



Promoting improvements
in policing and fire & rescue
services to make everyone safer

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Dear Commissioner and Chief Fire Officer,

MARAUDING TERRORIST ATTACKS

This letter concerns the serious implications of London Fire Brigade and Greater Manchester Fire and Rescue Service offering a pay increase for firefighters to compensate them for performing fire and rescue duties in the case of a marauding terrorist attack (MTA). It tells you that I consider any such action to be unjustified and likely to be detrimental to public safety and/or the efficiency and effectiveness of fire and rescue services throughout England, including in London and Manchester.

2. It is of course extremely important that every fire and rescue service has the capacity and capability of dealing with an MTA. This letter is about not paying twice for that essential service, a service the public both needs and properly expects.
3. It is clear from the relevant legal and other instruments in relation to the definition of the role of a firefighter – the scope of the job – that training for, and attendance and the performance of fire and rescue functions at and in respect of an MTA are squarely within the established role of a firefighter. This is not new work. It is work in demanding and dangerous circumstances: dealing with fires and evacuating casualties, protecting endangered lives. To put it in the terms used by the Court of Appeal in *Bull v Nottinghamshire and City of Nottingham Fire and Rescue Authority* [2007] ICR 1631, rescuing injured people and putting out fires in dangerous conditions, where both casualties and firefighters face severe risks, is “what firefighters are ordinarily expected to do”.
4. The Scheme and Conditions of Service issued by the National Joint Council for Local Authority Fire and Rescue Services (commonly known as the Grey Book) specifically provides that responding to major incidents of terrorism is part of the role of the firefighter, and with the

appropriate training and equipment a firefighter can be required to respond to such an incident. Simply because major incidents of terrorism did not, at the time of the establishment of the Grey Book in 2003, usually involve firearms in the manner seen in Mumbai in 2008, Nairobi in 2013 and Paris in 2015, does not mean that responding to them is not within the firefighter's job description. The UK has lived with major incidents of terrorism for many years. Terrorists always use weapons; firearms and knives have been around for a very long time. It is unsustainable to argue that a terrorist attack using firearms or knives is *not* a major incident of terrorism. Of course it is.

5. It follows, therefore, that firefighters, with appropriate training and provided with appropriate protective equipment, can within their established job description be required to respond to a major incident of terrorism. They are already being paid to do that work, however unlikely or infrequent such an incident may be.

6. It is the job of the police to confront and neutralise active terrorists. In these cases, armed police will almost always face by far the greatest dangers, whether from firearms, explosives or other weapons. Firefighters are expected to evacuate casualties and deal with any fires which have been caused by the terrorism.

7. Police officers receive no extra pay for these highly dangerous duties simply because the people they face are armed terrorists rather than armed offenders of any other kind. NHS paramedics who attend terrorism incidents face at least the same danger as firefighters, and they receive no extra basic pay. And it should be remembered that police officers have received no increase in their pay this year; that condition stands in sharp contrast to the 1.5 per cent increase agreed nationally for firefighters and the further two per cent increase you now contemplate in London and Greater Manchester.

8. For any fire authority to pay again for a service it is already paying for – in this case, the services of professional firefighters – is not an efficient use of public money, especially at a time of acute pressure on public funds. If London and Manchester pay all firefighters more for MTA duties, it is likely that every other fire authority in England will face substantial pressure to do the same. Although terrorist attacks are more likely in London and some other large cities, they could happen anywhere. None of those other fire authorities is likely to have additional funding from local government to pay twice, as may be the case in London. It would follow that each would therefore have to try to increase local taxation, to follow London, or, more likely, reduce the extent and/or quality of fire and rescue services in their communities to balance the books. That would be detrimental to both their efficiency and their effectiveness. It may also have the effect of emboldening union negotiators who may press for higher pay for anything else they argue are extra duties. And if such a thing were to happen, I believe it may prompt Parliament to legislate to reduce their power; safety-critical emergency public services cannot be held to ransom by anyone.

9. I believe that if London and any other fire authority in England proceeds with this unjustified pay increase, with the detrimental effect on efficiency and effectiveness I have described, that may

lead the Secretary of State to consider the use of her available powers of intervention under section 22 of the Fire and Rescue Services Act 2004. As you know, those are powers of direction to a fire authority, ordering it to do or not do anything specified in her order, if she considers the order would promote public safety, the economy, efficiency and effectiveness of the service or of the functions of the fire authority. When communities face reduced fire services because the fire authority has spent money unnecessarily on something it is already paying for, that puts public safety at risk, and impairs efficiency, economy and effectiveness.

10. I therefore encourage you to reconsider what I understand you are minded to do, and secure the appropriate MTA capacity and capability, through training and deployment, without paying for it a second time.

11. If, despite these considerations, the fire authority proceeds to enter into an agreement with the union for this additional pay, I suggest it would be prudent for the contract to contain a provision which expressly allows for the fire authority to comply with a section 22 direction without breaking the contract. On the authority of the Court of Appeal in [2002] EWCA Civ 955, the statutory scheme of intervention cannot be frustrated by the simple expedient of contracting in a way which contradicts it. It would not be efficient for a fire authority to put itself in a position of having to choose between breaching a statutory order and breaching a contract. It should break neither.

12. For the reasons I have given, the action you are contemplating taking has adverse implications for the efficiency and effectiveness of fire and rescue services throughout England, contrary to the public interest. I encourage you not to take it.

13. I am publishing this letter.

Yours sincerely,

(Sgd.) Thomas P. Winsor

Sir Thomas Winsor ws
Her Majesty's Chief Inspector of Fire and Rescue Services