judgement on the documents you submitted to him/her.

    - I require a copy of ***all*** the documentation that you placed before that Judge including your written recommendations, whilst reminding you that all this documentation is under the Data Protection Act 2000(GDPR) my 'Subject data' ; you are to regard this paragraph as my formal request to acquire this 'subject data' within the legislative time framework allowed.

14. I must now deal assiduously with the 18th January 2021 the day at 07:36hrs on which I sent you an EFile and file copy of an Addenda to my Appeal.

15. This seems to have galvanised you into action in that you were able in a few short hours until 16:00hrs to get a Court Listing; Court time with a sitting Judge on an issue before the Court since 4th February 2020, and then get him/her to issue you with an Approved Judgment so that you could have a 'willing' subordinate draft, type, issue, and mail to me with your latest creative ideas all pursuant to obstructing Justice in a few stampeding hours.

16. I also presume you presented this Addenda to the Judge or did you in a further criminal act suppress its presence in a blatant act of Contempt of Court by deliberately obstructing due process?

17. When you send me my 'Subject data' no doubt this will be included as proof of your innocent actions and no doubt the Judge will ultimately confirm all that you stated in this letter to me.

18. Next I will examine your role in making legal statements purporting that these come from a 'Master' of the Court of Appeal because as a lay person clerk you

cannot make such statements and if you have done so then you act in ultra vires.

19. The alleged statements from a ‘Master’ do raise an interesting Point of Law in pragmatism.

20. Is this ‘Master of the Court’ to whom you state you have presented all these documents saying that there is no further Appeal process against Fancourt LJ who deliberately failed to understand my Points of Law advanced to him?

21. And if this is so why do we have a Supreme Court whose sole existence is posited on judging Points of Law presented to them if they are all refused at Court of Appeal level by mere layperson clerks or misguided ‘Masters’ ?

22. Now to your risible ‘law’ the briefest glance at which, namely, the ‘Access to Justice Act 1999 S 54’, which you deliberately misquote to mislead and confuse provides a prime example of how you have manipulated my legitimate actions over the preceding year where you cherry pick the quotes which serve your malignant and corrupt purposes counting on my assumed ignorance of the law to defeat my lawful purpose which I seek to attain namely, Justice.

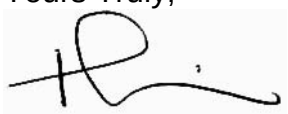
23. In concluding there really is only one action necessary to prevent you and others from continuing to corruptly Misconduct yourself in Public Office and exploiting the innocent and that is to have the Metropolitan Police arrest you; to have you arraigned and charged before the Court, and ultimately to have you and those who direct, encourage, and condone your actions locked up.

24. The harm you and others have caused to Public Confidence in the Judiciary and in particular the Court of Appeal is incalculable.

25. I do so hope Mr. Cobourn that you understand my points of view and I wait your detailed response to all those Questions coupled with my DPA Request which I have raised with you and can no doubt expect you will deal with them with the same alacrity you have dealt with your last communication?

    I will give you 7 working days to respond before I report your criminality to Commissioner Dame Cressida Dick.

Yours Truly,



F M Galpin MIFireE

Appendix 'D' : A Report Requested by the Labour Chair of the PAC Select Committee Dame Megan Hillier OBE MP.

436. A Report, at the Committee's request, [bundle-59 pages Ref PB00321] was submitted to the Chair of the Select Public Accounts Committee, Dame Megan Hillier OBE MP by Recorded Delivery and *By Hand* to Dame Megan Parliamentary and Constituency office in London and although she acknowledged receipt at the PAC office and her Parliamentary and Constituency Offices she chose not to act upon its content in abrogation of her Parliamentary duty and Labour Party obligations.

437. In a like manner this PAC report was circulated to the Deputy Leader of the Labour Party Ms.A Rayner MP, Shadow First Secretary of State who also acknowledged receipt and one presumes it was ultimately passed to the Leader of the Labour Party Rt Hon Sir Keir Starmer KCB, PC all of whom chose to take no action whatsoever in their treatment of us as ordinary decent working people.

438. So one assumes that the Labour Leadership have little to be proud of either because we served in a Service we were justly proud of and as a consequence of our actions in protecting the Nation became disabled and were compulsorily discharged and if that was not a high enough price we then became victims of UK Parliamentary failure, Governmental and Judicial fraud, which underpaid our due pensions since 1992 to the value of at least 25%.

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Notabena: Biographies of interesting Persons of Probity and Integrity:

439. Research with the Parliamentary support of a MP Tim Farron MP [former LibDem Leader] and the Labour Chair of the Select Pensions Committee Sir Stephen Timms MP elucidated the fact that UK Nationwide over 11,000 disabled Firefighters and an estimated 30,000 Beneficiaries were in a similar predicament to their colleagues in Lancashire to an estimated 'underpayment' to the value of £5Bil+, GBP.

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Bibliographies of interesting relevant legal Documents of Note:

440.
Found on The Morning Bugler [TMB] in /Libraries/Correspondence/Year; Bugler produced Documents. Year is indicated by document's last two digits, e.g., 11 ~ Year Twenty Eleven.

TMB/Libraries/Correspondence/:
Year 2010 & 2011 ~ Northern Ireland Fire & Rescue Service ~ REA Not-Deductible letter;

Year 11 ~ PB04511 Application for Court Order for LCFA to Disclose Defence critical documents;

Year 11 ~ PB00112 Court Orders ~ Specific Disclosure By LCFA;

Year 11 ~ PB00212 Defence & Counterclaim Court case management Hearing on 10th January 2012;

Year 13 ~ PB00413 Statement of Fact and Truth;

Year 13 ~ PB00913 Application to Court of Preliminary determination and for Compensation;

Year 13 ~ PB01713 ‘Meanings’ of Words;

Year 13 ~ PB01813 More ‘Meanings’ of Words;

Year 13 ~ PB01913 Statement of Claim in Law;

Year 13 ~ PB02013 Full Court Counterclaim ~ Full Calculations ~ Full Debt ~ Pages 17/18.

£3,932,947.12

****

‘An Teach Bán’

The White House

4, Bangor Road,

Groomsport,

Bangor, BT19 6JF.

Ireland.

Tel +44 (0)28 9147 1576.

symbolseeker999@gmail.com

Monday, 25th October, 2021.

Dame Meg Hillier DBE.
Chair Public Accounts Select Committee
House of Commons
London
SW1A 0AA
My Reference: PB00321
Your Reference: email, Thu 23/09/2021 11:51hrs.

DWP ~ Minister of State ~ Cabinet Minister Dr.T. Coffey PhD.,PC

Knowingly Defrauds 11,000 UK Disabled Firefighters, Widows & Beneficiaries

By

Suborning the President of the Supreme Court Baron Reed of Allermuir

In Complicity With

The Master of the Rolls Sir Geoffrey Vos

Dear Dame Meg,

I write respectfully but with passion and I thank you for your kindly invitation to submit evidence to your Public Accounts Select Committee.

Your generous act gives us hope and we know as life time rescuers *Hope* should always be the last expectation to die, particularly in our battle against this criminal scandal of fraud perpetrated against us and others, by a so called democratic government we elected.

Yours Sincerely,

Paul P. Burns GradIFireE.

UK FIREFIGHTERS

PENSION SCANDAL

1992 ~ 2021

QUESTIONS TO ANSWER?

DENIAL OF THE HUMAN RIGHT TO JUSTICE

'The White House',

4, Bangor Road,

Groomsport.

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Edition: 02: Monday, 25th October, 2021 ©

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Chapter 1.00.

‘Withering on the Vine’ and ‘Winnowing by Death’.
How Government Policies grew from a Lancashire Combined Fire Authority Cover Up.

1. The task of condensing and synopsising 14 years and 2000 archived documents into this narrative has, as I expected, proved to be difficult. It should be said that *any and all documents* I have in my possession which explore in greater depth aspects of this scandal are available through you to your Committee.

2. This document is written under the legal protection of the Law Lords Ruling of 1993 commonly known as the “Derbyshire Principle”, quoted in full on my website, [https://www.themorningbugler.com/about-the-morning-bugler/]and of course under Parliamentary Privilege.

3. Regrettably, I had an invitation before which raised the hopes and expectations of those I lead, that Democracy is not yet dead in the UK; notably from Mr.F.Field M.P. who in hindsight with his ‘promotion’, now appears, to have been just another ‘bought man’ and is particularly heinous because he implies to the world that he is a socialist by inclination and nature.

4. On this long journey for Justice I continue to learn brutal lessons as I go, but once learned never forgotten.

5. In this organised criminality I know who my malevolent opponent is and the organisation he represents and it is not the brainless ‘loose cannon on the deck’ Johnson, but the coup d’etat leader and lead Freemason, Sir George Iain Duncan Smith MP (IDS).
   It is obvious that leading Freemasons, lacking in intellectual rigour, use Freemasons with even less.

6. IDS was for 6 years 2010-2016, the Cabinet Minister for the DWP so he knows exactly how this “brainless bureaucracy” (his words) all works and was directly involved in Lancashire since 2010, controlling and directing a Lancashire Combined Fire Authority(LCFA) Pension fraud which of course he will deny.

7. Recently Johnson, also a Freemason, in his reshuffle has attempted to assert his authority as PM and remove the IDS grip from his neck by the sacking of his lead ‘disciples’ but Johnson well knows the price for that.

8. You have innocently tripped over two interlinking secret IDS/government policies which I call, “Withering on the Vine” and ‘Winnowing by Death’.

   It is not, as it is meant to appear, the product of “brainless bureaucracy” at the DWP, though this was where in the beginning the local DWP played a role; this is about this government parsimoniously saving money, not from the wealthy, but to the detriment of its poorer pensioner Citizens.

9. Recently you have publicly stated that the DWP have ‘questions to answer’; can I with respect direct your attention away from the DWP ‘rank and file’ to focus almost entirely on their political masters and how they control this ‘Winnowing’ by intimidation, bullying,

manipulation and ultimately with the ‘mailed fist’ malevolently reaching down to control those in the Civil Service and Local Government who carry out this policy for them. No corruption is too deep.

10. When I read the personal accounts of these 135,000+ ladies who have been defrauded of their pensions the resonance with the disabled Firefighters, their Widows and Beneficiaries is simply overwhelming but then we know these policies and have experienced them repeatedly; such has been my direct and accumulating experience for 14 years.

11. We have learned what these nuanced policies are; how they are implemented and who controls these denials of the Human Right to Justice and who enforces them with all their malignant intent based on the mantra, ‘I will because I can’.

12. These decent hard working ladies who walk rather than ride to the food bank; who scavenge for the supermarket ‘bargains’; who take the poorer cuts of meat; who turn the heat down; all to pay their honourable bills as they see the world; a UK world which has denied them their basic Human Right to Justice by the denial of their meagre pensions but they are not the only victims.

13. These ladies who are victims of government policies, not brainless bureaucracy, speak in hurt of deliberate obfuscation, intransigence, delay, of the loss of dignity through frustrated anger and the greatest insult of all, ‘Disdainful Stonewalling’. Yet in spite of their strong wills and determination some have given up their endeavours to obtain that which is rightfully theirs by law and morality because ultimately it has taken a toll of their mental health. Some dying in embarrassed and shameful penury, because of the shameless IDS and Coffeys of this world, these Fascists, who have decided they will, because they can.

14. If like me and my colleagues you have lived and worked in the streets for 36 years you will have seen these noble people stumble by at all hours of the day and night. If you did not notice them then sadly you have neither compassion, the bedrock of morality, nor heart…there but for the Grace of God go I.

15. By exposing this shameful fraud by the power of a free press, the BBC (though I predict they will be told to step back) have compelled the leading ‘enforcer’, a master’s servant, of these “Wither on the Vine” and ‘Winnowing by Death’ policies, DWP Cabinet Minister Dr.Theresa Coffey PhD, PC to admit to her £2.7Billion ‘error’ which I also predict will not include the ‘Late Payment of Commercial Debts (Interest) Act 1998’, which sets an 8% compound interest benchmark on such overdue debts.

16. But Coffey’s ‘game’ will not end there when 7 days later the furore dies down, she will, by delaying restitution, hope that the ‘Withering on the Vine’ will resume its insidious work of ‘Winnowing by Death’ by continuing to reduce the bill.

    It is an iniquitous, nay evil, ‘game’ and if proof was needed the DWP state that they are unable to locate 40,000 deceased victims of this policy to pay them.

17. Later I will look more closely at this Cabinet Minister but for the moment I should naturally start at the beginning with a condensed historical background...

Chapter 2.00.
UK Fire and Rescue Service (FRS) ~ The Maladministration of FRS Pensions.

18. In the UK, FRS non-Service personnel with neither pension management training, any formal qualifications (by national examination), or legal training, have for decades been unaccountably allowed to control and administer FRS Pension Schemes, disastrously as we the victims have discovered first hand.

19. It is not unique and is common practice throughout the UK pensions 'industry', indeed, it is common knowledge that daily, thousands of such lay clerks, control Pension Schemes worth Billions of Pounds of investment in pension savings invested in the international 'City of London'.

20. DWP staff who daily do their personal best to make payments due to those entitled labour under the yoke that when joining the DWP they are given no formal training, simply training 'on the job' as they go along. There is no incentive to obtain foundation skills, or nationally recognised qualification (by examination) even if they existed and to understand and administer the legal complexities of the Social Service Act 1975 (as tortuously amended) which requires the skills of trained specialist lawyers which they are not.
    Little wonder they get it wrong but ultimately are they responsible?

21. The responsibilities for all this institutionalised debacle lies at the feet of successive 'Pension Ministers' of whatever Rank and Party who in the main see their appointments as a greedy personal opportunity to seek well paid jobs in a grateful pension 'industry' when they move on.

22. They have done little, if anything, to advance the skills and opportunities of these untrained clerks for whom they hold direct responsibility but they prove to be handy 'whipping boys' when, as now, they are publicly made to appear as 'brainless bureaucrats' who got it all wrong. When in fact it is a lawless Governmental corporate and moral failure of obligation to the needy, underpinned by unlawful hidden government policies which the DWP and its leaders enforce without the recipients' and Public knowledge, until now.

23. Ex-Pension Ministers junior, or senior, abound and will no doubt wax lyrical to any scrutinising Committee about what they did when they were in charge but they will speak from the comfort of a well-paid job from within the pension 'industry', post Ministerial appointment.

24. There have been a total of 15 Ministers responsible for pensions since 1997. Mr.Steve Webb MP, Lib-Dem, remains the Pensions Minister who has 'survived' longest in post since its creation in 1998.
    Webb's tenure, at five years, was well over twice as long as the longest-serving Pensions Minister under a previous Labour administration.

25. In July 2016, PM Theresa May MP downgraded the Pensions Minister's role to Under-Secretary of State, with Richard Harrington MP as incumbent.

26. In June 2017, Mr.Guy Opperman MP took over the role, which was expanded to 'pensions and financial inclusion' Minister and he now takes up the mantle of the longest serving Pensions Minister, a corrupt 'messenger boy' of who we will hear a lot more about later.

27. In July 2019 Cabinet Minister Dr.T.Coffey PhD,PC was appointed Minister of State for the DWP.

28. A knighted Steve Webb is currently the popular ‘boy wonder’ of the pension industry and as such, a complete ‘expert’ and master of hindsight who, post a lack lustre performance, was entirely aware of what was going on all around him including with his disabled Firefighters and their Widows/Beneficiaries in his own constituency Avon who were getting by on £230 each month.

29. Every single one of these Pension Ministers and Ministers for the Disabled and their accountable servants, the members of the DWP Select Committees, successive Pension Regulators, not forgetting the greatest corrupt servant of the pensions industry the Pension Ombudsman Arter (still in post). But reminding ourselves of the present Ministerial incumbents Tomlinson/Opperman/Coffey who were all regularly informed directly by personal letter, from not only myself, but by unsolicited letters, such was his personal alarm and frustration by eminent retired pro bono Barrister Mr. John Merlin Copplestone Bruce (Life Member ~ Inner Temple), (JCB).

    JCB, who in repetitive personal letters reminded them *all* about the corruption and fraud which was swilling around their feet, letters which are archived but which, in the main, never received an acknowledgement, nor a reply.

30. In final confirmation that all these persons were fully and currently aware, their digitally recorded daily visits to my website ought not to be forgotten, which simply exposes their deep personal concern about their Public exposure, but caring even less about those they are responsible for.
    Indeed, Cabinet Minister Coffey in particular regularly downloads documents for her anticipated defence whereby she will claim, falsely, that the responsibility for all this lies with the Home Office and with the successive 25 Elected Members of all Parties of the Lancashire Combined Fire Authority(LCFA) where the progenises of all this corruption did indeed originate. But which in time since 2019 has been controlled and directed at the behest of the Cabinet, by Coffey via a sell-out Judiciary at the highest level whose visits are also logged and identified.

31. Though Coffey’s corrupt hand may well be on the tiller, the corrupt finger clearly points at the Prime Minister and beyond him to IDS Freemasonry actually in control of these pension ‘games’ sometimes mistakenly referred to benignly as ‘ the old boy network’.

32. It has been said that all Empires collapse into the black hole of total corruption, is this such an example?

33. Is this all just so much hyperbole, or is it the stark reality?

Chapter 3.00.

The Reality.

34. The evidential facts reject the accusation of hyperbole but it is still necessary to satisfy these statements by examining the bare bones of the reality of actual pension schemes, the health of which the DWP and its Cabinet Minister are required to monitor, control and

demand accountability from through her own agencies the H.O. Firefighters Pension Committee; The HO Firefighters Pension Team; The Pension Regulator; The Pension Ombudsman and her very own DWP Select Committee where her Government holds the balance of voting power and with it, its Public accountability.

35. This reality is based on two examples; *firstly*, the Lancashire based Local Government Pension Scheme (LGPS), with assets consisting of 88 major individual Pension Schemes which are subdivided into smaller local individual Schemes with collective assets in 2019 of around £286Billion all in the care of unqualified clerks and unaccountable management 'controlled' by their unqualified, lazy, expenses claiming, corrupt local politicians and *secondly*, the Lancashire Firefighters Pension Scheme.

36. In 2011 the government produced the Lord Hutton of Furness Report on Pension management in parallel with the new Public Service Pension Act 2013 and its vision for the future.

    A revisionary Hutton did not get his reformation just a little wrong, he got it all wrong.

Chapter 4.00.
Compulsory Medical Discharge.

37. In 1997, I was compulsorily medically discharged from the Lancashire County Fire Brigade (LCFB) citing self-declared deafness at a routine annual medical examination. I was increasingly concerned that I was having difficulty hearing Junior Officers during actual operations which of course directly impinges on their and my Firefighters safety. In my early days I had been injured in an explosion in Belfast causing damage to my hearing in both ears which was medically predicted that later in life would become gradually worse.

38. This discharge was after 36.5 years' service (33.5 of which was pensionable) and though I would have liked to complete my 40 years I was sad, though sanguine, about the whole issue. That is how life hands it out.

39. The Brigade compulsorily discharged me under 'The 1992 Firemens' Pension Scheme Order ('92 Scheme), Statutory Instrument No:129; under Rule B3 ~ ill-health Pension and, *in addition*, because my injury was recognised as a 'qualifying injury'(during operations), also under Rule B4 Injury Award (pension) all of which the LCFB decided.

40. For DWP(and future earnings capacity) purposes the LCFB Occupational Health Doctor, at the end of his medical examination, determined that I had 5% DWP disability which the LCFA Pensions Clerk, a Ms.J.Drinkall stated, wrongly, brought no form of DWP Benefits (my working life started age 13 on a dairy farm in Ireland. I never claimed a penny from the Public purse).

Chapter 5.00.

The Pension Scheme 'Controllers'.

41. In 1998 by legislative effect the LCFB ceased to exist being replaced by the newly formed and independent LCFA. It was Public knowledge that 'new' Authority was a blatant cynical

political act initiated by Jack Straw MP(Labour) the actual purpose of which was to curry favour with the growing ethnic Asian vote in Blackburn, to prop up his sliding voting figures… on the basis of, 'I'm all right Jack'…

42. Thus the LCFA with its Lancashire Fire and Rescue Service (LFRS) was created, formed and separated from its parent Lancashire County Council (LCC).
In matters pension administration none of the old transferees nor the new post holders, held either Pension Scheme management experience, practical pension administrative working knowledge and neither legal training in Pension Law, or even just basic auditing skills which included the LCFB Pension Officer, at that time the aforesaid Ms.J.Drinkall who was also without training, legal qualification and was employed as its pensions' clerk technically just growing into this position of 'expertise' over the years until 1998.

43. Drinkall (LCFB) was the progenitor of three further 'experts' Mrs D. Lister(LCC); Mrs.D.Lambert(LCC); and Ms.J.Wisdom(LCC) who were already employed by the LCC who did not have the essential skills I have noted above either; nor any qualifications whatsoever.

44. In 1998 the LCC became the new LCFA's *contracted* Pension Providers to the LCFA Firefighters Pension Scheme with its 2000+ Fire Service Veterans (FSV) though Lambert LCC and Drinkall LCFA continued to be employed in their respective roles in pensions until retirement.

45. The LCC in 1998, under Lister and Wisdom, controlled 120+ existing Pension Schemes in total, disbursing £3-400million to in-payment pensioners, but not at the beginning exercising administrative control over the new LCFA.

46. Currently the LCC with Lister and Wisdom also control the nationwide LGPS which is now based in Lancashire and which has more than 6 million active saving members, namely, contribution payers, 'deferred members' and active in-payment pensioners a figure which continues to rise under the government's compulsory Auto-Enrolment membership of a pension scheme.

    One wonders how they actually manage all this, given their lack of qualifications ?

47. So should this LGPS Scheme fail and fall from 'investment grace and favour' on the international investment market the UK stakeholder/shareholder impact will be quite indescribable.

48. Confusingly, in all this blizzard of change the LCFA created its own new pension administrative staff (jobs for the boys) but *all of whom,* including the LCC still administered the '92 Scheme which is annually supplemented fiscally in arrears from HMT via the DCLG/Home Office, as departments and sub-departments move around.
    But who actually ended up controlling what?

49. The LCFA is the controlling Statutory Pension Scheme management under the legal advice of the in-house Clerk (Solicitor Mark Nolan) which cascades its legal responsibility to the current LFRS Chief Fire Officer (Justin Johnson); the Finance Manager (Keith Mattinson); the Head of People Development Robert (Bob) Warren ; the Head of Human

Resources Brendan (the Barbarian*) Hamilton from Belfast; the Personnel Manager and Pensions Clerk (Jayne Hutchinson) who is responsible for the Scheme's daily administration including the critical retention and updating of all Personal Record Files (a PRF- which includes the pension records which follow a Firefighter throughout their Service) and the first point of contact for a troubled FSV (a description introduced by PM Blair) who collectively *trusted* all these LCFA/LCC employees to get their pensions right. A trust repeatedly breached, abused and exploited in defence of their endemic 'professional' ineptitude leading to maladministration and then knowingly, advancing into malfeasance to a magnificent criminal cover up, in a word corruption.

* A sobriquet applied by the 'troops'.

50. Hamilton was renowned for throwing his office door open every morning and bellowing… "Now who can I sack today?" Prescient words. Well known as the 'Belfast bigot and racist' he later publicly and verbally attacked a black nurse on the LCFA Occupational Health Unit alluding to her colour and gender.

    An Assistant Chief, with extraordinary career 'courage', frogmarched Hamilton from LFRS Service Headquarters on immediate suspension but when he threatened to … 'spill the beans' …he was bribed from the top down with a payoff of two years' salary £200,000, a fraudulent act carried out by Mattinson (Finance) who buried the payment in the accounts under 'General' but which I located following a 'tip off' and the leprechaun was heard of no more…probably smoking himself into oblivion on his ill-gotten gains.

51. This specific group of LFRS Employees (Hutchinson excepted ~ inherited from LCFB) were all 'recruited' via the 'back door' by the 1998 CFO, a colourful sexual predator with a recorded criminal conviction for lewd behaviour in a public place, namely the Blackpool prom, 'tiddly om pom, pom', every circus needs its clown.
    Holland (a swinging Freemason who later became a government advisor) without a single recourse to the demands of the 2010 Equality Act or its Statutory requirements including Public Post Advertisement ~ Short Listing ~ Interview Panels ~ or anything tedious like the Law, decided to completely disenfranchise any and all potential applicants of any gender by recruiting only WASPs. A group of individuals with colourful and dubious employment histories and records just like himself.

52. At the benchmark 2002 when Warren arrived we now know from experience that the LCFA had not the slightest expertise or capability within these delegated new Pension Scheme staff to run or administer a Pension Scheme so the LCFA 'plugged the gap' by contracting the LCC to be their Pensions Provider but in fact and in practice a role reversal occurred.
    The LCC Pensions Providers became the 'lead experts' so one might assume the two leading lights Lister, Head of Pensions (LCC) and her Deputy, Wisdom (LCC) *might* know what they were doing but that was also grounded on sand.

53. In fast forwarding, for a moment, to March 2013 standing sworn in, in the Witness Box, at Preston Crown Court before Civil Circuit Court Justice for Lancashire and Cumbria, Philip Butler.
    As the Litigant-in-Person I asked Lister to declare her professional pension management qualifications for managing 120+ LCC Pension Schemes disbursing over £400million

annually for the LCC/LCFA she replied “None”; when asked to repeat her answer, she truthfully replied “None!”.

Next I asked how many of her 60 subordinates (including Wisdom) held any professional pension management, legal, or audit, qualification to which she responded that she was “…not sure” but went on to state that the some of these clerks involved “might” be attempting to acquire some, though she could not say what type of credential that might be.
In the actualite, if her staff were minded , it seems if they joined a pensions ‘industry’ training organisation and paid it subs then they would automatically receive a pension management ‘qualification’ in the post.

54. It seems, if ‘sources’ are to be believed, that when Lister left BAe Systems as its pension ‘expert’ to take up employment with the LCC she left on the basis of ‘was she pushed or did she jump?’. In the process ‘inheriting’ Wisdom who was and remains, just like herself an untrained without qualification clerking case worker, but currently Lister’s Deputy and a Performance Manager ~ some performance.

55. Today, clerk Wisdom professes and writes publicly at seminars that she has a ‘degree’ but when pressed cannot produce any supporting University accreditation.

Chapter 6.00.

When did this Pension Fraud start?

56. In late 2006, a Member of the LCFA Firefighters Scheme and one of my retired disabled Station Commanders FSV~DW (of which I had 10, with direct responsibility for Divisional Operational Service Delivery with 400 Firefighters of all ranks and genders), responsibly reported to the DWP and the LCC Pension Providers that his carer (he suffered from cancer) his wife would reach the age of 60 and there was the possibility that if this was not noted and factored into his pensions calculations and then recorded in his PRF, that they would both in effect become overpaid.

57. It should be noted that ’92 Pension Scheme Members including FSV~DW had no Statutory duty nor liability to fulfil in taking this honest action. The sole responsibility for the correct Statutory management of their ’92 Scheme rests entirely with the LCFA to pay the correct timely pension(s), ignoring any promissory notes made under duress by an FSV to the LCFA to do this, that, or the other, because this has no basis in Statute nor Common law.

58. FSV~DW was responding responsibly to his self-imposed duty to keep all three agencies (DWP/Pension Providers/LCFA) aware of any change in his circumstances, for which he maintained his own contemporaneous records. Indeed he was also aware that by Statute certain of his DWP benefits *would* be deducted from his Injury Award... “*so much of any…*(the DWP disability percentage)*…as relates to the qualifying injury*” .
With difficulty he got this messages across.

59. By June 2007 during one tedious conversation with ‘expert’ Wisdom she casually announced that she had been reviewing his DWP payments and that it appeared to her

that he had been overpaid £30,000 because he had failed to inform the Pension Providers and the LCFA of his changes in his DWP Benefits and consequentially she would be seeking repayment of this amount whilst making reference to a letter which she alleged had been sent to him on the matter, which hardly surprisingly, arrived the following day.

60. These 'experts' working rule, but not the law, seems to have been that all these '92 Scheme administrators were only interested in changes in *types* of Benefits but not in the slightest interested in annual increases to existing DWP Benefits already in payment. Indeed this was part of a brief (that they did not need to inform) that some, but not all, FSVs received at their compulsory discharge interview, if that had occurred. One FSV was informed he was being compulsorily discharged the following day whilst painting railing in the station yard !

61. FSV~DW asked for a breakdown of these amounts as did his engaged solicitor and although the monthly payments were listed there was no actual breakdown of each month, or individual payments, nor what disability percentage, if any, was being deducted as being attributable by Statute to his Rule B4 Injury Award; *so much of any…*(the DWP disability percentage)*…as relates to the qualifying injury".*

62. None was forthcoming simply because Wisdom did not understand the law, what its intent was (Statutory duplication payment prevention Rule L4) and how it was and is, to be correctly calculated and applied. Given Wisdom's lack of legal training, this was hardly surprising but it was not the legal responsibility of disabled FSV~DW to have the correct Pension(s) paid to him. The Statutory responsibility rested entirely with the LCFA to get it right.

63. The '92 Scheme specifically addresses this by defining a recognised DWP Benefit which, by Statute *is deductible* from his Rule B4 Injury Award (it is a sort list ~2 items) and by inference, what is not deductible from his Rule B3 ill-Health Pension, a separate Pension, for which no definition for deduction is stated.

64. So in clarity and worked logic it is necessary to look at how this process is intended to work in Actuarial Scientific Mathematics, in (Fire Service) Pension Law and in FS Pension Management, if you happen to know what you are supposed to be doing, which they did not.

    In the example which follows it is important to remember that an Injury Award is anticipated:

    - The Firefighter under provisional compulsory discharge is sent to the Occupational Health Doctor. After examination the Doctor decides what the percentage of disability is attributable to the on-operations 'Qualifying' Injury. The range is 0% (which is an award) -100%.This is also a measure of future earnings reduction capacity.

    - The DWP has disability 'bandwidths (undoubtedly created by their own Actuaries) which they and the Doctor both recognise because when a disability percentage is medically decided this places the Firefighter into a particular bandwidth for DWP Benefits e.g. 0%-14% only pays incidental minor Benefits ; 14% + is the benchmark

point from which increasingly 'heavy' DWP Benefits start to be paid rising of course to 100% total disability [though the Firefighter may well already be on temporary DWP Benefits for his injuries at this point until the matter is medically determined].

- The LCFA take the Doctor's percentage disability decision, record it on the individual's PRF and then the Authority confirms the Pensions to be awarded. It is usually a Rule B3 ill-Health Pension and/or a Rule B4 Injury Award (pension).

- In preparing a monthly Injury Award pension payment, the Rule B4 Injury Award is first calculated using its own Rule B4 Statue and thus the amount stands alone.

- The LCFA then look at the DWP Benefits percentage bandwidth into which the FSV's percentage disability falls and which the *DWP will pay* based on the Doctor's decision. Next the LCFA looks at the Statutory Instrument which lists which types of pensions which *shall* be deducted; looks at the *percentage of the disability* and then *deducts this percentage from each deductible DWP Benefit paid* and then deducts *the total* deductions from the FSV's Injury Award, normally leaving a positive balance in the Injury Award (pension).

- The Statutory intent of this procedure is to prevent 'double payment'; the FSV being paid twice, once by the DWP and once by the LCFA for the same Injury. Should conflict arise in the amount to be finally paid under '92 Scheme Rule L4(3), the higher amount is always paid.

65. It is difficult to establish the erroneous practices into which LCC/LCFA pension administrators actually fell because of their cover up secrecy but we can be sure they simply did not understand the Law, nor its application and when in doubt they just 'deducted' thus enriching the LCFA at the expense of the trusting disabled FSVs.

66. As the LCFA cover up crises grew they were forced to have recourse to an Actuarial Scientist who produced, in my case out of the blue £10,000 underpayment without the slightest explanation, of which we will hear more later and in the case of 17 alleged others, one disabled FSV who received £45,000 to his complete astonishment and unease.

67. At one point and in one case I was heavily involved with disabled FSV~RT, a London Fire Brigade Leading Firefighter, former Royal Marine, who had sustained 5 *'qualifying injuries'* all properly logged by him and the LFB in his PRF.

68. The issue in contention was which one of these injuries, each with its specific percentage, was to be declared by the LFB to be attributable to a specific injury and the basis for their decision to compulsory discharge him and thus which would be deductible, "*so much of any…*(the DWP disability percentage)*…as relates to the qualifying injury"*, from his Injury Award which their Doctor had decided.

    Thus the LFB attempted to deduct the largest deductible Benefit from the Injury Award even though the DWP Benefit was not attributable to the injury which they were relying on to compulsory discharge him. Their purpose was to leave disabled FSV~RT with a taxable Benefit and a smaller Tax Free Injury Award. They did not succeed.

69. To explain another complexity. If the Injury was to hearing and a Doctor decided that there was at childhood underlying evidence of illness, with subsequent adult overlying mechanical damage then that percentage '*so much as it relates to*'... namely the disease would not be deductible because it would form a part of the ill health pension which is not deductible.

70. To do all this the pension administrators needed to know what the law was and its intent was in the first place.

71. Disabled FSV~RT was also accused of not informing his Brigade of changes to his DWP Benefits to the value of £120,000 which by supplying his contemporaneous records was also defeated.

72. On the 16th July 2012 in an official report (FEP 1927) the LFB wrote off £2.3million of pension errors declared in a published document.

73. Clearly the minutiae of all these legal points were completely lost on Lister/Wisdom and their colleagues at the LCFA who simply insisted that *all* 100% of every DWP Benefit should be deducted from Injury Awards (whilst ignoring percentages of disability and thus enriching the LCFA) using the ill-founded excuse that the Member of the '92 Scheme failed to inform them of changes. For which the FSVs had no legal liability.

74. I legally hold 24 files of those I personally represent including FSV~DW and other FSVs, their Widows/Partners and Beneficiaries. These files confirm that the 'stone walling' of access to their PRFs was endemic and when acquired usually by time and the force of law almost all lacked any records of changes to DWP Benefit the FSV had received. Information which had been supplied by FSVs which the individual also held in their own records as having been supplied to the LCFA/LCC.

75. So disabled FSV~DW, being ignorant of working minutiae of Pension Law and a trusting Member of the LCFA Pension Scheme, FSV~DW felt he was left with no other option than to assume that all these 'experts' surely must know what they were doing and thus he would have to reimburse the money.

76. He asked, in view of his deteriorating health, that this reimbursement should be amortised against his continuing pension payments and this was refused even though these three agencies were by now fully aware that he was terminally ill with cancer and had but a short time to live.

77. Finally, after much undignified and distasteful struggling with the issue, as his life ebbed away and having repeatedly asked for a copy of his PRF, he was informed by email from LCFA Hutchinson who stated she had his PRF and asked where she should send it to? Then in an immediate follow up email she stated his PRF 'had been lost' and when queried, she then stated it had been 'found' again and then finally and yet again it had been 'lost which it remains to this day…when you first practice to deceive…

78. Nevertheless disabled FSV~DW continued to insist, supported by his contemporaneous notes, that throughout his compulsory retirement the LCFA/LCC had been regularly informed by letters about his changing DWP Benefits, letters which all these 'experts' finally claimed they had never received.

79. This ‘loss’ in 2007 of a PRF was the first recorded mendacious criminal act of cover up fraud by the LCFA/LCC in a 14 year long series of hostile, bullying acts of criminality and duplicity; continuing.

80. So after much quite deplorable public rancour (including an FBU threatened full local strike) and with no other option the LCFA/LCC finally agreed that disabled FSV~DW could pay back 50% of the amount for which he took out a personal loan to protect his wife from complete destitution and following his death she receives her ‘Widows Half’ which amounts to £230 a month.

81. Sadly what deceased FSV~DW and his wife C [highly respected figures by all ranks] were unaware of was that later in early 2009 I began to investigate more fully this ‘stone walling’ corruption, with in late 2012, the substantial pro bono help of a retired Barrister(JCB) in which we identified the fact that since 1992 all the retiring disabled FSV their Widow/Partners, Beneficiaries and estates were being underpaid 50% of their pensions due which ought to have been correctly calculated and paid under Rule B3 ill-Health pension and Rule B4 Injury Awards(pensions).

82. Before leaving this scandalous situation it had *formerly* been common ground that there was no contention within lawfully prescribed limits ~The Limitations Act 1998 ~, that any FRS had the right to recover its ‘overpayments’ even though created by their own ineptitude, maladministration and malfeasance.
    But that presumption at law was overturned by a decision of the Court of Appeal reinforced by the Supreme Court on the 8th December 2010 which stated that Government/FRS had no legal authority to reclaim ‘overpayments’,(‘government’ is taken in its broadest sense).

83. It must be borne in mind in the final judgment that deceased FSV~DW in taking the honest actions he did, precipitated and then exposed this entire LCFA/LCC scandalous fraud.

Chapter 7.00.

The Pension Carbuncle Bursts.

84. In 2007 the LCFA (Warren) distastefully commented publicly on the FSV~DW case that they had been ‘far too generous’ and with the criminal ‘loss of the PRF’ well behind them the LCFA then launched into what can best be described as a pogrom against their disabled FSVs in Lancashire claiming publicly that most, if not all, disabled Firefighters were allegedly DWP Benefit ‘fraudsters’. Attack being the best form of defence.

85. In the scandalous criminal corruption and fraud which followed, the origination of the entire scandal involving the DWP/LCC/LCFA including the Judiciary can, without equivocation, be laid squarely at the feet of this unholy and unhappy ‘alliance’ of complicit pension ‘experts’ and delegated administrators, who became by default, the FRS pension law legal ‘experts’ to be quoted not only by an erroneous Deputy Pensions Ombudsman’s in-house non-practising barrister, but later equally erroneously by High Court Judges at the Courts of Chancery and Appeal whose pension law knowledge was equally abysmal.

86. Maladministration and malfeasance always accompanied by mendacity became inevitably the order of the day but when this carbuncle of lawless corrupt incompetence erupted the

immediate ‘knee jerk’ reaction of the LCFA was to cover it all up with the written encouragement and assistance of the CLG/Home Office ‘Firefighters Pension Team’.

87. This cover up developed into a local policy which the LCFA in secret external/internal emails (yet to be published) referred to as the “Hardship Route” which was imposed on rebellious recalcitrant Firefighters, subsequently developing into ‘Disdainful Stonewalling’ taken up and advanced by Pension Ministers and their civil servants; the Pensions Regulator; the Pension Ombudsman and the DWP Select Committee; thence through the Judicature all the way to the Supreme Court where it legally rests unanswered today.

88. But presently under the control of and with the active ‘encouragement’ of, the current Pensions Minister Cabinet Minister Dr.Coffey who as we know, has her own Master.

Chapter 8.00.

The Pension Pogrom.

89. In 2007 under the direction of the Chair of the LCFA Cllr. R. Wilkinson (and claiming to be a close friend of the deceased FSV~DW) who was himself a compulsory ill-health pension discharged Firefighter, who denied he was in receipt of this pension, but when put to the test by FSVs known to him, failed.

90. Wilkinson then decided to carry out a ‘Review’ which naturally he skewed away from ill-health pensions towards Injury Award Pensions at secret LCFA meetings at which he failed to declare an ‘interest’ and so began not only the pogrom but a huge cover up described as “Betrayed” in a headline in the local press.

91. Interestingly, Coffey recently downloaded 8 pages of correspondence ‘featuring’ Wilkinson’s duplicity with Lancashire Firefighters from the Archives on my Website ‘www.TheMorningBugler.com’ the clear intent of which is to provide a future defence for her own corrupt actions by citing Wilkinson as the lead Labour Councillor running all this scandal which until his rejection by the electorate, he did.

92. In 1998 the Data Protection Act was enacted but no one seemed to have told either the DWP, the LCFA, or LCC Pension Providers because without hesitation the local DWP were prepared, for pogrom purposes, to illegally release all the ‘subject data’ belonging to 2000+ FSVs directly to the LCFA/LCC without their written permission which was not forthcoming after seeing what happened to FSV~DW.

93. I remonstrated against this proposed unlawful act and after extensive correspondence the DWP Permanent Secretary(PermSec) he refused to release any further ‘subject data’ without the categorical individual written permissions of FSVs, as the law required, *before* the data was released to the LCFA/LCC.

94. Lister wrote directly to me on ‘my case’ as she put it in a long tome which actually focused on her inability to obtain FSV’s ‘subject data’ legally, making the point that it was not meant to work this way, or words to that effect. I replied simply drawing her attention once more to the letter she was copied into by the DWP PermSec who said the actual solution was to take the ’92 Scheme legislation back to the Minister (If he had the Powers), or

Parliament and have the Statutory Instrument amended but she seem to regard this as all rather tiresome and not fair. Well the law is the law.

95. It is probable that at this point the DWP Minister of State Sir George Ian Duncan Smith M.P.(2010-2016) first became aware of this fraud by feedback from his Permanent Secretary and later its huge financial implications in the estimated restitution of £4Billion+.

96. It was not a question whether FSVs were being honest or not but about the increasingly hostile bullying atmosphere imposed by the LCFA who were obviously covering up their maladministration. All this took place in an atmosphere where the last vestiges of trust were entirely destroyed in a totally soured atmosphere.

97. Nevertheless LCFA/LCC continued with their 'Review' identifying 167+/- DWP Benefit alleged 'fraudsters' who they said had not informed them of changes to their DWP Benefits.

98. The question then was how would the LCFA/LCC know that?
If they did then they had continued to receive unlawful 'subject data' from the local DWP contrary to the DWP Perm Sec lawful directive to them not to release this data.
It seems the corruption cover up was contagious in this joint venture to defend the reputations of the local DWP, the LCFA and the consecutive Pensions Ministers whom the PermSec would have continued to brief.

99. When reporting this debacle as a 'success' in September 2007 to the LCFA Committee an ever mendacious Warren claimed that the LCFA would recover in excess of £1million which they never even remotely achieved.

100. No explanation was ever forthcoming how an individual's alleged liability for 'over payment' or 'under payment' was actually calculated or how the percentage of an Injury could be calculated and thus deducted from the Injury Pension if they had not kept the PRF records up dated?
It seems the final determination was simply left to the whimsy of the DWP/LCC/LCFA the joint maladministrators of this complete chaos.

101. Naturally the 167+/- wished to access their PRFs to compare their own records with the records which ought to have been recorded in their PRFs and it was not until 5 years later of 'disdainful stonewalling' and only then with the intervention of the Courts and the Information Commissioner who sent a team of 3 to inspect the filing and recording system which the LCFA claimed was exempt from the Act and which the IC declared was not exempt, which allied with a threat of an Order for Contempt of Court by the ICO and a Court Order of Disclosure, that I was able to see my own PRF or else the proposed Court case raised against me by the LCFA could not proceed. Proceedings having been commenced in 2010.

102. In the meantime because the LCFA appeared to hold the whip hand, the denial of Pensions, or so they thought, forgetting that no Pension can be withheld unless a person has been convicted of an offence against the State, that they found they had yet another self-generated problem.

103. To identify these alleged 'fraudsters' including myself, this triumvirate DWP/LCFA/ LCC,

desperately grasping at straws who were not only receiving surreptitious local DWP assistance but who then collectively and unlawfully misused a highly confidential and sensitive DWP National Fraud Initiative (NFI) Report which atypically identified 'mismatches' in their collective records (thus in their minds proving the FSVs 'failure to inform' and thus fraud) but which actually simply confirmed once more this triumvirates' corporate maladministration and that they would stop at nothing primarily to defend their jobs by 'catching' these disabled FSV 'fraudsters. Desperate situations require desperate measures from desperate criminals.

104. In the original data return to the NFI for this audit Lister/Wisdom counted 700+ LCFA dead pensioners.

105. In the interim as they stumbled from crisis to self-created crisis the LFRS/LCC had by now carried out 6 'trawls' to accumulate these 167+/- defaulters, but this immediately raised another problem because in their alacrity to catch these FSVs they scooped up (recorded in their own documentation) a large number of their Freemason chums. Documentation which was subsequently inadvertently released to me by the then, LCFA Solicitor called Harold (a Holland boy since gone to pastures new) who had a propensity for parking in Salford Town Hall disabled parking (where he was an unlawful ward councillor) and when ticketed attempted unsuccessfully to brow beat the boss of the Warden in the basement of the Town Hall into disposing of the ticket, all of which was published in headlines in the Manchester Evening News.

106. These scooped up 'felon' Freemasons easily identified in these un-redacted records erupted in to an almighty slanging match at their Temples and when it came to enforced payback time they were naturally more equal than the others. In fact they paid nothing whilst the others were placed on the "Hardship Route". A secret policy highlighted in these unpublished emails using those exact words which was a policy developed and encouraged in secret correspondence at the DCLG/Home Office Fire Pension Team within the DCLG/Home Office Fire Department under a Mr A. Mooney and then implemented by the Local DWP/LCFA/LCC.

107. A policy which in Court Warren attempted to explain away that he was doing all these 'felons' a favour by helping them to make repayments whilst under duress, unequal and in contravention of the Supreme Court case law in 2010 ?

108. Unfortunately yet another problem arose which was well know but is now confirmed by these secret records in which it was reported to the LCFA Committee by a persistently mendacious Warren that 6 or 7 'underpayments' had been identified. The fact was 17 (all Freemasons) the highest underpayment which was in fact an unexplained £45,000 not as these records report £30,000 and when a cheque arrived out of the blue and an uneasy query was raised by a Freemason colleague and friend of mine with a Mr.Keith Mackie (Freemason and clerk with Lister at the Pension Providers) he was told to… "stop asking stupid questions and just go ahead and spend the money !".

109. The intriguing question which was never declared by Warren was how many other *non-Freemasons were identified as being underpaid* but who presumably were never paid a penny?

110. Of course as Arter the Pension Ombudsman was to comment on another non-related case, the presence of ‘overpayments’ and ‘underpayments’ is simply symptomatic of the presence of maladministration in a Pension Scheme.

111. Finally there were two cases on record concerning the total stoppage of pensions in which one disabled FSV~WH (suffering from Arkansas Penitentiary administered transfused blood following a serious operational injury which all led to his early death) was left destitute without income for 2 months because *he said* the LCFA wanted to punish him for being an outspoken rebel and then in the secret emails the Chair of the LCFA Councillor O’Toole asked Warren could my pensions be entirely stopped to which Warren replied that he had already looked into this but unfortunately he could not.

Chapter 9.00.

The Rebel Leader ~ Kangaroo Court.

112. In June 2007 my wife Jill, of 37 years and a Lancashire Lass passed away in our home under the most awful and tragic of circumstances in my presence which need not concern us here. Jill died of cancer.
Jill had been a middle ranking Officer of the LCFB and thus in her own right, she was entitled to and received, a full Fire Service Funeral and Requiem Mass at our local Catholic Church.

113. Subsequently following the funeral I was approached by numerous FSVs and Widows who had attended the funeral all asking for my help with this inchoate pension dispute, including ironically, a large number of Freemason friends I had served with.

114. In early 2008 I was identified by the LCFA as the ‘leader’ of this incipient ‘rebellion’ whether under my personal circumstances I wanted to be or not.

115. In 2010 in what was clearly a vindictive act the LCFA decided that I was to be taken before a ‘Kangaroo’ County Court (in the Preston Jamie Bulger Courtroom) adjudicated, unusually by the local Head of the Family Division, the most senior Circuit Court Judge for Lancashire and Cumbria, Justice Philip Butler a Papal Knight of the Holy Sepulchre, a Roman Catholic and a leading Freemason (?) for a 3 day Hearing, to be made an example of, for others.

116. Although I had considerable Court experience from my work, including Coroner Court ‘time’, my capability as Litigant-in-Person was poor.
Litigants-in-Person (LiP) are generally abhorred by the Judiciary as tiresome because with the increasing use of Human Rights legislation and the rise in general educational standards and it should be said, grounded on increasing disrespect for the Judiciary, LiPs are more inclined to stand their ground and say their piece which the Judiciary find most disquieting.

117. However, as the times change, the Judiciary have now been instructed that LiPs are to have their right to ‘audience’ protected indeed Justices in practice are required to assist LiPs, not with their case, but in procedural matters and in defending LiPs in fending off

attempts of intimidation by their professional opponents and while all this was fine and dandy until, as in my case, I ran up against someone like Butler, who was totally corrupt.

118. One useful feature of being a LiP is that LiPs have little regard or knowledge of Court Procedure and Rules (CPR). The 'Game of Rules' by which Justices control career solicitors and barristers and thus events.

119. Firefighters are famous for, whatever the cost, of going directly to heart of the issue brushing all other tedious rules aside. This is the nature of their work which saves lives and so I also learned early to exploit the advantages of being a LiP.
I could act in apparent ignorance of many rules which careerist rule based solicitors and barristers could not.
In fact surprisingly, rule bound Justices exhibit little intuitive intellectual capacity outside their Rules for any originality of thought, which ultimately leads them into corruption when they become rule stalled, as I shall relate.

120. All my life I have had a strange 'hobby' interest in Law, Judicial proceedings and Judgements and oddly for an Irish Citizen I had, until this point, great admiration for the English Judicature regularly reading the Judgements in the Times whilst watching the skilled and detailed application of the Law but all that was to be progressively destroyed with my increasing exposure in the real Courts and with increasing dismay watching up close seeing their corrupt machinations of the 'Game of Rules' which they habitually play in Court, or its corridors. Distance had indeed painted the picture of false enchantment.

121. The nub of the LCFA case against me which I will deal with at length in an enhanced Chapter 2 of the 'Journey of Truth' on my website with full exposé of Butler in the foreseeable future was that I had failed to inform (which was untrue) the LCFA of the receipt of a DWP Benefit which I receive which no one, including the DWP, seem able to grasp from their own guidance documents, is that it is not a disablement Benefit per se, even though it is by convention administered by the Disablement Benefit Department. It is an obscure 'Allowance' which is used directly for the purpose contained in its title … "Reduced Earnings Income Allowance" (REA). It is a very modest means and annually tested 'allowance' which attempts to bridge the income gap caused by the loss of an allegedly well-paid occupation…nothing more and nothing less.

122. However, it is named in the '92 Scheme as deductible from the Injury Award but only "*so much of any…*(the DWP disability percentage)*…as relates to the qualifying injury"* which can be attributed by a Doctor to the Injury which in my case was 5%.Thus 5% can be deducted from my REA . My reflection is that presumably the Doctor had reduced my Disability down to 5% because of an underlying childhood ailment which he reported in his medical findings.

123. This meant in monetary terms that when it commenced payment in 1999 after I successfully applied for it to the DWP, the LCFA could deduct 5% from the £40pw…£2.0…which could be deducted from the Injury Award.

124. I had informed Drinkall, as she asked me to, with a very brief telephone call that I had been successful in being approved for this REA 'bounty' and I made a contemporaneous note of the call... *" Called Joan told her, yes"* … which though Butler had before him a copy

of the note he completely dismissed as a figment of my imagination. Such is the abuse of power.

125. Prior to the Hearing it was agreed it would take 3 days though for the life of me I could not contemplate what we were going to argue about for 3 days and that I would be given a full opportunity to present my Defence. In the event Butler ignored this fundamental.

126. A smart and experienced man would have known in the 'Game of Rules' that are endemically played in Court this was to 'pad' out the Hearing costs to punish me. But naivety ruled my roost, but not for long.

127. In the event the Hearing took 4 days and I was never allowed to present my Defence.

128. It was by and large a thoroughly unpleasant experience, not the attendance at Court, but Butler's repeated insistence on informing me he was part Irish to which in exasperation I finally responded that the Irish in Kilkenny knew all about the Butlers and the Ormonds and then his insistence on how knowledgeable a Catholic he was, playing on my Christian names and his plans for the forth coming Easter Tide, this and more. Though what this had to do with justice escaped me.
Perhaps he thought in his arrogance with all this ingratiation he was dealing with a bare footed Irishman, like his forebears?

129. To continue, midway through the Hearing whilst I was acting as a Litigant-in-Person and examining Drinkall in the Witness Box on her statement, which started off as a two page sole author and then progressed to 4 pages with 3 authors, when completely without my knowledge six Witnesses came forward at a lunch interval headed by 2 Court Users to complain to Butler that whilst I was questioning Drinkall on her Evidence in Chief her fellow 'experts' in the well of the Court were unlawfully using banned mobiles to communicate with Warren and were also coaching and gesticulating to Drinkall behind my back whilst she was answering my questions.

130. Later on reflection this explained her very odd long pauses in response to my questions, which I repeated, assuming perhaps she had a hearing impediment but I had simply moved which obstructed her view…

131. The Court Ushers apparently took the Witnesses to the Manager of the Court a Mrs Kelly where they made sworn Statements.

132. The following morning Butler stormed in waving some papers shouting at me … "and now I have this"… accusing me of concocting all these activities in which, by imputation, I had also bribed his Ushers and of which I had not the faintest knowledge.

I asked him rather shortly what he was talking about and if he explained I might know which only seemed to increase his fury. He refused to pass me the documents and then chose to ignore in its entirety this criminality in his own Court.

133. Weeks later when I asked for copies of the Witness Statements he invited me for a cosy chat in his chambers which I simply ignored. There was another interesting occasion when he tried to meet me in a Catholic Church but that will keep for another day.

134. When people like this are upended from their ‘thrones’ they become just like all the rest of us, ordinary. But at 03:00hrs in the morning hanging from a window ledge they seem to become consummately grateful.

135. This corrupt and rather unintelligent Butler was, as I was to find later, not an exceptional rogue, he had lots of judicial colleagues.

136. At the end of the Hearing Butler had a long whispered conversation with the LCFA’s barrister to which I was not privy indicating that all would be revealed when he ‘handed down’ his Judgement and in the interim indicating, rather triumphantly I thought, that he found for the LCFA and that I was required to pay back £19,000 in alleged DWP overpayments with costs totalling £45,468.0; asking me did I need time to pay?
I asked if he required a cheque right then which reduced his pomposity somewhat.

137. When the Judgment was ‘handed down’ and the section dealing with how the accountancy was arrived at the (rough) figure for my DWP/LCFA ‘overpayment’ was stated as £22,000.
The DWP/LCFA also made a statement in their submission that they had made a mistake in their joint calculations and had revisited them and that, without any form of explanation, they stated that they had *underpaid* me £10,000.

Butler in his Judgement, also without comment, reduced the DWP/LCFA ‘overpayment to £12,000. But without explanation, using VAT and Court costs ramped the final figure back up to £45,468.0.

138. Now older and wiser after almost 10 years of daily expert barrister pupillage I make the following observations.

Butler knew that the DWP/LCFA had recorded this error in my favour in their deposited CPR ‘Discovery’ which they jointly and corruptly kept me in ignorance of. He could not plead ignorance yet he and the DWP/LCFA barrister in complicity never acknowledged nor revealed its existence throughout the entire 4 days of Hearings.

The knowledge of the existence of this ‘error’ from my perspective would have shed an entirely new light on my Defence (if that had been allowed) of my case because it immediately confirmed maladministration in the most dramatic fashion which allied with the suborning by the DWP/LCFA of their primary Witness, Drinkall, would have allowed me to called for a mistrial on the basis of a complete miscarriage of justice.

139. This was to be my first experience of a corrupt senior Justice, but not my last. During the Hearing Butler (Head of Family Courts) came in one other morning incensed and ranting once more. This time it was a case he also handled which involving excreta covered children referred to as the “Zombie Children” in my old Station ‘patch’ of Leyland whom previously he had denied a ‘place of safety’ but I will set this aside for another day.

140. The LCFA instituted proceeding against me in 2010 and on the 8th of December 2010 the following Supreme Court case law was reported in the Telegraph… “The Government cannot reclaim overpayment”. Supreme Court Judgement [2010] UKSC 54.
The Supreme Court has upheld a legal victory by a children’s charity concerning overpaid

benefits.
The Child Poverty Action Group originally went to Court after the Department of Works and Pensions sent 65,000 letters to benefits claimants saying they could face legal action if the overpayments were not returned.

The Court of Appeal ruled in 2009 that the Government had no power to recover overpaid benefits from claimants who had done nothing wrong [Government being interpreted in its widest sense].
The Secretary of State took the case to the Supreme Court for a final decision. The Government had written to claimants telling them it could sue them if they did not pay back overpayments.

Three Judges at the Court of Appeal agreed there was no power of recovery where the overpayments were the result of a mistake and not of misrepresentation, or fraud.".

141. It is clear that when my case finally went to Court in 2013 that the LCFA, their Barrister and Justice Butler could not have been unaware of this Supreme Court (SC) Judgement [2010] UKSC 54] (Just a year after the SC creation) and yet they chose corruptly to proceed confirming that this 'Trial' was not about the Law or Justice but about punishing me and sending a firm 'message' to rebelling disabled Firefighters.

142. In my opinion my corrupt 'Trial' led to Butler taking an 'early shower' and he was dismissed into retirement very early indeed, aged 53.
Butler was unaware that whilst all this rampant corruption was in full flight I had 'informants' within his Court who had painted a less than flattering picture of his persona, *before the 'joust' commenced.* They alleged that he was an abrasive thug and bully, indeed they were correct.

Chapter 10.00.

The Positive.

143. The only other positive to emerge from this exercise was that the LCFA/LCC were ordered to open a dialogue with me in respect of an Application I had lodged at the High Court even though I was not allowed to present a formal Defence which identified that according to my Barrister I was being underpaid 50% of my due pensions since 1997 because the LCFA/LCC had failed to read, understand and apply the law. Or to seek out and implement an Opinion from which they would have inevitably found the law to be correct and in my favour. All simply ignored by the LCFA/LCC 'experts'.

144. This discovery which affects around 11,000 disabled FSVs and their 30k Beneficiaries was that we were all being paid a Rule B1 Standard Pension, *initially in legal error*, as though I/we had completed the Statutory 30 years of Service ending fit and well, or had left early voluntarily, which patently we did not. Senior ranks could serve to 40 years Service, or aged 60.

145. This is about 50% underpayment which these compulsorily discharged disabled FSVs ought to have been paid since 1992 (The enactment of the '92 Scheme) a positon which

both the DWP (Ministers of State) and the government are fully and individually aware of and which they refuse to acknowledge and which the Judiciary under their corrupt control and direction, refuse (Disdainful Silence) to bring to trial; to date.

146. In addition to this direct loss, in the event of the death of the primary pension holder, a surviving Widow/Partners will not receive their full 'Widows Half' (Calculated on the original wrong pension) but in effect will only receive 50% of 50% hence most are existing on £230 a month in their solitary old age.

147. Prior to the March 2013 Court Hearing and rather late I lodged a counterclaim at the High Court for £2.5milion for my pension arrears and exemplary damages; but for reasons no one seemed capable of disclosing (the Judiciary love to keep their secrets) this was sent down to Butler at the County Court who stated he would not deal with the submission, promptly sending it back to the High Court where I found the quality of the 'Game of Rules' was much less abrupt, but just as corrupt.

Chapter 11.00.

The Pension Ombudsman's ~ Round One

148. In the light of the self-evident corruption and collusion at County Court a clear pattern of corrupt institutionalised cover up and denial started to emerge which I then took forward to The Pensions Ombudsman (TPO) called King who was himself just a clerk with no legal qualifications whatsoever, even though he claimed that the Ombudsman acts as a Court of Law which the Judiciary seem to think was fatuous nonsense. On one occasion sending the same Complaint back to TPO three times to get it legally right.

149. The government suddenly sacked this embarrassment and as expected he sought sanctuary back in a grateful pension 'industry' but not before rejecting my case, as he was directed to, after the usual 'disdainful stonewalling', obfuscation, delaying tactics, etc,…

150. The Nolan Principles simply did not rule with a corrupt King his staff and Civil Servants in general and has been totally abandoned but he had the brass neck to attempt to castigate my Barrister for having the temerity to encourage me to take this scandal to TPO.

151. King, who clearly had a well-developed dialogue with Warren at the LCFA, left to go back to the 'pension and financial sector' where he remains today. But it was also the point at which if the Pension Ministers were not aware of the implications of the large disabled Firefighters restitutional bills to follow then King had not been doing his job of reporting back to his controlling Pension Minister and perhaps that was the actual reason for his abrupt sacking as they set about their defensive ground by installing *their man* called Arthur Arter (Jewish Chronicle) an ex pension holding Special (Irish) Branch constable who was also a solicitor with a Pensions background in the industry.

152. Whilst Arter (still retained in post ~ he has to be) held his first Metropolitan Police pension this would not prevent him from holding another as a Civil Servant who in partiality also held shares in 28+ pension schemes. According to him his organisation is 'independent' even from Parliament. An organisation which cares deeply about pensioners ?

153. The reality is that this expensive corrupt £8.6million organisation is just a sop to the Pension saving Taxpayers proffering faux hopes in matters pension, for example, to ladies who have been short changed by successive governments via the government's controlling DWP whilst massaging the income of the government and the pension industry.

Chapter 12.00.

Fire & Rescue Service Bankruptcies

154. **On Wednesday the 13th August 2014** the Essex Gazette reported that the Essex County Fire & Rescue Service (ECFRS) had 'discovered' a black hole in its pension accounts amounting to a deficit of £15million which had been accumulating unnoticed since 2006.

H.M. Treasury required immediate repayment of this huge deficit (with interest) to the Taxpayers.
Civil Servants in the then DCLG Fire & Resilience Directorate, in particular the Firefighters' Pension Team, are nationally responsible for the health of Fire Service Pension Schemes and for the Statutory reporting of such failures to The Pension Regulator (TPR). Which was the parallel Statutory duty of the ECFRS, but no reports were made.

155. It was immediately clear that Staffordshire FRS and Cheshire FRS found themselves in a similar position but once more no Statutory reports to TPR were made. It was reasonable speculation to conclude that if this recurring 'error' has afflicted 3 Fire Authorities beginning in 2006, then it is likely to have affected all 49 other Fire & Rescue Authorities over the following 4+ year period.

156. **On the 12th October 2018** it was discovered that the LCFA had also gone into Bankruptcy because it had since 2010 surreptitiously decided not to pay both Firefighters and the Employers pension contributions into the Lancashire Firefighters' Pension Scheme from which disabled FSVs and their Beneficiaries also draw down.

157. Warren the LCFA delegated Firefighters Pension Scheme manager claimed that he had an agreement with the FBU not to pay *pensionable* salaries to 150+ Day Crew Manning Firefighters but was unable to produce the claimed 'document'.

158. The deficit amounted to £7million and with my help and the help of our Barrister the LCFA was legally forced to pay the arrears back to 2010 with interest and the LCFA, although coy about the source of its funding for these repayments, it is clear it comes from the DWP authorised by Secretary of State Coffey.

159. Soon if the Law and Justice (if allowed to prevail) Secretary of State Coffey will be required to pay back to the 11,000 disabled FSVs and their Beneficiaries £4Billion+ in remuneration and interest.

Chapter 13.00.

Time to Re-Think & Re-Group & Climb the Hill Again.

160. So in 2015 after this first ‘baptism by the Judiciary and their associated corrupt servants TPO, a’la King, it was time to regroup, rethink and climb the hill again.

161. In the meantime I had been invited into tutelage to become a Barrister and 10 years later I now have a standing invitation to become a Member of the Inns of Court at the Inner Temple Bar.

162. This time my efforts would be supplemented with an additional fresh Senior Rank, an experienced Assistant Divisional Officer called Francis.M.Galpin MIFireE, as a ‘Stalking Horse’ (FSV~FMG). Both of us, determined like Sisyphus, to carry the boulder to the top of the hill the Supreme Court and if unrequited, to the European Court of Human Rights [ECHR] at Strasburg.

Frank was to act as Litigant-in-Person and I was to act as McKenzie Man to him when the need arose. Nothing beats hard won experience.

163. Frank and I had not served together in the LCFB which in 1968 had 61 stations extending east to the Pennines and west to the Irish Sea and from Liverpool and Manchester right up into the Lake District most of which I had served around.
It was the second largest Brigade in the UK outside London.

164. When we were both middle Ranking Station Commanders we would meet occasionally ‘on the job’ at very large incidents (120+Firefighters) and occasionally on the moors because although we were stationed in different Divisions our Station operational boundaries abutted one another.
Frank is a typical doughty good humoured warm hearted Lancastrian. Unlike myself a very civilised Englishman, but not to be underestimated, because he also is an Agincourt, Yeoman-of-Oak and ‘takes no prisoners’ either.

165. The plan as LiPs was simple, we would exhaust every legal step, testing and evaluating the credibility and honesty of every single person and evaluating, for the future, the ‘Rule of Games’ which an organisation would play to obstruct our quest for Justice.
In contra effect we would use the law to its full extent and any legitimate tactic to force the issue to lawful resolution no matter how long it took.

166. Administration and the archiving of all documents would remain to the highest standard for an envisaged UK Public Enquiry to come, or before the ECHR in Europe.

167. Only this time using the acquired experience with the complete knowledge of the venal criminality, corrupt trickery and mendacious obfuscation we would be up against commencing with the LCFA. Once more TPO and initially the Northern Ireland Judicature (I had returned to Ireland) and then the English Judicature which was by this time under the personal control and direction of Cabinet Minister Dr.Coffey PhD,PC Minister of State for the DWP with her involved associated Junior Minister for Pensions G.Opperman MP and the Minister for the Disabled J.Tomlinson MP (who does absolutely nothing for the disabled).

168. We anticipated that attempts would be made to ‘time out’ the various legal ‘Applications’ and so all our actions were predicated against various Statutory time frameworks on a ‘back to back’ basis. Indeed as events were to confirm as predicted ‘timing out’ was a favoured weapon of the Judiciary and their administrators and where delays occurred it was always the deliberate delays of the Courts and/or their administrators which we did not hesitate to remind them of.

169. Cleary any notion that the PM’s ‘Declaration of Expectations’ in his Cabinet colleagues within the spirit of the ‘Nolan Principles’ which would be complied with and exercised in rectitude by Ministers of State, or Elected Members of Parliament, or Local Authorities, or by any Civil Servant both national and local, was all a pipedream.

170. So we commenced in late 2015 paradoxically at a time when the Fire Brigades Union (FBU) had joined with the Judiciary to take the government to Employment Tribunals on the cases of McCloud and Sergeant and the LGPS where changes to their respective Pension Schemes were adduced to be age discrimination and which the government attempted to Appeal.

171. The Supreme Court (Minimum of 5 sitting Justices) determined in the case of McCloud (Judge) and separately Sergeant (FRS) that the Employment Tribunal decisions stand and that the government must correct this age discrimination for members not covered by “transitional protection” and who as a consequence had been required to move to the new Schemes. However as they say ‘eaten bread is soon forgotten’.

172. Amusingly this ‘new’ FBU, who are supposed to represent *all* their Membership, including ‘Out of Trade Members’(OOT) like ourselves, have consistently failed to do so bringing the comment that the new FBU is a ‘spent force’ compared with the old FBU.

173. In passing, we both remain paid up OOT, FBU Members but the FBU after initially representing myself and 13 others via Thompsons Solicitors who used a clerk masquerading as a solicitor (The Zumba Dancer)and following my challenge to her bona fides promptly and unceremoniously dumped her and all of us. This was allied with a local sell out by the Lancashire FBU HonSec called Harman who was reported to be and demonstrably was, in league with Warren at the LCFA.

174. In spite of two individual letters of appeal from me to Matt Wrack, General Secretary of the FBU and to every single individual member of the Executive Council (14) citing hardship to their Members and their Beneficiaries, not a single acknowledgement, or reply, was ever received.
It seems common good manners do not ‘Maketh a ‘Man’ driving this to the reasonable conclusion that the FBU Executive are also ‘pliable’ when it suits.

Chapter 14.00.

Testing the Staircase Steps.

175. In that which follows although as a convention I have where possible written it in the third person this was in fact a daily joint venture with FSV~FMG and remains so, as no doubt

my telephone and email tappers will confirm.

176. Legally speaking three years from an incident/issue arising, or acquired knowledge of an incident/issue, is the Jurisdictional time limit set in English jurisprudence for taking legal action, though there are exceptions.

177. I had this very much in mind, right from the outset, because it would be a major tactic which I anticipated would be deployed against us called ‘time barring’ the raison d’etre and basis for a DWP/governmental policy supporting “Withering on the Vine” and “Winnowing by Death”.

178. Before the implementation of Exercise ‘Stalking Horse’ initially FSV~FMG probed the ‘legal’ position with Wisdom ‘on the record’ to establish her current legal knowledge of the ‘The Firemen's Pension Scheme Order 1992 Statutory Instrument No:129 and its accompanying 394 page plain English ‘Home Office Commentary’ written specifically for Firefighters (it states so) but whose existence was kept secret from them nationwide until I published it in full on my website.

179. It was an encouraging exercise because Wisdom’s knowledge and capability coupled with LCFA/LCC declared position was promisingly weak and unlawful and thus this became the LCFA’s position ‘on the record’, which was that the LCFA were and had been paying, the correct pensions.

180. This developed into the defensive mantra of ‘Wisdom’s Law’ which she and they chanted for years only to be varied with ‘Warren’s Law’ and which from the outset was adopted by TPO on two visits and bizarrely, initially, at the High Court of Chancery as we shall see...

181. I also presented an opportunity for the LCFA to make a simple statement that they had in fact, unlike ourselves (I had published 6 Opinions) obtained an ‘Opinion’ on their legal position but they never made such a claim, or even alluded to one. Even though the details of that ‘Opinion’ would have remained ‘privileged’, its existence would not.

182. Indeed, throughout the years that followed the LCFA have never affirmed that they had such an Opinion(s) especially when I placed them in the repetitive position of the opportunity to support this position under the Internal Dispute Resolution Procedure (IDRP); at TPO; at the High Court In Belfast; at the High Court of Chancery; at the Court of Appeal and at the Supreme Court.

Chapter 15.00.

The Stalking Horse Runs ~ Time Benchmark Dates.

183. **On the18th December 2015**, disabled FSV~MFG initiated exercise ‘Stalking Horse’ by using the LCFA Statutory Internal Dispute Resolution Procedure (IDRP). The Statutory origin of this mechanism lies in the 1995 Pensions Act (as amended) with a special amendment for the FRS where the Procedure is not a single Stage (I) procedure but a two Stage (II) Procedure.

184. Stage I, allows a time frame of two months for completion, giving the Chief Fire Officer

(CFO) an opportunity to review the Complaint ~ the material facts ~ as stated by the Applicant on the Standard Forms used and to review the actions his subordinates' have taken, particularly in respect of the correct application of the relevant Law. Then to ameliorate the Complaint and to work jointly towards a Resolution.

185. The material facts were that FSV~MFG was being wrongly paid in contravention of Statutory Instrument No:129 Regulations, a Rule B1 'Ordinary' pension (30 years' Service completed fit and well) instead of the Rule B3 ~ ill-Health and Rule B4 Injury Award which the LCFA had Statutorily awarded when he was compulsorily retired.

186. In the event the CFO, within the Statutory time framework, replied elucidating and adopting 'Wisdoms Law', with no reference to any Opinion, asserting that the correct pensions were being paid.

187. The Statute allows a response (if any) time up to 6 months and on the 16th June 2016 FSV~MFG rejected the CFO's decision.

188. **On the 16th June 2016** FSV~MFG initiated IDRP Stage II. This Stage (2 Months) requires that an Application be placed directly before the 25 Elected Members of the LCFA or a sub-Committee elected by them. The Stage II Application, a comprehensive 20 page document was hand delivered to the Chair of the LCFA CCllr F. DeMolfetta (Lab).

189. **On the 20th June 2016** Warren (LFRS) acknowledged receipt in a letter drafted for him by Howells the LFRS in-house solicitor in which Warren unilaterally declared he was acting on behalf of the Fire Authority (ultra vires) ending with the legal 'gibberish' that he had " placed your Application in abeyance" whilst the matter was dealt with by the Police(?) their Freemason chums at Police Headquarters.
There is no such provision within the Statutory IDRP in the real law.

190. This was a classic example of 'Warren's Law' which he frequently used when his ship of state was 'on the rocks' including the use of an 'instant dismissal' regime in place should anyone be tempted to 'step out of line'.

191. Next this Application with a new cover letter was hand delivered to Molfetta pointing out to him that he was in breach of the Statutory IDRP with his personal criminal liability and that he had a Statutory duty to place the Application before the Elected Members of the LCFA.

192. Once more this letter was rebuffed in another mendacious letter from Warren in which he again implied that the Stage II Application had indeed been placed before the LCFA and that the Committee's position remained unchanged.
Of course an immediate 'sampling exercise' with the Councillors drew a host of blank looks that firstly no State II Application had been placed before them and, secondly, that some had not the vaguest notion what this was all about or so they said.

On the 17th August 2016 the Statutory time frame ***having expired*** on that day the actual LCFA having never given a formal answer this Stage II imbroglio was 'Placed on the Record' and in the hands of Molfetta.

193. Later an extensive evidential Letter of Impeachment was presented to Molfetta

identifying his acts of corruption which would form the basis of criminal charges of Corrupt Practice in Public Office. A criminal action has no Statute of Limitations.

194. The Debrief produced the following used and useful tactics:

- If there is a Statutory time frame opponents must be forced to adhere to it ;
- If there is a Statutory Law use it , find the loop holes and exploit them;
- Identify legal Achilles Heels exploit and enforce them;
- Probing letters targeted at specific persons placing them 'on the record' at a specific time;
- Exploit ignorance of Pension Law especially with the Judiciary who are surprisingly ill informed;
- Stall the 'Stone Walling' with the attrition of brute force of mass correspondence causing the opponents to lose man hours, the frustration and distraction of having to reply and overwhelming and clogging their normal work system.
- Aim for impasse and their loss of 'control' (The "Withering on the Vine" ~ "Winnowing by Death") policies then bypass to the next level or agency of State.

Chapter 16.00.

The Pension Ombudsman ~ Round Two ~ Time Benchmark ~ 5th October 2017.

195. Time barring is incorporated in the Statutory Instrument, 'The Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996', the Regulations upon which TPO was created and is required to operate.

Most significantly these Regulations include the Statute that every Applicant has *the legal right* to have their Complaint placed before either the Ombudsman or his Deputy for a 'Determination', regardless of any other divisionary tactic they might care to employ.

196. **On the 5th October 2017** disabled FSV~FG formally lodged his 'Complaint' at TPO.

197. From this point until allegedly a 'Determination' was issued by the Deputy Ombudsman Ms.K.Johnson a non-practising barrister on the **10th September 2019** it took almost 2 years. What was odd about this 'Determination' was that it purported to come from the hand of Ms.Johnson who left the employ of TPO in late June 2019 when her Contract was not renewed? More criminality.

198. This whole charade took almost 2 years and was a prime example of the government's policies of 'Withering on the Vine' and Winnowing by Death'. Ruthless policies which those Ladies who have been denied their pensions will have been exposed to and their hopes dashed, or died in this iniquitous 'Winnowing by Death' process, as is intended...

199. The Architect of this policy can only have been Sir George Iain Duncan Smith M.P., the

author of … ‘innovative policies for tackling poverty’ (2004)… who served in spite of ‘Betsygate’ as DWP Minister of State from May 2010 until March 2016.

200. TPO Arter (May 2015 ~ an IDS man) with his inner circle can only have acted with complete impunity in the clear knowledge that by doing so their corrupt actions will have received, at the very least, the tacit approval of successive Pensions Ministers including the current G.Opperman MP(June 2017) and the current Minister of State Dr. Coffey PhD.PC.(July 2019 ~ an IDS woman).

201. Should one doubt all this and remain to be convinced can I direct you to the analyses in Chapter 16 ‘The Journey of Truth’ where evidentially bullet by truthful bullet I expose this expensive (£8.6million) sham of an organisation working directly for the government and controlled by it.
https://www.themorningbugler.com/corruption/lancashire-fire-rescue-service-pension-scandal/the-policy-and-management-of-corruption/a-journey-of-truth-vol04/a-journey-of-truth-chapter-16/

202. At his request I supplied Mr.F. Field MP Chair DWP Select Committee a ‘bundle’ of 550 pages of information about the malevolence of this organisation for which he was responsible and about which he simply did nothing.

Can I with respect suggest it is better to call forward Mr. Arter and Mr. S. Timms M.P. the current Chair of the DWP Pensions Select Committee, Field’s replacement, responsible for the Pension Ombudsman to ask them to give an accounting of this organisation set against these Public criticisms?

Chapter 17.00.

To Belfast in the Green.

203. This TPO ‘Determination’ precipitated an immediate Appeal and the TPO foolishly offered three jurisdictions in which an Appeal could be lodged, including Northern Ireland.

204. Belfast offered a Direct to Appeal Court procedure unlike England which had placed, contrary to the Human Right to Justice, an initial artificial pre-trial judicial hurdle which has to be overcome before access to the Court of Appeal is granted. An extraordinary Denial of Justice process in which access is only granted on the basis that success is guaranteed? More Kangaroo ‘justice’.

205. **On the 23rd September 2019** I lodged, on behalf of FSV~FMG [acting as his Court approved, locally based, McKenzie Man], an Appeal at the Royal Courts of Justice, High Court, Queens Bench Division against the DTPO’s ‘Determination’ accompanied by a 132 page bundle.

206. Judgement was issued on the 6th November 2019, a mere 45 days after lodgement.

207. This time frame included 3 visits to the High Court Registry for collection of Forms and LiP advice which was immediately forthcoming and generous. Nothing was too much trouble.

There followed 3 High Court appearances, two of an administrative nature and a final hearing of two hours before the most Senior Judge of the High Court, Sir Paul Maguire LJ at which myself and FSV~FMG attended as McKenzie Man and LiP.

208. The Defendant made no appearance at the first Hearing and was represented at the second and final hearing by a junior Barrister.

209. The Clerk to the Court was punctilious in his human care of us in particular providing drinking water and acoustic aids for myself.

210. At the outset the Maguire LJ stated he had had the papers for 6 weeks and had read them twice in their entirety. He laid out the pension law including the NI law and became a little side tracked. He graciously allowed me to help the Court which I did and at his continuing frequent requests throughout the Hearing.

211. Counsel for the Defendant made her jurisdictional case and the LJ informed her that he had read all the available books on the subject, and then some, and could not find confirmation whether his Court did not have jurisdiction, or conversely whether it did.

212. During the working dialogue which then ensued a rather irate Counsel objected that I was being granted excessive 'audience' and that I had no legal qualifications to be there and was actually... "*nothing*".
The LJ asked her pointedly if she really did wish him to rule on this and she declined to proceed.

213. The LJ indicated that he was disinclined to rule on the Pension issue other than to say that in his opinion it was "winnable".

214. In the event the LJ decided it was best that the case be taken forward to the Court of Appeal in England where his decision included fact that he had already granted Leave to Appeal and several times that we had 'a perfect right to Appeal', all of which the English Court of Appeal promptly ignored.

215. Maguire LJ commented that it was not necessary for us to seek leave to Appeal because the case was neither frivolous nor vexatious, that we were entitled to Appeal … "a perfect right to Appeal" and extraordinarily stating that in his opinion, several times, that the case was "winnable".

In his Summary Sir Paul Maguire repeated his gratitude for the assistance that both Plaintiffs had provided to the Court and once more he expressed his view that the case was "winnable". He refused to grant costs to the LCFA. Maguire LJ set a very high bar on professional decency.

216. Though no direction was ordered on a time scale to take this action following consultation with the Registry at the Civil Appeals Office FSV~FMG resubmitted his Appeal **on the 3rd December 2019** including an Application, as advised by the Registry, for a further extension of time *should it be required*.

217. Civil Appeals Office Registry in their first 'Rule of Games' misdirected this Appeal Application to the Court of Appeal instead of to the Chancery Division and the CoA returned it to FSV~FMG on the 13th January 2020 further advising that he attach a copy

of the Belfast Judgement to confirm the above proceedings and resubmit directly to the Chancery Division which FSV~FMG did.

Chapter 18.00.

To the Court of Chancery.

218. **On the 4th of February 2020** FSV~FMG lodged at Civil Appeals Office Registry of the High Court of Chancery(Pensions) his Appeal against the 'Determination' of the DTPO on Points-of-Law including the Belfast Judgment by Sir Paul Maguire's which included, within his decisions, granting Leave to Appeal.

219. At the Civil Appeals Office Registry the Application fee was cashed (thus a common law Contract for Judicial Service had been established) and the Application was correctly lodged, stamped and issued on the 4th February 2020 as Fancourt LJ was to record in his Judgement later.

220. However from the outset this Civil Appeals Office Registry, in the person of Mr.Cobourn, repeatedly attempted to reject this Appeal Application by drip feeding 'around the Mulberry bush' administrative obstacles which were simply ignored. The Appeal had been issued.

Mr. Cobourn gave the impression that he was the Registrar when in fact it was a Mr. Choudhury to whom Mr.Cobourn was allegedly subordinate.

221. Mrs Justice S. Falk DBE, the Jewish Chronicle informs, was only one of 3 solicitors historically chosen, a short time before, to address the gender imbalance within the Judiciary at large.
Formerly she had worked within the 'Magic Circle', a reference to 5 or 6 very expensive commercial Solicitors in London specialising in finance and international tax avoidance and her first senior Judicial posting was as a High Court Justice in the Court of Chancery under the tutelage of the then Master of the Rolls Lord Etherton QC PC who it may be recalled made the headlines in the same Chronicle when he married his male partner in a London Synagogue. The first openly gay Justice.

222. Unfortunately when this debacle unfolded in the High Court of Chancery; the Court of Appeal; and the Supreme Court, Lord Etherton had developed a long term illness. His increasingly long sick leave absences was a fortuitous factor for those who intended that FSV~FMG case would not succeed at any price. But like Circuit Court Justice Butler they would require a corrupt Justice or Justices, who were to be found.

223. From the beginning it became clear that Falk LJ had not only been allocated FSV~FMG's case but with the tacit understanding that it was not to succeed. Or perhaps those observing her prior competence including some of the civil servants at the Civil Appeals Office Registry felt that she could be relied upon to 'toe the old boys line', or just make a negative mess of it. Their evaluation was extremely poor and they were to be disappointed on all counts.

224. Falk LJ had the Judicial choice to just 'Refuse Leave to Appeal' and leave it at that and/or

to deal with the case in its entirety. In the actualite she chose to do both!

225. **On the 2nd of April 2020** in a muddled Judgment she Ordered that the Appeal would be allowed out of time, when in fact the Application for an extension of time had not actually been activated, nor was it required. Any delays that there were being directly attributable to Civil Appeals Office Registry's administrative 'Game of Rules'.

226. Next, Falk LJ refused Leave to Appeal simply ignoring the already granted Leave to Appeal by Sir Paul Maguire the Senior High Court Judge at the Belfast Royal Courts of Justice a vastly more experienced and competent senior High Court Judge than herself. However for those opponents both Political and Judicial the required result had been achieved, albeit briefly.

227. In continuing with her Judgement Falk LJ simply confirmed her complete lack knowledge of and experience with Pension Law. In fact, as the basis for her Judgement, she relied on The Deputy Pension Ombudsman's (DPTO) 'Determination' by non-practising Barrister Johnson who had herself posited 'Wisdom's Law'. The blind leading the incompetent.

228. Falk LJ, conscious of her prior errors then allowed FSV~FMG to apply for another Hearing renewing his Appeal Application primarily because in error she had dismissed the Application without hearing the Respondent and ordering that an Appeal copy be sent to the Respondent which it already had been by FSV~FMG.

229. Then in further confusion she stated … "In my view this appeal has no real prospect of success and there is no other compelling reason for it to be heard"...how about the Human Right to Justice?

230. In the event an older head and shoulders prevailed, presumably her mentor Lord Etherton PC from his sick bed and she decided to review not only her decision but to identify the actual 'Points of Law' that had been brought before her by Mr. John Merlin Copplestone Bruce [Inner Temple], (JCB).

231. In the interim in an extraordinary intervention in an unsolicited letter to Falk LJ from TPO a Mr.D.Craddock addresses himself as "counsel" drawing the inference that he is a barrister when in fact he is a new low time served solicitor attempting to unsuccessfully muddy the judicial waters to no avail, though it was difficult to see through them already. More dirty work at the TPO crossroads.

232. **On the 6th of May 2020** Falk LJ then decided that she would have an Oral Renewal Hearing which was scheduled for the 1st of July then rescheduled to the 3rd of July 2020 and in the interim in a further decision she Ordered both Parties to identify 'common ground' and their relevant positions in Points-of-Law which as you might expect the LCFA had extreme difficulty with in a lamentable display of pension law ignorance, unlike Barrister JCB.

233. On the eve of the 3rd of July 2020 Falk LJ was uniquely and peremptorily, in a 'never known before' public act had the case papers removed from her thus cancelling her Appeal Hearing without any explanation.

234. Disabled FSV~FMG was abruptly informed at the 11th hour by a clearly annoyed Ms. S. Saleem Clerk, to Falk LJ, that she had been replaced by a 'parachuted in' Sir Timothy Fancourt QC., a High Court Justice also at the Court of Chancery.

235. Fancourt LJ is a Lands Upper Tribunal Justice specialising in real property, landlord and tenant law and by no stretch of the imagination would his 'speciality' include Pension Law, as his execrable performance was to confirm.

236. After this vox Hearing which took 50 minutes with FSV~FMG, the first 21 minutes of the Heating having been fortuitously 'lost', Fancourt LJ handed down his 6 page Judgement 3 months later. An extraordinarily brief judgement given the complex background to this case but, as was expected, Leave to Appeal was denied which he had been sent to do.

Chapter 19.00.

To the Court of Appeal.

237. **On the 1st October 2020** FSV~FMG lodged his *first and only* Appeal at the Court of Appeal against Fancourt LJ's Judgment.

The Appeal consisted of 19 pages, principally by Barrister JCB incisively analysing Fancourt LJ Judgment, set against the actual Pension Law of this case and Point-of-Law, by Point-of-Law, painfully demonstrating precisely where this corrupt Fancourt LJ had got it all wrong from beginning to end. The adverb excoriating would not be inappropriate.

238. **On the 6th January 2021** hearing nothing from the Court of Appeal FSV~FMG wrote a probing letter to the new Master of the Rolls Sir Geoffrey Vos (post holder 11th January 2021 receiving the following reply from Mr. Andrew Caton, Assistant Private Secretary to the Master of the Rolls:

"On Friday, 15 January 2021, Catonandrew
JudicialOffice) <Andrew.Caton2@judiciary.uk> wrote:
Dear Mr Galpin,

Thank you for your letter dated 6th January 2021 which was received by this Office on 14th January 2021.

I am sorry to hear of your frustrations to date and I fear that this reply is not going to help in that regard, but I'm afraid that the Master of the Rolls is unable to comment or intervene in relation to your proposed *(sic)* application to the Court of Appeal.

I have investigated the current position with the Court of Appeal Office and it appears that they are currently seized of your proposed application and it has the reference 2020/PI/10670. If you have any queries or questions in relation to the progress of this application then they have to be referred to the Civil Appeals Office, rather than the Master of the Rolls or this office directly. Their contact details are:

General enquiries
Civil Appeals Office

Room E307
Royal Courts of Justice
The Strand
London
WC2A 2LL
United Kingdom

239. This is an example of a targeted probing letter which confirmed that the MoR Vos knew exactly what was happening in his Civil Appeals Office which he was directing, but thought he would keep his accountability at arm's length as though this would absolve him from legal and moral responsibility.

240. This Appeal presented an insuperable problem for this corrupt Political/Judicial cartel. The vicious opponents to the success of this case, who had placed themselves well above the law, regardless of its consequences.

241. Until this moment this cartel of Coffey, via Burnett (LCJ), to Vos/Fancourt had been able to corruptly manipulate the use a single 'pliable' Justice to deny the Human Right to Justice. However, the cartel had boxed themselves into an invidious position that should this case be allowed to progress to the Court of Appeal, procedurally would it have to be heard before a minimum of 3 Justices and clearly the Judicial leaders of this cartel, Burnett and Vos, could not guarantee to Coffey that they would be able to produce 3 'pliable' Court of Appeal Justices.

242. In desperation the cartel's final line of defence was twofold. Firstly to attempt to 'logjam' *this* Appeal like the previous Appeals at the Civil Appeals Office because Caton had confirmed that they had received the Appeal and secondly by corruptly burying it administratively by the unlawful maladroit manipulation of judicially directed unqualified corrupt civil servants and in a rerun *this* Application was re-visited by none other than Andrew Caton acting on behalf of MoR Vos; Mr.Cobourn (Civil Servant); and Mr Choudhury (Registrar).

243. This next corrupt operation had once more to be at arm's length because it was criminal, perverting the course of Justice and the denial of the Human Right to Justice, by the members of this cartel acting severally and individually, criminal actions, which had to be untraceable back to its originators.

244. This exhibited over confidence because it was proposed to use criminal deception and administrative deceit which they routinely practised on an almost daily basis, by which Cobourn/Choudhury et al convinced Appellants that their Appeals had been placed before a Master (a Justice) when in fact they had not.
In its amusing arrogance it exhibited a breath taking degree of naivety and lack of street nous the latter which Firefighters' live and breathe, daily.

245. The pragmatic collective defence (clearly some of it by 'press-ganged' Registry juniors) included a blizzard of returned documents; fee cheques (amounting to £2000+) which had been cashed (a Contract in Common Law) then reissued and returned but unfortunately all this subterfuge came unglued by the intervention of a young honest, alert and career courageous Lady Justice Rimmer-Bancroft.

246. Lady Justice Rimmer-Bancroft, who has a feisty reputation, clearly had been the victim of the misuse of her Judicial name by Cobourn/Choudhury et al before, insisted that her name be removed and disassociated from this corrupt criminal activity and that Cobourn/Choudhury write a letter doing so to disabled FSV~FMG in which Cobourn stated that he had been in error when he previously claimed that disabled FSV~FMG Appeal had been placed before Lady Justice Rimmer-Bancroft.

247. An Appeal which he had stated had been denied by Rimmer-Bancroft LJ when in fact it had not and neither had it been placed before her. Both criminal acts.

248. However not to be undone Cobourn/Choudhury et al then initiated their last criminal subterfuge in which they stated once more that the Appeal had finally been placed before Justice Newey confirmed by a single line of 'cut and paste' in which they stated that Justice Newey stated that his decision was final and that the Court of Appeal would not enter into any further correspondence. Such stupidity is hard to credit.

249. Given the circumstances which arose with Lady Justice Rimmer-Bancroft it is unlikely, though not impossible, that Justice Newey was unaware of these actions involving his Judicial name, but the truth will out.

Chapter 20.00.

The Assassination of Lady Justice Falk's Career.

250. I cannot leave this point in the narrative without addressing what actually happened to Lady Justice Falk DBE? Who gave the orders? Why it was necessary?

251. It has never been explained why Justice Falk was given this reasonably complex Pension Law case in the first place because a glance at her legal background provides no answer. She simply had no experience whatsoever with Pension Law cases.

252. Perhaps the expectation was the Falk LJ would follow the line she had been 'encouraged' to take but there were other forces at work namely Falk LJ's mentor the still in post MoR Lord Etherton who, after Falk LJ's initial denial, may have suggested that it would be propitious to look at this case again and her decisions.

253. Given the judicial experiences of disabled Firefighters and their LiPs it does not require a bounding leap of faith to conclude that Falk LJ was removed from the 1st July 2020 Hearing, which was immediately rescheduled to the 3rd July 2020 Hearing to suit, not only Fancourts's LJ's diary, but to ensure that Falk LJ was prevented from making the mistake of changing her original decision by granting Leave to Appeal to the Court of Appeal and/or dealing with the entire Appeal as she had the Judicial right to do, if she chose to.

Either way she was unceremoniously publicly dumped from the case, a unique and cruel act even in British Judicial history.

Chapter 21.00.
Those who in complicity ~ Conspired

254. **On the 8th September 2019**, Rt.Hon. Dr.T.Coffey PhD.,PC was appointed Minister of State at the DWP. She will have been briefed, on appointment, by the in post Pensions Minister Mr.G.Opperman M.P., and the Permanent Secretary who were fully aware (including a Letter from Mr.Tim Farron M.P. ~ Appendix 'A') in respect of the emerging and developing Public scandal concerning the 50% pension underpayments to 11,000 disabled Firefighters, their 30,000 Widows and Beneficiaries, and estates.

255. **On the 1st of February 2020** Sir Geoffrey Vos QC, the existing Chancellor of the High Court, was elevated to the post of Master of the Rolls which it was intended, in looking ahead, that he should occupy from the 11th January 2021.
In the meantime he was expected to, 'cover for' an increasingly absent existing Master of the Rolls Lord Etherton QC who was on extended and repetitious sick leave; Vos was to be supported by an ambitious *acting* Head of Civil Justice Sir Peter Coulson QC.,PC an acquaintance of Guy Opperman MP Pensions Minister the former from his days on the North East Circuit within Opperman's Constituency.

Vos was the Judicial prime mover in all that transpired.

256. Naturally the collective expectation would be that this test case would develop into a legal challenge to the government and naturally it would be expected to resist this challenge and to decide, one assumes, lawfully how that might be achieved.

257. But in fact the problem was resolved by 'perverting the course of Justice' and suborning an already 'bought', but allegedly 'independent' Judiciary, at the highest level.

258. Given the subsequent recorded actions taken to 'pervert the course of Justice' there can be little doubt that at the instigation of Cabinet Minister Rt.Hon.Coffey that Rt.Hon Sir Peter Coulson PC (acting) head of Civil Justice; Rt.Hon Master of the Rolls Sir Geoffrey Vos; Rt.Hon Lord Chief Justice Baron Burnett ; and President of the Supreme Court Rt.Hon Baron Reed were all fully and corruptly engaged in the collective knowledge of what was taking place and lest there be doubt in the three weeks that this narrative was being written they were all digitally logged into and recorded as visiting my website and its libraries.

259. Now we are aware who gave the orders and who took the actions not only to 'pervert the course of Justice', but at three important levels of Justice; the Court of Chancery; the Court of Appeal; and the Supreme Court to *deny all* the Human Right to Justice.

260. It is not difficult to follow the chain of authority/communication in its gross abuse of State authority, nor to identify those who gave the orders for the career assassination of Lady Justice Falk and though it may be difficult to contemplate or comprehend, caused incalculable and irrevocable harm to Sarah Falk's dignity as a person.

261. It also caused her profession humiliation and inestimable detriment to Falk LJ's burgeoning professional career in the High Court (Chancery) but when set against the

expenditure in restitution of £4billion+ to disabled Firefighters, their Widows and Beneficiaries, Lady Justice Falk DBE was a trifling matter as far as the likes of Coffey, Reed, Burnett, Vos and Coulson were concerned.

Chapter 22.00.

To the Supreme Court.

262. **On the 1st April 2021** after a short period of time to allow Cabinet Minister Coffey and her 'gang' to reflect, disabled FSV~FMG lodged an entitled 'Extraordinary Appeal' consisting of *203 pages* for which he paid the Court fee of £1,000.0.

263. **On the 11th May 2021** he received a first note, because it could hardly be described as a letter in a curious choice of words, not even indirectly from the Baron Reed President of the Supreme Court, but from the Supreme Court Registrar Mrs Louise di Mambro as follows:

" I have been asked to reply to the letter you sent to Lord Reed I am sorry but from the information you have provided it seems that this Court will be unable to help you."

264. **On the 19th May 2021** he received a second note to a second letter he had sent to Lord Reed once more from the Registrar Mrs Louise di Mambro using more curious choices of words:

"I have been asked to acknowledge receipt of your letter to Lord Reed".

It seems in similar practice Mrs Louise di Mambro a'ka the Civil Appeals Office Registry regularly quotes in her correspondence the following:

"I have shown your papers to Lord Lodge one of our Scottish Justices who has confirmed that this Court does not have jurisdiction".

Disabled FSV~FMG provides his impressions of these responses in Appendix 'D'.

265. This "Extraordinary Appeal' procedure was created by the Supreme Court to deal with 'extraordinary circumstances' arising in the lower Courts, for example, a prima facie case of the Denial of the Human Right to Justice; a blatant mistrial; or that self-evidently a sitting Justice had got the law entirely wrong.

266. The submitted 'bundle' of 203 documents not only cited the Denial of the Human Right to Justice but in a prefix I presented my detailed researched Case Law supporting the contention the Fancourt LJ got his Judgment entirely wrong.

267. This was a prelude to the re-presented core of this 'Extraordinary Appeal' by pro bono Mr.John .M. Copplestone Bruce in which, in detail, he eloquently and expertly prayed that the law did indeed find for us.

268. All of those documents remained unread and were rejected by a non-Judicial Registrar Mrs.Louise,di Mambro who is also rather interesting person. In the olden days the Monarch's Messengers carried a badge of office, a Silver Greyhound. Perhaps di Mambro

sees this as her role?

269. Mrs Louise di Mambro is also the Registrar of the Privy Council and at its monthly meetings with the Monarch she will meet and greet Privy Councillors, entitled Right Honourable (Rt Hon) including Rt.Hon Cabinet Minister Coffey PC; Rt.Hon Baron Reed; Rt.Hon Lord Burnett; Rt.Hon Sir Geoffrey Vos; Rt.Hon Sir Peter Coulson PC.

270. It is a reasonable speculation that Mrs Louise di Mambro (The Greyhound) provided the 'arms length' key two way conduit between the PM, Cabinet Minister Coffey PC and those she wished to 'influence' in the higher echelons within this 'independent' Judiciary in between such monthly Privy Council meetings.

Chapter 23.00.

A 'Bought Woman'

271. It is essential that in contrast to this record of enforced penury, poverty and death I should illuminate this interesting 'bought woman' Coffey and her coven who is actually responsible, on our behalf, for bringing to these victims the compassion they are entitled to and deserve.

Coffey, sadly of Irish heritage, was educated at a 'private' fee paying Convent School St. Mary's in Crosby Merseyside where I served in the immediate vicinity, before her time.

As a former 'old girl' of a Convent myself from the age of 3-7 I know the harsh Catholic regime and its ethos and at the age she attended I know that she will already have been taught about the moral compass of life and the 8 Beatitudes:

- Blessed are the poor in spirit: for theirs is the Kingdom of Heaven.
- Blessed are the meek: for they shall possess the land.
- Blessed are they who mourn: for they shall be comforted.
- Blessed are the merciful: for they shall obtain mercy.
- Blessed are the clean of heart: for they shall see God.
- Blessed are the peacemakers: for they shall be called the children of God.
- Blessed are they that suffer persecution for justice' sake, for theirs is the Kingdom of Heaven.
- Blessed are they that hunger and thirst after justice: for they shall have their fill.

272. But an adult Coffey somewhere along the highway of life sold her Soul; a vicious bile filled, selfish, self-serving, lazy creature, who works as little as she possibly can, except, as the street people might say, when she is busy 'screwing' them.

273. Coffey is interested in expensive horses another unfortunate Irish trait; I just milked cows but, speaking of which, Coffey is an expert milker of the 'system' since 2010 when she was first elected and 'noticed' by IDS. It takes one to know one…

274. Because of her horseracing interests, she owns a commercial stables with some Arab pals in Warwickshire which she fails to declare in her almost 100 parliamentary

declarations of ‘gifts’ and declared ‘interests’. One wonders about those remaining ‘interests’ she does not declare.

During the working day her whereabouts during the racing season is easily found using the racing calendar when she is accompanied by sister Clare, also on the gravy train. A train which annually includes Royal Ascot, the Grand National, Chester and all her usual favourite Horse Racing haunts.

275. There, whilst smoking her donated cigars (Gallagher) and quaffing her donated Champagne (ITV) in her VIP boxes (Channel 4) and playing those addictive gambling machines she votes for (Ladbrokes et al) she will meet another horse loving investor, her long time served Pensions Minister, Gary Opperman MP, a former barrister and amateur jockey (Jewish Chronicle).

276. No doubt from time to time they will both meet Sir Geoffrey Vos a faux ‘farmer’ in the Malverns who runs his holiday hospitality lodges in between his jaunts offshore to check on his ‘investments’ in the Caribbean and Jersey Islands whilst on Judicial duty (which the Taxpayers pay for); and occasionally in his Judicature position as Master of the Rolls meeting with his bosses, the insatiable golf player, the President of the Supreme Court Baron Reed (Reed is not a Lady Hale DBE PC QC FBA.) and the Lord Chief Justice Burnett to do IDS and Coffey’s bidding. Three ‘bought men’, but as we have seen there were quite a few others.

All of these criminals have done inestimable damage to the Public trust and international reputation of an ‘independent’ English Judiciary.

277. One wonders if ‘townie’ Vos and his loss leader faux farm (tax avoidance) is claiming that these hospitality homes are part of his Community Charge exempt agricultural holding where, according to the Jewish Chronicle, he breeds horses and bulls (though looking at the farm surely they mean bullocks, not to turn a pun) because they are not exempt.

278. Vos surely must share his landlordly concerns with Coffey who has had her own little local landlord difficulties in Suffolk where it was difficult for the parliamentary expenses accounting staff to determine where she actually did live, or rent out. The conundrum was, was it a ‘house’, or was it a flat’, though some seemed to think it was a caravan, but was that in Suffolk, or was it in Hampshire?

279. Not for her the food banks with her snout well into the Tax Payers trough…

One presumes that currently whilst living with Clare at Billinge in Lancashire the same staff will have no difficulty determining what Coffey’s claimed allowances should be contrary to what she might be claiming, for example, on two or was it three occasions the Catholic Church regularly paid £15k a year for an ‘intern’ in Coffey’s office.
Now was that in London or at Billinge Lancashire and was that in addition to claiming for her ‘employee’ sister Clare, or in substitution?

280. It is little wonder then that Coffey and her sister Clare are more than regular visitors to my website ‘www.TheMorningBugler.com’ indeed at times they are frantic visitors visiting some 3-4 time daily using different ‘proxies’, or so the very clever automatic digital locator system records.

There are some smart men around you just have to find them…they have pensions also.

281. Presumably Coffey is a little concerned about the exposure of her 'activities' as indeed are Reed, Burnett, Vos and other Tory party apparatchiks including their active supporters at the LCC/LCFA who all cleverly think that by using proxy locations, the real experts in clandestine operations who help me would be unable to identify them and their true locations. Once more they demonstrate that they are not as clever as they think they are.

Indeed Coffey loves intrigue and phone tapping and votes for its use and true to her 'form' is having my phone hacked whilst attempting to interfere with my emails and website which may bring her some comfort but she would unwise to believe all she hears and reads…

282. Coffey, this unsavoury creature, is a UK Cabinet Minister no less, who is actually rather stupid and an erratic sociopath who swims in shark filled waters where the dangerous game is, who is the hunter and who is the hunted? That is what the Internet in warfare was all about originally and still is.

283. And just in case I might have missed a point or two this is how journalist David Hencke accurately saw Theresa in July 2019 when she was appointed Cabinet Minister…

"Just before Parliament was suspended, Boris Johnson appointed one of the most hard-line and divisive women to replace Amber Rudd as Secretary of State for Work and Pensions.

Her voting record reveals a tranche of reactionary views, likely to be offensive to the gay community, women, pensioners and non-smokers. She would also like millions of Europeans who live in the UK to have no right to stay here.

Cigar-smoking Therese Coffey, MP for Suffolk Coastal, would like to lift the ban on smoking in public places, bring back limitless betting odds on addictive gambling machines and is an opponent of gay marriage.

As a former member of the Commons' Culture, Media and Sport Committee, in the past she has defended Rupert Murdoch over the phone hacking inquiry and was a staunch supporter of Rebekah Brooks, the former News of the World editor and the current CEO of News UK, who she claimed was a victim of "a witch hunt".

The MP, who was appointed to the £154,000 job after Amber Rudd resigned over Boris Johnson's 'no deal' Brexit stance, confirms that the Prime Minister now has one of the most right-wing Conservative cabinets since the latter period of Margaret Thatcher's Government.

Coffey opposed gay marriage in Britain in 2013, following up this year by voting against a Commons measure to extend the right of gay marriage to Northern Ireland. She also supports parents who want to withdraw their children from sex education in schools.

On human rights, she voted both to repeal the EU Fundamental Charter of Rights and the Human Rights Act. She is in favour of allowing discrimination against Indians of lower caste and also wants the human rights watchdog, the Equality and Human Rights Commission, to lose some of its powers.

On Europe, although she voted Remain, she has since been hostile to Europeans from both the EU and the European Economic Area (EEA) living here after a 'no deal' Brexit. She voted against giving them and their families residential rights, but made an exception for the Irish.

On benefits and pensions, she is a firm supporter of the so-called bedroom tax, under which disabled people have to fund for themselves any extra bedroom for a carer. She does not believe that people who are long-term disabled need higher benefits, wants pensioners in work to pay National Insurance and supports cutting the welfare bill.

A landlord herself, she voted against changing the law to prevent landlords letting property that was unfit for human habitation.

Her declarations in the House of Commons' Register of Interests reveal that she has a penchant for going to major racing events at other people's expense. Both Ladbrokes – which campaigned against the limit on fixed-odds betting terminals – and ITV have paid for her and two of her staff to go to Royal Ascot. Her last visit in June was worth £2,318. She has also enjoyed free trips to Chester, Doncaster (paid for by Ladbrokes) and regularly to the Grand National at Aintree (for herself and a guest costing anything between £640 to £1,125).

She has employed her sister, Clare Coffey, on a casual basis on the parliamentary pay roll since 2015and takes interns from the Roman Catholic Bishops Conference, which pay for interns and provides them with accommodation(X3 £43482).

Boris Johnson has, rather unsurprisingly, not given her Amber Rudd's former role as Minister for Women and Equalities – given her views on the subject.".

One hopes that the relevant RC congregation donors are all happy about where their donations went?

Sadly, David Hencke forgot the football matches tickets; the Channel 4 BAFTAS; the Chelsea Flower shows and anything else she, accompanied by Clare, can dip her grubby fingers into while her pensioners all went without...

284. This Coffey and her 'gang' ought to be in jail where they all belong for criminal corruption and Gross Misconduct in Public Office.

285. I have exposed her criminal activities with a complicit senior Judiciary whereby in a gross abuse and imposition of oppressive State power she has deliberately incited, authorised and approved the perversion of lawful 'due process' and the denial of Human Right to Justice which is pure 'Contempt of Court'. Though I have a full measure of that myself.

This will put her and her 'bought men and women' in jail but not before she sings like a canary which her type always do. A fact of experience I learned on the Parole Board.

286. Incidentally, Mr.S.Bailey MP who sits on this Select Committee also sits on the DWP Select Committee. He cannot deny knowledge of the disabled Firefighters' case because since his appointment there in 2019 he has been on my *individual* circulation list…

287. My exceptional personal regrets in all this was watching a resolute and courageous Brenda Marjorie Hale, Baroness Hale of Richmond, DBE, PC, FBA stand firm over the three years of her tenure as the first Lady President of the Supreme Court whilst she built and expanded the Public reputation of the Supreme Court against all comers.

288. The nation watched enthralled as this Yorkshire Lass took on, held the ground and defeated the IDS and Johnson's of this world as they attempted in their first coup d'état to

overthrow our Parliamentary Democracy.

This Nation's Firefighters recognise her virtues and salute her.

289. But later, like the thieves in the night they are, these predators of Democracy were to return installing their new 'bought' man Baron Reed who in a short few months was to demonstrate what 30 pieces of silver can do.

290. The Presidency is more than a titular head. This person embodies the Soul of Democracy built on the moral compass of a Nation which is compassion for the downtrodden with the virtues of fair play and decency reflected in the Statue of Justitia standing on the Orb of the World on the Cupola at the Old Bailey.

291. Reed betrayed all that democratic vision, his truly independent colleagues and his Oaths of Office. He was given the power of office to correct all the corruption he was well aware of and failed to do so. In fact he perversely built on it.

292. Reed sits on an ad hoc Committee at the European Court of Human Rights the very Human Right to Justice he has denied us. That makes him a hypocrite.

288. Reed is a member of the Irish Bar of my Nation. They have poor judgement and even poorer taste and his presence should be rejected.

Yours Sincerely,

Divisional Fire Officer (Rtd) Grad I Fire E.

Order of Excellent Firefighter

Soviet Union

LSGCM Exemplary Fire Service

United Kingdom

Oklahoma Medal of Valour & Honorary Citizenship

Oklahoma USA

Appendix ‘A’

From:

Tim Farron M.P. former UK Lib/Dem Leader (unabridged) originally to the Pensions Minister Mr.Guy Opperman M.P in 2019.

“ From: tim@timfarron.co.uk

Sent 29 October 2019 08:48
Subject: (Case Ref: TF111169)
Sent 29 October 2019 08:49

FOR THE PERSONAL ATTENTION OF THE MINISTER, GUY OPPERMAN MP

Dear Guy

I write to represent my constituents who have approached me with regard to their concerns over a “black hole” in the Lancashire fire-fighters pension scheme and potential massive underpayment involving thousands of disabled Firefighters and their Pension Beneficiaries, which amounts to millions and will potentially bankrupt the Lancashire Fire and Rescue Service, even though the firefighters are entitled to this money.

From what I understand, this matter has been raised with you previously and to date I am unaware of what action the Government propose to take to right this obvious injustice? In summary, the principal scheme in payment from 1992 was the Fireman’s Pension Scheme until closure to new entrants in 2004. Members paid 11% per month into this scheme deducted at source. Historically, every Fire Authority Pension fund was “underfunded”. This meant that the 49 Fire Authorities routinely started every financial year with their pension pot empty and concluded the year with a substantial deficit, after having paid the Statutory pensions due to their retired Fire Service Veterans of whom a substantial number are disabled through service injury; to their Widows (Half-50%) and Beneficiaries. Simply put, if the pension is miscalculated or wrong, then everyone suffers.

At the end of the financial year the Fire Authorities would then routinely reclaim all this pension expenditure (in arrears) as part of the grant aid which they would receive from central government via the Home Office (The Fire Service Department) by reclaiming 100% of their total pension expenditure the previous financial year. Problems came to light in August 2014 when the Essex Gazette headlined an article that the Essex County Fire and Rescue Service (ECFRS) has “discovered” a black hole in its pension accounts amounting to a deficit of £15 million which had been accumulating unnoticed since 2006.

HM Treasury required immediate repayment of this huge deficit (with interest) to them and to the taxpayers, or face further commercial compound interest penalties. Bankruptcy loomed and the money had to be found from the Essex reserves.

It soon became clear that Staffordshire and Cheshire FRS found themselves in a similar position and it was a reasonable speculation that if this recurring “error” had afflicted 3 Fire Authorities beginning in 2006, then it is likely to have affected all 49 Fire Authorities over the following 8 year period. It seems likely, but still uncertain at this stage that, when the first year

of change came around in 2006, Fire Authorities made the usual 100% annual reimbursement claim.

At this point Fire Authorities, in the complex pension accountancy procedures which were mandated, were required to pay back 20% of this annual grant by the DCLG/H.M.Treasury after discharging their statutory duty to pay disabled Fire Service Veterans their injury pensions but they either failed to make this payback to the correct value or simply failed to pay it back at all. Fire Authorities simply cannot claim ignorance because they are in daily communication, via their behind the scenes 'Fire Finance Network'. It is a reasonable assumption that, when one Fire Authority 'discovered' that they had failed to reimburse the DCLG/H.M.Treasury properly and because they assumed DCLG Firefighters' Pension Team would not 'police' their own rules effectively, what happened it would appear is that false accounting was not picked up. Did Fire Authorities take an extra 20% grant aid 'bonus' to which they knew they were not entitled?

At Governmental level there are, l understand, 4 civil servants in the DCLG Fire and Resilience Directorate, in particular, the Firefighters' Pension Team (which now resides at the Home Office), who are nationally responsible for managing Fire Service Pension Schemes, which includes annual reviews. This begs the question, were these annual checks ever made and if not, why not? It certainly seems that they either failed in their statutory duty to report all of this to the Pension Regulator.

In 2007 the Lancashire Fire Rescue Service "discovered", it alleged, that Fire Service Veterans had not been kept informed (which they had) of deductible DWP benefits resulting in alleged overpayments, which amounts to gross maladministration. It also appears that Lancashire have not been paying retired firefighters correctly, as set out in pension regulation, for example, if a firefighter retired on genuine ill health grounds, replacing illegally the B3 compensatory pension, due to that person under 1992 SI 192, by the ordinary lesser B1 pension a fireman would have become entitled to on choosing to end their career by taking early retirement in good health.

The 1992 Home Office Commentary' was published to accompany and interpret the new legislation to avoid just such 'errors' in the laymen hands of pension providers. In Lancashire this was ignored and the Commentary was not made available to retirees, though plainly intended to be. When firefighters have applied to the service to have this error resolved, they have been rebuffed and, as l understand it, 11,000 firemen retired on grounds of ill health under 1992 SI 192, until superseded in 2006. Given the scale of the problem, where many men may have been awarded an ordinary pension, when in fact they had a qualifying injury and as such, should have been entitled to payment of an enhanced ill health pension and compensatory injury award. They should not be suffering financial hardship through no fault of their own and mistakes in the administration of the pension scheme appear to continue to this day with, it is alleged, no appeals procedure with Lancashire to have their cases heard?

Can l ask you to investigate, with a degree of urgency, what is happening within the Lancashire Fire and Rescue Service pension scheme, which is affecting some of my constituents. From all l have seen, there appears to be LCFA some £4.5mil to reimburse the Lancashire Fire Pension Service Fund which appears to have been 'borrowed' by senior officials commencing a decade ago whereby In-Service Firefighters were short changed on their future pensions. If this money is paid back in full, which should surely be the case, the service goes bust. However, Lancashire Combined Fire Authority Chair have offered a settlement to the Firefighters in which the LCFA will decide the date when the pay back will go back to, instead of 2010 which should be the only moral and correct date and will make the payment of a final settlement of £0.5mil in to the Pension Fund. Next the LCFA are going to have to find underpaid pension reimbursements for at least 167+disabled Fire Service

Veterans, their Widows and Beneficiaries when, not if, the LFCA are forced by law to pay back, with compound interest, over some extremely extended times of pension underpayment -two decades and more- the correct pensions which once more should have been picked up by the Pension Scheme Manager. This ought to have been reviewed and corrected many years ago and calls into question why a serious investigation into how this pension scheme has been so woefully mismanaged has not been ordered to date?

One of my constituents who is affected has suggested on a guesstimate calculation of his own underpayment and based on a median figure of say £250k overdue per Beneficiary, the LCFA are going to have to scrape up around £41.8million, in addition to £4.5million, making around £46.3million out of a budget of around £55million leaving an unworkable balance of £8.7million. Should LCFA go cap in hand to HM Treasury for support, l have little doubt that HMT will reply …' well this fault is down to the Scheme manager who had a legal duty to pay the correct pensions in the first place and run the Pension Scheme according to the law and you will have to pay the bills due from your own reserves.

If the first bill for £4.5million does not lead to LCFA bankruptcy, the second for £41.8million certainly will, resulting in the massive closures of many Lancashire Fire and Rescue Stations and an equally massive reduction in the uniformed establishment of crews (85% of running cost of the FRS are salaries), with a commensurate reduction of 'fire and emergency cover' over all of Lancashire.

If this dramatic and alarming unfolding story does not capture your attention l doubt what else will and l therefore ask for an urgent review to be undertaken. I am more than happy to put you in touch with affected firefighters. Seeing through their eyes how they have been poorly treated and deprived of what is rightfully theirs is worrying and the suggested criminality which is alleged, of knowingly covering these matters up, even more shocking.

Thank you for your time and assistance in this matter.

With best wishes

Yours sincerely

TIM FARRON MP."

Appendix ‘B’.

30 Broadway,
Fulwood,
Preston
PR2 9TH
Lancashire.
+44 (0) 1772 712857
jmcbruce@btinternet.com
14th December 2017

Lesley Titcomb
Chief Executive, The Pensions Regulator
Napier House,
Trafalgar Place,
Brighton.
BN1 4DW.

Anthony Arter
The Pensions Ombudsman,
11 Belgrave Road,
London.
SW1V 1RB.

Conspiracy to Defraud

Dear Regulator and Ombudsman,
With respect, may I alert you both, personally as the responsible individual, to what would seem to be a most serious and systemic conspiracy to defraud former firefighters who, though compulsorily retired on ill-health, are being paid a basic time served pension, denying them compensation provided by common law and legislation.
Mr. Galpin, et al (amongst cases in your offices) has stated the whole of it:
“ 4. SI 129 1992 specifies a B3 ‘Ill-health’ pension as compensation for loss of future rank, salary and a higher pension denied those forced into early retirement by reason of ill health.”
The Lancashire Chief Fire Officer replied on 19th Feb 2016 (IDRP/2015/FMG):
“Appendix 1 is an extract of SI 129 1992 Part B Personal Awards (pages 16 and 17). I am unable to see any reference in the Statutory Instrument to this being compensation for loss of future rank, salary and a higher pension denied those forced into early retirement by reasons of ill health”.
Mr. Kenny, a layman, construes the law to mean that Mr. Galpin, on being required to retire on being injured in our service so suffering financial loss, be paid the same B1 pension which would have been his entitlement on choosing, when fit, to go early to become a well paid plumber.
A priori, legislation requires congruity between its parts. SI 192 Rule K (1) (b) enables the fire authority to reduce an ill-health pension by up to 50% on contributory negligence, which presupposes a compensatory pension. Congruity requires that where wording departs from formulaic provision, an ill-health pension is intended to be compensatory.
De facto, Mr Galpin is receiving the irreducible sum of a basic time served entitlement - due, injured or not. Since it cannot be reduced it does not in law qualify as an ill-health pension.
More widely, pensions administrators owe a fiduciary duty to those to whom their fund pays pension to know the law and apply it.
There is an over-arching legal presumption in construction of all documents that wording is given its ordinary (SOED) meaning and, in legislation, all words used have meaning and different words denote different meanings.
The law is consistent, so construction of an SI, as in contract, requires wording to be strictly construed against the interest of any party relying on wording to gain self-interest, or to deny another’s interest – here a pension provider to avoid payment.

The ill-health pension provision is set out in SI 129 at Schedule II, Personal Awards, Part II, Rule B3.
At the same time as it promulgated its SI 192, the Home Office issued its 1992 Commentary.
The Commentary does not make law but in plain language sets out, for lawyers and laymen alike, how the State, HMG, requires its parliamentary language of provision to be construed.
By giving unambiguously, in the plainest of plain English, HMG's intended meaning of wording used in the SI to lay administrators, the Commentary avoids different interpretations in different places, to ensure a common, shared and legally correct, universal interpretation.
Unless the Commentary mis-states the law, payment of any pension not in accordance with the Commentary's interpretation of the meaning of wording in the SI is maladministration.
Ill-health provision in SI 192 is set out at B3. Paragraphs 2, 3, 4 and 5 all make provision.
Whilst paragraphs 2, 3 and 4 are premised on and limited by, what pay '*is*' being paid, paragraph 5 is premised on '*by reference to'* actual pay, so limiting calculation to being based on the scale of ranks and pay rates in force at time of enforced retirement, within which the actual pay is specified.
As a matter of legal construction, the *'is'* in SI 192, Rule B3 cannot lawfully be conflated with, or be taken to mean the same thing as *'by reference to'*, as Mr. Kenny has taken it to mean for the purposes of his reply to avoid any legal duty on the pension fund to compensate for lost career.
The use, meaning and legal effect of *'is'* in the Rule B3 formulaic provision is unmistakable. To avoid mistake on more difficult language, the Commentary construes into plain English the non-formulaic legal effect to be given to the meaning of '*by reference to*' in paragraph 5.
The Commentary specifically tells, states the law, to pension administrators (third person) that they are to give legal effect to the words '*by reference to*' by awarding pensions sums under B3 as formulated, *"or what could have been earned by compulsory retirement age".*
To the pensioner, to whom access of the Home Office Commentary was to be made freely available, the Home Office speaks to each personally (second person), your pension is as formulated *"or what you could have earned by your compulsory retirement age".*
The intention of legislation was inescapably to grant flexibility to calculate future loss within a paragraph 5 award of a notional pension by allowing it to become – *what could have been earned* – including by promotion or, with passage of time, the top pay rate for the rank he or she could have enjoyed.
In practice, to arrive at "W*hat could have been earned by compulsory retirement age"* the first step is to decide what final rank or pay level full service 'could' [not probably but a more generous possibly], have yielded the fireman; then, to calculate the notional pension for someone retiring that day in that rank or at that pay point. By specifying calculation *'by reference to'* to his current pay, the SI is avoiding speculation on the sum of future earnings by limiting calculation of notional pensions to the pay scales in force at the time of the enforced retirement,
To avoid an ill-health pension yielding more than possible actual loss, where the paragraph 3 or 4 figures are higher than the notional pension, the lower notional pension is paid. This is to avoid any ill health B3 pension doing more than compensate for loss of earnings a full successful career could have yielded - that is "W*hat could have been earned by compulsory retirement age".*
Thus, to compensate for financial loss, SI 192 Rule B3 (5) provides as the ill health pension the sum of a notional B1 of a full and successful career. Being a notional B1 the sum is limited to 40/60th of final notional putative pay calculated on the pay scale in force at the date of being required to take ill health retirement.
It was not and is not, parliamentary intention that its legislation provides injured firemen or women with less compensation than under common law.
Before material legislation firemen who lost their careers and prospects through injury had to go to Court to seek damages for both their injury and financial loss. Legislation replaced that. It replaced uncertainty by certainty. What was good for firemen (whose Unions approved) was good for the taxpayer who avoided having to pay future financial loss up front in damages and the heavy legal costs of endless litigation.
Damages were replaced with an 'injury award', in effect a lump sum in compensation, as in damages, for pain, suffering and loss of amenity and a separate 'ill health pension', as compensation, as in damages, for loss of future career earnings.
By not following government guidance, so misconstruing, so denying compensation for financial loss in his awards of notional pension, Mr. Kenny denies paragraph 5 of Rule B3 any legal effect. He also

avoids underlying common law entitlement, the 1947 enabling Act and the 1992 Home Office Commentary, specifically issued to him to ensure a proper legal construction of the provisions of SI 192 1992 – none of which could have come to pass but for the unlawful suppression of the 1992 Commentary (continuing).
You may care to note in your investigation that Mr. Warren, administrator, misled the former ombudsman Mr. King in writing by quoting him the 2008 Commentary well knowing that it had no application to Mr Burns' pension, to which the 1992 Commentary applied.
Of course, in absence of the Commentary, in ordinary life, the SI would only ever mean what, in breach of his fiduciary duty, the trusted pension provider told the pensioner it meant.
I write to you personally because I am concerned by the way something which, by any yardstick can only be a national disgrace and is scandalous, is still not being dealt with.
It is, is it not, unfair, disreputable and despicable and should have no place in the UK – justice denied and corruption prevailing in systematic theft by those in a fiduciary relationship, of entitlement, so cash, from disadvantaged old civil servants, hurt in helping us who, in their 70's and more, some are without means of redress. I trust Mr Arter will now personally and most urgently, review the decision taken after his lay predecessor was misled by Mr. Warren.
I trust that Mr Burns may now be given the help and support due to any whistle blower seeking justice not just for himself but others from an adverse system. Though I have only looked at Mr. Burns' pension commencing in 1997, it suggests a policy of maladministration.
I trust you will agree that Mr. Burns (Galpin, or any fireman) should not have been 'short-changed' in this way and instruct Mr. Kenny to rectify with immediate effect.
If I can assist you further please don't hesitate to call on me.
I would be grateful to be kept informed.
With best wishes,
John Bruce.
Inner Temple.
PS. Mr Burns has my permission to circulate as he wishes:

Compilation and Circulation by Mr. Paul P. Burns GIFireE:

Rt. Hon Mr. Frank Field DL M.P., Chair and Members of the Parliamentary Select Committee Work & Pensions:
Ms. Heidi Allen M.P.,
Mr. Andrew Bowie M.P.,
Mr. Jack Brereton M.P.,
Mr. Alex Burghart M.P.,
Mr. Neil Coyle M.P.,
Ms. Emma Dent Coad M.P.,
Ms. Ruth George M.P.,
Mr. Chris Green M.P.,
Mr. Steve McCabe M.P.,
Mr. Chris Stephens M.P.

The (Fire) Minister for Policing, Fireand Criminal Justice and Victims:
Mr. Nick Hurd M.P:

Firefighters Pension Team (Civil servants):
Mr. A. Mooney; Mr. M. Sherratt; Mr. P. Perry

Minister of State for the Disabled People, Work and Health:
Mrs. Sarah Newton M.P.

Parliamentary Under-Secretary of State DWP (Pensions Minister):
Mr. Guy Opperman M.P.

Members of Parliament; Mrs. Louise Ellman M.P.;Mr. Jim Fitzpatrick M.P.;Mr. Nigel Evans M.P.

The Pension Regulator (Civil Servants):
Executive Director of Finance & Operations: Ms. H. Ashton;
Head of Complaints & Information Disclosure: Ms. T. Tyrrell;
Technical Adviser: Mr. T. Hulbert; Ms.C. Burton.

The Pensions Ombudsman (Civil servant):
Casework Director, Ms. Shona F. Nicol.

London Fire Brigade:
Director of Finance and Contractual Services & Delegated London Fire Brigade Pension Scheme manager: Ms.S.Budden.

Lancashire County Council:
Conservative Leader:
CC. Mr. G. Driver CBE.
Labour Leader:
CC. Mr. Azhar Ali.

Lancashire Pension Services (Local Authority civil servants):
Head ~ Mrs D. Lister; Performance Manager ; Ms. J. Wisdom-Senior Caseworker ~ Mr. K. Mackie.

Lancashire Combined Fire Authority:
Chairman:
CC F. DeMolfetta.
Vice Chairman:
CC M. Parkinson.
All Elected Members Pension Scheme manager(including ~ Local Pension Board Members):
CC L. Beavers; CC P. Britcliffe; CC I. Brown; CC S. Clarke; Cllr D. Coleman; CC J. Eaton; CC N. Hennessy; CC S. Holgate; CC D. Howarth; Cllr F. Jackson; CC A. Kay; Cllr M. Khan; Cllr Z. Khan; CC A. Martin; CC D. O'Toole; CC E. Oades; CC M. Perks; CC J. Shedwick; Cllr D. Smith; CC D. Stansfield; CC M. Tomlinson; CC G. Wilkins; Cllr A. Williams.
Clerk (Part time) to the Fire Authority Mr. M. Nolan.

Lancashire Fire & Rescue Service:
Delegated Lancashire Firefighters Pension Scheme manager:
Chief Fire Officer Mr. C. Kenny QFSM.
Lancashire Firefighters Pension Scheme Fund manager:
Mr. K. Keith Mattinson.
Delegated Deputy Lancashire Firefighters Pension Scheme manager:
Mr. R. Warren.
Delegated Pension Scheme HR manager:
Ms. J. Hutchinson.

****

Appendix ‘C’

John Bruce

30 Broadway

PR 2 9 TH

jmcbruce@btinternet.com

01772 712857

5th June 2019.

Private and Confidential.

Mr. Anthony Arter,
The Pensions Ombudsman,

Ms. Karen Johnston,
Deputy Pensions Ombudsman

10 South Colonnade, Canary Wharf
London. E14 4PU.

Dear Mr.Arter and Ms. Johnston,

I last wrote to you on 14th December 2017 to alert you and the Chief Executive of the Pensions Regulator (since gone) to evidence that suggested fraud. You did not reply but I understood, mistakenly it seems, that you were making changes, so I held my hand.

However, with the advent of Mr Coutts’ opinion it rather seems that either you never got my e-mail; or that a member of your senior staff intercepted it, which I rather hope to be so because the unconscionable alternative is that what is happening is being orchestrated by you.

Since that has to be taken to be inconceivable, no doubt you will be as keen as I am to avoid malfeasance and put matters right. If so, then if I can assist you in any way in this, I will.

I understand a recent advice of mine saw the Lancashire ‘day crewing’ pension dispute under settlement and you will find past Opinions of mine in Mr Burns’s and Mr N’s cases.

What worries me, apart from the callous Windrush like way these old pensioners have casually been deprived for years what is their due, is that - as matters stand - unless you sort this out there are likely to be a number of criminal prosecutions and I would expect a Court to award exemplary damages to each defrauded pensioner, maybe in a class action. The paper trail in this matter should alarm you.

To ensure you both get this it will be hard copied to you personally. A copy will also go to Mr Coutts who also stands in the way of indictment.

Whilst it is perfectly reasonable and in the public interest for the State or an industry to minimise its legal costs by Ombudsmen applying the law in alternative dispute resolution it becomes a criminal enterprise when, to avoid cost to the State, resolution is passed to unqualified laymen to adjudicate on their subjective ‘common sense’ to the exclusion of legal provision and the common law of England and Wales.

It is, as I am sure you will agree, your personal duty to avoid malfeasance at the hands of those in your offices and it is your personal duty to ensure the unbiased, fair application of the law by those acting under your delegated authority.

An example of failure is the case of Mr. Paul Burns whose pension dispute was adjudicated by Mr. King, an unqualified layman civil servant, now retired. On your appointment to replace Mr. King, Mr. Burns had hoped that under your aegis you would have reviewed and revised his case to give him his due.

I confess that I find it troubling that you have not taken it upon yourself to reverse Mr. King's adjudication whose patent misdirection of himself and avoidance of the law, though indefensible, was pursued on a whim under perceived immunity from redress at the hands of an elderly, long deprived firefighter pensioner layman, with no legal aid.

I trust you will now personally review Mr. Burns's and Mr N's cases. May I also suggest that for the public to accept that you are fair and transparently impartial, where a pensioner wishes to appeal on the law, your service pays the pensioner's costs. Less and you have a Windrush system denying justice without redress.

I attach the 'Adjudication' given by your office in the case of Mr N.
Mr Coutts, whose adjudication it is, is also an unqualified layman who, being unversed in the law of construction of documents and feeling no need to seek legal advice, found no more difficulty than Mr King in allowing his 'common sense' to decide on a whim and on an arbitrary basis, what pension should be paid.
One might as well ask a plumber to do brain surgery.

A further cause for concern is that in having Mr Coutts adjudicate you are acting in breach of Section 145 (4C) of the Pensions Act 1993(as amended) which enables your staff to perform any function of yours 'other than determination' of a matter referred to you.
I am sure that under your aegis the law would have been given proper consideration and these cases settled long ago.

In each case, if only in accordance with the Nolan Principles, Mr. King and latterly Mr. Coutts, were both under a duty to inform themselves, as unqualified laymen, of the way they were required to interpret the law. One would have thought from you and your deputy as the in-house lawyers, but if not, then, at least, as all laymen were required to do, to take guidance on how to give legal effect to the provision by reference to the 1992 SI 192 Home Office Commentary (placed in your office by Mr Burns); 394 pages drafted and promulgated precisely to guide such non-lawyers on interpretation of the legal provision to avoid misfeasance, or malfeasantly, if deliberately misconceiving the SI provisions to defraud the pensioner.

It is not in dispute that Mr. N (and Mr Burns) are both entitled to Rule B3 ill-health pensions under the 1992, SI 192 Firemen's pension provisions nor, that there was a 1992 Home Office 'Commentary' to explain the law basing their ill-health Rule B3 entitlement simply as what "they/you" [there is more than one reference] "could have earned until required to retire by reason of age'. This does not in any way seek to make law – just interpret what the words used in the Statute mean.

The SI specifically excludes a Rule B3 pension due to anyone retiring early of his or her own volition, whose entitlement is a Rule B1 pension (without liability for any future loss). But it is a specific within the SI that a Rule B3 pension is payable to compensate for future financial loss suffered by those forced to retire early due to ill health.

But Mr Coutts knows better. His ‘common sense’ tells him as he put it at his paragraph 14, all Rule B3 pensions are 'capped at the same level as the Rule B1 Ordinary pension'.

As Mr King and Mr Coutts would have it there is no compensation for loss of earnings, none is due. All that is ever due as an ill health pension is the basic Rule B1 Ordinary pension in all cases.

They take the view that all Rule B3 provision is entirely tethered to the least pension falling due to any retiree who - by choice - is taking early retirement; to use Mr Coutts’ word, all Rule B3 provision is ‘capped’ at that Rule B1 minimum.

It follows that whatever the wording of the 1992 SI 129 Rule B3 it can never mean other than an Ordinary Rule B1 provision; in which case Rule B3, in its entirety, is superfluous, redundant and without meaning, or effect.

It hardly needs saying that such a reductio ad absurdum is patently wrong. But what has – if not deliberately to defraud - so led Mr. King and Mr Coutts astray?

Lord Justice Evershed in Rookes v Barnard (1964) AC held ‘There are only two cases in which it is permissible to depart from the ordinary and natural sense of the words of an enactment. It must be shown either that the words taken in their natural sense lead to some absurdity or that there is some other clause in the body of the Act inconsistent with, or repugnant to, the enactment in question construed in the ordinary sense of the language in which it is expressed.’.

In Rule B3 the language is plain. For the purpose of a Para 2 – 4 calculation, the ‘A’ in the formula ‘is’ the actual Pay [APP], but calculation of the notional pension under Rule B3-5 (2) is ‘by reference to’ APP.

The error into which Mr King and Mr, Coutts fell, was to depart from the ordinary and natural sense, the meaning of words to allow them to take ‘by reference to’ to also mean ‘is’. If the legislation had intended ‘by reference to’, to mean ‘is’, it would have used the word ‘is’. Since it did not, ‘is’ has to be distinguished from ‘by reference to’.

To give the legislation its proper meaning requires no speculation on future earnings but simply to follow the Rules to arrive at a notional pension ‘by reference to’ the current APP. That does not mean to calculate on the retiree’s current APP, as for a current Rule B1, but on applying the meaning of ‘by reference to’ (Courts tend to rely on the SOED), the calculation of the notional pension come to be on an APP taken from the current pay scale, within which the retirees current APP is to be found, no less that are the APPs being paid at the time, from trainee to Chief Fire Officer.

The notional pension is then calculated, not on the retiree’s current pay, but on the current APP of the present rank and seniority that the retiree *‘could’* have achieved, had they served until required to retire on account of age and would have earnt but for curtailment of career due to injury.

One may illustrate the correct application and appreciate the subtlety of the provision by looking at pensions falling due to a fireman taking retirement:

- One of his own volition
- On grounds of ill health but at the top of his scale and who could not have expected promotion,
- On grounds of ill health but of one who could have expected promotion;

All on £30,000 APP after 25 years' service at time of curtailment of career.

The standard Rule B1 calculation is 30 x APP/60 + 2 x APP x a figure of up to 5 (years served above 25) /60. So a man leaving of his own volition goes with a pension of 30 x 30,000/60 + 2 x 30,000 x 0/60 = £15,000 + £1,000 = £16.000 pa.

The Rule B3 ill health apposite formula (paragraph 4) is 7 x APP/60 + APP x 20/60 + 2 x APP x years served above 20/60. So this ill health retiree has a pension due of £3,500 + £10,000 + £5,000 = £18,500 pa. (Denied by King and Co).

However, Rule B3. 5 specifies that where the formulaic B3 pension 'exceeds' the *notional pension*, it is the sum of *the notional pension* that is paid.

Rule B3. 5 (1) (a) specifies precisely that such a pension is not the Ordinary £16,500, Rule B1, supra, but a Rule B1 arrived at on the basis of what the fireman *'would have become entitled to'* had he *'continued to serve until he could be required to retire on account of age'.*

Calculation of a notional pension requires a consideration by the Chief Fire Officer, or his delegate, to decide, not on probability but more generously, on what 'could' that fireman's career have achieved, but for being cut short.

If the Chief Fire Officer, the retiree concurring, concluded that at he was at the top of his scale and he could not have been promoted but could have served at least another 5 years (as most can on 25 years' service and/or above a certain rank), the *notional pension* he could have earnt would have been calculated as a full term Rule B1 pension, making due £15,000 + £5,000, so the Rule B3 ill health pension would be £20,000 pa. (Denied by King and Co).

But if the Chief Fire Office had concluded that the retiree, but for curtailment, could have been promoted to a rank with a current salary of £40,000 pa then the *notional pension* would be £20,000 + £6.666.66 = £26,666.66 pa. [Denied by King and Co].

Rule 5 finally provides that 'the amount of the ill health pension [that is what is actually paid] is that of the 'notional pension' which accords with 1992 SI 192, Rule L4 (3) that specifies where two sums may appear to be payable "unequal in amount, the one to be paid is the largest of them.", [Denied by King and Co].

The purpose of Rule B3-5 is not as Mr. King and Mr. Coutts would have it, to be of no purpose, since all Rule B3's are Ordinary Rule B1s, but actually to limit pension on enforced early ill health retirement to the most an injured fireman could have earnt but for injury, but it also ensures that he/she gets no less: so no high flyer, cut down in mid-flight, is denied full compensation for loss of future earnings of a glittering career, lost to them on being required to retire early on ill health, injured in our service.

HMG and the Fire Service Unions arrived at the primary legislation giving rise to 1992 SI 192 to save HMG legal costs of cases that could eclipse damages, the quid pro quo, being acceptance in all, but rare cases, of liability for those retired on grounds of ill health (retirement at 50 meant most would remain fit if not injured on duty) and provision being made in place of common law damages sufficient for the Unions to recommend to their members; in place of continuing to seek damages in Court. The losers were the lawyers!

What was never in question was that any head of damages awardable under common law was being abandoned, yet that is precisely the effect of Mr King's and Mr Coutts's adjudications.

It is not for any Ombudsman, as Mr Coutts expresses himself, to conclude that the applicant has got enough compensation from the other monies paid to him. If a scheme becomes too generous then it is a matter for the legislature to change its terms.

Further, to so find on a whim, knowing of the impossibility for many by reason of age, infirmity or poverty, to challenge such an opinion in the High Court and to do so perhaps to save a local pension fund embarrassment, enquiry and the expense of meeting legislative provision, could well persuade a court to award aggravated damages.

Under another head, Mr. King's and Mr. Coutts's replacement of law by their personal opinion is clearly arbitrary and oppressive. Should this go to trial it may well attract punitive or exemplary damages, considered by Devlin LJ, in Rookes v Barnard.

It is also, in absence of legislation, unlawful for the Ombudsman to set an arbitrary interest rate since the rate is well established where public money is withheld to the damage of the individual.

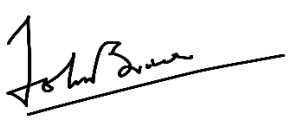
There is also the question of criminality.

Unless a reasoned legal and sufficient argument with authority can be adduced to validate a contention that 'is' and 'by reference to' are to be taken mean the same in legislation and that all Rule B3 pensions are capped in sum as Ordinary Rule B1 pensions, then Mr. King's and Mr. Coutts's adjudications are arbitrary and fraudulent.

I have laid this matter with you in full so that, in so far as I can help you to remedy it as a stitch in time, then that is done without fuss. If not then you adopt the illegality in which case I very much regret to have to point out to you in clear terms that you, your servants or agents, are acting dishonestly in public service and engaging in a conspiracy to defraud men and women injured in our service and are in most serious breach of public trust and you will have institutionalised the criminality.

I do so hope that you render further action on my part, or anyone's, unnecessary.

Yours faithfully,



John M. Copplestone-Bruce.

Inner Temple - June 2019.

Circulation by Mr. Paul P. Burns GIFireE as in Appendix 'B':

42 Fountains Avenue

Simonstone

BURNLEY

BB12 7PY

23rd July, 2021.

Private and Personal To:

The Rt Hon Lord Reed of Allermuir,
President of the Supreme Court of the United Kingdom.
Parliament Square,
London SW1P 3BD .

My Ref: FG131 Reed; G-v-LCFA.

Your Ref:

Francis Michael Galpin
~V~
Lancashire Fire & Rescue Authority

My Lord President,

I regret that this is the third occasion I have had to trouble you with this matter which now involves the curious behaviour of your Registrar Mrs di Mambro but in any event I have to say that curiosity has got the better of me which results in further correspondence. From the outset my dealings with the Court of Appeal have been deliberately tortuous, disappointing and surprisingly disquieting considering their alleged Judicial standing.

Firstly, I will take a step back to the dealings which I have had with the Court of Appeal, where following my last submission to it I received a letter dated 8th April 2021 from a Registry layperson clerk who presumably has no judicial authority.

In that letter I was informed that correspondence with this Court had now ceased even though it had been properly issued by the Court of Appeal on the 4th February 2020 and that my papers would be returned to me together with a refund of Court fees which I had paid and submitted with my original Application and bundle of 203 pages (then issued).

Finally after a further unexplained extraordinary delay the Court fees, amounting to £1199, appeared on my bank statement on 9th April 2021; cashed by the Court of Appeal.

As your Lordship well knows encashment of my cheque brings with it a common law duty of Contract which requires the Court of Appeal (and to avoid more confusion), to duly process my *first and only* Appeal issued at the Court of Appeal.

The consequence of my lack of trust and its failure in the person of the Master of the Rolls Vos to dispense justice then brought me to the Supreme Court and to your door.

In respect of the Supreme Court although I have received my uncashed cheque for £1000.0 returned, to date I have yet to receive back my Application and bundles from the Supreme Court Registry during which, to avoid anticipated interference, I sent a total of four copies to your Lordship by various routes.

In order to ensure that my trust in the judiciary was to be restored I sent a bundle twice comprising 203 pages to the Supreme Court marked 'Personal & Private' and a copy bundle to the Scottish Crown Office, for your Lordship's attention, out of which I am led to believe you also work from time to time.

The bundle comprised an introductory letter, the official Application form, a cheque for Court fees and an Appeal bundle based on Extraordinary Circumstances, all comprising legal and official documentation of 203 pages. Most of the work having been written by an eminent Inner Temple barrister who I am sure your Lordship will by now be aware of.

Curiously I subsequently received a short letter purporting to come from you but authored by your Registrar Mrs di Mambro in which she states, in a curious choice of language for a barrister that … " *I have been asked to reply to the letter you sent to Lord Reed"*….but she fails to elucidate who actually 'asked her', was it in fact your Lordship?

One would assume that she would use the phrase … "*I have been instructed by Lord Reed to"*…or something similar confirming that it was coming directly with your authority; when in fact the 'letter' that I had sent to you Lordship, four times in fact was an official legal submission comprising 203 pages.

Mrs di Mambro stated in one line that the Court, presumably your Lordship, could not help me and she returned my original uncashed cheque.

Clearly that statement was very disappointing and might I say 'extraordinary' because Mrs di Mambro was fully aware that every Application has to follow the Supreme Court administrative regime which she directs and furthermore which ironically she is the recognised official author of?

In response to the second set of papers Mrs.de Mambro stated… " *I have been asked to acknowledge receipt of your letter to Lord Reed"*…AND…but there was nothing else, no courtesy, no explanation, no nothing, so with respect, what am I supposed to make of all this?

I believe that as an attempt to dispense British justice the Extraordinary Appeal should have been given special consideration at least and then sound reasons given as to the future of the formerly and carefully worded 203 page bundle.

Proceeding from there after I received nothing from the Scottish Crown office where over more time two copy bundles were also sent. I find it odd that I did not have any acknowledgement from there either however cursory that might have been?

As your Lordship will know, by now, because it has been published at large, a considerable amount of professional work went into the preparation of the original bundle and I would like all these copies to be sent back to me together with the copy bundle from the Scottish Crown office and perhaps you would be kind enough to bring this about?

I trust that all these bundles remain intact and were indeed so when at least two, I was lead to believe twice by Mrs. di Mambro had been placed before your Lordship for your scrutiny?

Unfortunately in my recent jousting with the Court of Appeal this has left me rather sceptical. I found that seeking plain and simple straight forward “justice” to be a convoluted process in which obstacles, real and invented, can be and are, put in one’s way as a result of indiscretion or as a pernicious act by those who should know better.

The law on my case has been meticulously demonstrated in the Appeal papers referred to and repeated in the Extraordinary Application to the Supreme Court. What more is to be done in the UK jurisdiction?

The judiciary have proved themselves good at sending submissions back unread. Now is the time to subject the Appeal to the Supreme Court judicial procedure and scrutiny. There are no favours sought, only courteous respect for those seeking justice, British justice, as it is written.

Now in the event that Mrs.de Mambro took it upon herself, or at the inducement of a third non judicial person, to obstruct my Applicant by destroying all of these copies it is not unreasonable on my part and in the transparency your Lordship espouses, to demand an explanation personally from Mrs.di Mambo on whose authority she carried out these perverse actions and to give me an accounting of herself, actions which we must remember amounts to perverting the course of justice…

Unfortunately, to prevent this latest letter being interfered with, I have decided to have this letter hand served at your home address; such is the direct responsibility Mrs.di Mambro bears for this extraordinary state of affairs which brings the Supreme Court and your Lordship into grave disrepute.

Yours Sincerely,

Francis M Galpin M.I.Fire E.

Litigant-in-Person.