

09-05-1999 Bury UK – Paul Metcalf – FF Lake Rescue Rope Trapped –Update

## Sub Officer Paul Metcalf

### ➤ Ramsbottom Fire Station



- Greater Manchester Fire Service
- **Queens Commendation for Bravery (Posthumously)**
- **Line of Duty: September 5th 1999**



**UK** - In 1999 Paul Metcalfe, a Bury firefighter, died after trying to retrieve a drowning teenager from a pond. Untrained in water rescues and ill-equipped, he went into the water with a line but succumbed to hypothermia. The Health and Safety Executive (HSE) later decided to prosecute the Manchester fire authority.

*Paul Metcalfe died of hypothermia.....he was snagged during a roped wading attempt.....and ended up being in too cold water for too long*

## Firefighter died trying to save boy from lake - Dedicated fireman drowned doing the job he loved

<http://www.the-journal.co.uk/jnl-cfm/newsstory.cfm?StoryNo=119858>

9-06-99 by Harriet Tolputt

Part-time firefighter Paul Metcalf, who lost his life trying to rescue a boy from a lake, died doing the job he loved, his twin brother said yesterday.

Identical twin Michel said his brother put the fire service before everything else - "He didn't do it as a part-time job for the money. He was really dedicated."

Sub-officer Metcalf, 40, had been attempting to save student Reyaz Ali, 16, after he plunged into a lake from a rope swing to cool off. The boy's body was recovered later.

The double tragedy began on Sunday at 2pm when Reyaz's friends raised the alarm when he failed to surface after jumping into the remote lake at Simon's Lodge in Redisher Woods, Holcombe Brook, near Bury, Greater Manchester.

Mr Metcalf, acting on his own initiative, waded into the lake with two colleagues. All three firefighters had ropes around their waists and began to swim where there had been a reported sighting of bubbles in the cold water, which is 40ft deep in places. It is believed that Mr Metcalf's rope became snagged on branches in the water, pulling him under for 15 minutes.

His colleagues, along with a police officer, dragged him to the shore where he was treated by paramedics before being airlifted to Hope Hospital in Salford. He died 20 minutes later.

His brother told a news conference: "The fire service came first - if he was invited to a wedding or family event he wouldn't come because he was on call. "He always had his uniform on ready to go out - it didn't matter what he was doing. It was a bit of a standing joke that he went to bed in it. "We are all very proud of him - we are very upset. Like every fireman he was doing his job. He knew the risks involved."

He said his brother would have gladly left his other job as a joinery technician at a college and worked full-time. "He loved the excitement of it. Every call was different."

Mr Metcalf added: "Paul was a very secretive person. He kept himself to himself. He didn't tell people about his business. "He had girlfriends but no-one serious. He didn't have time. He worked at Accrington College in the day and was on call at night and he ran karate classes twice a week."

His mother Jacqueline, from Ramsbottom, near Bury, said: "I can't believe what has happened. It is a terrible shock. He lived for the fire service. He loved it. "He was a very good son and nothing was too much for him."

The body of Reyaz, a New Zealand student studying at nearby Darul-Uloom Islamic College, was recovered by police divers four hours later. A spokesman for the college said Reyaz was a hard-working boy who was due to take his GCSEs next year.

County Fire Officer George Almond said he could not speculate on how Mr Metcalf became trapped underwater until an investigation had been completed. He said: "Paul Metcalf was a well- respected, popular officer who always led his men from the front. "His personal efforts to rescue the youth, despite the dangers, are typical of Paul's commitment to his duty.

Firefighters face risks every day in serving the community. Tragically, on this occasion Paul paid the ultimate price."

## **Fireman Drowns In Vain Bid To Rescue Teenager**

September 6, 12:23 PM

A 24-year-old fireman has drowned attempting to rescue a teenager who had failed to come up after plunging into a lake on a rope swing. The 15-year-old boy, believed to be from the Udarul Uleem Islamic College, near Bury, Greater Manchester, was pulled from the water four hours later by an underwater search team.

The firefighter, from Ramsbottom Fire Station, Greater Manchester, was with three crews of colleagues attempting to find the missing teenager when the officer got into difficulties in the picturesque lake.

Eyewitnesses said the firefighter had a rope tied around his waist and was wading across Simon's Lodge in Redisher Woods, Holcombe Brook, Hawkshaw, near Bury, when he became snagged.

Colleagues made desperate efforts to pull him free, but the firefighter remained under water for about 15 minutes.

He was eventually winched out by the Greater Manchester Police helicopter and rushed to Hope Hospital, while an on-board paramedic attempted to revive him, but was later pronounced dead.

Colleagues at his station were said to be devastated, as were his family. It is believed he had no children.

Eyewitness fisherman Jason Jones, of Rossendale, Lancs said: "Yesterday, I heard the kids jumping off a rope swing, messing around, shouting 'he's drowning, he's drowning', so when we heard it today we thought they were messing around again and ignored it.

"Then this lad came running for help. We asked him where his friend was, but they didn't really have a clue. It's about 18ft deep and we had no way of telling where he was at all."

Mr Jones told how the 400ft long and 150ft wide lake, which used to feed nearby mills, was well known as a danger spot by local fisherman. With tree roots and even a fence under the water, it is easy to get snared.

## **Family fails to prosecute fire service**

[http://news.bbc.co.uk/2/hi/uk\\_news/england/2585941.stm](http://news.bbc.co.uk/2/hi/uk_news/england/2585941.stm)

Wednesday, 18 December, 2002, 08:28 GMT

The family of a firefighter who drowned on duty have failed in their attempt to bring manslaughter charges against the fire service.

Sub officer Paul Metcalfe died in 1999 as he tried to rescue a teenager from a lodge in Holcombe Brook in Bury, Greater Manchester.

His family wanted to challenge a decision by the Crown Prosecution Service not to bring a corporate manslaughter charge against Greater Manchester Fire Service.

But the High Court has refused leave for a review.

Mr Metcalfe's family now hopes the Health and Safety Executive will consider a prosecution.

Mr Metcalfe, who was based at Ramsbottom fire station, was part of a rescue operation to pull Reyaz Ali, 15, from Simon's Lodge at Redisher Woods.

The student, who had fallen into the water after playing on a rope swing, also drowned in the incident.

At an inquest in 2000, a jury returned an open verdict on Paul Metcalfe and one of misadventure on the teenager.

The CPS announced earlier this year that it was to take no action against the fire service over Mr Metcalfe's death.

That was the decision challenged by the family at the High Court.

The Queen's Commendation for Bravery was presented to Mr Metcalfe's brother Michel by the Lord Lieutenant of Greater Manchester three weeks ago.

## **Dying in the line of duty**

[http://news.bbc.co.uk/2/hi/uk\\_news/2381329.stm](http://news.bbc.co.uk/2/hi/uk_news/2381329.stm)

Thursday, 31 October, 2002, 14:02 GMT

The firefighting profession is a dangerous one, but the death of Bob Miller in a blaze in Leicester has shocked colleagues and bosses across the fire service.

Figures from the Fire Brigades Union (FBU) show that at least 29 firefighters in the UK lost their lives doing their job between 1990 and 1999.

Bob Miller's death was the first since 1999, when sub-officer Paul Metcalfe died trying to rescue a drowning teenager.

He had been attempting to save student Reyaz Ali, 16, after he plunged into a lake at Simon's Lodge in Holcombe Brook, near Bury, Greater Manchester.

Mr Metcalfe, acting on his own initiative, waded into the lake with two colleagues.

All three firefighters had ropes around their waists.

It is believed that Mr Metcalfe's rope became snagged on branches in the water, pulling him under for 15 minutes.

His colleagues, with a police officer, dragged him to the shore but he died in hospital. Reyaz also died in the incident.

In 1996 Fleur Lombard, 21, became the first female firefighter to die on duty in peace-time Britain.

She was struck by falling debris as she and a colleague entered Leo's supermarket in Staple Hill, near Bristol, which had been set alight in an arson attack.

She was later awarded posthumously the Queen's Gallantry Medal in recognition of her bravery.

Her colleague, leading firefighter Robert Seaman, who survived the blaze, received the George Medal for bravery.

Three days after Ms Lombard's death, part-time firefighters Kevin Lane, 32, and Stephen Griffin, 42, were killed in a house fire at Blaina, Gwent.

Since Paul Metcalfe's death, training methods and procedures have been continuously updated and modified to reduce the daily risk.

But the death of Mr Miller, 44, a dedicated firefighter with 25 years' service, has proved the risk is still far too real.

Dave Patton, national officer for health and safety at the FBU, said being killed is a fear firefighters confront on each emergency call.

"As everybody is running away from the fire and the danger, we run towards it," he said.

"That's the commitment we put into the job.

"When you go in to tackle a fire, you expect and hope to come out with your colleagues.

"When something tragic happens like this, it brings it home to you just how dangerous this job is."

## **Neglect claim over firefighter death**

<http://news.bbc.co.uk/2/hi/england/manchester/2967396.stm>

Friday, 6 June, 2003

The family of a firefighter who drowned while trying to rescue a teenager from a lake have made an official complaint against a senior fire officer.

Paul Metcalfe died in September 1999 as he tried to rescue a teenage boy from Simon's Lodge at Redisher Woods in Holcombe Brook, Bury.

Reyaz Ali, 15, had been playing on a rope swing when he fell into the water and drowned.

Mr Metcalfe, who was based at Ramsbottom fire station, was part of a rescue operation to try to reach him.

An inquest later recorded an open verdict into his death.

His family subsequently failed in an attempt to force the Crown Prosecution Service to bring a charge of corporate manslaughter against Greater Manchester Fire Service.

The brigade's chief fire officer, Barry Dixon, had led a review of water-borne rescues shortly before Mr Metcalfe's death.

His family are now claiming Mr Dixon was neglectful in failing to prevent the firefighter's death.

An independent inquiry led by the Chief Fire Officer for the West Midlands is currently taking place.

The Health and Safety Executive is also examining the circumstances surrounding Mr Metcalfe's death.

## **Drowned fireman: Official complaint**

<http://archive.lancashireeveningtelegraph.co.uk/2003/6/7/548512.html>

[2003](#) | [June](#) | [7](#) From the Bolton Evening News, first published Saturday 7th Jun 2003.

THE family of a Bury firefighter who drowned while trying to rescue a teenager from a lake have made an official complaint against a senior fire officer.

Paul Metcalfe died in September 1999 as he tried in vain to rescue Reyaz Ali, aged 15, from Simon's Lodge at Redisher Woods in Holcombe Brook, Bury. Mr Metcalfe, who was based at Ramsbottom fire station, was part of a rescue operation to try to reach him. An inquest later recorded an open verdict into his death.

His family subsequently failed in an attempt to force the Crown Prosecution Service to bring a charge of corporate manslaughter against Greater Manchester Fire Service. The brigade's chief fire officer, Barry Dixon, had led a review of water-borne rescues shortly before Mr Metcalfe's death.

His family are now claiming Mr Dixon was neglectful in failing to prevent the firefighter's death.

## **Fire service in clear over death**

[http://www.manchesteronline.co.uk/news/s/134/134544\\_fire\\_service\\_in\\_clear\\_over\\_death.html](http://www.manchesteronline.co.uk/news/s/134/134544_fire_service_in_clear_over_death.html)

**22nd October 2004 manchester news**

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GREATER Manchester Fire Service has been cleared of breaching health and safety regulations following the death of a hero fireman.

The Brigade was prosecuted after sub officer Paul Metcalf, 40, drowned as he tried in vain to rescue a teenager five years ago.

Bolton Crown Court was told he waded into Simons Lodge at Hawkshaw near Bury wearing just a rope around his waist.

The rope became snagged on an underwater branch and he became submerged. Reyaz Ali aged 15 who had been under the water for 30 minutes before the rescue attempt started also drowned.

The court heard that for five-and-a-half-years before the double tragedy internal brigade memos' had raised concerns about the need for water rescues to be made safer for firefighters.

But after deliberating for three-and-a-half-hours a jury found the Greater Manchester Fire and Civil Defence Authority not guilty.

The Authority had denied breaching its duty in relation to Mr Metcalf's death by failing to ensure the safety of employees for operations in water.

Since Mr Metcalf's death all fire engines in Greater Manchester have been equipped with two life jackets, floating lines and inflatable hoses. All 1,850 frontline firefighters have received specialist training in water rescue.

Judge William Morris told the jury after a four-week trial: "You have acquitted Greater Manchester Fire and Civil Defence Authority.

"They have been found not guilty of any breach. But for the families of Reyaz Ali and Paul Metcalf what occurred on September 5 1999 was a personal tragedy which no doubt still lives on for them. I would like to express my own sympathies to them."

In a statement after the case Greater Manchester Fire Service said: "Paul Metcalf was a brave and dedicated firefighter who like all firefighters did his absolute best to try and save a life.

"This case has serious implications for all emergency services and for public safety. The Health and Safety Executive expect specific and detailed procedures in place for every conceivable emergency.

"With the ever-increasing threats we face particularly from terrorism this is impossible and will only seek to discourage not just the fire and rescue service but all other emergency services from taking calculated risks to save lives."

Fire Brigade's Union brigade secretary Kevin Brown said: "We're disappointed at the verdict. The Fire Authority admitted a catalogue of systematic failings but laid the blame elsewhere.

"Why does someone have to die before health and safety is taken seriously. We are a can-do service, not a can-do-or-die service.

"The Fire Authority admitted an appalling approach to health and safety. Part of the defence was that for five years the authority was too busy to deal with health and safety issues surrounding water rescues.

"There was no systematic approach. Health and safety was not given the priority it needed and that contributed to Paul Metcalf's death.

"This approach was mirrored across the UK. Firefighters were being ordered into situations without a clue as to the real dangers. They had no training and no equipment to carry out water rescues.

"Firefighters across the country have a debt to pay to Paul Metcalf. But he should never have needed to give his life to ensure that others can go about their work safely."

Janet Wilson head of operations for the north west division of the HSE said she believed they were right to prosecute. "If it saves the life of one more fireman it was worth bringing. It was brought because we say the Greater Manchester Fire Service management systems had failed to protect firefighters.

"They didn't have a system for water training. Firefighters should not have been expected to attempt water rescues without the basic equipment."

Mr Metcalf twin brother Michel said: "We are disappointed with the verdict. But a lot of things have happened since Paul's death with training and information being provided about water rescues. It is a shame that my brother had to die first.

"The reason he died is because he went into the water when he should have been told that the boy had already been submerged for 30 minutes."

## Fire chief's fury over death quiz

[http://www.manchestersonline.co.uk/news/s/134/134583\\_fire\\_chiefs\\_fury\\_over\\_death\\_quiz.html](http://www.manchestersonline.co.uk/news/s/134/134583_fire_chiefs_fury_over_death_quiz.html)  
**23rd October 2004 manchester news**

A FIRE chief has hit out after his brigade was prosecuted over the death of a hero firefighter.

As reported in later editions of yesterday's M.E.N., the Greater Manchester Fire and Civil Defence Authority was cleared by a jury of breaching safety regulations in relation to the drowning of Sub Officer Paul Metcalf. The prosecution was called for by the Health and Safety Executive (HSE).

Mr Metcalf, 40, died as he tried to save a teenager who disappeared in a lake. The boy also drowned.

Mr Metcalf had waded into the water wearing just a rope around his waist, and had no specialist equipment. He was also unaware that Reyaz Ali, 15, had been under water for 30 minutes and was already dead.

Mr Metcalf got into difficulty when his line became snagged on an underwater branch.

Today (Saturday), County Fire Officer Barry Dixon launched a scathing attack on the HSE and said he would be seeking an urgent meeting with them to discuss the implications of the case.

He said that in his opinion the prosecution was a waste of public money and added: "I don't think the HSE understands the specific problems which are faced by the emergency services of Great Britain.

"They seem to see the fire service as no different from someone that runs the corner shop. Yet we have situations where we have to respond to an emergency at 3am and our young men and women have to make life or death decisions.



**HERO: Fireman Paul Metcalf**



"The HSE have to be realigned with the real world.

"Who is best placed to decide whether or not to attempt a rescue in the very few seconds we have? A rule book as the HSE want, or a highly-trained, skilled and experienced firefighter, used to making swift decisions in unpredictable, emergency situations. "When a mother, relative or other bystander is at the side of a river bank, screaming for the emergency services to do something, do we really expect crews to consult the rule book while precious seconds tick away?

"Our methods and training saved on average 1,000 lives a year without putting firefighters' lives at risk. A fire service driven by a rule book will cost lives."

Mr Dixon said that every chief fire officer in the country was watching the outcome of the case.

"The HSE expect specific and detailed procedures in place for every conceivable emergency. With the ever-increasing threats we face, particularly from terrorism, this is impossible.

"The government are seeking to make it a statutory duty for the fire service to cover chemical, biological and radiological incidents and to respond to search and rescue incidents, including flooding on a large scale.

"The government has also said that it will not cost any more money - I believe that to be fundamentally flawed."

### **'Flawed'**

Mr Metcalf, based at Ramsbottom station, died on September 5, 1999, as he tried to rescue Reyaz from Simons Lodge at Hawkshaw, near Bury.

Two years before his death a detailed report by a senior fire officer had recommended that new equipment including floating lines, life jackets and harnesses, should be supplied to firemen dealing with water rescues, but no action was taken.

The brigade finally introduced a water rescue policy in November 1999, two months after Mr Metcalf's death, when an improvement notice was served on them by the HSE.

Janet Wilson, head of operations for the HSE in the north west, said the prosecution was justified and added: "If it saves the life of one more fireman, it was worth bringing."

### **British police under orders not to save drowning victims**

<http://www.policeone.com/international/articles/1357043-British-police-under-orders-not-to-save-drowning-victims/>

**September 23, 2007** By Daniel Foggo and Jack Grimston

### **Furor grows over failure to save drowning 10-year-old -**

WIGAN, Lancashire — The emergency services are being told not to attempt to save drowning people because of health and safety restrictions, it has emerged.

Amid a growing row over the failure of two police support officers to try to save a boy from drowning, both the police and the fire service disclosed this weekend that their frontline staff are instructed not to enter the water in case they put themselves in danger.

Officers are no longer required to be trained in swimming or lifesaving. One police force closed its training pool five years ago for health and safety reasons after an accident and it has not reopened.

An inquest last week heard how two police community support officers (PCSOs) had stood by while a 10-year-old boy drowned in a pond in Wigan. Senior officers with the Greater Manchester force, which employed them, said they acted "correctly".

The boy, Jordon Lyon, died despite a fully qualified police officer subsequently plunging into the water in an attempt to rescue him. His force made it clear this weekend that the officer was acting on his own volition and contrary to advice.

The case has ignited a debate over whether PCSOs, who receive only a few weeks' training and do not have full police powers, should be scrapped.

Ann Widdecombe, Conservative MP for Maidstone and the Weald and former Home Office minister, said: "In the last decade we really have got so bogged down in the compensation culture and procedures and fear of being sued that we've lost sight of the bigger picture completely.

"It's barmy, we've lost sight of what the emergency services are for.

They are there to help people. I am quite emotionally angry about this.

"Damn being a PCSO, what about being a human being? For the senior officer to say this was appropriate is unbelievable."

Yesterday, David Blunkett, who introduced PCSOs as home secretary, said he would have hoped that they would have let basic human concern for others override instructions not to enter the water. "What was appropriate in these circumstances would be appropriate for PCSOs as human beings," he said.

However, Greater Manchester police indicated that the PCSOs, a man and a woman, might not even have known how to swim. PCSOs are not required to know how to swim when they join any force and Manchester police said it did not train them to do so.

"They are not trained to swim and they don't need to be able to swim to be a PCSO in Manchester," said a spokeswoman, who refused to confirm whether the two officers could swim.

The situation with fully trained police officers is similar. The spokeswoman said: "The officers are advised not to go into the water. They are not trained in water rescue."

Officers like Sergeant Craig Lippitt, who attempted to rescue Jordon by stripping off and diving in of his own volition, were acting against instructions, although they would not be disciplined for rescuing someone, the spokeswoman said.

Firefighters who attempt the same are not necessarily so fortunate. In March a 42-year-old firefighter, Tam Brown, saved a woman in the River Tay. He was later informed he could face disciplinary action.

Roddy Robertson, executive council member of the Scottish Fire Brigades Union, said most firefighters had absolutely no training in rescuing drowning people. "We don't think the responsibility lies with us, we aren't trained and we aren't funded. We think it lies with the police but we don't know if they are funded for it," he said.

If a force decides to train its officers in water rescue, there are three gradings of competence. Level one involves not entering the water but throwing a line to the victim from dry land; level two entails wading out attached to a harness; and level three deals with rescues in fast running water.

"Less than 10% of staff in Scotland are trained to level one or above," said Robertson. Training is thought to be equally patchy in England. Duncan Milligan, spokesman for the Fire Brigades Union, said: "It varies from fire authority to fire authority whether they have people trained to carry out water rescues."

Firefighters untrained in water rescue would almost certainly attempt to help despite the official advice because of their innate desire to save people, he said. "It is what rescuers call the moral dilemma, in other words when life is threatened to a member of the public, do they try and effect a rescue whether or not they have the training and equipment to carry it out, thereby risking their own lives?"

Lippitt evidently had no problem wrestling with the "moral dilemma". By the time he arrived at the pond where Jordon had got into trouble while trying to rescue his eight-year-old stepsister Bethany, the boy was submerged. The two PCSOs had arrived some time earlier but not attempted any kind of rescue.

Anthony Ganderton, Jordon's stepfather, who also dived in after arriving at the scene, said: "The proper police officer did a brilliant job when he arrived. He didn't hesitate, he was straight in. But the other two were there before him. Why didn't they do something? It might have made the difference for Jordon."

Jordon had been playing at the pond, a flooded mine shaft, with Bethany and his younger brothers. Two fishermen, John Collinson and Bert Wright, noticed that Bethany and Jordon were in the water, with the girl being held up by her brother, who was already submerged. Wright went in up to his chest and tried to reach Bethany with his rod. When it broke he managed to grab the girl and pull her to safety, despite going under the water himself at one point.

They alerted the emergency services, but the first arrivals were the two bike-riding PCSOS who "just stood there", according to Collinson, before Lippitt arrived.

The Manchester force said Jordon would have been beyond help by the time the PCSOs arrived, since he had been submerged for 10 or 15 minutes.

Assistant Chief Constable Dave Thompson said: "The two PCSOs involved did not stand by and watch Jordon die. They acted correctly and I fully support the actions they took.

"By the time they arrived, Jordan had disappeared under the water. He had been under the water for some time and there was no indication as to where he was in the lake."

According to the rulebook, Thompson is correct. Under guidance from the Association of Chief Police Officers (Acpo), constables, let alone PCSOs, are advised not even to enter the water if they cannot see the person who is in trouble.

"You may end up with another serious situation and another person drowning," said an Acpo spokesman.

Rescuing people drowning is undoubtedly dangerous. In 1999 Paul Metcalfe, a Bury firefighter, died after trying to retrieve a drowning teenager from a pond. Untrained in water rescues and ill-equipped, he went into the water with a line but succumbed to hypothermia. The Health and Safety Executive (HSE) later decided to prosecute the Manchester fire authority.

But while Manchester fire and rescue services are now better equipped at water rescuing than some other brigades, the general reaction across the country appears to have been to tell firefighters to take no chances, and that attitude has spread to the police.

In July this year, the Metropolitan police were fined £75,000 and ordered to pay £50,000 in costs after pleading guilty to breaching health and safety laws after two 14-year-old boys, Gameli Akuklu and William Kadama, died at a children's event in 2002 in the swimming pool at the force's training college in Hendon, north London.

Brian Paddick, who retired from the Met in May as a deputy assistant commissioner, said: "At that time all recruits were trained to swim and, when they could, they were trained in lifesaving.

"As a result of this incident, the then commissioner, John Stevens, ordered the pool to be filled in. Since then, officers have not been trained in swimming or lifesaving."

Paddick, now running as the Liberal Democrat candidate for London mayor, said the approach of the police nationally to health and safety had also been shaken by the death of Kulwant Sidhu, an officer who fell to his death while chasing a suspect across a roof.

The HSE brought a prosecution which, although it failed, cost £3m and saw Stevens and his predecessor, Lord Condon, brought before the Old Bailey.

"They were prosecuted because they had not instructed officers not to risk their lives operating at height," said Paddick. "That now extends to forces telling police community

support officers not to get involved in emergencies or in violent situations. They are told to withdraw and call the police.”

Paddick said that officers in the Met were supposed to call for back-up from the fire brigade or a lifeboat if they encountered someone drowning, but he said most had the “self-confidence” to ignore the rules if a life was in danger.”

He added: “Community support officers do not have that self-confidence, and standing on the shore watching is just one example of that.”

## **Dynamic risk avoidance: who’s to blame?**

[http://www.fire-magazine.com/index.php?option=com\\_content&view=article&id=575:dynamic-risk-avoidance-whos-to-blame&catid=27&Itemid=12](http://www.fire-magazine.com/index.php?option=com_content&view=article&id=575:dynamic-risk-avoidance-whos-to-blame&catid=27&Itemid=12)

Saturday, 26 January 2008 20:16

**At a time when the role of the Fire and Rescue Service is expanding to include a wider range of risks than ever before, FIRE correspondent David Wright analyses the implications and contradictions of what is expected from staff in rapidly shifting hazardous situations, which he argues, places individuals and organisations in an invidious position**

**THE DROWNING OF A TEN YEAR OLD** boy in Wigan has been the most recent case where the actions (or inactions) of emergency workers has led to criticism that defies logic following the enforcement of health and safety legislation at other times. That senior MPs are being quoted as suggesting that in times of emergency the “rule book should be thrown away” directly contradicts the outcome of recent cases where organisations have been prosecuted where their staff have taken actions outside their own organisational guidance. The incidents include the drowning of Sub Officer Paul Metcalfe at Simon’s Lodge in 1999, the Wigan drowning incident, the Jean Charles de Menezes shooting in 2005 and several other key events involving the response to extended major emergency. The most pertinent (and controversial) comparison for the Fire and Rescue Services is between the drowning of SubO Metcalfe and that of Jordon Lyon at Wigan in May 2007. SubO Metcalfe attempted a rescue of a 15 year old boy and got into difficulties and tragically both lost their lives. The outcome of this tragedy was that the fire authority was under investigation by the Health and Safety Executive for a number of years with both regulators and representative bodies seeking a conviction for corporate manslaughter. At that time a successful prosecution could have led to personal sanctions against senior managers of Greater Manchester County Fire and Rescue Service and against the service itself. GMCFRS was faced with charges of breaching Section 2 of the Health And Safety At Work Act 1974 in what was claimed to be the first ever prosecution of a fire and rescue service under health and safety legislation.

### **Selfless and Courageous**

Sub Officer Metcalfe was rightly praised by the prosecutor for the “selflessness and courage [one] would expect of a firefighter and lost his life as a result of trying to save another.” It was argued again by the prosecution that it was reasonable to assume that the first arriving crews would attempt such a rescue and that given this degree of foreseeability, provision should have been made to enable them to carry out this task safely. The accusation against

the fire authority was that despite expectations of such actions being “obvious”, that no adequate steps had been taken to train or advise staff what to do in the circumstances. The case was eventually dismissed but the very fact the case had been taken meant that this case however, did have major ramifications on the way the Fire and Rescue Service deal with water rescue incidents. Perhaps most fortuitously, the provision of large quantities of self-inflating lifejackets, throw lines and other water rescue equipment including boats directly stemming from the work following the drowning (and before the case was heard) has had a disproportionately positive impact on the community and service during recent months. How many of the 3,000 water rescues carried out during the widespread flooding in the last year would have ended tragically if firefighters had not been provided with appropriate safety equipment?

### **Flooding Risk**

The scale of the summer flooding does throw into question the appropriateness of the scale of issue of equipment. Equipment provided for rescue of the individual or small group may easily be provided by a FRS. Large scale flooding such as that experienced last summer gives the Service a different challenge – how to achieve staff safety in the face of a force majeure? Given the HSE response to activities carried out during recent national scale emergencies, it is unlikely that in the event of a death during such an emergency they would be treated any differently than a solitary death of a worker.

During such a national emergency standards of health and safety protection may deteriorate due to the scale of the event. Staff may work beyond the hours stipulated in the Working Time Regulations and other requirements, all in a noble cause. Evidence from various sources shows that there were relaxations on these and other regulations during the 2007 floods.

It is pertinent to ask, however, how many rescues would have been accomplished if the expectations of the Health and Safety Executive had been strictly adhered to? How much additional harm would have occurred to members of the public if firefighters had not taken attempted rescues without the attendance of boats and appropriately equipped teams. The reality is that many more members of the public would have been put at additional risk if firefighters and others had not exposed themselves to prosecution in this way. The Simon’s lodge incident, conversely, may have inadvertently contributed to the drowning of Jordan Lyons in Wigan in 2007. Police services, like other emergency services are now more acutely conscious of the risks they face for breaches of health and safety legislation. Understandably, from a corporate perspective, they can do no more than the law requires which is to undertake a reasonable approach to the foreseeable risks that their staff will be exposed to. They will be expected to take appropriate measures to reduce that risk to an acceptable level. Assuming that the incident that faced the Police Community Safety Officers (PCSOs) in Wigan as being reasonably foreseeable, there were a number of approaches that the police authority could take. The provision of instruction information and training is a statutory requirement of the HASAWA 1974 and the number of risk reduction measures run the range from accepting the risk the organisation faces, through provision of equipment and training to that of avoiding the risk altogether. By whatever process the police service in Manchester decided, staff were instructed “not to enter the water in case they put themselves in danger”. In this approach they are not unique – many police services do not provide water rescue training for staff whether PCSOs or constables.

## **Contradictory Approach**

David Blunkett, who as Home Secretary introduced PCSOs to the UK, said that he would have hoped that the individuals concerned would have let basic human concern for others override instructions not to enter the water. The irony of law makers who seek to enforce health and safety legislation encouraging police officers, firefighters and others to ignore those very laws when it suits the circumstances has not been lost on many in the emergency services.

The police sergeant who attended to support the PCSOs did enter the water and attempted to rescue the child did so of his own volition. The Greater Manchester Police spokesman did emphasise that he acted so "against instructions, although they would not be disciplined for rescuing someone" said a GMPS spokesperson. Just what the impact of the sergeant drowning would have had on the police service, much less his family is impossible to say but undoubtedly prosecution of the service would have followed.

This could have resulted in an undignified court hearing with the service having to accuse the officer of disobedience in order to defend themselves. Undoubtedly there would be a wide range of critics accusing the service (any service) of bad taste and lack of good sense if they attempted to place the blame for an officer's death upon that officer him or herself. The predicament facing anyone who attends an emergency without all the right information, equipment or resources ready to hand is unenviable. Most people in their private capacity will do their utmost to help others in distress. The three people who died in 2007 in Portugal trying to save children on a drifting raft are only some of the more recent examples of a failed heroic attempt.

## **Absurd Reaction**

Even in the work environment as demonstrated by Paul Metcalfe and the GMP sergeant shows that some have a disregard for their own safety when helping others, but other examples paint a different picture. According to The Sunday Times, a firefighter who saved the life of a woman in a river, was told he could face disciplinary action for disobeying service instructions. While appearing to be an absurd reaction to a positive outcome, one has only to imagine the prosecution of the service for the death of a firefighter in similar circumstances where it could be shown that the service tacitly encouraged this sort of behaviour by not enforcing safety rules. The prosecution of the Metropolitan Police Service for failing to protect the life of a member of the public, Charles de Menezes, throws up another little dilemma, even for one which could have transferability for the Fire and Rescue Service. The police service exists to protect the public from hazards and to take appropriate measures to prevent danger to the public.

In July 2005, officers shot and killed a suspected bomber following the actual and attempted bombings earlier that month which killed over 50 people. As we know with the benefit of hindsight, the casualty was an illegal resident, shot in good faith but in error. The precedent for prosecuting an emergency service for failing to protect the public and resulting in a death could have huge ramifications upon the service. At the most obvious level, will an organisation be responsible for failing to protect the life of a member of the public if one of its emergency vehicles kills another road user when driving to an emergency? More importantly, the home fire safety check initiative – probably the most

successful fire prevention move since the 1989 ban on polyurethane foam – was delivered by local fire and rescue services. In the event of a fire fatality, caused by accidental means, is it possible that in some circumstances, the Service had failed “to protect” a member of the public having adopted a “duty of care” by undertaking an intervention such as fitting a smoke alarm?

### **Prosecution Open Season**

Would the Health and Safety Executive want to treat every fire death as a possible prosecution? Some officers believe that the De Menezes prosecution means this is a distinct possibility and could mean the end of fire investigation officers working upon their own patch for fear of conflicts of interest. Is this a step too far? If so was the prosecution of the police for failing to protect the public on July 6, 2005?

The impact of health and safety prosecutions of the Fire and Rescue Service can be enormous. Most firefighters join the Service to help the communities and as part of their contract with the public, they expect to take risks proportionality to the circumstances. In an attempt to define what risks it will take, there exists the possibility that the public’s lives are being placed at danger because of the uncertainty that such prosecutions create. Following the human instinct to save lives does create a personal risk that most people are likely to accept, but risks the possibility of a disciplinary actions (prosecution by the HSE for the employer). As has been shown at Wigan, failure to follow this instinct, relying instead on health and safety focussed standing orders invites public opprobrium and ridicule for both individuals and organisation.

The increasing risks to the community of flooding and widening role of the Fire and Rescue Service means that this sort of dilemma will increase to tax the minds of both managers and individuals alike. Unfortunately, following human instinct, will, unless the health and safety enforcers give clear signs about what is acceptable, means that no-one – victims, rescuers or their organisations – can be certain of what consequences will be in the event of a tragedy or even a successful rescue.



# *In the line of duty: Firefighter deaths in the UK since 1978*

02 November 2008 [Fatalities, Health and Safety](#)

## **Greater Manchester September 1999**

Another death that prompted changes in working practices involved a Greater Manchester firefighter. On 5 September 1999 a firefighter drowned whilst attempting to rescue a 15-year-old boy at Simon's Lodge, a small lake near Bury, north of Manchester.

The coroner's jury recorded an open verdict at the inquest in 2000. The Health and Safety Executive prosecuted the Greater Manchester (GMC) Fire and Rescue Service in 2004 for breaching the Health and Safety at Work Act 1974, but the authority was acquitted.

The FBU argued, based on HSE evidence, that GMC had failed over a lengthy period to address the risks associated with water rescues before the fatality.

- Firefighters had received no training on water rescues.
- The risk assessment carried out in 1998 ranked water rescue as a 'moderate' risk.
- No operating procedure had been developed for water rescues.
- The first rescuers on the scene had no proper equipment.

GMC had been warned by a firefighter as early as 1994 that water rescues were being carried out without adequate equipment. Two years before the firefighter's death, a divisional officer had pointed out that the only existing piece of equipment that could be used was a rope tied around personnel, which he said 'must raise the issue as to whether a safe system of work exists'. (*Firefighter* magazine, November/December 2004)

Alan Anderson, FBU health and safety rep, said that before the death 'we had no risk assessment, no training and no equipment and it was the same in a lot of other brigades'. He added: 'Within six months of the death we had a water policy, a risk assessment, training, buoyancy aids, floating ropes, throw ropes and inflatable hoses.'

The FBU argued that although the legacy of the death was that every other firefighter was safer, it should not have taken a death to put these measures into place.

GMC said during the trial that it had been 'too busy' for five years to deal with the health and safety issues surrounding water rescues. They also appeared to argue that the fire service was so different from other occupations that health and safety law should not apply or should not be applied as rigorously.

Kevin Brown, FBU Greater Manchester brigade secretary, said: 'There was a catalogue of systematic failures over many years. The verdict is that these failings did not add up to a breach of criminal law but it does not free them from the responsibilities which they bear.'