

OPUS2

The Cranston Inquiry

Day 5

March 10, 2025

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(9.58 am)

SIR ROSS CRANSTON: Well, good morning, everyone, good morning, Commander Toy. In a couple of minutes, Mr Rory Phillips, counsel to the Inquiry, will ask you some questions.

Just before that, can I say that we are going to break every hour, I think, just for 10 minutes. So 11 o'clock we will have 10 minutes and then at noon. But could you please read the affirmation.

MR KEVIN TOY (affirmed)

A. Yes.

SIR ROSS CRANSTON: Yes. Thank you very much. Mr Phillips.

Questions by MR PHILLIPS

MR PHILLIPS: Commander Toy, you have made a witness statement for the inquiry which I think you signed on 12 November last year; is that right?

A. Yes, that's correct, sir.

Q. Can we start with a few questions about your role and background. We know that in November 21, you were employed by the Home Office as a Commander within Border Force.

A. Yes, that's correct.

Q. How long had you been in the role of Commander before then?

1

A. I was first appointed Commander in 2013, I believe.

Q. I think it may have been earlier than that?

A. Sorry.

Q. Shall we just look at your statement? It's not a memory test.

A. Thank you.

Q. So 010 -- it will come up on the screen -- 136 and it is paragraph 5 right at the end {INQ/10136/2}.

"I was first appointed as Commander of a BF vessel on 27 August 2008 ..."

So you had more experience than you have remembered.

A. Yes, I apologise, I got the date wrong. Sorry.

Q. Just in terms of your professional background, you spent some time, I think, in the merchant navy and then worked for the Customs from 1984, is that right?

A. Yes, that's correct.

Q. And so you have spent nearly 40 years, before your retirement in February 23, in law enforcement?

A. Yes, that's correct.

Q. And that included, I think, some time not in the UK and UK waters, but in the Mediterranean, is that right?

A. Yes, that's correct, sir.

Q. What were you doing there?

A. In the Mediterranean we were working under the guidance of Frontex, doing migrant rescues in the Mediterranean.

2

Q. So that was search and rescue experience?

A. Search and rescue, yes.

Q. And can you remember when that was?

A. If I could refer to the statement, that might --

Q. It's not in your statement.

A. Oh.

Q. I think it may be in your -- the interview you gave to the MAIB. Do you remember giving an interview to the MAIB in, I think, April 22?

A. Yes, I do.

Q. If we can turn that up, please, it is 008 -- sorry, 330 {INQ/8330/1} and you will see on page 3 {INQ/8330/3} it is a series of questions and answers, on page 3. Do you see the large box beginning:

"Pretty awful really ..."

It deals with your experience in the Med and do you see above that:

"I'd been out in the Med doing migrant operations in the Mediterranean ..."

Can you remember when that was? It doesn't matter.

A. I believe it was for about two years between about 2013 and 15, possibly.

Q. Yes. But in terms of its relevance to what we are thinking about today, did that also involve rescuing people on board small boats, this time in the

3

Mediterranean?

A. Yes, that's correct, sir.

Q. Thank you. Now, just a few questions, if I may, about what the role of Commander of a vessel within Border Force entailed. You tell us in your statement and again, please, perhaps we could have this up, so that Commander Toy can see it. It's {INQ/10136/2} and paragraph 6. You tell us there that the role of a commander was being:

"... to command a cutter responsible for border protection against the smuggling of goods or illegal immigration."

And you say later in your statement at the next paragraph that you had a team of law enforcement officers under your command; do you see the top of paragraph 7 {INQ/10136/3} there?

A. Yes, that's correct.

Q. So your job was concerned, primarily, with border protection to combat smuggling, smuggling of goods and indeed, of course, illegal immigration, is that correct?

A. Yes, that's correct.

Q. And you describe -- if we go back to 6, please, the previous page {INQ/10136/2}, how part of your role involved, for example, taking a law enforcement team to a vessel, so that they could board it and search it.

4

1 A. Yes, that's correct.

2 Q. And sometimes you were involved in surveillance.

3 A. Yes.

4 Q. And at other times, you insisted other law enforcement

5 officials — you list them there: Police, Department for

6 Transport, etc., with law enforcement operations at sea;

7 is that right?

8 A. Yes, that's correct.

9 Q. So that the main purpose of your role, when you were

10 appointed to it and thereafter, was law enforcement?

11 A. Yes, sir.

12 Q. And as you say at the bottom of this paragraph, it's

13 still on the screen, search and rescue operations were

14 not historically part of the Border Force remit.

15 A. That's correct.

16 Q. But, of course, like any mariner, you would respond to

17 vessels needing assistance as necessary.

18 A. That's correct.

19 Q. And that was, of course, founded in the — what you

20 refer to there, the basic obligation of any vessel at

21 sea under maritime law.

22 A. Yes, sir, that's correct.

23 Q. So going back then to the time when you took up your

24 first command, which you tell us was of HMC Sentinel,

25 that's in 2008, at that stage I assume you were simply

5

1 concerned with law enforcement?

2 A. Yes, our main focus was law enforcement.

3 Q. Yes. And that began to change, as you explain in your

4 statement, it's the last sentence of the paragraph we

5 have on the screen, when the number of small boats

6 coming across the Channel dramatically increased and we

7 got into Operation DEVERAN.

8 A. Yes, sir.

9 Q. And as you say from that point on, search and rescue

10 became central to the job you did every day?

11 A. Only when deployed to Operation DEVERAN.

12 Q. Yes. Well, we have heard a good deal about

13 Operation DEVERAN, but would you like to explain to us,

14 please, your own understanding of what it did and how it

15 brought about this change in your role?

16 A. So my understanding was we could be tasked to the area

17 for Dover Straights, as part of Operation DEVERAN, you

18 knew that you were more than likely required to carry

19 out search and rescue as a priority.

20 Q. And what we have seen in the various charts that the

21 Inquiry has obtained of the increase in numbers over the

22 years, is that by the time we got to 2021, and actually

23 specifically November 21, this was a very, very regular

24 occurrence, every shift; is that fair?

25 A. Yes, when the weather permitted the crossings.

6

1 Q. Yes. Now going back to your role as Commander, did you

2 always work on a cutter in that role?

3 A. I spent a period of time in the MCC, for about

4 two years, I believe.

5 Q. But did you ever, for example, command any of the other

6 seaborne assets, like the CPVs?

7 A. No.

8 Q. No, and were you always assigned to a specific cutter or

9 could you be moved between the different vessels?

10 A. No, we — we were generally given a cutter for a period

11 of time, 12 months, but we could be moved to other

12 vessels.

13 Q. Yes, and during that period of Operation DEVERAN, and

14 let's say from 2018, were you always working in the

15 Channel?

16 A. No.

17 Q. Where else did you work?

18 A. In the Southwest approaches.

19 Q. Right, anywhere else round the UK?

20 A. Yes, possibly the North Sea.

21 Q. Okay, but was most of your work for Operation DEVERAN

22 done in the Channel?

23 A. I would say all of the work for Operation DEVERAN was in

24 the Channel.

25 Q. And that was a proportion of your work?

7

1 A. Yes.

2 Q. Can you put a number, or figure on it? Was it most of

3 it?

4 A. I think that's a difficult one, to — to answer because

5 I didn't record, what — what I was doing on a regular

6 basis.

7 You knew when you were in Operation DEVERAN because

8 you were — you were tasked to that. Otherwise if you

9 were not in the English Channel area — well, sorry, the

10 Dover Straights area, then you would be — you would

11 know you wouldn't be involved in that. However, you

12 could be called in at short notice.

13 Q. Yes. So can we agree this: if it was Operation DEVERAN,

14 you would be in the Channel?

15 A. Dover Straights, yes.

16 Q. Yes, Dover Straights.

17 A. Yes.

18 Q. Thank you. So now please a few questions about training

19 and qualifications. You have been in the job, as you

20 have explained, for nearly 40 years. So I imagine you

21 have had a whole load of training over the years. But

22 can we just focus in on the period leading up

23 to November 21.

24 Specifically, first of all, what qualifications were

25 required for your role, the role of Commander,

8

1 in November 2021?
 2 A. I was required to have a master's certificate for
 3 Government vessels.
 4 Q. Was there anything else that was required to undertake
 5 that role?
 6 A. You would have your certificate, STCW, that's basic
 7 training in firefighting, sea survival, medical care and
 8 helm, of course, which is a leadership course.
 9 Q. Well, that's something you mention at paragraph 41 of
 10 your statement, so could we have that up please. The
 11 statement, {INQ/10136/15}, thank you. The top of the
 12 page. There you refer to the STCW and you also talk --
 13 do you see, at the beginning of the paragraph, about MCA
 14 certification?
 15 A. Yes, I do.
 16 Q. What was that?
 17 A. That would be my certification, my qualification, as
 18 a master for Government vessels.
 19 Q. I understand. And was that something you obtained and
 20 then that was it, or did you have to refresh it, how did
 21 it work?
 22 A. You -- I obtained that in 2000, sorry, 1997.
 23 Q. Yes.
 24 A. And that would be refreshed every five years.
 25 Q. Right. Thank you. And you have already told me that

1 you had law enforcement responsibilities, security, etc.
 2 Did you have specific training for that?
 3 A. For law enforcement?
 4 Q. Yes.
 5 A. There was specific training. However, I predated that
 6 specific training in the role that I did from 1984. So
 7 I was -- it was accepted that I had that qualification
 8 before the formal training came in.
 9 Q. Right. So during that -- the rest of your time then,
 10 the nearly 40 years, you didn't have any further
 11 specific law enforcement training?
 12 A. I don't remember any --
 13 Q. Okay.
 14 A. -- that I can talk about.
 15 Q. Now, we have talked about your qualification as
 16 Commander, and we pinned it down to 2008, if you
 17 remember. And you tell us, in your statement, if we
 18 could turn back, please, to {INQ/10136/2} paragraph 5,
 19 page 2, do you see at the end of the paragraph there,
 20 two lines up, you say you completed the command course
 21 in 1997. We talked about the MCA course, the other
 22 acronym which I have now forgotten and here we are on
 23 the command course. Was that something that needed to
 24 be refreshed?
 25 A. So I apologise that is the MCA qualification.

1 Q. It's the same thing?
 2 A. It's the same thing, yes.
 3 Q. And you said you had to refresh it every five years.
 4 A. That's correct.
 5 Q. Great, thank you very much. Now going back, sorry, now
 6 we have cleared that up, to paragraph 41 {INQ/10136/15},
 7 and the MCA course you describe there, you explain
 8 something of what it included. You say:
 9 "[It] includes our SAR obligations under maritime
 10 law."
 11 Just to be clear on that, the course then deals with
 12 the law on what is sometimes called SOLAS, yes, rather
 13 than the practical methods of search and rescue; is that
 14 fair?
 15 A. Yes, I think that's fair to say. In part of the
 16 business and law course, they would -- they would
 17 include your responsibilities as a master of any vessel
 18 in search and rescue obligations.
 19 Q. Yes. And then the STCW, that's the acronym, course,
 20 that you talk about there, does that include any
 21 training on search and rescue?
 22 A. No other than first aid.
 23 Q. Right. Yes. Yes, you say there about medical incidents
 24 and personal survival, fire prevention, firefighting,
 25 okay -- and medical care. Thank you.

1 Now, in paragraph 43, just reading on, please, on
 2 the screen at the bottom of this page, do you see there,
 3 you talk about the STANDING operating procedures
 4 covering Operation DEVERAN.
 5 Can you remember whether they specifically covered
 6 search and rescue?
 7 A. I believe they did. I believe they -- they covered how
 8 we would go about responding to a potential event in the
 9 Channel.
 10 Q. Right, we will come back to them so we can take a look
 11 then. And were you specifically trained in the
 12 operation and practice on those SOPs for
 13 Operation DEVERAN?
 14 A. I would say there was no formal training. Possibly
 15 in-house training with -- with the crew.
 16 Q. Yes. Well, you, you talk about that in your statement
 17 and again we will come back to that, Commander Toy,
 18 because you refer, for example, to training on the job.
 19 A. (Nods).
 20 Q. And it looks to me, reading your statement, as though
 21 that was a really important aspect of the
 22 Operation DEVERAN work?
 23 A. Yes, I would -- I would agree with that.
 24 Q. Because the conditions were so particular and again, we
 25 will come back to that.

1 A. Yes, they were very dynamic and it took a good team to
 2 deliver the outcomes.
 3 Q. Yes. Now, just going back to the discussion we had
 4 about the way your career developed and the change that
 5 came about with Operation DEVERAN, can I just ask you
 6 whether you remember this: before you started work on
 7 Operation DEVERAN, so let's say 2018, 2019, before then,
 8 do you remember whether you had had any specialised
 9 search and rescue training?
 10 A. No specialised training.
 11 Q. No. And in terms of your search and rescue work in
 12 Operation DEVERAN itself, did you have training in
 13 conducting searches at sea?
 14 A. Sorry, if you could clarify that, searches in relation
 15 to SAR?
 16 Q. Yes.
 17 A. No. No specific training on that. The health and
 18 safety team might come down and carry out a man
 19 overboard exercise. We might have a --- a safety drill
 20 on board where we would discuss --- tabletop discuss
 21 search --- searches at sea.
 22 Q. And is that the sort of thing you are talking about
 23 there in paragraph 42, if you look on the screen?
 24 A. Yes, that's correct.
 25 Q. Yes, exactly.

13

1 A. Yes.
 2 Q. Did you have any training in the context of
 3 Operation DEVERAN for --- on the issue of recovering
 4 people from the water?
 5 A. No.
 6 Q. No. Now, in paragraph 40 of your statement, if we turn
 7 back a page, please, on the screen, thank you,
 8 {INQ/10136/14} you talk about the particular
 9 challenges --- and you and I have just touched on this ---
 10 in the context of small boats.
 11 But can I --- as I said, we will come back and look
 12 at this in more detail. But to be clear, did you have
 13 any specific training in SAR in the context of small
 14 boats in the Channel?
 15 A. No.
 16 Q. Thank you. Now in terms of training generally, you tell
 17 us in paragraph 60, page 22 of the statement again if we
 18 could have that on the screen, please, {INQ/10136/22}
 19 that you and your crew were fully compliant with all the
 20 training requirements on the day of the incident,
 21 24 November, is that right?
 22 A. Yes, that's correct. Training requirements would be
 23 training to be crew on board HMC Valiant.
 24 Q. Yes.
 25 A. Yes.

14

1 Q. So not these other things we have been talking about?
 2 A. No, just to be on board the boat.
 3 Q. Exactly, thank you. Could I now ask you, and this is
 4 the final set of questions about training, etc, about
 5 exercises or practical training exercises that you may
 6 have undertaken as part of your role.
 7 And if we can go back, please, to 42, that was the
 8 paragraph of the statement we looked at before,
 9 {INQ/10136/15}, do you see the --- where you refer to the
 10 safety team coming down, etc, and there you say, at the
 11 top of the paragraph, you would complete a drills
 12 matrix, including emergency drills, two or three times
 13 a year.
 14 Was that something that you organised as Commander
 15 or was that a Border Force programme?
 16 A. So it would be a programme in the safety and
 17 environmental management system. It would be a set
 18 matrix, where you would carry out a fire drill, and
 19 a man over --- sorry, an abandoned ship drill every
 20 patrol, every 15 days and then you would have one or two
 21 add-on drills; for example, helicopter operations or
 22 a medical first aid incident that would be added on
 23 within that patrol.
 24 Q. Would they take place when the vessel was stationary, in
 25 other words in port in Dover?

15

1 A. No, they could be at sea or they could be in port.
 2 Q. Right.
 3 A. Or at anchor.
 4 Q. Presumably, you needed a relatively quiet moment for
 5 that?
 6 A. That's correct.
 7 Q. Which was not, I think, your general experience of
 8 Operation DEVERAN, not many quiet moments?
 9 A. No, that's right. We would choose our time, if --- if
 10 the weather was poor, then we could --- we could carry
 11 out our drills matrix ---
 12 Q. Yes.
 13 A. --- amongst other things.
 14 Q. Then at the end of the sentence and again, we have
 15 looked at this, you talk about performing scenarios
 16 under controlled circumstances with the safety teams.
 17 Can you help us a bit with the detail of that? What are
 18 you referring to there?
 19 A. So every --- every year, you would tend to get the --- the
 20 health and safety team would come down in a quiet moment
 21 usually out of Operation DEVERAN, and it would be
 22 four --- maybe three, four days of focused activity
 23 around safety training, where the health and safety team
 24 would run scenarios and assess the crew on their
 25 performance and provide feedback as necessary.

16

1 Q. Yes. And in terms of other agencies, before the
 2 incident, November 21, did you do any training or
 3 exercises with, for example, coastguard or the RNLI?
 4 A. We would do some training with the coastguard,
 5 specifically the helicopter on an opportune basis. If
 6 there was a quiet moment, maybe out of
 7 Operation DEVERAN, and the coastguard helicopter was
 8 looking to do winching operations with us, of course we
 9 would facilitate that.
 10 Q. But not with the RNLI?
 11 A. I don't recall any training with the RNLI.
 12 Q. No. Now, the Inquiry has received some written evidence
 13 about some training exercises, or table-top exercises,
 14 which took place in 2021 concerning small boats and mass
 15 casualty incidents. Did you take part in them?
 16 A. I can only remember taking part in one train --
 17 a meeting, shall we say, where we were discussing the
 18 turn round tactics that were being proposed --
 19 Q. Yes.
 20 A. -- and the suitability of the small boats and whether
 21 they were suitable for turning back or not and whether
 22 they were considered to be in distress or not.
 23 Q. Yes. But nothing else? Nothing concerned with mass
 24 casualty incidents?
 25 A. No.

1 Q. No. Right, the next topic is the crew of the Valiant on
 2 the day in question, or the night in question.
 3 But, first, looking at it a bit more generally, can
 4 you describe for us the normal, if I can use that word,
 5 the normal crew of the Valiant in November 21? How many
 6 people did you have on board, for example?
 7 A. Sorry, do you want me to explain the normal crew --
 8 Q. Please.
 9 A. -- or in November 21?
 10 Q. Start with normal and then we can go to November 21.
 11 A. Certainly. So the minimum crew we could put to sea
 12 would be eight persons, but you wouldn't be able to --
 13 that was mainly for positioning and the likes, or going
 14 to refit or something like that. But for operational,
 15 the -- the ideal number would be 12.
 16 Q. Right. And I think it's right, this is 59 of your
 17 statement, if we could have that up, please, page 21
 18 {INQ/10136/21}, you had 11 people in the crew.
 19 A. We had 11 maritime crew, plus one criminal and financial
 20 investigation officer on board.
 21 Q. Yes. And thinking first about the crew, we will come
 22 back to the CFI, you say, in paragraph 7 {INQ/10136/3}
 23 of your statement, you describe the -- your crew there
 24 as:
 25 "... a team of law enforcement officers ... who were

1 also trained mariners."
 2 Do you see, that's the first sentence? And is that
 3 a fair description? They were primarily in the business
 4 of law enforcement, but they were also trained mariners?
 5 A. Yes, sir, I think that's fair.
 6 Q. Yes. Now, going back then to the CFI and again, back
 7 please to paragraph 59 {INQ/10136/21}, you explain what
 8 the acronym stands for, an officer from criminal and
 9 financial investigations and you explain his role which
 10 was to:
 11 "... capture evidence and facilitation on board the
 12 migrant boats, whether photographic or video evidence."
 13 So they were -- that individual was entirely
 14 concerned with law enforcement and with the sort of,
 15 evidential or forensic side; is that right?
 16 A. Yes, that's correct.
 17 Q. And they weren't there to play any role in search and
 18 rescue?
 19 A. No.
 20 Q. As a matter of interest, do you know to whom that CFI
 21 officer reported?
 22 A. No.
 23 Q. Thank you. Now, going back -- and I'm sorry to jump
 24 around -- to paragraph 7 of your statement
 25 {INQ/10136/3}, again, it will appear magically on the

1 screen. Excellent. You say that the composition of the
 2 team would -- you see the fourth line:
 3 "... reflect the size and complexity of the vessel,
 4 and the missions assigned to [it]."
 5 As I understand it, you, at this time, November 21,
 6 were working a 15-day patrol, is that right?
 7 A. Yes, that's correct.
 8 Q. And during that time, you and the crew are were living
 9 on the cutter?
 10 A. Yes.
 11 Q. And was it your role as Commander to assign their own
 12 individual roles on the vessel?
 13 A. Yes, and no. I mean, they -- most of the roles are --
 14 are predetermined. So clearly, someone who had
 15 a navigational skill wouldn't be an engineer and
 16 an engineer wouldn't be a navigator.
 17 Q. But was it within your authority, for example, to say to
 18 your superiors, to Border Force: well, I need more of
 19 this or I need another one of those to do a particular
 20 role within the crew? Or did you just take what you
 21 got?
 22 A. That's a very difficult question to answer because at
 23 the time we had the Covid going on as well. So we were
 24 trying to keep the crews in their bubbles, if you like,
 25 to provide, you know, the security not only to the

1 officers , but to keep the business going as well.
 2 Q. So there wasn't much scope, really, for picking and
 3 choosing?
 4 A. No, not really .
 5 Q. And as far as you can remember, the crew you had with
 6 you on the night of the incident , 24 November 21, was
 7 that one you had worked with for a good deal of time
 8 before, or were they new?
 9 A. I think there were two officers who weren't -- maybe
 10 two, maybe three, officers who weren't regular on my
 11 team, but certainly had the same experience as those
 12 that were there.
 13 Q. Yes, in paragraph 49 of your statement, if we could have
 14 that up please, you talk there about {INQ/10136/18} the
 15 concerns you had then, ie at the time in question, about
 16 resource availability given how busy it was and we have
 17 talked about that a little already.
 18 And you say:
 19 "I believe I raised those concerns in my debrief."
 20 So those were the reports you prepared after your --
 21 your shifts , I think, in the case of debriefs , is that
 22 right? So you do one every time?
 23 A. So to clarify , the debriefs would be the emails that
 24 I would send in after I had been involved in a small
 25 boat incident.

21

1 Q. Yes.
 2 A. So each -- each afternoon/evening, I would send in
 3 a debrief and there, I may or may not say that: it's
 4 been extremely busy, we are running out of -- we feel
 5 very limited in the amount of vessels we have got and
 6 the effect it's having on the crew.
 7 Q. You were feeling overstretched?
 8 A. Oh, yes.
 9 Q. Yes. And, and we haven't seen the debriefs, I don't
 10 think, but obviously when you made this statement, you
 11 thought that you had raised those points in the debriefs
 12 at the time?
 13 A. I believe so.
 14 Q. Yes, and that would be before the night in question on
 15 24 November?
 16 A. Yes, I think so.
 17 Q. Yes. And presumably, what you were asking for is more
 18 people, first of all?
 19 A. I -- I don't think more people on the -- on the vessel.
 20 But more people on other assets.
 21 Q. Yes. So that there could be more of a rotation between
 22 the vessels?
 23 A. Yes, more -- more rotation, but also when you are faced
 24 with a -- an ever-increasing report of incidents, it
 25 would be nice to have more vessels to respond to those

22

1 incidents .
 2 Q. Yes, so it's not just people, it is also vessels . You
 3 needed more assets?
 4 A. Yes.
 5 Q. Did you need more cutters, did you need more vessels of
 6 another kind, what were you recommending?
 7 A. To be fair, anything would have helped.
 8 Q. Yes.
 9 A. But I think we realised that the cutters weren't
 10 designed to -- to carry out the role they were being
 11 asked to do.
 12 Q. Yes.
 13 A. So I know we were looking at other assets that could be
 14 used.
 15 Q. So we will come back to that, you won't be surprised to
 16 hear. But were you looking then for a different type of
 17 vessel, ie one better designed for search and rescue?
 18 A. I think Border Force, as a whole, were. I was just
 19 raising the concerns that it was getting ever busier and
 20 we needed more assets to respond.
 21 Q. Did you and the crew feel overwhelmed, at times?
 22 A. I can't speak for the crew, but I certainly did.
 23 Q. Yes.
 24 A. Yes.
 25 Q. And do you think that that was reflected in your

23

1 performance or the crew's performance?
 2 A. No, I don't think -- we did -- we did what we could to
 3 the best of our ability .
 4 Q. But it must have been extraordinarily stressful to
 5 operate under those conditions?
 6 A. I think it was, yes. I think I did feel under stress
 7 yes.
 8 Q. And that must have taken its toll?
 9 A. Yes.
 10 Q. Thank you. Now I am going to ask you some questions
 11 about the vessel itself , if I may. First of all , for us
 12 non-mariners, can you give a brief description of the
 13 HMC Valiant?
 14 A. Yes, certainly , sir . She's a 42-metre patrol vessel,
 15 I believe designed for law enforcement work,
 16 self-contained to a certain extent. She carried
 17 an inflatable RHIB which was stern launched, which we
 18 would primarily use for interdicting vessels that we
 19 wanted to either board and search.
 20 Q. Can we turn to paragraph 15, please, of your witness
 21 statement. {INQ/10136/5} and there, just picking up,
 22 Commander Toy, the first thing to flag up is the point
 23 you make in the second sentence, that you weren't
 24 dedicated to Valiant, you could be assigned to any one
 25 of the cutters. But the thing I wanted to ask you about

24

1 is the safe capacity, or the maximum number of people
 2 you could embark and you give the figure there of 100;
 3 is that right?
 4 A. That's the figure that was produced by the maritime
 5 safety team.
 6 Q. Yes, and so it's very clear, that is 100 people in
 7 addition to the crew?
 8 A. Yes, in addition to the crew.
 9 Q. So, on the night in question, for example, it would have
 10 been 112 total. You could have had 100 people plus the
 11 people you have said on the boat, 11 crew, plus the CFI?
 12 A. Yes, that's correct.
 13 Q. Thank you very much. But the question, I suppose that
 14 arises, is what happens in these very busy shifts when
 15 you get at or near your maximum capacity, the 100. And
 16 can I ask you, please, to look at 35 of your statement
 17 {INQ/10136/12} because this deals with the realities and
 18 now we are six lines down. Do you see a sentence --
 19 have you got it there: "should the total number ..." can
 20 you see that?
 21 A. Yes, I can.
 22 Q. "... exceed the maximum safe capacity ... we would still
 23 do what we could, while still being mindful to protect
 24 the safety of the crew and those already rescued ..."
 25 What does that actually mean?

25

1 A. What that means is that if we were assigned to another
 2 event and we were at capacity, we could stand by that
 3 vessel while another asset arrived, or indeed, we could
 4 put in the water some life rafts that we had that would
 5 help save lives.
 6 Q. And was --
 7 A. And stand by.
 8 Q. Sorry.
 9 A. Sorry.
 10 Q. Did you ever find yourself having to do either of those?
 11 A. On one occasion I can remember and I don't believe if
 12 I was at capacity or not, I can't remember the detail,
 13 but we were certainly near it and there was an event
 14 where the lifeboat was on the way and I remember
 15 standing by until the lifeboat arrived.
 16 Q. Yes. And in terms of the decision-making in that
 17 situation, that would be your call, would it?
 18 A. Yes.
 19 Q. As Commander?
 20 A. Yes.
 21 Q. Yes. Now both of those options you have described
 22 involve either standing by, as you say, by the boat or
 23 using life rafts.
 24 Would you ever embark, onto the Valiant, more
 25 than 100 people?

26

1 A. I think I -- I would, if I had to. Because at the end
 2 of the day, the priority is saving lives. However,
 3 I had other options available to me.
 4 Q. Yes.
 5 A. Life rafts and our own RHIB.
 6 Q. Yes.
 7 A. And we had a man overboard boat. At the end of the day,
 8 if people were in risk of dying in the -- drowning, then
 9 we could use whatever we had --
 10 Q. Yes.
 11 A. -- to effect a rescue while something else turned up.
 12 But at the end of the day, if I had to go over that
 13 100 limit to save lives, of course I would.
 14 Q. And do you remember ever having to do that, taking on
 15 more than 100 people?
 16 A. No.
 17 Q. No. Okay. In terms of, then, of what was on board the
 18 vessel, the Valiant, in terms of search and rescue
 19 facilities or equipment, you had radar, of course?
 20 A. Yes.
 21 Q. You had night vision thermal imaging?
 22 A. Yes.
 23 Q. You had a large spotlight?
 24 A. Yes.
 25 Q. You had a VHF radio?

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1 A. Yes.
 2 Q. I think that was -- was that -- was it by radio that you
 3 tended to communicate with Border Force, for example?
 4 Can't you remember?
 5 A. With, with radio and telephone.
 6 Q. Yes.
 7 A. To the MCC.
 8 Q. Telephone to the MCC, that's mobile, yes?
 9 A. Yes, it is a mobile phone.
 10 Q. So mobile to the coastguard but -- but radio to
 11 Border Force, is that right? That's the impression
 12 I have.
 13 A. So, just to let me explain.
 14 Q. Yes.
 15 A. We could choose to either telephone or use an Airwave
 16 radio to the MCC and I don't know when it happened, but
 17 at some point, the coastguard were given an Airwave, so
 18 that we could communicate with them with Airwave or VHF
 19 or telephone.
 20 Q. And what about communicating with Border Force
 21 personnel?
 22 A. So the MCC is Border Force personnel. However, the
 23 Tug Haven would be Border Force personnel, so we would
 24 use Airwave with those and other Border Force personnel,
 25 being other Border Force assets, we would have the

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1 choice of Airwave and VHF.
 2 Q. Yes, thank you. And you had SatSea, so satellite email?
 3 A. Yes.
 4 Q. And of course, you mentioned the RHIB and the man
 5 overboard boat.
 6 A. Yep.
 7 Q. Was there anything else in -- on board which was
 8 relevant? If you look at 20 {INQ/10136/7}, for example,
 9 you mention life jackets, flotation devices, life rings.
 10 All of those also on board; yes?
 11 A. Yes, they are also on board the Valiant.
 12 Q. Anything else that I have missed off the list?
 13 A. The only other thing we could consider would be to throw
 14 anything that floated.
 15 Q. Yes.
 16 A. A fender.
 17 Q. Yes.
 18 A. Or anything like that, that would someone could hang on
 19 to --
 20 Q. Yes.
 21 A. -- to effect a rescue.
 22 Q. And it looks, if you look at the next paragraph, if we
 23 can bring the 21 up, please. Yes, it looks as though
 24 you had put in a request for a flotation device or
 25 something like that, but it sounds as though you didn't

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1 get one of those by the time you retired, is that right?
 2 A. Yes. I would like to explain that.
 3 My understanding is that -- excuse me -- some of the
 4 other teams within Border Force, I was told, might have
 5 had some sort of hand-thrown device that would inflate
 6 and I thought this would be extremely useful to have in
 7 our RHIB, which we could make use of. I did put in --
 8 I can't remember how I put the request in, whether it
 9 was in the debrief or by actually trying to obtain them
 10 through our provisions section. But when I left, we
 11 didn't have them.
 12 Q. Right. Now going back to the boat itself, in
 13 paragraph 15 {INQ/10136/5}, if we could bring that up,
 14 please, you describe it, in the third line, as:
 15 "... a fast patrol boat or 'cutter' designed to do
 16 traditional customs work ..."
 17 And this is the point that you have already
 18 mentioned, it wasn't specifically designed for search
 19 and rescue, was it?
 20 A. No.
 21 Q. The Inquiry has received a statement from, I think, the
 22 man who was probably your boss, Stephen Whitton, who was
 23 the head of the Border Force maritime command, who says
 24 in his statement:
 25 "Cutters are not designed or equipped to take large

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1 number of passengers." (As read)
 2 Would you agree with that?
 3 A. Yes, I would.
 4 Q. Yes. And is it right that people who had been rescued
 5 often had to be held outside, as it were, not under
 6 cover, while travelling back to port?
 7 A. Yes, that's correct.
 8 Q. And he also said in his statement that vessels were not
 9 designed or equipped as dedicated rescue vessels or to
 10 carry out mass rescues. Again, do you think that's
 11 fair?
 12 A. Yes, I think -- I think that's fair.
 13 Q. And presumably, that was something that was obvious to
 14 you, as the Commander, from early on in your time doing
 15 work under Operation DEVERAN?
 16 A. Yes.
 17 Q. Yes. And how, in practice, did that affect your ability
 18 to deal with search and rescue?
 19 A. I think the -- the answer to that is it was extremely
 20 challenging to embark people we had rescued onto the
 21 vessel. And we developed a system where we would put
 22 a boarding ladder down and bring our RHIB alongside with
 23 a group of people and where they were capable of
 24 climbing up that ladder, we would help them up. The
 25 crew would help them on board and that seemed to be the

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1 most efficient way, in my opinion, of doing it. If
 2 someone was unable to climb that ladder, then we had the
 3 option of recovering them through the -- the stern
 4 launch slipway mechanism.
 5 However, that in itself was fraught because sea
 6 conditions and you could only bring up a limited number
 7 of people. So you had to be mindful the weight
 8 restrictions involved with that.
 9 Q. So if you -- if you were in a search and rescue
 10 operation where somebody couldn't make their way up the
 11 ladder, you were into this intrinsically more difficult
 12 and troublesome process that you have just described?
 13 A. Yes. I think it was quite a slick operation because we
 14 did it many times. However, it -- it would affect how
 15 you were rescuing people because you had to be mindful
 16 that -- if you had three people that couldn't climb, you
 17 had to think how you are going to do that.
 18 Q. Yes. Now, some questions, please, about where you
 19 fitted into the hierarchy within Border Force. You have
 20 explained and we have discussed the fact that you were
 21 in charge, as the Commander, of a crew of law
 22 enforcement officers who were also mariners.
 23 And you tell us in your statement, and this is
 24 paragraph 8 {INQ/10136/3} that you reported directly to
 25 a senior officer at the MCC, an assistant director.

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1 I am going to show you a chart now. It's {INQ/10688/1}.
 2 And if you could blow up the lower half, please. Sorry,
 3 it is a little -- yes. Do you see -- good. Do you see
 4 your name there:
 5 "Cutter Crews (Commander Kevin Toy)"?
 6 A. Yes, I do.
 7 Q. And above you is somebody called the Head of Operations
 8 and Planning. Is that the assistant director you have
 9 mentioned?
 10 A. Yes, sir; that would be correct.
 11 Q. Great. And can I just ask you about the Head of
 12 Operations and Planning. While you were deployed, was
 13 that individual tasking you, or directing you?
 14 A. So my understanding was that he would, in effect, be
 15 more focused on the law enforcement side of things.
 16 Q. Right.
 17 A. So that if we were in DEVERAN, that would probably be
 18 handed over to the Head of Operational Support,
 19 I suspect.
 20 Q. I see. So he was more on the sort of search and rescue
 21 side, you think?
 22 A. No, he was more the -- sorry, the Head of Operations and
 23 Planning?
 24 Q. Yes.
 25 A. Was more on the law enforcement side.

1 Q. Yes, and the other person, more on search and rescue, do
 2 you think?
 3 A. Possibly.
 4 Q. Possibly. Okay. So when you, for example, did your
 5 debriefs at the end of each search and rescue operation,
 6 would the Head of Operations and Planning be somebody to
 7 whom you would report?
 8 A. No, those, those debriefs would go to the MCC.
 9 Q. Right.
 10 A. However, he would be able to see them.
 11 Q. Yes, okay. Now, keeping the chart up there, please,
 12 tomorrow we are going to hear evidence from a higher
 13 officer and then later in the week, from an immigration
 14 officer and you can see their names on the screen there.
 15 Were they roughly at the same level of seniority as
 16 you?
 17 A. No. I would be -- looking at the chart, I would be at
 18 the same level of seniority as the Senior Executive
 19 Officer.
 20 Q. I understand. So the chart's right, at least on this?
 21 A. Yes.
 22 Q. Good, but I think it is right on the night in question,
 23 that your tasking, ie the deployment to
 24 Incident Charlie, came from -- I am just going to say
 25 one of these two, either Karen Whitehouse or Tom Willows

1 and would that be normal?
 2 A. Yes.
 3 Q. Thank you, great.
 4 Now, can I ask you, please, some questions about
 5 responsibility between the coastguard and Border Force
 6 for taskings under Operation DEVERAN at the time of the
 7 incident. When you were deployed, who held
 8 responsibility in relation to your tasking?
 9 A. So when deployed?
 10 Q. Yes.
 11 A. The coastguard.
 12 Q. Yes. But imagine a situation, for example, when you
 13 were being deployed for something which had nothing to
 14 do with search and rescue, ie law enforcement, would it
 15 then be right that responsibility or tasking would all
 16 come from Border Force?
 17 A. Yes.
 18 Q. Yes.
 19 A. Yes.
 20 Q. But if you were deployed for search and rescue, as you
 21 were on the night, then, as you say, it would be
 22 coastguard in charge?
 23 A. Yes.
 24 Q. And you would take your taskings from them as -- as the
 25 shift proceeded?

1 A. If -- if we were alongside, then the phonecall would
 2 come via the MCC.
 3 Q. Yes.
 4 A. But my understanding is that the coastguard would
 5 contact the MCC to request an asset.
 6 Q. Request an asset. And therefore, once you were
 7 launched, you expected to get your instructions from
 8 coastguard?
 9 A. Yes.
 10 Q. Yes.
 11 A. Or, or via the MCC.
 12 Q. Yes. But as it were, coastguard was running the
 13 operation?
 14 A. Correct.
 15 Q. Yes, and I think you explain in paragraph 29
 16 {INQ/10136/9} of your statement that -- exactly what you
 17 have just said. And I think it is also right, isn't it,
 18 that while you were out, in other words you had begun
 19 your deployment, you could receive further tasking from
 20 coastguard to go off and look for another boat, for
 21 example?
 22 A. Yes, that's correct, sir.
 23 Q. And that's, indeed, what happened on the night in
 24 question?
 25 A. Yes.

1 Q. Now, that's the tasking. In terms of your reporting,
 2 while you were out during the shift, who did you report
 3 to?
 4 A. So, I would report to the coastguard if I discovered
 5 a small boat, or if I located a small boat that --
 6 that -- as I was tasked to. I may report to the MCC for
 7 welfare checks or to obtain a Mike number --
 8 Q. Yes.
 9 A. -- to link the small boat I was dealing with to the MCC
 10 Border Force records.
 11 Q. Yes. But would it be fair to say that your primary
 12 reporting when you were out was to coastguard?
 13 A. Yes.
 14 Q. Thank you. Now, in terms of the shifts that you
 15 worked -- we have again, touched on this briefly. You
 16 say in your statement at para 9 {INQ/10136/3} that they
 17 were 15-day shifts and you have confirmed to me that you
 18 and the crew would be on board, living there during that
 19 period.
 20 Between deployments, how long did you get to rest?
 21 A. That depended on the events that we had been involved
 22 in.
 23 Q. Yes.
 24 A. And the need to restock equipment, take on stores, and
 25 other ancillary roles that required the boat to run.

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1 Q. Yes. But was there, in effect, a minimum time that you
 2 had to be back in port before the next deployment?
 3 A. I think the minimum time was around rest for the crew.
 4 Q. Yes. Subject to that, and during the 15 days, you could
 5 be, as it were, stood up at any time to be deployed?
 6 A. Yes.
 7 Q. Yes, and was that done by phone to you from the MCC?
 8 A. Yes, generally.
 9 Q. Yes. And you explain in your statement -- this is
 10 paragraph 26, if we could have that up, please
 11 {INQ/10136/9} -- that when you received a tasking like
 12 that, you had to deploy within 30 minutes, is that
 13 right?
 14 A. Yes, that is the accepted notice to deploy for a --
 15 a cutter.
 16 Q. Yes, so all the crew on board and underway in
 17 30 minutes?
 18 A. Yes.
 19 Q. Yes. Did you ever receive a direct tasking or
 20 deployment from coastguard while you were in port?
 21 A. I don't believe I did.
 22 Q. No. Thank you. Now, when you were called and deployed,
 23 or tasked -- this is paragraph 25, at the bottom of the
 24 previous page, please {INQ/10136/8} what information
 25 would you expect to receive?

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1 A. Well, I would hope to receive a position -- a time,
 2 a position, a description of what I was tasked to and
 3 anything else that may -- may assist; if they had
 4 a speed or a direction, it would be helpful.
 5 Q. So, first of all, presumably: this is the purpose of
 6 your tasking, search and rescue. Co-ordinates?
 7 A. Yes.
 8 Q. Description, as you say?
 9 A. If available.
 10 Q. Yes. Would you ever expect to be told something about
 11 the urgency of the task?
 12 A. You might get additional information such as: they are
 13 taking water.
 14 Q. Yes.
 15 A. However, all -- all my -- all small boat incidents were
 16 considered to be requiring rescue in any case.
 17 Q. Yes, they are considered as in distress, weren't they?
 18 A. Yes.
 19 Q. Yes. But can you remember examples where the call came
 20 in from MCC and the urgency of the task was stressed to
 21 you?
 22 A. I can't recall if this one they said that there was --
 23 they were taking water or not. I -- I ...
 24 Q. We will come to that.
 25 A. Yes.

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1 Q. But other than this one?
 2 A. I don't -- I don't remember.
 3 Q. No. What about the information you might be given to
 4 identify the boat? What would you expect to be told?
 5 Colour? Dimension?
 6 A. It depends on each event.
 7 Q. Yes, of course.
 8 A. They are all different. Clearly, the more information
 9 we get at the time is going to help us.
 10 Q. Yes.
 11 A. A lot of these taskings are during the hours of
 12 darkness.
 13 Q. Yes.
 14 A. So it's very difficult to --
 15 Q. Yes.
 16 A. -- get that information.
 17 Q. Yes. Did you ever find yourself wanting more
 18 information and asking for it?
 19 A. I think I may have asked for courses and speeds, on
 20 occasional ones, but I can't specifically say --
 21 Q. No.
 22 A. -- that I did.
 23 Q. And you say in your statement -- and now this is 29
 24 {INQ/10136/9} -- that once you deployed and departed the
 25 port you would let MCC know and give them an estimated

40

1 time of arrival at the co-ordinates?
 2 A. Yes or -- or an estimated time at a fixed point, so that
 3 they could work it from there.
 4 Q. Yes.
 5 A. Because it's -- you never know how you are going to make
 6 your way to that position because of the traffic in the
 7 Channel.
 8 Q. Yes, indeed. But from that point on, as you have said,
 9 most of your communications, I think, would be with
 10 coastguard?
 11 A. Generally.
 12 Q. Yes.
 13 A. Yes.
 14 Q. And again, just to go back over something you said. In
 15 terms of your communications when you were deployed with
 16 Border Force, what would prompt you to get in touch with
 17 the MCC?
 18 A. I think if -- just to confirm the number of people on
 19 board. For example, on that night, I remember --
 20 I remember telling them that we had the CFI embarked, so
 21 that they knew that there was 12 people on board and not
 22 11 as per the sip rep. The other occasions, maybe for
 23 a welfare check if I hadn't spoken to anyone for a while
 24 or indeed, to obtain the Mike number and advise them of
 25 the number of people that we had indeed embarked.

1 Q. Yes. Any other sort of points which might make you
 2 think: I need to speak to MCC about this?
 3 A. Not that I can bring to mind at the moment.
 4 Q. No. Sir, would that be a convenient moment?
 5 SIR ROSS CRANSTON: Yes, yes. Thank you. So let's keep it
 6 to 10 minutes. So let that's 8 minutes past. All
 7 right. Thank you.
 8 (10.58 am)
 9 (A short break)
 10 (11.08 am)
 11 SIR ROSS CRANSTON: Yes, Mr Phillips.
 12 MR PHILLIPS: The next topic, Commander Toy, is recording
 13 and managing information because the inquiry is
 14 interested in the ways in which you obtained information
 15 and in the way in which you recorded it.
 16 Can we look, please, at paragraph 9 of your
 17 statement {INQ010136/3}, and it is the second sentence
 18 there on page 3. You say that during any deployment,
 19 you would record details in your daybook, including
 20 instructions received, communications with other
 21 parties, developments of note and issues encountered.
 22 Can we look, please, at your daybook, and that is
 23 {INQ002051/1}. There it is, your name, and that shows
 24 how long you were using this daybook, which looks like
 25 nearly two years, and presumably that meant that the

1 daybook covered multiple deployments.
 2 A. Yes, that's correct.
 3 Q. Yes. So if we turn over, please, to page 3 of this
 4 version {INQ002051/3}, we will see your -- the relevant
 5 date, 24 November '21, and obviously we will come back
 6 to that later in your evidence. But they are all
 7 relatively short entries, aren't they? Is that fair?
 8 A. Yes, they are more bullet points of information I was
 9 given at the time.
 10 Q. Yes, yes. So they are more of a summary, aren't they,
 11 rather than the full detail of any information you
 12 received?
 13 A. Yes, I -- I would say they are the salient points
 14 that -- that --
 15 Q. Yes.
 16 A. -- I could refer to.
 17 Q. If you were given detail beyond that we see in these
 18 entries, where would that be recorded?
 19 A. This would be the only record I would make.
 20 Q. So in other words if somebody had telephoned you at
 21 1.30, for example, and in addition to those -- that
 22 information about the location of a small boat, they've
 23 given you the sort of things we discussed earlier, the
 24 description or who might have been in the boat or those
 25 sort of details, you may have been given them, but they

1 weren't recorded in your entry, which was in this very
 2 summary form.
 3 A. No, that's -- that's what I recorded because that was my
 4 priority, to get going to that position.
 5 Q. Exactly. So anything else would remain in your head.
 6 A. Yes.
 7 Q. And on the job, as it were, in the deployment, would you
 8 share that information with other members of the crew,
 9 even if it wasn't written down?
 10 A. I would possibly if I was given information as to the
 11 description. For example, I notice at 2.30:
 12 "Small [boat] 40 [people on board]."
 13 Q. Yes.
 14 A. I would tell the -- the navigator and the lookout that
 15 we are looking for a boat with about 40 people in it.
 16 Q. Because this is important information for the operation,
 17 isn't it? You are going to somewhere. There may be
 18 40 people you need to embark, for example.
 19 A. Yes.
 20 Q. And if it was 12 as opposed to 40, that would make a big
 21 difference.
 22 A. It could do.
 23 Q. Now, in terms of other recordkeeping, the inquiry's
 24 received extensive evidence about what have been called
 25 trackers for the coastguard, amongst others, and they

1 are internal documents which were used to monitor the
 2 progress or status of the small boats and the search and
 3 rescue operations.
 4 Now, can you just confirm: you had no involvement in
 5 updating trackers, managing trackers.
 6 A. That's correct, sir. I had no input into that at all.
 7 Q. Yes. And you didn't have access to any of the trackers
 8 while you were on the cutter.
 9 A. So technically I would have had access, because they
 10 would possibly have been e-mailed to me.
 11 Q. Yes.
 12 A. However, I was so busy dealing with the navigational
 13 side of the boat, the -- the tactics involved and
 14 keeping an eye on the vessel and the crew that I didn't
 15 actually look at those emails.
 16 Q. No. The emails you have talked about, would they have
 17 been from MCC?
 18 A. I believe so.
 19 Q. Yes. So if there were trackers there, they would be
 20 Border Force trackers.
 21 A. Yes.
 22 Q. Yes. But as far as you knew as you were, as you say,
 23 doing your job on the vessel, information that you
 24 reported back may well have been entered by
 25 Border Force, by coastguard on to their own trackers.

1 A. May well have been, yes.
 2 Q. Yes. And equally, presumably, and again as far as you
 3 know, you may have been given information during your
 4 deployment which came from the trackers.
 5 A. I don't know where that information came from.
 6 Q. No. Thank you.
 7 The information or the email you mentioned, which
 8 I think you said came from MCC, from Border Force, that
 9 had a tracker with it called the live update, which came
 10 in every hour. Do you remember that?
 11 A. I -- at the time, I wouldn't have seen them.
 12 Q. No. As it were, you had the opportunity, but you had
 13 many other things to do on board the vessel; is that
 14 fair?
 15 A. They may -- they may have been sent to me --
 16 Q. Yes.
 17 A. -- but my focus was on navigating the boat to the
 18 incident I was attached to.
 19 Q. So we can take from that, can't we, that whatever
 20 information they contained, you weren't using it or
 21 relying on it to do your job?
 22 A. No.
 23 Q. And presumably, if you felt you needed to look at it,
 24 you would have done that.
 25 A. Yes.

1 Q. So next, a few questions, please, about locating and
 2 identifying small boats in the Channel, and this is
 3 really to take us back to a conversation we had right at
 4 the beginning. There are -- I think it's obvious, isn't
 5 it -- particular challenges in search and rescue
 6 operations involving small boats in the Channel in the
 7 Dover Strait?
 8 A. Yes, that's correct.
 9 Q. In paragraph 40, you set out some of them for us.
 10 That's {INQ01036/14}. Thank you very much. But I would
 11 like, if I may -- so you have got that there -- to put
 12 some broader points to you and see whether you agree
 13 that these all affect search and rescue operations in
 14 the Channel.
 15 First of all, the obvious point, the vessels are
 16 usually small, which can make them difficult to locate.
 17 A. Very difficult, sir.
 18 Q. Quite often, they are dark in colour, which can make
 19 them difficult to see in the water.
 20 A. That's correct.
 21 Q. Crossings, as you have already said, often take place at
 22 night when visibility is obviously limited.
 23 A. Yes, it's the darkness that is the -- is the issue.
 24 Q. Yes. And it can be cold, so thermal imaging is more
 25 difficult.

1 A. I am not a professional in thermal imaging, so I can't
 2 answer that.
 3 Q. No, okay.
 4 The boats are often overcrowded, which means that
 5 they have a low profile in the water.
 6 A. Yes, whether they are overloaded or not, they still have
 7 a low profile.
 8 Q. Yes, and that makes them harder to spot.
 9 A. Correct.
 10 Q. And they don't ordinarily have AIS or any other radio
 11 communications.
 12 A. No, not that I have experienced.
 13 Q. They don't ordinarily have identifying information,
 14 names, flags, etc.
 15 A. No.
 16 Q. They don't often have GPS on board; is that fair?
 17 A. I have never heard of them having GPS on board.
 18 Q. No. They may have limited English or French or any
 19 other language that members of the crew speak.
 20 A. Possibly.
 21 Q. Yes. And presumably, those were all points, the points
 22 I have made, to you which you were well aware of and
 23 were within your direct experience in November '21 when
 24 you were deployed on the 24th.
 25 A. Yes.

1 Q. So then the question is how those challenges were
 2 managed, those very specific challenges, and can we look
 3 first at the question of locating boats? Imagine
 4 a situation, a hypothetical situation. A call comes in
 5 to you about a small boat crossing the Channel. You are
 6 tasked to respond. How do you determine where your
 7 cutter should go?
 8 A. So for -- to help us decide whether we're going to go,
 9 we would be looking at the longitude of the -- of the
 10 vessel. And if you knew it was to the west of Dover,
 11 you'd head to the west, clearly, and if it was to the
 12 east, you'd head towards the east. That would give you
 13 an idea which way you needed to go when you left Dover,
 14 if you were in Dover to start with.
 15 Q. Yes. So if you don't have anything in terms of specific
 16 co-ordinates, you at least have to choose a general area
 17 in the way that you have described.
 18 A. Yes. The other option, it might be that it's been
 19 reported by a cross-Channel ferry. So you could look on
 20 the AIS to see where that ferry was and that would give
 21 you an idea of where to head for.
 22 Q. Yes. Now, imagine a situation where you are given
 23 co-ordinates. Do you make your way to them or do you
 24 think about the likely course of the boat during the
 25 time it's going to take you to get there?

1 A. I think you would -- you would aim to go towards those
 2 co-ordinates, however bearing in mind the route it may
 3 take --
 4 Q. Yes.
 5 A. -- may or may not take.
 6 Q. Yes, because presumably you've built up a certain amount
 7 of experience about how -- whether their small boat was
 8 underway or whether it was stopped, how they were likely
 9 to move through the water.
 10 A. Yes. You know, you generally know that they are going
 11 to head towards the South Downs, shall we say, Dover and
 12 that area, so you have an idea that they are heading
 13 there. But also, you'd be mindful of the -- the impact
 14 that the wind and the tide may have on them if they were
 15 to stop.
 16 Q. So you can factor all of that in as you're making your
 17 way towards the co-ordinates.
 18 A. Yes.
 19 Q. Now, if you get to the last known co-ordinates, the last
 20 co-ordinates that you have, and there's nothing there,
 21 how do you then search for the boat?
 22 A. So the first thing I would do is to report to the
 23 coastguard that we're in that vicinity. It is very
 24 difficult to go to the exact co-ordinates. "We're in
 25 the vicinity. There's nothing here." And you could

1 make a suggestion, for example, "I am going to head
 2 towards the Sandettie Lightvessel", and then the
 3 coastguard would know what you are intending to do and
 4 they could consider if that -- they consider that to be
 5 the right action or not.
 6 Q. So you can have a discussion about it.
 7 A. In my experience, it's better to do something than
 8 nothing.
 9 Q. Yes.
 10 A. So while they are deciding what they want you to do, you
 11 can be doing something at least to try and --
 12 Q. You get on with it.
 13 A. Yes.
 14 Q. Yes. Now, we know in this case that between the
 15 distress calls from the boat and the Valiant reaching
 16 the last known location of Charlie, there was about
 17 a period of about two hours. And it's obvious, isn't
 18 it, but please confirm, that a boat can move
 19 a considerable distance in two hours?
 20 A. Yes. Sorry, I've got a sore throat. The vessel could
 21 either move on its own power or if it broken down, it
 22 would drift with the wind and tide.
 23 Q. Yes, but if it was still underway, if it was still under
 24 its own engine power, even a small boat could make
 25 a fair old --

1 A. It could.
 2 Q. -- amount of progress over two hours.
 3 A. Yes, yes.
 4 Q. So on the average deployment like this, would you make
 5 sure to ask for any updated co-ordinates as you were
 6 making your way to try and deal with the impact of the
 7 delay?
 8 A. I think you would hope to get updated co-ordinates.
 9 Q. But you wouldn't proactively look for them or seek them?
 10 A. Not necessarily, because you would be very focused on
 11 getting to where you wanted to go to.
 12 Q. Yes. Now, if you had -- again, in this hypothetical
 13 case, if you had been given any contact information for
 14 the people on the boat themselves, telephone numbers or
 15 whatever, would you ever make direct contact yourself?
 16 A. No.
 17 Q. No. Was that as a matter of policy or just because you
 18 never received details like that?
 19 A. I don't believe I ever received details like that.
 20 However, if I did, I wouldn't want to confuse the issue
 21 because clearly the coastguard are in control of the
 22 situation.
 23 Q. Yes. So you would expect the coastguard to be in
 24 contact with them, if anybody was.
 25 A. Yes.

1 Q. Yes. Did you ever use live location functions or other
 2 mobile phone technology to look for or find a boat,
 3 a small boat?
 4 A. Sorry, I don't understand what "live location functions"
 5 are.
 6 Q. I am very sorry that you asked me that question because
 7 I don't think I do either, really. But what about
 8 mobile phone technology? Did you ever use that?
 9 A. Certainly not.
 10 Q. No. Thank you.
 11 A little more, please, about searching. When you
 12 are -- you have arrived at the location or where the
 13 co--ordinates, the last known co--ordinates are, there is
 14 nothing there, so you have to search, as we were
 15 discussing earlier. How do you do that? Are you using
 16 binoculars? How does it work? Does everybody go on the
 17 side of the boat? Do certain people take up positions
 18 on the side of the boat? How does it work?
 19 A. What we would do is we would have -- excuse me -- the
 20 number of people in the wheelhouse. You would have
 21 a navigator who would be focusing on the radar hopefully
 22 trying to find something on that, though that's very
 23 unlikely.
 24 Q. Yes.
 25 A. A lookout, who would be -- have his night vision set --

1 Q. Yes.
 2 A. -- so he'd be used to the ambient light. You would have
 3 an engineer. If available, he could help, and myself,
 4 we'd be looking on high alert as we're in the area.
 5 Q. Do you use -- I think you mentioned a searchlight on the
 6 boat. Would you deploy the lights in your searches?
 7 A. Yes, yes.
 8 Q. And are you listening as well?
 9 A. We'd have -- yes, we'd have the wheelhouse doors open,
 10 but unfortunately, the engines are more than likely to
 11 override any --
 12 Q. Yes, hard to hear over.
 13 A. Yes.
 14 Q. Yes. Coming back to radar, I think I am right in
 15 believing that you used the radar, to the extent you
 16 could, to search for the small boats.
 17 A. Yes.
 18 Q. Now, there were -- there are two radar screens, isn't
 19 that right, on the vessel?
 20 A. Two radar units.
 21 Q. Two radar units. One, if I can put it this way -- I am
 22 sure it's not the right expression. One is normal with
 23 bright colours and the other is much, much darker for
 24 night vision. Is that fair?
 25 A. No, I think they'd be adjusted to the -- to the user --

1 Q. Right.
 2 A. -- for example, as the layout of the cutter would be
 3 such that the navigator would tend to sit or stand on
 4 the starboard side.
 5 Q. Yes.
 6 A. And he would use that radar to do his navigation and
 7 searching with -- and I would have access to the one on
 8 the portside --
 9 Q. I see.
 10 A. -- for an overview, if I needed it.
 11 Q. Okay. So it would be -- principally, the navigator
 12 would be looking, but you would have access to it as
 13 well. You were literally standing there and able to
 14 look at the other screen if you wanted to.
 15 A. Yes.
 16 Q. And presumably, that's something you would be doing very
 17 regularly indeed.
 18 A. Yes, to be -- I would tend to leave the navigator --
 19 Q. Right.
 20 A. -- to doing the searching and I would have the overview,
 21 standing back and looking at all the other factors, risk
 22 of collision --
 23 Q. Yes.
 24 A. -- that sort of thing as well.
 25 Q. We will look together in a moment at some examples of

1 how the radar looked, but can you help with this general
 2 question? How difficult is it to see a small boat on
 3 a radar screen?
 4 A. Extremely difficult.
 5 Q. Yes. Can you explain why?
 6 A. Excuse me. All the factors that we have already spoken
 7 about; the fact that they're -- they don't have a radar
 8 reflector.
 9 Q. Yes.
 10 A. They are low in the water. Sea conditions may have
 11 an impact on that. The fact that they are small in any
 12 case.
 13 Q. Yes.
 14 A. If they are stopped, there's no -- no wash that we might
 15 even pick up.
 16 Q. And turning away from radar, of course, the other thing
 17 we haven't yet touched on in terms of the challenges in
 18 small boat search and rescue is that all of this is
 19 taking place in what you describe in your statement as
 20 the busiest shipping lane in the world --
 21 A. That's correct.
 22 Q. -- with very high levels of traffic.
 23 A. Yes.
 24 Q. I would like to illustrate that, please, to show you
 25 an extract from the AIS on the night. This is

1 {INQ001385/1}. We will just play it for a short while
 2 and see -- at least I hope it is. Maybe it is the
 3 native. There it is.
 4 A. Okay.
 5 Q. Can we start, please. So here from 2 o'clock, as you
 6 see, and can you describe for us what we are looking at?
 7 A. Yes, okay. So this is a picture of the Dover Straits
 8 and the red line that goes -- red or orange line that
 9 goes up the middle would be called the median line, so
 10 it would go close to the MPC buoy and down to the
 11 Bouee Colbart Nord. So that would be the median line.
 12 So to the top of that, to the north, if you like, it
 13 would be the UK search and rescue zone and to the -- to
 14 the bottom of that to the south would be the French
 15 rescue zone.
 16 If you look at all the vessels to the north of that
 17 line, they are heading at what a mariner would describe
 18 as the south--westbound lane of the traffic separation
 19 scheme and the ones to the bottom of that would be
 20 heading in the north--eastbound lane of the traffic
 21 separation scheme and --
 22 Q. On the French side in particular, as we are looking at
 23 it now, we can see just how closely packed the vessels
 24 are --
 25 A. Yes, yes.

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1 Q. -- because it shows that -- the brighter line shows the
 2 vessel and then -- with the name and then the stream, as
 3 it were, is their direction.
 4 A. Yes. Well, the stream behind, if we call it, is the
 5 trail and if you notice some of them have got green
 6 lines sticking out from them, that is their -- their
 7 intended track, if you like --
 8 Q. Yes.
 9 A. -- where they will be at a certain time.
 10 Q. And, again, just while we are looking here, we can see
 11 in the middle of the screen --
 12 A. Excuse me.
 13 Q. -- it is in red at the bottom, the sandbank, the
 14 Sandettie Lightvessel.
 15 A. Yes.
 16 Q. Do you see "Sandettie LV"?
 17 A. Yes.
 18 Q. And this, I assume, is what you are dealing with in
 19 order to pick your way from Dover on the left--hand side
 20 across towards the sandbank to go about this particular
 21 deployment on 24 November.
 22 A. Yes, that's correct. Just to -- if I may explain, sir.
 23 Q. Yes, please.
 24 A. The first issue you have is leaving Dover and dealing
 25 with the cross--Channel ferries that are leaving and

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1 entering Dover, so you need to -- to clear that. And
 2 then I think you can see the Valiant moving along now.
 3 Q. Yes, can you see you have started out now, 2.44?
 4 A. Yes. So the next thing is -- is the ships that are
 5 coming down in the south--westbound lane.
 6 Q. Yes.
 7 A. Now, clearly I want to get to the Sandettie
 8 Lightvessel --
 9 Q. Yes.
 10 A. -- and I need to wait for these people -- well, not
 11 wait, but I need to adjust -- adjust my course or my
 12 track so that I can fall behind them, because what
 13 I don't want to do is cross in front of those people and
 14 cause a navigational issue or a collision --
 15 Q. Right.
 16 A. -- with that traffic. So you can see us -- see my
 17 vessel now heading up slightly more to the north so that
 18 we can tuck in behind them.
 19 Q. Yes.
 20 A. So it's not a matter of going directly from Dover to the
 21 Sandettie Lightvessel. We have to take whatever track
 22 is possible in, taking into account the traffic as well.
 23 Q. Great. Thank you.
 24 Can we have that taken off the screen, please?
 25 Thank you very much.

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1 We agreed a little while ago how difficult it was to
 2 see small boats with radar, and obviously you had
 3 training and the relevant people and the crew had
 4 training on the use of radar. You have explained that.
 5 But was there any specific training directed to this
 6 challenge, the challenge of using radar to detect small
 7 boats?
 8 A. The only thing that I can remember would be
 9 a traditional challenge of finding small boats that may
 10 be running commodity across the Channel before we
 11 started into the SAR type of thing.
 12 Q. This was in the smuggling --
 13 A. In the smuggler zone.
 14 Q. Yes.
 15 A. The only difference with them, they -- they would be
 16 possibly larger boats going faster, therefore more wash,
 17 so they would be a little easier to find. However, they
 18 were still very difficult to locate.
 19 Q. Yes. But presumably that's right, isn't it; that they
 20 would generally have been a bit bigger and with fewer
 21 people on them, all of the things we talked about
 22 before, but still difficult?
 23 A. Oh, very difficult.
 24 Q. Yes. Then, if I may, the question about distinguishing
 25 between numbers of small boats, because, as we know, you

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1 were not just dealing with one small boat on night in
 2 question, but a number of them, and presumably that was
 3 a regular occurrence. You were aware that there were
 4 a number of small boats trying to make their way across.
 5 A. Yes, in my -- my experience was that if you're called
 6 out for one, invariably there are going to be more and
 7 possibly ones that have not been reported. So there was
 8 always that risk that there would be an unidentified
 9 small boat --
 10 Q. Yes.
 11 A. -- en route.
 12 Q. So when you were tasked to respond to one boat, you
 13 might encounter another, which is exactly what happened
 14 on the night.
 15 A. More than likely.
 16 Q. Yes. Now, that raises the question how could you tell
 17 whether the boat you found was the one you had been
 18 tasked to find?
 19 A. I couldn't.
 20 Q. No.
 21 A. No, I couldn't.
 22 Q. And we have talked about this before, but I think you
 23 said you would be -- you would expect on being tasked to
 24 be told -- well, you would hope to be told its colour,
 25 perhaps its size maybe.

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1 A. (Nods).
 2 Q. Would you often be told the number of people on board?
 3 A. You would get an estimate.
 4 Q. Yes.
 5 A. However, I can recall one incident where I was told
 6 there were 12 people on board and there turned out to be
 7 in the region of 50.
 8 Q. So did that make you take what you were told about
 9 things like that with a bit of a pinch of salt?
 10 A. I wouldn't say a pinch of salt. What I would say is you
 11 wouldn't be surprised if the numbers were inaccurate or
 12 you didn't have a colour, for example.
 13 Q. Yes, but presumably in those situations, if you had
 14 a location, whether specific or general, you just made
 15 your way and then found what you did.
 16 A. Correct.
 17 Q. Yes. Do you remember being told in these tasking calls
 18 about, for example, whether there were women or -- and
 19 children on board?
 20 A. I can -- I can recall on some occasions being told.
 21 Q. Yes.
 22 A. How that information was obtained, I don't know.
 23 Q. No. But can you remember occasions where you were told,
 24 for example, that the boat or the people in the boat had
 25 been making calls to the emergency services?

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1 A. Yes. Well, only once -- well, it's a difficult question
 2 to answer, that. I think possibly I would be advised
 3 that they had been making calls, but I wouldn't know the
 4 detail of the call.
 5 Q. No, and that isn't something you would necessarily make
 6 a note of in your daybook.
 7 A. Not necessarily, no.
 8 Q. No. And what about the boat itself and, for example,
 9 whether it was underway or stopped? Is that information
 10 you would expect to be given?
 11 A. If available.
 12 Q. Yes. And what about more important information such as
 13 whether it was taking on water or swamped or submerged?
 14 Would you expect to receive information like that?
 15 A. You could do. However, most of the vessels that we
 16 encountered had taken on water to some extent.
 17 Q. Yes. Well, we will come back to that.
 18 In terms of the information you were given when you
 19 were tasked, it sounds as though you got used to
 20 proceeding with pretty much the bare minimum. In other
 21 words, sometimes you got some information about the
 22 occupants, but the thing you were really interested in
 23 was there was a small boat and the last known
 24 co-ordinates were X; is that fair?
 25 A. Yes, I think that's the primary information that you

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1 would want.
 2 Q. Yes. And, again, can you ever remember asking for more;
 3 in other words, asking MCC or whoever was tasking you,
 4 "Well, I need a bit more help with this one"?
 5 A. I probably did. I probably asked if a course and speed
 6 was available.
 7 Q. So go back to the hypothetical situation. You have been
 8 deployed. You find a small boat. What steps -- you
 9 have talked about this already, but just to be clear,
 10 what steps could you take, did you take, to ascertain
 11 which incident the boat was linked to?
 12 A. I didn't. I just reported I had a small boat in this
 13 position. It's either stopped or making way. I am
 14 going to engage it, make sure it's reported to the
 15 coastguard, and then the next thing would be to get the
 16 M number and to tell them how many people there were on
 17 board and what the breakdown would be.
 18 Q. Yes. So in terms of linking boats to incidents, that
 19 was somebody else's job.
 20 A. Oh, yes.
 21 Q. Coastguard's.
 22 A. Yes.
 23 Q. And were you ever asked by coastguard to ask questions
 24 of people on board the boats to help them to do that
 25 task?

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1 A. Yes, I believe I was.
 2 Q. I think there was an example in this case.
 3 A. Yes.
 4 Q. Yes. And when you are doing that, is language a barrier
 5 to communication with people on board the boats?
 6 A. Well, to a certain extent, yes. However, for whatever
 7 reason, it --- some people would go into this rescue mode
 8 where they'd shut down and just they rescue their --- go
 9 quiet or they just wouldn't want to answer the
 10 questions, or some did.
 11 Q. Yes. But, I mean, I imagine there were many cases when
 12 you found people who were traumatised, who were cold,
 13 anxious. Presumably that makes the sort of
 14 communication we have been talking about rather
 15 difficult .
 16 A. I guess it does.
 17 Q. Yes. And how would you deal with that? What steps
 18 would you take to mitigate that problem?
 19 A. You --- verbal --- verbal and using sign --- signing, if
 20 you like, for a telephone. "Have you made a telephone
 21 call?"
 22 Q. Yes.
 23 A. But that would be my deck team. I wouldn't be doing
 24 that.
 25 Q. No. But in terms of your understanding of the position

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1 as their commander, can we have 39 on the screen,
 2 please, of the statement, 101 --- sorry {INQ010136/14}.
 3 It is the last sentence there, isn't it? Do you see you
 4 say there that:
 5 "Every interaction which I saw between my officers
 6 and the migrants was one in which the migrants were
 7 treated with nothing but respect, dignity and kindness."
 8 And I imagine that that was the message from the
 9 top, from you.
 10 A. Oh, without doubt, yes.
 11 Q. That they were required to behave professionally despite
 12 the very difficult conditions.
 13 A. Yes.
 14 Q. Now, at this point, I am going to come back, if I may,
 15 to the two sides of your role, to law enforcement as
 16 opposed to or alongside search and rescue, because when
 17 you are dealing with --- you are engaging with the people
 18 on the boats, how do you balance those things? What is
 19 the priority at that point? Is it law enforcement or is
 20 it search and rescue?
 21 A. The priority is search and rescue.
 22 Q. So any work to do with investigations or evidence, etc,
 23 is secondary.
 24 A. Yes.
 25 Q. And in the case that we are talking about, 24 November,

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1 would that principally have been the role of the CFI?
 2 A. That person was there to capture any photographic or
 3 video evidence ---
 4 Q. Right.
 5 A. --- not to engage with the people that were rescued
 6 directly .
 7 Q. Right. But so far as you and the remainder of the crew
 8 with your law enforcement role was concerned, that was
 9 secondary to the search and rescue.
 10 A. Oh, yes, without a doubt.
 11 Q. Thank you.
 12 On the question of the identification of the small
 13 boats --- and, again, we see examples of this on the
 14 night in your daybook --- that presumably was information
 15 that you would communicate back to coastguard or,
 16 indeed, coastguard would ask you about as the deployment
 17 proceeded; is that correct?
 18 A. Sorry, could you repeat?
 19 Q. The information about the boat, the identification, the
 20 sort of things we discussed earlier, is that information
 21 that you would report back to coastguard?
 22 A. Yes.
 23 Q. And there were occasions no doubt where you were asked
 24 specific questions about it by coastguard.
 25 A. That's correct.

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1 Q. Would you ever report that sort of information to MCC,
 2 to Border Force?
 3 A. No, I don't believe I would.
 4 Q. Thank you.
 5 Can we now look please at the standard operating
 6 procedure for Operation DEVERAN, which we talked about
 7 early on and here we are back with it. It's
 8 {INQ003920/1}, please. That's the beginning of the
 9 document, but what I would like to do, please, is to
 10 turn on to page 14 {INQ003920/14}.
 11 I should say there is a great deal of detailed
 12 information about it, about the operation leading up to
 13 this point, but if we could go to 14, 12.32 I am looking
 14 at. There is a reference there to the use of a tally
 15 sheet to, I think, record the accurate breakdown --- if
 16 we turn over the page, please {INQ003920/15} of the
 17 migrants embarked, women, children, etc.
 18 Were those sheets that you completed as a matter of
 19 course?
 20 A. Yes, that's correct.
 21 Q. And was that your responsibility?
 22 A. No, that --- that would be the person in charge on deck.
 23 Q. Okay, thank you.
 24 And presumably, therefore, one would have been
 25 completed for this deployment, the one we are concerned

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1 about, 24 November.
 2 A. Yes, for the three events.
 3 Q. Yes. And in terms of what happened to the tally sheets,
 4 how they were used, do you know: were they provided to
 5 MCC?
 6 A. No, they were not. They were -- they would go with the
 7 group of people from the small boat to the tug haven.
 8 Q. Right, thank you.
 9 Were they provided or was the information on them
 10 provided to coastguard that you can recall?
 11 A. So I would use that sheet to check the number that the
 12 deck team had told me about because clearly they're
 13 dealing with multiple functions. So they would hand the
 14 sheet to me, I would check it and then I would report
 15 that to the coastguard or the MCC.
 16 Q. So you would use the tally sheet as the basis of your
 17 report.
 18 A. Yes.
 19 Q. Yes, I see. Thank you.
 20 Can you just turn on to -- yes, we have got it on
 21 the screen, protective searching. This talks about
 22 a standard procedure for searching of migrants
 23 {INQ003920/15}. And I think you tell us in paragraph --
 24 do you see there:
 25 "ALL migrants to undergo a Protective Search ..."

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1 Etc, those provisions to 12.37, referring to weapons
 2 or other intelligence , etc.
 3 Thank you. If we could have that taken down,
 4 please.
 5 Could we now look at paragraph 37 of your statement
 6 {INQ010136/13}, because there you confirm that you do
 7 not recall ever finding a knife or other weapon on
 8 a migrant.
 9 A. No, none was ever reported to me.
 10 Q. So whatever those searches yielded, they didn't yield
 11 knives or other weapons.
 12 A. Not in my experience.
 13 Q. Thank you.
 14 Now, turning to the background to the deployment on
 15 24 November, I want to ask you some questions, please,
 16 about the information you were given by Border Force or
 17 others before you were deployed. And we know, first of
 18 all , that Border Force produced a RAG, R-A-G, rating
 19 assessing weather conditions and the likelihood of
 20 crossings.
 21 Was that actually something that you as commander
 22 produced yourself or did that come to you?
 23 A. In the early stages, the commander of the cutter in
 24 Op DEVERAN was required to produce that. However, it
 25 then developed to the Met Office doing it outwith the

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1 operation.
 2 Q. So it was one less task for you anyway.
 3 A. Well, not only that, it was -- it was more subjective.
 4 Q. Yes. And you say -- and this is now 57 of the
 5 statement, please, page 20 {INQ010136/20}, the first
 6 two sentences -- that you would have seen the weather
 7 forecast produced by the Met Office. So obviously by
 8 this stage, November '21, you were on the second system,
 9 as it were, and they were producing it.
 10 A. That's correct.
 11 Q. Thank you. And you also refer there to seeing the Joint
 12 Maritime Security Centre situational and operational
 13 awareness briefs.
 14 But the conclusion you have there at the end of the
 15 paragraph, if we could turn over the page, please
 16 {INQ010136/21}, do you see the very last sentence,
 17 Commander Toy --
 18 A. Mm--hm.
 19 Q. -- that nothing you were told in this information
 20 suggested that the day was going to be out of the
 21 ordinary?
 22 A. No, not to what we were used to --
 23 Q. Yes.
 24 A. -- on an amber day or whatever rating it was.
 25 Q. So far as the numbers of small boat crossings are

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1 concerned, we have, as I said to you earlier , seen the
 2 figures for the whole of '21 and before and it was
 3 obvious, wasn't it , by this point in November,
 4 24 November, that November '21 was a very busy month?
 5 A. I suppose so, yes.
 6 Q. Do you not remember that?
 7 A. It was busy, yes.
 8 Q. I mean, you have described the conditions to us and
 9 I think they were the conditions that pertained in
 10 November '21, weren't they?
 11 A. Yes, I agree with that.
 12 Q. Yes. You have mentioned earlier the nature of the day,
 13 green, amber, red, etc, signifying the likelihood of
 14 crossings. We know that this one, the 24th, was
 15 actually a red day, but did that have any impact on the
 16 nature of your preparation?
 17 A. No, we -- we expected to be called. We were primary, so
 18 I reported that I'll remain in Dover ready to respond.
 19 We had already had the CFI down, so they were -- they
 20 knew where to come, and we were ready to respond.
 21 Q. Yes. So you didn't do anything differently. It's just
 22 the forecast was telling you it was more likely on a red
 23 day that you would have crossings than on green or
 24 amber.
 25 A. Yes.

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1 Q. Now, in terms of assets available, we know that
 2 Border Force had a range of assets available for search
 3 and rescue responses in November '21 and that there were
 4 others provided by independent contractors, 2Excel,
 5 Bristow, etc.
 6 So could I ask you please to look at {INQ000566/1}.
 7 This is an email on the day before at 5.12 in the
 8 afternoon on 23 November. Do you see? And it sets out
 9 the assets available that night.
 10 Now, would you receive an email like this before
 11 deployment?
 12 A. Yes, I would have seen this --
 13 Q. Yes.
 14 A. -- or a similar form.
 15 Q. Yes. So you would expect, in this way, to know what
 16 other assets, other than the Valiant, were available for
 17 deployment on the particular night.
 18 A. Yes, that's correct. I'd just like to point out that's
 19 an amber day planning.
 20 Q. Yes, the 23rd was amber, I think it's right, and the
 21 24th was red.
 22 A. Okay.
 23 Q. Yes. Can I ask this about the information you were
 24 given before deploying? Were you told before you
 25 deployed which other assets were being deployed

1 alongside you?
 2 A. No.
 3 Q. Did you need to be aware of that?
 4 A. Are you -- are you talking about aerial assets?
 5 Q. Could be any assets, but yes, let's take aerial.
 6 A. No, I -- it would have been beneficial to know if there
 7 was an aircraft, but I didn't.
 8 Q. Yes. Well, we will talk about air cover in a moment,
 9 because you deal with that in your statements, as you
 10 remember. But presumably, sticking with air, if there
 11 was going to be top cover, if there was going to be
 12 an aerial asset, you would want to know that.
 13 A. I assumed there was.
 14 Q. Yes, and it turned out there wasn't.
 15 A. Correct.
 16 Q. Yes. But equally, if you were made aware that there
 17 wasn't air cover, if you had been made aware of that
 18 before you started, would you have expressed concern
 19 about it, wanted something to be done about it?
 20 A. It's -- at -- when I went to get some rest, there was
 21 air -- there was going to be air cover, and when I was
 22 deployed, I deployed.
 23 Q. Yes.
 24 A. So --
 25 Q. So you were just focusing on your part of the job.

1 A. Correct, yes.
 2 Q. And in your statement, you explain what happened about
 3 the air cover, and this is 58 {INQ010136/21} -- if we
 4 could have the email down, thank you very much -- that
 5 you weren't aware and you don't know whether you got
 6 an email confirming that there wasn't going to be any
 7 cover, but you wouldn't have seen it anyway because, as
 8 you say, you were resting.
 9 A. Yes.
 10 Q. Okay. And in terms of that, presumably what that means
 11 is that when the call to deploy comes through -- in this
 12 case we know it was at 1.30 and you think you were
 13 probably asleep -- you have to, at that point, get hold
 14 of the background information or all of the points we
 15 have been talking about, as it were, once you are awake
 16 and getting ready to deploy in 30 minutes.
 17 A. Well, my focus was to get -- get the vessel underway and
 18 going towards the co-ordinates I had been given.
 19 Q. Okay. Now, in this same paragraph, you say, do you see,
 20 a little bit later on the question of air cover:
 21 "Either way, it would not have affected the
 22 deployment of [the] Valiant. We simply deployed if we
 23 were ordered to do so by the MCC."
 24 And that's very much what you have just said to me,
 25 but presumably the absence of a recognised maritime

1 picture which came with the absence of air cover did
 2 actually have an impact on how you were able to do your
 3 job.
 4 A. It had an impact on the overall maritime picture --
 5 Q. Yes.
 6 A. -- but it didn't affect how I was able to do my job.
 7 Q. No, but it meant there was nobody else out there able to
 8 point you in the right direction --
 9 A. That's correct.
 10 Q. -- putting it simply.
 11 A. Yes.
 12 Q. So as you were deploying and making your way, and we
 13 know it took a fair old time to get there, there was
 14 nobody up there with an eye on the boat from the air
 15 giving you updated co-ordinates, for example.
 16 A. Or other traffic, no.
 17 Q. No, exactly. So it made it more difficult, this
 18 business of locating the boats, didn't it?
 19 A. Well, it didn't help.
 20 MR PHILLIPS: No. We will come back to that.
 21 Sir, would this be a good moment?
 22 SIR ROSS CRANSTON: Yes, right. So what's that? 12.07.
 23 Thank you.
 24 (11.57 am)
 25 (A short break)

1 (12.07 pm)
 2 SIR ROSS CRANSTON: Yes, Mr Phillips.
 3 MR PHILLIPS: Commander Toy, I am about to ask you some
 4 questions about the deployment on the night. But before
 5 I do, can we stand back a bit and can I ask you some
 6 questions about your small boat rescue experience up
 7 to that point.
 8 It may be you can't help us, but can you give
 9 an estimate, at least, of how many small boat rescues
 10 you had taken part in by the time you were tasked on the
 11 early hours of 24 November?
 12 A. That's very difficult to answer that.
 13 Q. It is, I'm afraid.
 14 A. Well, I would say over -- over 50 maybe.
 15 Q. Yes.
 16 A. Possibly more. I -- I don't -- I don't know.
 17 Q. And how many times -- again, it's very difficult
 18 I'm afraid, but do your best -- had you been tasked to
 19 Operation DEVERAN? Because it's not necessarily the
 20 same thing, is it?
 21 A. No, I get that. Possibly eight times in two month
 22 periods, possibly.
 23 Q. All right. That's for the whole of the time that you
 24 were working on Operation DEVERAN, between then
 25 and November 21?

1 A. Yes, that's correct.
 2 Q. Thank you. So, turning to the night itself, can we
 3 start by looking at your daybook again, please. This is
 4 {INQ002051/3}. So the first entry there, we can see the
 5 tasking to deploy at 1.30 and there are co-ordinates
 6 given. It may be helpful if you can talk us through
 7 what you have written there.
 8 A. Yes, I can talk you through that.
 9 Q. Thank you.
 10 A. So, obviously the date and the time: Call X MCC, deploy
 11 to event, latitude/longitude, call CFI, call crew, plot
 12 and prepare to deploy.
 13 Q. Thank you. And in your -- if we can take that down
 14 briefly, please -- in your statement, paragraph 62
 15 {INQ010136/22} you say, in the fourth line:
 16 "I was likely asleep ..."
 17 We have talked about this before:
 18 "I was likely asleep when I received the call ..."
 19 Do you see the sentence just above that though? You
 20 say:
 21 "I understand that call to have taken place with
 22 [Border Force] higher officer Karen Whitehouse."
 23 I mean, do you actually remember that call now, the
 24 call at 1.30?
 25 A. No, I don't recall it now.

1 Q. No.
 2 A. No.
 3 Q. And can you be sure now that the call came in from
 4 Karen Whitehouse, for example?
 5 A. I can only assume it came from the MCC.
 6 Q. Yes. And then if we go back to your daybook, please,
 7 {INQ002051/3}, other than what's written in the daybook,
 8 do you have any independent recollection of what you
 9 were told in that call?
 10 A. No.
 11 Q. No. So you don't know whether you were told about the
 12 number of people on the boat, the status of the boat,
 13 anything like that?
 14 A. No, I don't -- I don't remember because you get so many
 15 calls that you can get confused as to which one it
 16 refers to.
 17 Q. Yes. Can you remember, from what's written down there,
 18 what you were told about your tasking?
 19 A. No.
 20 Q. So what do you think you were being deployed to do?
 21 A. To go and locate a vessel in that position --
 22 Q. Right.
 23 A. -- and report and take action as necessary.
 24 Q. And it certainly looks, from what you have recorded,
 25 that you didn't feel it right to record anything

1 specifically about the urgency or anything else of the
 2 situation with this boat?
 3 A. No, because my priority is to get -- get underway and
 4 once we are clear and we were en route, we can then get
 5 the finite detail later on.
 6 Q. Yes. I assume when -- or maybe you realised when you
 7 were given the co-ordinates, that the boat was not yet
 8 in UK waters?
 9 A. I don't -- I don't remember.
 10 Q. No. But would it have made any difference to your
 11 response anyway?
 12 A. No.
 13 Q. No. You were given the co-ordinates and your job, as
 14 you saw it, was to head in that direction?
 15 A. That's correct.
 16 Q. Yes. Can we just have a quick look at your -- at the
 17 transcript of your May interview and again, I don't know
 18 if you remember, that was in April 22. This is
 19 {INQ008330/5}, and do you see at the bottom of the page
 20 there is a large block of text which is you speaking;
 21 you are "T".
 22 A. Mm-hm.
 23 Q. And about five or six lines down, you say -- seven lines
 24 down:
 25 "So the initial position that I got at about let's

1 have a look 01.30 was it was in French waters sort of
 2 about I would say -- haven't got any scale on here.
 3 I would say about just under 5 miles south. No 4 miles
 4 south of the Sandettie Lightvessel. So in the French
 5 search and rescue zone."
 6 So certainly, it looks as though much nearer to the
 7 event, only five months after, you had a clear sense
 8 that the co-ordinates put it still in French water?
 9 A. Yes, probably the advantage I have with when I made that
 10 statement was that I had a -- probably had a chart to
 11 refer to the position so that I could actually plot and
 12 see where it was. Whereas now, I -- I don't.
 13 Q. No, exactly. But the point you make there, of course,
 14 in the next sentence is important. Can I just read it :
 15 "However, having been deployed to a few of these
 16 things quite rightly they asked us to go at
 17 01.30 because by the time we get into location it's
 18 likely that the vessel will in fact be in the UK search
 19 and rescue zone."
 20 And that obviously reflected your experience?
 21 A. Yes.
 22 Q. Because, as we were discussing before, the boats are
 23 moving and the chances are -- they are moving towards
 24 the UK, that's the point, and therefore it's likely that
 25 the vessel would have gone over the line by the time you

1 get there?
 2 A. Yes, sir. The sooner we can get moving, the sooner we
 3 can get to the position when we get there.
 4 Q. Yes. But that -- that goes to the point that we were
 5 discussing earlier, it doesn't really make any
 6 difference, as far as you are concerned, whether it was
 7 in French waters or not. You were given the
 8 co-ordinates and you just had to get out and find it?
 9 A. Yes.
 10 Q. Expecting, as you said here, that if it was, it would be
 11 in English waters by the time you got there?
 12 A. Yes, that's correct.
 13 Q. Yes. Thank you. Now, the question of response times
 14 for cutters including the Valiant and obviously, in
 15 particular on the night in question, as we have
 16 discussed, you get the call at 01.30 and you have half
 17 an hour, 30 minutes, to deploy and what do you then do?
 18 What are the steps you take once you have been given
 19 a tasking like this?
 20 A. So, the first thing I do is to alert the crew.
 21 Q. Yes.
 22 A. Make sure they are all up and about, tell them we are
 23 going to proceed. I would then go into the wheelhouse,
 24 plot up the position, a lot of -- because we knew we
 25 were likely to get called, a lot of the -- the -- sort

1 of -- not mundane, but the more business as usual
 2 preparations would have been made. It would simply be
 3 a matter of the crew, or the engineers really, starting
 4 the -- warming the engines through, starting them up,
 5 doing their initial checks. No point leaving the berth
 6 if the steering's not working, or the engines aren't
 7 responding -- excuse me.
 8 The rest of the crew would be making the decks more
 9 secure. There would be certain things that we would
 10 want to remove that could be weaponised, if you like.
 11 And those sort of things, it just takes time to -- to
 12 get moving.
 13 Q. Yes. Now if we could go back, please, to the daybook,
 14 thank you very much, we will see at 01.50 {INQ002051/3}
 15 it says -- I think it says that the CFI was embarked.
 16 Can you just -- no reflection on your handwriting, but
 17 can you just read the last sentence there, after "CFI",
 18 what does it say?
 19 A. "SME" --
 20 Q. Yes.
 21 A. -- which is my shorthand for start main engines.
 22 Q. Yes.
 23 A. "Prep to sail, AIS on".
 24 Q. Right. So just talking about the CFI, therefore,
 25 embarking at 01.50, the rest of the crew and you were

1 already on board the boat?
 2 A. That's correct.
 3 Q. So did you have to wait for him?
 4 A. Not really. By the time we were ready to -- to go, he
 5 was there.
 6 Q. Based on your experience, if he hadn't -- if you hadn't
 7 had to wait for him, would you have left earlier?
 8 A. Probably not.
 9 Q. Probably not.
 10 A. No, because we weren't -- we only just started the
 11 engines at ten to.
 12 Q. Yes. Well, presumably, you started the engines once he
 13 got on board?
 14 A. No, no, we didn't wait for him. The engines would
 15 probably be -- it just happens that I made a note and
 16 everything was in place.
 17 Q. Okay, and what does it say at 2 o'clock?
 18 A. "Slip and proceed".
 19 Q. So that was you underway?
 20 A. That's us letting go of the quay and getting crew member
 21 back on board and proceeding.
 22 Q. So that's literally half an hour from the tasking at
 23 01.30?
 24 A. Yes.
 25 Q. Okay. But at that stage, you actually hadn't left

1 Dover, had you?
 2 A. No, no. No.
 3 Q. No. And it looks as though you didn't leave Dover until
 4 02.22. "Clear Dover", is that right? Is that what it
 5 says?
 6 A. Yes, that is what it says. "Clear Dover, ETA MPC",
 7 which is a buoy one hour.
 8 Q. Yes. So by the time you clear the port, 52 minutes have
 9 elapsed since the tasking?
 10 A. Yes.
 11 Q. And you were estimating an hour further to the MPC buoy,
 12 is that right?
 13 A. That's what I have written there, yes.
 14 Q. Now that wasn't the -- wasn't the location you were
 15 given. Why were you doing your time estimate by
 16 relation to that?
 17 A. It was just something that I recorded to. If anyone
 18 asked me what time I would get there, I could say: well,
 19 MPC about an hour and a little bit more.
 20 Q. Yes, and therefore, more than that to get to the
 21 locations you have been -- the co-ordinates you have
 22 been given?
 23 A. Possibly, yes.
 24 Q. Was it clear to you, do you remember, how much longer it
 25 would take to get from the MPC buoy to those

1 co-ordinates?
 2 A. No, because as I stated earlier -- excuse me -- it's not
 3 a case of going from Dover to those co-ordinates and an
 4 ETA is what it is, an estimate.
 5 Q. Yes.
 6 A. So until I've got the full picture of the navigational
 7 situation, I don't know what route is the best route to
 8 take and indeed, the safest route to take, to get to
 9 that position. So I am just trying to figure out
 10 timings in my -- in my mind as to -- should something
 11 else come in --
 12 Q. Yes.
 13 A. -- how long would it take you to get here.
 14 Q. But assume for the moment that the MPC buoy which you
 15 mention in that entry at 02.22 was reasonably close to
 16 the co-ordinates you had been given, what you are
 17 talking about there as you leave Dover is, in all,
 18 an hour and 50 minutes to get to the place you were
 19 aiming for.
 20 Now, imagine a situation with distress calls coming
 21 in from a small boat, people who say they are in need of
 22 urgent help, that's a long time, isn't it?
 23 A. It is.
 24 Q. Is it too long for a search and rescue operation?
 25 A. I think the thing is I can only go as fast as I possibly

1 can.
 2 Q. Yes. Well, I totally understand that and you are doing
 3 what you can with the resources you have available. But
 4 based on your experience, that's a very long time for
 5 people who are in distress on a small boat, isn't it?
 6 A. Yes.
 7 Q. Yes. Now, can we move on, still in the daybook, to
 8 02.30. And again, if you don't mind, just -- I think
 9 I know what it says, but can you just tell us?
 10 A. So, 02.30 "From Dover coastguard, small 40 POB [persons
 11 on board], position".
 12 Q. Yes.
 13 A. "Sandettie Lightvessel, bearing 244 by 1.8, taking
 14 water".
 15 Q. "Taking water". Great, thank you. So it looks then as
 16 though you got that information from the Dover
 17 coastguard, as you say. And so by that time, 02.30, you
 18 knew that the boat was taking water. Did that change
 19 your assessment of the urgency, or your response to this
 20 incident?
 21 A. No, because I -- I needed to get -- get there as soon as
 22 I could in any case.
 23 Q. Yes, and so can I take it from that, that you were
 24 already going at what you describe in your statement as
 25 "best speed"?

1 A. Safe speed.
 2 Q. Safe speed, thank you. But you know, even then, that
 3 you are about an hour away. Do you remember letting
 4 coastguard know, at that point, that it would take you
 5 an hour to get -- roughly an hour to get to the
 6 co-ordinates?
 7 A. I believe, at some point I did. But, I don't see it
 8 referenced here.
 9 Q. No, no. Okay.
 10 A. In any case -- sorry, in any case, they would have had
 11 an overview of me on the radar and the AIS.
 12 Q. Yes, well they could see where you were, but there
 13 wasn't any air cover, so they couldn't see where the
 14 boat was, could they?
 15 A. No, but they knew where the Sandettie Lightvessel is.
 16 Q. Yes, but as we have agreed, the likelihood is that in
 17 the hour -- or two hours, in fact, between those
 18 co-ordinates at 01.30, the boat would have moved?
 19 A. It could well have done.
 20 Q. And might have moved a fair old distance?
 21 A. It could have done.
 22 Q. Yes. Now, just on this question of taking water, which
 23 as you say is something that you think you were told by
 24 the Dover coastguard at 02.30, can we look, please, in
 25 your statement at paragraph 66, {INQ10136/23}. Thank

1 you. Do you see the fourth line, you set out the entry
 2 we have just been looking at.
 3 A. Mm—hm.
 4 Q. And there, you say:
 5 "'Taking water' is serious, but does not necessarily
 6 mean that a given vessel is sinking."
 7 And you explain why: common for them to take on
 8 water, they were wholly unsuitable for the crossings and
 9 particularly, had a very shallow freeboard.
 10 It may have been a common occurrence, but it doesn't
 11 necessarily mean it was safe, does it, in crafts like
 12 this?
 13 A. No, that's why all vessels are considered to be in
 14 distress.
 15 Q. Exactly. Because if a vessel of this very rudimentary
 16 and, frankly unseaworthy, kind is starting to take on
 17 water, things might, quite suddenly, go very badly
 18 wrong?
 19 A. Yes.
 20 Q. And you must have had experience of that?
 21 A. I have.
 22 Q. Yes. And you also knew, of course, that when people
 23 enter the water in November, in the Channel, the effects
 24 of cold water on them can be very serious and very
 25 quick?

1 A. Yes, sir, I am aware of that.
 2 Q. Yes, and therefore, presumably, that for a primary
 3 responder to a boat taking on water, a further response
 4 time from this point of over an hour might mean the
 5 difference between life and death for the people on
 6 board?
 7 A. It could well do.
 8 Q. Yes. Can we go back to the daybook, please. Thank you
 9 {INQ002051/3}. At 02.40 you asked for and were granted
 10 permission to contravene the traffic rules, if I can put
 11 it that way; is that what it says?
 12 A. Yes. Excuse me. Permission to proceed contrary to
 13 Rule 10 of the International Collision Regulations.
 14 Q. Right. I would like to show that on the video, please.
 15 Can we have {INQ001384/1}. Now, we can see the time
 16 going quickly on the left and that must be the time you
 17 were leaving Dover. We can see the little box, Valiant.
 18 A. Yes.
 19 Q. 02.25, you are well out. And we will just have to be
 20 a little bit patient, we are just going very quickly.
 21 So we will see, I think, at 02.40, as you say, you
 22 effectively crossing the line. So you have asked for
 23 permission and in you go.
 24 A. So if I can give you some narratives.
 25 Q. Please, please.

1 A. I might have asked for permission there with the hope
 2 that if I could cross sooner, I would. However, it then
 3 became apparent that these three vessels here —
 4 Q. Exactly.
 5 A. — the Fehn Companion, the Excelsus and the Sixtine were
 6 blocking my direct — you can see the MPC buoy to the
 7 south and then you can see, I have swung around now
 8 towards the Sandtette Lightvessel.
 9 Q. Yes, the MPC buoy there, the bottom centre really of
 10 the —
 11 A. Yes.
 12 Q. — screen, as we are looking at it, yes. So if we just
 13 keep the video going so we can see where you end up at
 14 03.27, which is the next key moment.
 15 (Pause)
 16 Now, we are — you are moving towards the Sandtette
 17 Lightvessel which we can see, the red one.
 18 (Pause)
 19 And there we are. If we can stop it there, please.
 20 Because you, again, tell us in your statement and
 21 you record in your daybook that that, at 03.27, is when
 22 you were, and I quote:
 23 "In vicinity of last known position 'C'.
 24 So Incident Charlie?
 25 A. Yes.

1 Q. Thank you very much. Could we take that down, please,
 2 and have up {INQ005568/1} which is a radar screen,
 3 I think — I hope and again, so that we all know what we
 4 are talking about, this is, in fact, from 03.27, the
 5 timing is an hour on, but — so French time, as it
 6 were — and can you help us to see, if you can make more
 7 sense of it than I can, where you are — the Valiant is?
 8 Is it in the purple square? I think it is.
 9 A. No, the purple square is referring to — if you can zoom
 10 out again please, sorry. The purple square is the
 11 target — you see the Sandtette Lightvessel up in the
 12 top right—hand corner?
 13 Q. Yes.
 14 A. So that is the Sandtette Lightvessel. Where — the
 15 Valiant is the centre of the screen where you have got
 16 the sort of small arrow with — an arrow — or a line
 17 with two arrowheads on it.
 18 Q. Yes, exactly.
 19 A. So that's the — that's us, yes.
 20 Q. Good, okay. Thank you. We can take that down, please.
 21 Anyway, the net result of all these timings is that from
 22 the tasking to reaching the area of the co—ordinates, it
 23 was about two hours.
 24 A. Yes, that's correct.
 25 Q. And again, in your experience of search and rescue of

1 this kind, for small boats, was that a usual arrival
 2 time from port to last known co-ordinates?
 3 A. I think it's very difficult to -- to set that sort of
 4 time because there are many factors that need to be
 5 taken into consideration.
 6 Q. Yes.
 7 A. The main ones for me are the fact that small boats are
 8 not visible on radar, or by your eye, until a very short
 9 distance away. I was concerned that -- my experience
 10 shows that if one boat's out there, there's going to be
 11 others out there. So I didn't want to run anybody over.
 12 I didn't want the wash of my boat to swamp any boats
 13 that we hadn't located.
 14 I also had crew on board that would be doing various
 15 tasks to prepare for a rescue and if I had to do an
 16 emergency stop without announcing it, I could injure one
 17 of those. So there's always factors that have to be
 18 taken into consideration.
 19 Traffic, again, I mean, I could have taken -- if
 20 there wasn't that traffic in the Southwest bank lane,
 21 I could have probably taken a -- a more direct route,
 22 but unfortunately, I couldn't.
 23 Q. No. Well, all of those factors which you have fairly
 24 set out, explain why you went at the speed you did and
 25 how you had to make your way. We have seen that very

1 graphically on the radar. But, the fact is that it took
 2 two hours from tasking to get to the co-ordinates you
 3 had been given. And given what I have told you, or
 4 posited, the suggestion that there was calls, urgent
 5 calls, people in distress, taking on water, that's
 6 a very long time isn't it?
 7 A. It is.
 8 Q. Yes. Can I ask you a separate question related. Do
 9 you -- or did you, when you were doing this work, have
 10 in your mind an average time -- I appreciate you may say
 11 you can't do that -- but an average time to get you to
 12 the median line?
 13 A. Again, it's very difficult.
 14 Q. It all depends?
 15 A. It depends on traffic, visibility. You know, if you are
 16 in thick fog, you won't be going anywhere near that
 17 speed.
 18 Q. What would you normally expect, can I ask you that?
 19 A. It's difficult to tell.
 20 Q. Would there be a range, between X and Y?
 21 A. No, not really. I -- it's very, very difficult to
 22 explain. Sea conditions. There's so many factors, it's
 23 just very difficult.
 24 Q. Okay. Commander Toy, I want to ask you some questions
 25 now about the Mayday Relay and we talked, right at the

1 outset, about your training on and understanding of your
 2 obligations as a mariner under SOLAS.
 3 So taking, again, a general question,
 4 a hypothetical, if you hear a Mayday Relay call while
 5 you are deployed, what do you have to do?
 6 A. Respond.
 7 Q. Which means?
 8 A. Record it.
 9 Q. Yes.
 10 A. Respond to the co-ordinating authority to tell them that
 11 you are available.
 12 Q. Yes.
 13 A. And proceed, if -- if you possibly can.
 14 Q. Yes. And at this time, November 2021, how were such
 15 relays broadcast? Was it on VHF?
 16 A. I believe it was.
 17 Q. Yes. And if a broadcast -- a Mayday was broadcast in
 18 that way, would it have been audible on the Valiant?
 19 A. Possibly, yes.
 20 Q. You say possibly?
 21 A. Yes, I -- I could have been involved in other
 22 communications --
 23 Q. Yes.
 24 A. -- so I might have missed it.
 25 Q. You might have missed it, but would somebody have picked

1 it up?
 2 A. Possibly.
 3 Q. Because otherwise the system doesn't really work, does
 4 it? If you have obligations to respond, but it's, as it
 5 were, a matter of chance whether you hear it, the
 6 system's not working, is it?
 7 A. No.
 8 Q. So was that a problem on this occasion, do you think?
 9 A. I don't think it was because we were already tasked
 10 to --
 11 Q. Yes.
 12 A. -- an event.
 13 Q. But as far as you knew at 01.30, you weren't responding
 14 to a Mayday?
 15 A. Well, every tasking we had was from a vessel, a small
 16 boat and it was acted as in distress.
 17 Q. Yes, but -- as you have pointed out, quite right, but we
 18 know that there was, in fact, a Mayday issued for this
 19 incident, don't we?
 20 A. Mmm.
 21 Q. Had you, by November 21, when this -- when you were
 22 deployed on the 24th, had you come across before
 23 a Mayday call being issued for a small boat?
 24 A. No.
 25 Q. No. So it was very unusual in your experience?

1 A. I had never experienced it.
 2 Q. It was unique?
 3 A. Possibly, yes.
 4 Q. Yes. So if you didn't hear the Mayday when you were on
 5 the Valiant, presumably you would expect whoever did,
 6 whichever member of the crew did hear it, to tell you,
 7 because you would have to respond accordingly?
 8 A. Yes.
 9 Q. Okay. Now, when you receive a Mayday like this, are you
 10 under an obligation to respond to the issuing authority?
 11 A. Yes.
 12 Q. To say whether or not you are on your way, or you are
 13 able to help?
 14 A. Mmm.
 15 Q. Yes.
 16 A. Yes.
 17 Q. And I am right, aren't I, in thinking that any vessel in
 18 the Channel that night that heard the Mayday Relay
 19 should have responded to it?
 20 A. That's correct.
 21 Q. Yes, thank you. In responding to a Mayday Relay, is it
 22 possible to ask for further information from the
 23 co-ordinating authority?
 24 A. I believe so, yes.
 25 Q. Yes. Have you done that yourself?

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1 A. Well, I believe I did on this instance when
 2 I clarified -- I heard something.
 3 Q. Yes.
 4 A. I heard a position, but I can't remember hearing the
 5 words "Mayday Relay".
 6 Q. Okay.
 7 A. So it may be that I was on a telephone or something and
 8 I heard something and I -- I contacted the coastguard to
 9 confirm that I was responding to that.
 10 Q. Right.
 11 A. So in my mind, I was responding to that event.
 12 Q. Okay. So what I think you are saying is that you don't
 13 think you heard it but you got the information by
 14 chasing it up, as it were, or following up?
 15 A. Yes.
 16 Q. With the coastguard?
 17 A. That's correct.
 18 Q. Okay. Let's have a look at the daybook, if we may,
 19 please. And that's {INQ002051/3}. There it is. Again,
 20 we are on page 3 again. We can see the entry which you
 21 read out for us at 02.30 from Dover Coastguard, the
 22 small boat, 40 passengers on board and then the
 23 co-ordinates, as you said.
 24 A. Mm-hm.
 25 Q. And then the words at the end which are taking --

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1 A. "Taking water".
 2 Q. "Taking water".
 3 That was, in substance, the Mayday message that
 4 night, wasn't it?
 5 A. I believe so.
 6 Q. Yes. And you can see in the next entry you refer to
 7 your tasking as "Mayday"?
 8 A. Yes.
 9 Q. "Advise proceeding" I think -- again, tell me if I am
 10 getting the handwriting wrong -- "Advise proceeding to
 11 Mayday at 02.30"?
 12 A. Yes.
 13 Q. So you are referring there, aren't you, to the Mayday
 14 which you have recorded at 02.30?
 15 A. Yes.
 16 Q. Thank you.
 17 A. Just to clarify that.
 18 Q. Yes, sorry.
 19 A. I -- I made a -- I made contact -- I can't remember
 20 whether it was telephone or on the radio -- because
 21 I was concerned that there were two incidents ongoing
 22 here and I wanted to clarify that the original tasking
 23 I had was indeed the one that they were talking to that
 24 I recorded at 02.30 and they clarified that with me.
 25 Q. That it was the same incident?

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1 A. Yes.
 2 Q. In other words, that the one you had been deployed to
 3 at 01.30?
 4 A. That's correct.
 5 Q. Thank you very much. Okay. I mean, there is, I think,
 6 a little uncertainty about this in your recollection.
 7 If we can go back to your statement, at 67
 8 {INQ010136/23}, just to remind you of what you said
 9 there. At the bottom of the page, you see:
 10 "My daybook entry references that I was 'proceeding
 11 to mayday', however I do not recall receiving a mayday
 12 in relation to my tasking, nor a PAN-PAN [the other type
 13 of signal]. I may simply have used the terminology ..."
 14 Etc. Now it sounds as though what you are saying to
 15 us today is rather different; that you followed this up
 16 and that what you were told at 02.30 -- 02.34, I'm
 17 sorry, was confirmation of the contents of the Mayday
 18 which you referred in the daybook at 02.30?
 19 A. Yes. Sorry, I -- I am not trying to confuse anyone.
 20 What I am trying to say is I didn't hear the words
 21 "Mayday".
 22 Q. No, I understand.
 23 A. So I clarified that the one I was going to was in fact
 24 a Mayday.
 25 Q. But the net result, from what you are saying, it didn't

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1 make any difference because you got the information and
 2 you knew what the Mayday had said?
 3 A. Yes, sir. The important thing to me was I wasn't
 4 getting confused that there were two events going on.
 5 Q. Yes.
 6 A. I wanted to clarify that the event I was originally
 7 tasked to was, in fact, the one they were talking about.
 8 Q. Yes. Now, in the statement, at the top of the second
 9 page there {INQ010136/24}, you see the sentence begins:
 10 "I may simply have used the terminology 'mayday'
 11 because I was informed that the vessel to which I was
 12 tasked was taking water."
 13 That's not very likely, is it, because you have
 14 already told us that taking water was quite a normal
 15 thing. You were specifically told this was a Mayday,
 16 weren't you?
 17 A. I don't recall receiving the Mayday.
 18 Q. No, okay. But you wrote it down in the daybook.
 19 A. Because that's the nautical terminology for that type of
 20 event.
 21 Q. Okay. So at 02.34 you wrote in the daybook, if you
 22 remember: "Advise proceeding to Mayday at 02.30"?
 23 A. Yes.
 24 Q. If you remember, it was then that you recorded the
 25 information which we know was, in fact, in the Mayday

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1 call.
 2 A. Sorry, say that again, sorry, please.
 3 Q. Let's have a look at your notebook -- or daybook.
 4 A. Yes.
 5 Q. 02.34, you say:
 6 "Advise proceeding to Mayday at 02.30".
 7 If you look above, there you have the Mayday
 8 content -- what was actually set out in the Mayday.
 9 A. Mm-hm.
 10 Q. So it looks as though, one way or another, you knew what
 11 was being said in the Mayday Relay call?
 12 A. Yes.
 13 Q. Thank you. And we can just -- if you want confirmation
 14 of that, let's have a look, please, at {INQ007660/2}.
 15 There it is:
 16 "Small craft with 40 persons on board ..."
 17 Then the position, which you wrote down:
 18 "Taking water" and then these words "requiring
 19 immediate assistance."
 20 Do you think you will have been told that as well on
 21 the night?
 22 A. Most probably.
 23 Q. Yes. I mean, the fact you didn't write it down, as we
 24 have discovered, doesn't mean you weren't told it?
 25 A. That's correct.

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1 Q. Yes. Thank you. Going back to your daybook, please.
 2 The reference to "taking water" there at 02.30, do you
 3 think that was the first time you were told that this
 4 boat was taking on water?
 5 A. I don't -- I don't remember.
 6 Q. No, thank you. Now, can we look at the transcript of
 7 a call, please, between the Valiant and the coastguard
 8 and this is at {INQ007613/2}, the second page, please,
 9 Valiant and -- well the Valiant is at the top. Do you
 10 think this will have been you, making this -- or
 11 receiving this --
 12 A. Yes, that would be me.
 13 Q. Thank you very much. And the time is 02.32. That was
 14 on the first page. Sorry, I should have showed that to
 15 you. So you are speaking from the Valiant to
 16 Stuart Downs of the coastguard and you are asked what
 17 incident you are attending and do you see the second
 18 paragraph of Stuart Downs:
 19 "... it's understood you're attending the
 20 Mayday relay."
 21 And you say:
 22 "Yes, if you're happy with that, we'll proceed to
 23 the Mayday one over."
 24 And then a reference there to the Flamant, which was
 25 a French vessel, wasn't it, being closer to the

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1 co-ordinates; yes?
 2 A. Yes, yes.
 3 Q. And do you see, above that, in the second box of your
 4 speech, you say:
 5 "Yeah, we were deployed to one at 1.30 by our
 6 control unit and then we heard your one with the vessel
 7 taking water with the 40 on board."
 8 And we know that's what is said in the Mayday. So
 9 it looks, doesn't it, as though by this point, 02.32,
 10 somebody had heard the Mayday about the vessel taking on
 11 water with 40 on board?
 12 A. Well, like I have said, I heard there was a vessel
 13 taking water on board in that position and I wanted to
 14 confirm that it was the same event.
 15 Q. Yes. So what did you mean by "your one"?
 16 A. Well, that was the thing. I wasn't sure if that was the
 17 01.30 one, or --
 18 Q. Or the 02.30 one?
 19 A. No, the one I was deployed at 01.30.
 20 Q. I see, yes.
 21 A. I was trying to confirm that that was the same one as
 22 the 02.30 broadcast, if you like.
 23 Q. Thank you. Yes, I understand. And again, just flicking
 24 back to the daybook, please {INQ002051/3}. There is the
 25 02.30 and that's where you get the information from

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1 the ...
 2 A. That's correct.
 3 Q. So it looks as though, in the call, you are referring to
 4 that call from coastguard?
 5 A. That's correct.
 6 Q. Thank you. Now, therefore, one way or another, you had
 7 all this information about this boat about an hour
 8 before you got to the co-ordinates.
 9 Again, just coming back to this question if I may.
 10 Given what you learnt an hour into your deployment about
 11 its situation, did you take any different further steps
 12 to get to the co-ordinates you had been given?
 13 A. No, I believe I -- I made the safest speed I could to
 14 get there.
 15 Q. And did the -- again, I think you may have covered
 16 this -- but did the information you were given that
 17 Charlie, the boat, was taking on water change your
 18 assessment of the appropriate level of urgency?
 19 A. No. I -- I was on -- on -- I got to a position for
 20 event Charlie as soon as I possibly could.
 21 Q. Yes. And did you, finally on this, did you pass on the
 22 information we see written down here to MCC, to
 23 Border Force, that you can recall?
 24 A. I don't think I did.
 25 Q. No?

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1 A. I don't think I did.
 2 Q. Thank you. Okay. Can we take the daybook down, please.
 3 A completely different topic, communications with
 4 the French, and this is paragraph 56 of your witness
 5 statement. If we could have that up, please,
 6 {INQ010136/20}.
 7 You talk there about your working relationship,
 8 first of all, with the French surface assets and how you
 9 would sometimes communicate with them via VHF and
 10 sometimes you would you say call them on a working
 11 channel and for example ask that they stay with a boat
 12 until you could take control of the situation.
 13 So as far as you were concerned in your experience,
 14 this was a perfectly sensible functioning working
 15 relationship?
 16 A. Yes, that's correct.
 17 Q. Thank you. Did you or your crew ever communicate
 18 directly with the French authorities, not with the
 19 vessels but with the authorities?
 20 A. No.
 21 Q. No. And then you say right at the end:
 22 "... professional working relationship, and any
 23 conversation which I had with the French was recorded in
 24 my daybook."
 25 So we know that there is no reference to

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1 a conversation with the French on this night. So can we
 2 take it then that, as far as you are concerned, there
 3 was no conversation between you on the Valiant and any
 4 French vessel that night?
 5 A. No, I made no conversation with the French vessel on
 6 that evening.
 7 Q. Thank you very much. Okay, the next topic is searching
 8 for Charlie, the boat, and the question of the available
 9 assets. As you have -- we have discussed, when you got
 10 to the co-ordinates at 03.27, you couldn't see the boat
 11 and we saw in the radar image how you got to the right
 12 point by 03.27.
 13 So at that stage, just to go back to the radar
 14 discussion we had earlier, would you have been the one
 15 looking at the port screen and your navigator looking at
 16 the starboard screen?
 17 A. Yes.
 18 Q. Thank you. Now, going to your daybook, please,
 19 {INQ002051/3}, can I assume that the co-ordinates you
 20 reached at 03.27 were those you record at 02.30?
 21 A. Yes, in the vicinity of it.
 22 Q. Yes?
 23 A. Yes.
 24 Q. Because they were an hour more updated as it were, if
 25 I can put it that way, than the ones you had received

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1 originally at 01.30?
 2 A. Yes.
 3 Q. What's -- what difference to non-experts was there
 4 between the two sets of co-ordinates?
 5 A. Oh, looking as a rough figure --
 6 Q. Yes.
 7 A. -- it's always difficult.
 8 Q. It is.
 9 A. A couple of nautical miles possibly.
 10 Q. Yes.
 11 A. But the -- the thing I would be focusing on would be the
 12 range and the bearing from the Sandettie Lightvessel.
 13 Q. Yes. So what I am really asking is when you got that
 14 message from Dover Coastguard at half past 2, did you
 15 then change your course to make for those co-ordinates,
 16 however small the difference?
 17 A. So I would have changed my course at 02.30 to that range
 18 of bearing from the Sandettie Lightvessel, yes.
 19 Q. Thank you very much. And did you, as far as you can
 20 recall at any point in the next hour, so between 02.30
 21 and 03.27, seek updated co-ordinates?
 22 A. No.
 23 Q. No.
 24 A. Because I had assumed I'd be given them if they had
 25 them.

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1 Q. And this is despite the fact as we know that boats, if
 2 their engines are working, the small boats are obviously
 3 on the move, they are unlikely to be where the
 4 co-ordinates even an hour before had placed them. You
 5 didn't seek updated co-ordinates in that final hour of
 6 your journey?
 7 A. No. As I -- as I have said if, if the coastguard had
 8 them I would trust them to give them to me.
 9 Q. Yes. Were there ever circumstances during your search
 10 and rescue experience where you proactively sought
 11 updated co-ordinates?
 12 A. Possibly that evening with the helicopter.
 13 Q. Yes. So when you knew there was the helicopter
 14 available, you could check in and get a better take on
 15 the co-ordinates?
 16 A. Yes, and they could vector us on to it.
 17 Q. Yes. But obviously without an aerial cover, that wasn't
 18 an option?
 19 A. Correct.
 20 Q. Yes. So the next question I want to turn to is, as it
 21 were, what you did when you got there. So in other
 22 words you have arrived at 03.27, in the vicinity of the
 23 last known position of the event and as you have
 24 explained the boat wasn't there.
 25 We have talked about this in general terms before.

1 But, how did you go about deciding how to plot your
 2 search for the vessel?
 3 A. So the first thing I did was I reported to the
 4 coastguard.
 5 Q. Yes, we can see that.
 6 A. That there was no vessels in that vicinity.
 7 Q. Yes.
 8 A. Then I made the decision to head towards the Sandettie
 9 Lightvessel based on the fact that in my experience,
 10 small boats may head towards a fixed point if they can
 11 make way --
 12 Q. Yes.
 13 A. -- and having worked out the tidal set, it also made
 14 sense to head that way because if the vessel had stopped
 15 at the last known position and drifted it was likely to
 16 have gone northeasterly.
 17 Q. And is -- presumably the factors that you have just
 18 mentioned are factors that you learnt to take into
 19 account really by experience with small boat search and
 20 rescue?
 21 A. Yes.
 22 Q. Yes. So it wasn't something you had specific training
 23 on. You just came to know that this was the best and
 24 most effective way of searching?
 25 A. Yes, it would seem that way from experience.

1 Q. Thank you. And while the searching was going on, can
 2 you remember now what arrangements you made on the
 3 vessel, in other words, how many look outs there were,
 4 whether you were -- who was using binoculars, etc?
 5 A. So we would all be I say "we all" -- there would be
 6 five people in the wheelhouse --
 7 Q. Yes.
 8 A. -- including the CFI person.
 9 Q. Yes.
 10 A. The navigator would probably be using the radar but also
 11 using the binoculars. The lookout could use the
 12 binoculars. I would probably be using the spotlight,
 13 shining the spotlight ahead to get a look ahead. The
 14 engineer could possibly be looking on the night vision
 15 and the CFI officer could use binoculars as well.
 16 Q. Yes, I mean in terms of looking at the radar, which you
 17 have just mentioned, as we know that's of pretty limited
 18 use with small boats?
 19 A. It is, but also you have still got to consider
 20 anti-collision work as well.
 21 Q. Yes. So you are not just conducting your search. You
 22 are making sure that you are not getting as it were in
 23 somebody else's way?
 24 A. Yes, and there's a certain amount of self-preservation
 25 as well going on.

1 Q. Indeed.
 2 A. Yes.
 3 Q. What about the weather, can you remember what the
 4 weather was like that night? Was it clear? Was it
 5 foggy?
 6 A. I don't recall it being foggy --
 7 Q. No?
 8 A. -- at the Sandettie Lightvessel.
 9 Q. Okay. But presumably it was dark?
 10 A. Yes.
 11 Q. Pretty cold?
 12 A. Yes.
 13 Q. Any other specific challenges that night that you can
 14 remember?
 15 A. Not weather wise or anything like that.
 16 Q. Yes. And in all of this discussion, we have been
 17 presuming that you have been looking for a boat and not
 18 for people in the water?
 19 A. Well, you are doing both because you are concerned that
 20 there may be people in the water because there's --
 21 there's the high probability that there are other events
 22 or are other small boats out there. So you are always
 23 very cautious. Plus you are looking for things that
 24 might have been jettisoned which may indicate that
 25 there's a vessel in the vicinity, life jackets, bags,

1 whatever, anything to indicate that you are in the right
 2 location.
 3 Q. Yes. So to summarise then, you are not just looking for
 4 a specific boat or a boat. You are looking for, as it
 5 were, other types of evidence that would indicate that
 6 it might be near?
 7 A. That's correct.
 8 Q. Yes. But you hadn't been told anything, certainly in
 9 your daybook that we have seen. To suggest that you
 10 were told to search for people in the water?
 11 A. No.
 12 Q. That's right, isn't it?
 13 A. That's correct.
 14 Q. Thank you. Had you -- can you remember now, had you
 15 been told at any stage that the boat had been swamped?
 16 A. I don't believe I was.
 17 Q. No. If you had been told that it had been swamped or
 18 that there were people in the water, would that have
 19 affected the way you went about your search?
 20 A. Probably not because once you are in that vicinity, you
 21 are on high alert in any case.
 22 Q. Yes.
 23 A. As I said earlier, you are looking for any evidence that
 24 you might be in the right area.
 25 MR PHILLIPS: Yes. Sir, would that be a convenient moment?

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1 SIR ROSS CRANSTON: Yes. Thanks very much. So we will come
 2 back at 2 o'clock, thank you very much.
 3 (12.58 pm)
 4 (The lunch break)
 5 (2.00 pm)
 6 SIR ROSS CRANSTON: Thank you, Mr Phillips.
 7 MR PHILLIPS: Commander Toy we, before the break, were
 8 discussing what you were searching for when you got to
 9 the last co-ordinates position at 03.27. Can I just ask
 10 you about another aspect of this.
 11 At 11 minutes past 3 that morning, there was another
 12 call between Border Force and coastguard. You weren't
 13 involved in it, so don't worry about that, but during
 14 that call Border Force was informed that there were at
 15 least four boats known to be requiring rescue in this
 16 Sandettie area. As far as you can recall now, is that
 17 something that you were told that night?
 18 A. Without reference to the --
 19 Q. Shall we have a look at the daybook?
 20 A. Yes, please.
 21 Q. It's not in your statement and the daybook is -- there
 22 it is, as if by magic {INQ002051/3}.
 23 A. Thank you.
 24 Q. There is no entry for 03.11. As I say, it's not
 25 suggested you were part of this call, but it's nowhere

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1 recorded, take it from me. You can read your writing
 2 better than me, so you can check.
 3 A. Okay, so at 03.20 "Call from Dover coastguard RQ 163"
 4 which I associated to be a helicopter, would be on task
 5 at 03.30.
 6 Q. Yes.
 7 A. Was then told:
 8 "Other migrant vessels in the area of Sandettie
 9 Lightvessel. Remain on Charlie".
 10 Q. So, there were other boats there?
 11 A. I was told there were other vessels in the vicinity of
 12 the Sandettie Lightvessel.
 13 Q. Not specifically four, but certainly not just the one?
 14 A. Other migrant vessels.
 15 Q. Exactly.
 16 A. Yes.
 17 Q. Thank you very much. Now, can I take you back to the
 18 topic of air cover, which we touched on earlier today.
 19 And again, we have covered the fact that you became
 20 aware that there was no aerial coverage, certainly when
 21 you started your deployment, that's right, isn't it?
 22 A. I don't recall being told at the time, but because I was
 23 getting no -- I suppose I just worked it out from the
 24 fact that I was getting nothing about it.
 25 Q. Shall we have a look at 58 of your statement, page 21.

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1 {INQ010136/21}:
 2 "I was not aware that there was no aircraft cover
 3 for that day. I don't recall whether I received
 4 an email confirming that there would be no aircraft
 5 cover, but likely would not have seen it any case, as
 6 I was resting."
 7 Then you made the point we discussed before, it
 8 wouldn't have affected the deployment. And you also
 9 say, just before that, in your statement at 55, if we
 10 could have that, please, {INQ010136/19}, in relation to
 11 Bristow, that any contact with them would be via the
 12 coastguard. Do you see at the end of the page there,
 13 rather than you contacting them direct; is that correct?
 14 A. Not exactly correct. I might -- excuse me -- once they
 15 were on -- on task they would be known as RQ 163.
 16 Q. Yes.
 17 A. And I may or may not have spoken to them asking for
 18 a position update. But I certainly wouldn't be tasking
 19 them or anything like that.
 20 Q. No. Well, you see the next point, the next sentence, do
 21 you see:
 22 "... I might receive information or taskings
 23 directly from the helicopters, as described above,
 24 however I would not task [them], as that was not my role
 25 and I did not have the requisite authority."

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1 A. No, the — the only thing I may do is call up on
 2 channel zero to RQ 163: can I have an updated position.
 3 Q. Yes.
 4 A. But in my mind, that was speaking to the coastguard as
 5 well because it was on channel zero in any case.
 6 Q. Yes. Now, in terms of what the absence or presence of
 7 air cover meant, in terms of searching and search and
 8 rescue, can we look, please, earlier in the statement.
 9 It is on the left —hand side of the screen, as we have it
 10 now, {INQ010136/19} third line, do you see? The
 11 sentence begins:
 12 "Where I was aware that an aircraft was operating as
 13 part of Operation Deveran, it was reassuring to know
 14 that ..."
 15 Have you found the paragraph?
 16 A. No, sorry, I have not.
 17 Q. Sorry, 54.
 18 A. Right, thank you. Yes, yes.
 19 Q. Second sentence, do you see?
 20 A. Yes.
 21 Q. "... reassuring to know that it was providing top cover,
 22 as it is significantly easier to identify migrant boats
 23 from the air when compared to surface assets like
 24 HMC Valiant."
 25 And that, presumably, is just based on, partly

1 common sense, but also your experience?
 2 A. I think it's — yes, correct, both.
 3 Q. Yes. And you make the same point earlier in your
 4 statement. If we could just look briefly at that; in
 5 paragraph 19, at the end of the paragraph on
 6 page {INQ010136/7}, at the top of the page there, you
 7 say:
 8 "The use of aerial assets is, in my opinion, by far
 9 the most effective means of locating such vessels, ie
 10 small boats, rather than with surface assets like the
 11 Valiant, and particularly at night when migrants were
 12 most likely to attempt a crossing."
 13 So again, it seems common sense, but it's much
 14 harder to locate a small boat if you don't have the
 15 aerial cover helping you?
 16 A. Yes, I would agree with that, sir.
 17 Q. And indeed, in the evidence we heard last week from
 18 2Excel themselves, the suggestion was that the absence
 19 of aerial cover can mean that there is, in effect, no
 20 recognised maritime picture, which obviously adversely
 21 affects your ability to locate a small boat?
 22 A. Yes, I would agree with that.
 23 Q. Yes. But, as it were, the good news, so far as this
 24 night is concerned, is you were told and we have just
 25 looked at the entry in your daybook, that from 03.30,

1 R 163, the helicopter, would be on task. And it looks
 2 from the documents and your statement as though from
 3 then on, you were effectively working with the
 4 helicopter as the search proceeded, is that fair?
 5 A. I think the wording of "on task", my understanding is
 6 that's possibly when they lift off.
 7 Q. I see.
 8 A. So I don't think it's when they are actually in the
 9 vicinity. However, I could be wrong on that.
 10 Q. So it may — just so far as we are getting this clear
 11 then, it may well have been rather later than that that
 12 you started to get any useful input from a helicopter
 13 actually on the scene?
 14 A. Yes, I — I believe that's correct and if I could
 15 help —
 16 Q. Please.
 17 A. — help the Chair with that. Is on one of those video
 18 screens that we show — saw earlier, we actually — if
 19 you run it on, you can see the coastguard helicopter
 20 coming in from the west, or left of screen, if you like.
 21 Q. Yes. It's moving very, very much faster.
 22 A. Yes, very rapidly, yes.
 23 Q. Yes, yes.
 24 A. So that would give you an indication of when that was
 25 available to help with the picture in the vicinity I was

1 in.
 2 Q. Thank you very much. Did you, at any point that you can
 3 remember now, consider asking for more help, for more
 4 assets to be deployed to look for these boats?
 5 A. On that evening, probably not.
 6 Q. No. Was it within your power to have asked for further
 7 assets to be deployed?
 8 A. I suppose I could have asked. However, I trusted the —
 9 the overall overview of the coastguard to provide assets
 10 over the longer period.
 11 Q. Yes. You say — and I should show you this,
 12 paragraph 54 of your statement {INQ010136/19}, towards
 13 the end, do you see, three lines up:
 14 "Nor did I have the overall picture to be able to
 15 make these strategic calls as to asset allocation, I was
 16 simply responding to the incidents with which I was
 17 tasked by coastguard, as noted above."
 18 A. Yes, I can see that.
 19 Q. So it required somebody else with the overall picture to
 20 make decisions of that kind.
 21 A. Yes.
 22 Q. Thank you. So just to summarise then, before we look at
 23 the three small boats that you embarked that night, we
 24 have agreed, I think, that the conditions for searching
 25 were very challenging?

1 A. Yes.
 2 Q. You found, in fact, four small boats in a relatively
 3 short period of time, one of which you allowed to carry
 4 on and the other which was stopped, as we will hear?
 5 A. Sorry, if I could correct you there.
 6 Q. Please.
 7 A. I identified two small boats.
 8 Q. Right.
 9 A. One of which was stopped and was not making way in the
 10 water, which we controlled and the other one just
 11 carried on and I don't know where that went.
 12 Q. Yes, exactly. Okay. Well, we will come back to that.
 13 A. Yes.
 14 Q. And at no point during the deployment did you ask for
 15 more assets to be deployed?
 16 A. No.
 17 Q. Thank you. Right, we are looking at the small boats in
 18 turn now, please. And first, some general questions
 19 about decision-making when you are in this situation and
 20 you come across a small boat.
 21 If you have been tasked to a particular location,
 22 perhaps to rescue a boat that was compromised, that was
 23 taking on water, what do you do when you encounter
 24 another boat that isn't in distress?
 25 A. The -- every boat that I come across, as far as I'm

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1 concerned, and I think the DEVERAN policy is that they
 2 need -- they are in distress, they need rescuing.
 3 Q. So if you have been summoned, as here, to a Mayday, with
 4 a boat said to be taking on water, but before you reach
 5 that boat taking on water, you come across another boat
 6 which isn't taking on water, which is simply underway,
 7 do you stop for that other boat, the one that's not
 8 taking on water and underway?
 9 A. I think you -- you would report it -- well, I would
 10 report it to the coastguard.
 11 Q. Yes.
 12 A. And say: I am intending to go to that one.
 13 Q. But what the Mayday boat?
 14 A. Well, you don't know that's not the Mayday boat.
 15 Q. Okay. And that's an assessment, presumably, which you
 16 just have to make in the moment?
 17 A. Yes.
 18 Q. Yes. There's no guidance, there is no policy; you just
 19 have to use your judgment?
 20 A. It's dynamic, yes.
 21 Q. Yes. Okay. Well, then, let's turn to the first boat
 22 that you encountered and it's page 26 and paragraph 72
 23 of your statement, please, {INQ010136/26}.
 24 So here, you say:
 25 "At 03.35 ... two vessels which I suspected to

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1 contain migrants were identified on the ... night
 2 vision ... One ... was underway, however the other was
 3 stopped."
 4 And if we look at the radar imagery, I think we can
 5 see this moment, at {INQ005632/1}, remembering that the
 6 time is an hour ahead, the time on the left. Again, can
 7 you interpret what we are looking at for us, please?
 8 Does it show this moment at 03.35?
 9 A. Well, assuming that the timing is wrong in that, yes,
 10 I --
 11 Q. It is an hour out, we know that, yes.
 12 A. Yes, it doesn't show any small boats.
 13 Q. Right.
 14 A. But it just shows the position of where Valiant was in
 15 relation to the Sandettie Lightvessel.
 16 Q. And by way of description, can you tell us where the
 17 Valiant was?
 18 A. Close by to the Sandettie Lightvessel.
 19 Q. Yes.
 20 A. Slightly to the northeast.
 21 Q. Yes, the arrows, again, that you pointed out before.
 22 A. Mm--hm.
 23 Q. Yes, okay. Then another screen, please, that's
 24 {INQ005633/1}. Now, this is the one I described to you
 25 earlier as the darker screen. This is the second radar

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1 screen, or a snapshot from that, isn't it? And what,
 2 please, can we see here? Can we see the small boats on
 3 this?
 4 A. Possibly, that "03" --
 5 Q. Yes.
 6 A. -- could be a radar trace of a small boat. But without
 7 looking at the range and -- excuse me -- I couldn't tell
 8 you what that is.
 9 Q. And just tell us again, why is the screen so much
 10 darker?
 11 A. I don't know.
 12 Q. No. But it does make very, very difficult to see
 13 anything useful, doesn't it, even if you are an expert?
 14 A. It probably -- could we zoom out a little bit, please?
 15 Q. Yes, please.
 16 A. Thank you.
 17 Q. Thank you.
 18 A. It was probably adjusted so that we could see out the
 19 window because this is right under the window, you see.
 20 Q. Yes.
 21 A. So we have adjusted it down so that you can actually see
 22 what's on the -- on the water in front of you.
 23 Q. So it's not interfering with your vision outside the
 24 boat?
 25 A. Vision -- that's right, yes.

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1 Q. Okay, and where on this screen do we see the Valiant?
 2 A. So the Valiant would be the --- the longer dotted line
 3 with the two arrows on the end, it will be towards the
 4 bottom left--hand corner, if you like, at the end of that
 5 dotted line.
 6 Q. Right. Thank you.
 7 A. And the --- just to help you understand, the extended
 8 yellow line down to the bottom of the screen, that will
 9 be, probably, the Sandettie Lightvessel there.
 10 Q. Right, yes. Okay, thank you. Can we take that down,
 11 please. Anyway, to go back to the narrative. At this
 12 stage, as you say in your statement, paragraph 72, if we
 13 can have that again, please, {INQ002051/3} you had found
 14 two small boats, one of which was making way and one of
 15 which was stopped. And you decided to approach first
 16 the one that had stopped?
 17 A. That's correct.
 18 Q. And the one that was still underway just carried on?
 19 A. Yes, it carried on its way.
 20 Q. And is this right; you now don't know what happened to
 21 that boat, the one that carried on?
 22 A. Yes, that's correct.
 23 Q. Yes. You were attending to the one that was stopped and
 24 you explain that, and the decision you made, in this
 25 paragraph:

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1 "My rationale for providing assistance to the vessel
 2 that was not making way was that it was likely to be in
 3 greater danger than the vessel that was able to make
 4 way, such that it was less able to navigate out of the
 5 way of commercial vessels transiting the Dover Straits."
 6 A. That's correct.
 7 Q. So thinking back to my hypothetical example, you came
 8 across, here, two vessels and your judgment was that it
 9 was the stopped one that needed more urgent help?
 10 A. Yes.
 11 Q. And presumably, it was, from that point on, the focus of
 12 your immediate attention. And as you have said, the
 13 other boat went literally out of your attention and you
 14 are not able to say what happened thereafter?
 15 A. Yes, it proceeded out of my sight.
 16 Q. Excellent. Thank you. So you describe there you
 17 deployed your RHIB, and that was engaging with this
 18 stopped boat at 03.48. And I think it's right, isn't
 19 it, that you were given a --- I think you call it a Mike
 20 reference earlier? An M ---
 21 A. An M number.
 22 Q. Exactly.
 23 A. Yes.
 24 Q. For this boat, M957. Do you see the start of
 25 paragraph 73?

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1 A. Yes, that's correct.
 2 Q. Now, could we look at your daybook for that time,
 3 please. Thank you {INQ/2051/3}. Do you see "03.55,
 4 M957". That, I suspect, is you recording the number you
 5 were given?
 6 A. That's right.
 7 Q. Thank you. Can we just have a look at the entry
 8 immediately above that, 03.48 and again, I'm sorry, can
 9 you just tell us what you have written there?
 10 A. Yes, certainly. Excuse me: 03.48, position
 11 latitude/longitude, "engage with migrant vessel stopped
 12 in water."
 13 Q. I am glad I asked you. Thank you. Right.
 14 Now, I think it's right that at the same time,
 15 03.48, you had a call with the coastguard. And we can
 16 see this at {INQ007390/2} the second page please, you
 17 see the time there, "Valiant" and I think that would
 18 have been you ---
 19 A. Yes.
 20 Q. --- is that right? Yes. And the coastguard. And what
 21 the conversation there is you are telling the coastguard
 22 aren't you, the second speech for you:
 23 "... engaged unlit migrant crafts stopped in the
 24 water ... "
 25 I think you probably meant craft, singular?

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1 A. Yes, I think, yes, yes.
 2 Q. "Dover Coastguard. Roger ... well received. How many
 3 persons on board ...? Over?"
 4 You say:
 5 "... lots of them. Estimate in the region of 40."
 6 A. "Four--zero, four--zero", yes.
 7 Q. Yes, and the coastguard says to you:
 8 "Approximately four--zero persons on board. Believe
 9 this could be incident Charlie which you've been
 10 assigned to. Names on the board the vessel was
 11 a Moomin(?), a person I believe and the telephone number
 12 is ..."
 13 Etc. So that was information given to you which
 14 I assume --- and again, this goes back to the discussion
 15 we had earlier --- that you were then going to use to try
 16 and help the coastguard to see whether this could be
 17 positively identified as Charlie?
 18 A. That's correct.
 19 Q. Thank you. So then you explain in your statement --- and
 20 we have now moved on to paragraph 73, {INQ010136/26} how
 21 you started to embark the people on board that boat. At
 22 04.07, do you see, that's the very start of
 23 paragraph 73, "started to be embarked on to
 24 HMC Valiant"?
 25 A. Yes, I see that.

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1 Q. Thank you. And in fact, if we have got the daybook
 2 nearby, which I think we probably have, excellent,
 3 {INQ002051/3}, you can see what I think is the same
 4 thing. I think it is, being said at 04.07, what does
 5 that say?
 6 A. "Commence embarking migrants".
 7 Q. Thank you very much.
 8 A. Okay.
 9 Q. Can I just, as it were, pause here. You are in the
 10 process of embarking this first boat. I want to
 11 understand if you can remember now what was in your mind
 12 at this stage. Did you think that this boat was
 13 Charlie?
 14 A. No.
 15 Q. Why was that?
 16 A. Because I didn't know the details to decide whether it
 17 was or not. All I knew was it was a vessel in that
 18 position and I was intending to rescue the migrants.
 19 Q. Yes. But you then describe in your statement how you
 20 tried to get information, the sort of information we
 21 have seen you suggest discussing with Neal Gibson, to
 22 help him work out whether this was indeed the boat from
 23 which the calls had come, to which you had been sent
 24 with the Mayday, etc.
 25 And you see at 74, please, of the statement,

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1 page {INQ010136/27}:
 2 "... in response to a request from the coastguard
 3 I advised that the migrants embarked had not claimed to
 4 have called the United Kingdom authorities."
 5 A. Yes, that's correct. I asked my -- the person in charge
 6 on the deck team to see if anyone claimed to have made
 7 phone calls.
 8 Q. Yes, so that was the first point, wasn't it, which was
 9 inconsistent with this boat being Charlie?
 10 A. Yes.
 11 Q. Yes. And did you ask whether there was anyone on board
 12 the boat called Moomin, do you remember, the name you
 13 were given?
 14 A. No, I didn't.
 15 Q. You didn't. Why not?
 16 A. Because, I wanted the officers to concentrate on
 17 rescuing the people and if they hadn't made
 18 phonecalls ...
 19 Q. Yes. Do you remember now whether that vessel, the one
 20 you embarked the people from, the first stopped vessel,
 21 do you remember whether that vessel was taking on water?
 22 A. I don't remember that.
 23 Q. No, it's not recorded in your statement or your daybook.
 24 A. No.
 25 Q. Does that suggest it wasn't?

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1 A. No, as I said earlier most -- most migrant boats do take
 2 water.
 3 Q. And at this stage, again, can you remember what other
 4 information did you have about the boat, about Charlie,
 5 which might have enabled you to work out whether this
 6 was it?
 7 A. I think it was 40 people.
 8 Q. Yes.
 9 A. Taking water.
 10 Q. Yes.
 11 A. I think that was it.
 12 Q. That was about it, wasn't it?
 13 A. Yes.
 14 Q. Yes. And we know, in fact, there were 35, that's right,
 15 isn't it?
 16 A. That's the count we -- we had, yes.
 17 Q. Exactly. "20 males", this is your statement again, do
 18 you see, "13 infants and 2 females"?
 19 A. That's correct.
 20 Q. Thank you. And having gathered the information you had
 21 described, did you report that to Border Force or the
 22 coastguard?
 23 A. I believe, I reported it to them, first of all, based on
 24 the grounds that at 04.43, I got another tasking.
 25 Q. Yes.

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1 A. So, in my mind, that would follow on; that they wouldn't
 2 give me another tasking until I completed that task.
 3 However, I do believe there was a 05.04. I was asked
 4 how many people had been embarked for Charlie.
 5 Now, at the time of making this statement, the
 6 transcript I was shown showed it to be -- I think it was
 7 a female speaker and the later transcript I've seen, it
 8 says "Border Force".
 9 Q. Yes.
 10 A. So I am not sure now if it was the coastguard or the
 11 Border Force that I actually reported that to. However,
 12 I would hope that MCC and the coastguard would be
 13 talking together to --
 14 Q. Yes.
 15 A. -- to sort that out.
 16 Q. But you had certain -- we saw in the conversation with
 17 Neal Gibson, you had been given certain information
 18 about what they knew of Charlie and it seems pretty
 19 logical that you would want to report that back to them
 20 so they knew and could make that comparison?
 21 A. Well, as I say, I believe I did.
 22 Q. Yes.
 23 A. Yes.
 24 Q. Thank you. Now, there was another call between the
 25 coastguard and the Valiant at 04.20, if we can just look

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1 at the transcript of that, please, and that is at
 2 {INQ007578/1}. You see, again, the time at the start,
 3 first page 04.21.
 4 A. Yes.
 5 Q. Here it is again. Probably you, again, do you think?
 6 A. Yes.
 7 Q. Yes, and Neal Gibson of the coastguard. And you are
 8 giving a description there of the boat you have
 9 disembarked, a black inflatable, you say.
 10 A. Yes.
 11 Q. And Neal Gibson says:
 12 "Roger. Then I believe this probably is incident
 13 Lima, which would match the description being a black
 14 RIB. Also from the French it was reported approximately
 15 40 people on board."
 16 And you say:
 17 "Yeah, that could be the same, one of the same, but
 18 clearly there's a lot of reports, so we'll deal with
 19 what we've got. Thank you."
 20 Then Neal Gibson ends with:
 21 "We'll work on this potentially being Lima and
 22 obviously carry on our search on for Charlie and the
 23 other vessels that have been reported in the area."
 24 And so it's obvious, isn't it, that by this time,
 25 04.20, the coastguard were telling you that they thought

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1 the boat you had embarked with the 35 people was
 2 {INQ010136/27} probably Lima?
 3 A. It might well have been, but I don't associate with the
 4 tracker. All I do is go to the vessel.
 5 Q. That wasn't your job.
 6 A. No.
 7 Q. Exactly, no.
 8 A. Yes.
 9 Q. But what he was telling you, insofar as they were
 10 concerned, is they thought it was probably Lima.
 11 A. According to that, yes.
 12 Q. That's what it says, thank you. Okay, let's turn on to
 13 the second boat, and it's your statement at 75, please
 14 {INQ/10136/27}. And this was the other tasking you have
 15 just mentioned, 04.43?
 16 A. Yes.
 17 Q. You are given further co-ordinates and a description of
 18 another boat. And this time, this information came from
 19 R 163.
 20 A. Okay, so the first tasking, I don't recall -- that came
 21 from coastguard, sorry, yes.
 22 Q. Yes.
 23 A. And then at 04.48.
 24 Q. Do you see?
 25 A. Yes, 163 provided description of vessel, yes.

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1 Q. If we look back to your daybook {INQ002051/3}, there we
 2 are, do you see "04.48", I think.
 3 A. Yes.
 4 Q. And what does that say?
 5 A. "8 metre LOA", length overall.
 6 Q. Yes.
 7 A. "With 30 people on board".
 8 Q. Yes.
 9 A. That's my signature. I don't know why I put that there,
 10 but just --
 11 Q. And then?
 12 A. "From RQ 163".
 13 Q. Exactly, there it is, the information from the
 14 helicopter. And we have then another call, again
 15 involving you and the coastguard, I think, and this is
 16 at {INQ007469/1} about the second boat, do you see,
 17 "04.43" this time, slightly before. Next page please
 18 {INQ007469/2} and right at the bottom of the page, there
 19 is a discussion about the co-ordinates and the vessel:
 20 "[Light] grey in colour. 30 [people on board].
 21 "Underway".
 22 So this one is not stopped, this one is underway.
 23 And then right at the bottom, do you see, you ask:
 24 "Is Rescue 163 [the helicopter] still with this
 25 vessel?"

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1 And the coastguard person says:
 2 "Valiant Dover Coastguard. That's a negative,
 3 rescue 163 searching for the boats. They described the
 4 vessel as not being in distress and not being in the
 5 immediate need of any assistance. So they're continuing
 6 their search to look for other vessels, over."
 7 So again, based on what you had been told before
 8 about Charlie, this doesn't look consistent with that,
 9 does it?
 10 A. No.
 11 Q. Thank you. And while you were en route to that boat at
 12 the tasking, at 04.43, there was another call and this
 13 was at 05.04, again {INQ007627/1} please, and this seems
 14 to be -- and I think this is the one you mentioned
 15 before.
 16 A. That's correct.
 17 Q. Exactly.
 18 A. Yes.
 19 Q. It's actually a call from MCC to you as we understand it
 20 and the first part of it comes here, next page, please
 21 {INQ007627/2}:
 22 "How many migrants did you embark for Charlie,
 23 please?"
 24 And your answer is at {INQ007627/2}.
 25 "Yeah, that was what three five, three five in

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1 total."
 2 A. In total.
 3 Q. So this is a call, as I say, relatively short and in
 4 your statement at paragraph 76, if we look at that,
 5 {INQ010136/27} we see that you accepted it was you on,
 6 as it were, the other end of this call. Now, at this
 7 point, you didn't actually know, did you, that the first
 8 boat you had found was Charlie?
 9 A. No.
 10 Q. No. And yet here, you, by saying: yeah that was three
 11 five -- that was what three five, you seem to be
 12 agreeing with the MCC caller that the boat was Charlie:
 13 "How many migrants did you embark for Charlie,
 14 please?"
 15 Do you see?
 16 A. I do see what you are saying.
 17 Q. Yes.
 18 A. However, as that was the only up -- until that point M,
 19 the first one --
 20 Q. 957?
 21 A. 957 was the only set of -- or people that I had rescued,
 22 I assumed, rightly or wrongly, that they were talking
 23 about the event that I had first attended.
 24 Q. Yes, so you thought this was simply a reference to the
 25 first boat, the --

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1 A. Yes, and as I said, it's not my role to start adding
 2 M numbers to --
 3 Q. No.
 4 A. -- coastguard letters because I don't have all the
 5 information.
 6 Q. But it didn't occur to you then, to say: well, actually
 7 I don't know if this is Charlie, the boat I was
 8 originally tasked to?
 9 A. No because that's the only one that I had embarked.
 10 Q. Yes.
 11 A. So I assumed --
 12 Q. Yes.
 13 A. -- that they had done their working -- you know, they
 14 worked out with the information they had and come to
 15 that conclusion.
 16 Q. Yes, so you were answering a question which you thought
 17 was just about the first boat?
 18 A. That's correct.
 19 Q. Thank you.
 20 A. Well, in fact, the only boat at that time that I had
 21 embarked.
 22 Q. The only boat you had embarked. Exactly right, yes.
 23 But you can see the potential for confusion here because
 24 the person on the other end of the line from MCC might
 25 then have thought: Ah, Charlie, that boat, has been

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1 embarked with 35 people?
 2 A. I can see that.
 3 Q. Yes. Thank you. Now, after that call -- and again,
 4 this is 77, we have got it on the screen -- at 05.19,
 5 you made contact with the second boat, the one you had
 6 been tasked to at 04.43 --
 7 A. Yes.
 8 Q. -- and you describe how you embarked people from that
 9 boat between 05.30, that's the fourth line.
 10 A. Sorry.
 11 Q. Sorry. I'm flicking around.
 12 A. Jumping around.
 13 Q. Yes. Para 77.
 14 A. Right, thank you.
 15 Q. Do you see, 05.19 you made contact with -- this is the
 16 second boat now.
 17 A. Yes.
 18 Q. You launched your boat.
 19 A. Correct.
 20 Q. Then you got the number, the second number, M 958.
 21 A. That's right.
 22 Q. Do you see? And then it was a grey hulled inflatable
 23 with an engine; that's the description?
 24 A. Yes.
 25 Q. And the start -- the embarkation starts at 05.30.

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1 A. Correct.
 2 Q. And finishes at 05.57, do you see, a few lines down?
 3 A. That's right.
 4 Q. And we know from the daybook and indeed, this part of
 5 your statement, that this boat had 31 males on it. Last
 6 sentence, do you see?
 7 A. Yes.
 8 Q. And you pass that information on to coastguard at 06.03.
 9 A. Yes.
 10 Q. Now, can you remember -- and you may not be able to --
 11 but can you remember whether you had been told anything
 12 about the people on board Charlie, in other words
 13 whether it was men, women, children, etc?
 14 A. I believe it was just an estimate of numbers.
 15 Q. So, again, that wasn't something you could use to
 16 determine for yourself whether that was the boat you had
 17 originally been sent for, the fact there were 31 men?
 18 A. No.
 19 Q. No. Well, then we have another call involving you and
 20 this is at 05.58 at {INQ007474/2}.
 21 And I think again, in your statement you have said
 22 that this was you speaking or -- well, it looks as
 23 though it may have been you speaking?
 24 A. Yes, it was.
 25 Q. Thank you. And you say:

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1 "Two of the people we've picked up speak reasonable
 2 English and they do not claim -- do not claim to have
 3 made telephone calls to [the] UK ..."
 4 So again, it looks as though this is you testing the
 5 information you have been given, they had been making
 6 calls, and saying to coastguard, I think, that these
 7 people, the people you have just picked up, were not
 8 saying they had been making calls to the UK authorities?
 9 A. I think from memory, I was trying to find a boat that
 10 had made calls.
 11 Q. Yes. Because that was one of the characteristics --
 12 A. Exactly.
 13 Q. -- that you had been told about.
 14 A. It's the information I had.
 15 Q. Exactly.
 16 A. On this second one, I was telling them -- you know,
 17 I was still saying: has anyone made a call to the
 18 authorities? However, I do believe there is another
 19 conversation --
 20 Q. Yes, there is the next one.
 21 A. -- where they change their mind.
 22 Q. It is the next one. If we look at that, {INQ007478/2},
 23 at 06.05 a further call, again, I assume it's you?
 24 A. Yes.
 25 Q. "We couldn't get any names however one of them does

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1 claim that they did make a call. They saw someone make
 2 a call, over."
 3 So this is -- how can I put it -- somewhat mixed
 4 information you are getting about this, at this point?
 5 A. Yes. I think this is coming from the deck team they are
 6 saying: hang on, somebody now does recall seeing
 7 somebody make a call.
 8 Q. Yes.
 9 A. But what it doesn't say is whether they called the UK
 10 authorities or not.
 11 Q. Yes.
 12 A. So ...
 13 Q. And did you -- again, to go back to this point, do you
 14 remember asking if anybody on this boat, the second
 15 boat, was called Moomin --
 16 A. No.
 17 Q. -- or something like that?
 18 A. No.
 19 Q. You don't think you did?
 20 A. I don't think I did, no.
 21 Q. I mean, in your MAIB interview -- I am not going to take
 22 you back to it, but at one point you describe the
 23 difficulty sometimes in getting information and
 24 establishing what people on the small boats are saying.
 25 And it looks as though that may have been a problem at

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1 this stage?
 2 A. Yes, as I said earlier today, when you -- some people go
 3 into this sort of shut down mode when they are rescued.
 4 They close down and just want to go to sleep or
 5 whatever.
 6 Q. Yes.
 7 A. And some just don't want to talk to you. I don't know
 8 why.
 9 Q. No, and all of that on top of potential language
 10 difficulties as well, presumably?
 11 A. Yes, certainly, certainly.
 12 Q. Yes, again, thinking about the second boat now, did you
 13 think that this boat was Charlie?
 14 A. No.
 15 Q. No. Why was that?
 16 A. Again, I don't associate the -- the ones I am rescuing
 17 to a coastguard letter.
 18 Q. No.
 19 A. Because that's folly, in my mind.
 20 Q. Yes.
 21 A. Because I haven't got the information that they have.
 22 Q. But did you think you had found the boat to which you
 23 had originally been tasked?
 24 A. No, I have no way of knowing that.
 25 Q. No. So then the third boat at 06.07, we have a yet

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1 further call, and this is {INQ007485/2} please, you and
 2 Stuart Downs:
 3 "Valiant, Dover Coastguard, the tasking next one is
 4 in the vicinity of Southwest Goodwin, over."
 5 A. Yes.
 6 Q. So as you explain in your statement at paragraph 78,
 7 {INQ010136/28}, you were tasked, after embarking the
 8 second boat, to a third incident but that was in
 9 a different part of the Channel, near Southwest Goodwin?
 10 A. Yes, that's correct.
 11 Q. Considerably to the west of where you were placed by the
 12 Sandettie Lightvessel?
 13 A. Yes, the other side of the traffic separation zone.
 14 Q. Yes, so you are leaving the Sandettie area?
 15 A. I am.
 16 Q. And that was the area, as we discussed earlier, where
 17 you had been told there were a number of small boats.
 18 A. Yes.
 19 Q. And you had only embarked two of them?
 20 A. Yes.
 21 Q. Yes. And we now know, because of where the boat Charlie
 22 ended up, that you -- that tasking took you in the
 23 opposite direction from where that boat eventually
 24 drifted?
 25 A. Possibly.

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1 Q. Yes. And in terms of your tasking at that point, away
 2 from Sandettie over to Southwest Goodwin, was that
 3 simply, as it were, an order that you obeyed? Did you
 4 question whether all of the boats that had been in the
 5 Sandettie region had been found by that point?
 6 A. No.
 7 Q. No. It was --
 8 A. I was.
 9 Q. -- your job to follow the tasking?
 10 A. Follow the tasking.
 11 Q. Okay. We can see the tasking in your daybook
 12 {INQ002051/4} at 06.10.
 13 A. Yes.
 14 Q. Do you see, again, if you could help "tasking" ...
 15 A. "Tasking head for Southwest Goodwin [buoy]". "BY", buoy.
 16 Q. All right, thank you very much. But it was surely
 17 unlikely then that you would find at the
 18 Southwest Goodwin, one of the boats that you had been
 19 told about that were generally in the vicinity of the
 20 Sandettie Lightvessel? Very unlikely, isn't it?
 21 A. That's a difficult one to answer, sir, because the
 22 vessel that was making way, that went out of sight of
 23 me, may well have been this boat.
 24 Q. Yes.
 25 A. I don't know that.

1 Q. Yes. Now in your statement at 79 {INQ01036/28}, you say
 2 that en route to this tasking at 06.30, you found
 3 a vessel that was not underway and so, again, you
 4 launched your RHIB?
 5 A. Sorry, I am trying to catch up.
 6 Q. Sorry, 79. My fault.
 7 A. It's all right.
 8 Q. Do you see "06.30"?
 9 A. Yes.
 10 Q. "I made contact"?
 11 A. Yes.
 12 Q. You launched your RHIB to engage with that boat and
 13 again, that got you another Mike number, 959, for that
 14 boat?
 15 A. That is correct.
 16 Q. And those people -- the people from that boat, you say,
 17 two lines down, embarked at -- they began to embark at
 18 06.36?
 19 A. Yes.
 20 Q. Was this the boat, do you think, to which you were
 21 directed with the tasking at 06.07, the
 22 Southwest Goodwin?
 23 A. I believe that to be the one.
 24 Q. Right. Now, this one, as you say at the end of the
 25 paragraph, had 32 people, of whom 21 were male, four

1 female and seven were children. Do you see that?
 2 A. Yes.
 3 Q. We can see that in your daybook, this time on
 4 page {INQ/2051/4}, I think, 07.22.
 5 A. Yes.
 6 Q. Is that what it says?
 7 A. "32 total, 21 male, four females, seven minors".
 8 Q. Yes, and again, I think this is obvious from everything
 9 you have said so far, but you didn't know whether this
 10 vessel was the original one, Charlie, or not?
 11 A. No.
 12 Q. No, but it wasn't taking on water, this one, was it?
 13 A. No, I don't believe it was.
 14 Q. No. Now, in relation to this boat, based on the
 15 documents we have seen, you don't seem to have asked the
 16 sort of identifying information questions that we talked
 17 about before, you know: have you made calls to the UK?
 18 Is anybody -- you know, the sort of --
 19 A. No, I don't think we did, no.
 20 Q. No there is no record of that.
 21 A. No.
 22 Q. So, as you explain, going back to 79, {INQ01036/28} of
 23 your statement, by the time this -- these people had
 24 been -- embarked on your boat, you had embarked three
 25 small boats and you had got to a total -- do you see the

1 fourth line of paragraph 80 there, at the bottom the
 2 page --
 3 A. Yes.
 4 Q. -- of 98 people?
 5 A. Yes.
 6 Q. Now, just going back to the question of where this left
 7 you. You, as I understand what you have said this
 8 afternoon, you weren't in a position to say, at this
 9 point, with the three boats embarked, whether Charlie,
 10 the original boat, had been found?
 11 A. No.
 12 Q. No. And it sounds as though that wasn't actually
 13 something you were particularly focused on as you did
 14 your job that night?
 15 A. No, I was focused on the three events that I -- that
 16 I had on board. I had 98 people on board the boat and
 17 had to make sure they were safe.
 18 Q. Right, and what you had learnt during the night
 19 suggested that the boats you had embarked were probably
 20 not Charlie. For example, there was the coastguard
 21 saying: we think the first one is probably Lima; the
 22 second one only had men, it didn't have women and
 23 children; and the third one was in a completely
 24 different area and it wasn't taking on water?
 25 A. But again, that's their decision, not my decision.

1 Q. Yes, absolutely.
 2 A. I am -- I am just picking up these people.
 3 Q. But if you had been asked to assess it for yourself,
 4 none of those looked like Charlie, did they?
 5 A. The only information I had on Char -- on an event,
 6 Charlie, was of 40 people and they were taking water in
 7 a certain position.
 8 Q. Yes, and you hadn't found any boat --
 9 A. I had found a boat with 30 --
 10 Q. 35.
 11 A. -- 5 and it may or may not have been taking water. So
 12 I am not in a position to decide whether that links to
 13 Charlie or not.
 14 Q. No.
 15 A. I don't have enough information.
 16 Q. No. You weren't the person making the decisions of that
 17 kind on the night?
 18 A. No, no.
 19 Q. And it wasn't you who made the decision as to whether to
 20 carry on or stop, looking for any particular boat, you
 21 were just accepting taskings?
 22 A. Correct. The only thing I would say is that Rescue 163
 23 was in the vicinity for a period of time --
 24 Q. Yes.
 25 A. -- searching the area.

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1 Q. Yes.
 2 A. So ...
 3 Q. But as you have explained to us, when you got a tasking
 4 as a result of R 163's observations, you complied with
 5 it?
 6 A. Of course.
 7 Q. You got on with it. That was 04.43, I think?
 8 A. Yes.
 9 Q. Thank you. So then you explain in your statement how
 10 you -- the Valiant returned to Dover with 98 people and
 11 as we discussed this morning, that was near to full
 12 capacity.
 13 And you explain later in the statement, at 81, if we
 14 could have that up, please, {INQ01036/29} very much
 15 consistent with what you have just told me, the
 16 coastguard could, at any time, have objected to Valiant
 17 returning to Dover, but at no point did it do so?
 18 A. No.
 19 Q. Nor did it ever request the ship to attend a further
 20 event following the disembarkation of the 98 migrants
 21 rescued at Dover.
 22 A. That's correct.
 23 Q. So the people who were responsible for the decisions
 24 didn't ask you to go back out after you disembarked
 25 the 98?

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1 A. No, no.
 2 Q. Thank you. And as you say, at the end of that
 3 paragraph:
 4 "... ultimately it was for [coastguard] to
 5 coordinate and request that those assets respond should
 6 there be any further SAR events."
 7 A. Yes.
 8 Q. Well, this is a hypothetical question, but bear with me.
 9 If you had known, as you came back to Dover that
 10 night, that there was another boat requiring rescue in
 11 the Sandettie area, what would you have done?
 12 A. Sorry, that night or that morning?
 13 Q. Well, the time we have got to now.
 14 A. Oh right, okay. I -- I would have -- there were still
 15 boats out there. So there were many migrant boats
 16 coming across on that day.
 17 Q. Yes, yes.
 18 A. But you -- there are other vessels out looking.
 19 Q. Yes.
 20 A. So, if they said: there is a boat missing and we need
 21 everyone to go and look for it, of course we would have
 22 gone.
 23 Q. Yes.
 24 A. But they didn't.
 25 Q. No. And presumably, the same applies earlier in the

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1 night when you were actually on the scene in Sandettie
 2 at about, let's say 4 o'clock, 5 o'clock, something like
 3 that, if somebody had said: well, there's actually
 4 another boat. We know you are getting quite full, but
 5 there is another boat that needs rescuing. What would
 6 you have done?
 7 A. As I said before, we would have stayed if we could.
 8 Q. Yes.
 9 A. Obviously, if we have got people we have already rescued
 10 and they are starting to collapse, then they become the
 11 priority.
 12 Q. Yes.
 13 A. However, all things being equal, we would have stayed
 14 out there and if we found another one, we would either
 15 accommodate them, one way or another, with the life
 16 rafts and the RHIB, waiting for another asset to come
 17 along.
 18 Q. Yes, as you explained to me this morning, you would have
 19 found a way --
 20 A. Yes.
 21 Q. -- to make sure it happened?
 22 A. Yes.
 23 Q. Yes. Now, going back to the disembarkation of the
 24 people you did have, the 98. You explain how you --
 25 this is paragraph 80 again, you went back and it took

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1 something like two and a half to three hours to get all
 2 these people onto Tug Haven, I think.
 3 And as far as you were concerned -- do you see,
 4 Valiant berthed in Ramsgate at 12.30, so the process is
 5 quite a long one -- but once you had berthed again, that
 6 was the end of your involvement for that particular
 7 shift, if I can put it that way?
 8 A. Yes.
 9 Q. Yes. Thank you.
 10 A. Well, having said that, we still had to do the debrief.
 11 Q. Yes.
 12 A. Restock on the stores we had used.
 13 Q. Yes.
 14 A. So ...
 15 Q. Get some rest?
 16 A. Yes, exactly. Yes.
 17 Q. Yes. And later in your statement, at paragraph 83, you
 18 give, on {INQ01036/29}, a graphic description of the
 19 sort of pressures and strains on you and your crew that
 20 this search and rescue work imposed. It is the sort of
 21 thing we discussed this morning which must, I think,
 22 have left the crew utterly exhausted by the end of each
 23 shift?
 24 A. Not just the shift, but also after a 15-day period.
 25 Q. Yes. And then finally, in paragraph 84 and following

1 {INQ01036/30}, you describe the impact of learning of
 2 the deaths on that night. And then later -- only later,
 3 learning that you and your crew had been involved, one
 4 way or another, in the incident. It looks as though the
 5 first time you were really aware of that is when you
 6 were contacted by the MAIB, is that right?
 7 A. Yes. Well, when I read the draft report of their
 8 investigation, it was when I realised that: oh, we might
 9 have been --
 10 Q. Yes.
 11 A. -- in that vicinity. But up until I read that draft,
 12 I didn't link any of this to what we were doing. As far
 13 as I was concerned, we had gone out, found three boats,
 14 rescued 98 people, got them into the UK, and that was
 15 it.
 16 Q. Yes. But if I may, when you made that discovery, how
 17 did it make you feel?
 18 A. Quite upset, really.
 19 Q. Yes.
 20 A. Yeah, and I know for a fact that the afternoon -- we
 21 were going out again that night and you had to sort of
 22 sit the crew down and say: look, there's been multiple
 23 deaths in the Channel. It is terrible, but what you
 24 have got to remember guys is all the other people you
 25 have saved.

1 Q. Yes.
 2 A. And more people you will need to save again.
 3 Q. Well, thank you very much for answering my questions.
 4 Is there anything else that you would like to say to the
 5 Inquiry today?
 6 A. No, sir.
 7 MR PHILLIPS: Do you have any questions?
 8 SIR ROSS CRANSTON: No, I don't, commander Toy, thank you
 9 very much indeed. Thank you for your statement, but
 10 especially for the evidence today. It's been extremely
 11 helpful. So thank you very much indeed.
 12 A. Not at all.
 13 SIR ROSS CRANSTON: So, Mr Phillips, I think tomorrow
 14 morning.
 15 MR PHILLIPS: Yes, please.
 16 SIR ROSS CRANSTON: 10 o'clock.
 17 MR PHILLIPS: Yes.
 18 SIR ROSS CRANSTON: Okay. Right, well, thank you.
 19 (2.53 pm)
 20 (The Inquiry adjourned until 10 o'clock,
 21 on Tuesday, 11 March 2025)
 22
 23
 24
 25

I N D E X

1
 2 MR KEVIN TOY (affirmed)1
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