The Cranston Inquiry

Day 1

March 3, 2025

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(10.00 am)

SIR ROSS CRANSTON: Well, good morning, everyone, those in the room and also those watching on live stream.

This is the first day of the Inquiry's full hearings. As you know, the Inquiry was established last year in January to consider the events of the 23 and 24 November 2021, when many people tragically lost their lives attempting to cross the Channel in a small boat.

The principal purpose of these hearings is for witnesses to give evidence, both as to the events in question, but also other issues which are relevant to the terms of inquiry -- the terms of reference for the Inquiry. The witnesses are going to be questioned by counsel on my behalf. I'm hoping that the evidence they give over the next four weeks will provide valuable assistance to me when I come to prepare the report.

In a moment, I am going to ask Counsel to the Inquiry, Mr Rory Phillips, King's Counsel, to deliver his opening statement. He will outline the issues to be canvassed in the evidence over the next four weeks. But let me just explain that we will have a break at about 11.15/11.30 for the purposes of giving the stenographers a break.

Mr Phillips.

Opening statement by MR PHILLIPS

MR PHILLIPS: At about 9 o'clock on the evening of 23 November 2021, in the cold and the dark, a group of people gathered on a beach near Dunkirk. They trekked in silence for about two hours to reach their departure point where five smugglers awaited. Men, women and children: they had left their home countries for a variety of different reasons, but they were united in their desperation to reach the United Kingdom.

Some had fled targeted political violence. Some were moving to start a new life, or hoping to join relatives or loved ones. All had made a long journey to Northern France. Some of those journeys were arduous or dangerous. They had all been at the makeshift encampments on the coast of Northern France in the inhospitable November weather. There they had been contacted by representatives of an organised gang of criminals and encouraged to make the crossing. They paid thousands of pounds to people who promised them safe passage. Instead, they were about to embark on a harrowing journey with more than 30 people crammed into a boat with a safe capacity of far fewer than that.

We cannot now be certain how many people boarded the boat that night. One of the smugglers was heard to say, "There are 33 of you", as he lined up the adults on the beach. But there may also have been small children on the boat, who may not have been counted and whose names do not appear among the list of the missing.

By about 10 o'clock, the boat had finally been fully inflated and dragged into the water. It had begun to rain. Everyone was quiet and the children seemed nervous. The passengers climbed aboard as the smugglers remained behind on the beach. The women and children were directed to sit on the floor of the boat, while the men perched on the inflated sides.

One of the passengers were nominated by the smugglers to steer the boat. A GPS device was handed to him and he was given brief instructions about how to try to locate Dover. Totally untrained and unfamiliar with the Channel, he was left to steer the boat through one of the busiest shipping lanes in the world.

The passengers were equipped with what the smugglers called a "lifejacket", though the term is hardly appropriate. They were not inflatable devices, but coloured vests stuffed with cotton or other fabric and with strips of reflective material on the sides. Some of the passengers were given hand pumps to top up the inflatable sides of the boat. There was no safety equipment available. They were not given safety advice,

nor told what to do in the event of an emergency. They were not given an opportunity to ask questions or back out. They were fed misinformation, promised that once they entered British waters, they would be accepted as asylum seekers.

Unseaworthy and overcrowded, the boat set off towards the UK shortly after 10 o'clock. Only two of the passengers would survive the journey. The remains of the boat have not been recovered, but we know that the majority of similar journeys across the Channel are made using poor quality, plastic or rubber inflatable boats which are wholly unsuitable for the crossing. One of the survivors has told the Inquiry that the boat was light brown and around 8 metres long, the engine was small and noisy, and one of the passengers had to keep refilling it from two petrol tanks stashed in the back of the boat.

We cannot now be certain whether the boat failed due to fuel erosion, overcrowding, a failure in the fabric of the boat, the height of the waves, or a combination of all those factors. Whatever the reason, around three hours into the journey the boat began to take on a significant amount of water and became swamped. As soon as the boat started to take on water, the passengers vainly tried to bail out the water and

made panicked calls for help. One called the smuggler who had arranged the journey and sent their location, but they did nothing to help.

Just after 1 o'clock in the morning, the UK Coastguard was notified of the incident by the French authorities. They said that the boat was around half a nautical mile from the middle of the Channel with 33 people on board, including 13 women and eight children. The Coastguard labelled the boat as "Incident C" or "Incident Charlie". That's the name which you will see in the documentation and hear in evidence throughout these full hearings. I will set out the history of the UK's agencies search and rescue efforts in much greater detail later in the opening, but for now it is enough to note that the first successful call from the boat to the UK authorities came in at about 1.30. The caller was in great distress. He told the Coastguard that the passengers were "in the water" and "everything [was] finished".

Shortly afterwards, the French authorities transferred a call from a 16-year-old on board. He spoke to the Coastguard for around 20 minutes. The call is harrowing. He said that they had entered the water and required immediate assistance. He sent co-ordinates from his phone, which showed that the boat was in

the Sandettie area of the Channel close to the median line, but on the UK side. There were a number of subsequent missed calls from the passengers on the boat to the Coastguard's phone. At around 2.30, the 16-year-old made another desperate plea for help. He said to the Coastguard that the passengers were "finished" and that they would all die. In response, he was told that a rescue boat was on its way. He was also asked by the Coastguard to stop calling.

After receiving an update from the Coastguard, a Border Force cutter called the Valiant was tasked to respond at about 1.30 am. The Valiant did not leave the Port of Dover until 2.22 and took another hour to reach the last known location of the boat. A helicopter was also tasked by the Coastguard just before 3 am while the Valiant was still en route. When the Valiant arrived in the Sandettie area at around 3.24, it was unable to locate the boat. The co-ordinates had been given to Border Force more than an hour and a half earlier, so by the time the Valiant arrived, it seems likely that the boat had drifted away.

The Inquiry's expert on survivability, Professor Tipton, considers it likely that the majority of passengers survived the swamping of the boat and the entry into the water. His view is that most of

the passengers were still alive at 3.24 when the Valiant reached the boat's last known location. Between then and 6.10 in the morning, the Valiant searched the Sandettie area and located three other small boats, rescuing 98 people in all. And to put this in context, a total of 367 people were rescued by Border Force in the Channel that night, despite it being what one Border Force staff member has described as "not a busy night in comparison to other nights around that time".

None of the boats found by Valiant matched the description of Charlie, but soon after 5 am, the Valiant reported that they had embarked 35 people from that boat. In fact, the boat was not Charlie, but one which had been identified by the Coastguard as "Lima". Again, I will explain the detail of this later, but in short, the UK authorities updated their trackers to say that Charlie had been embarked and ultimately marked the incident as closed.

As the hours passed and no help arrived, one by one, the passengers succumbed to exhaustion and hypothermia.

Dawn came around 7 am. One of the survivors had told the Inquiry that when the sun rose over the water there were about 15 people still clinging to the remains of the boat. The bodies of their fellow passengers were floating around them. He recalled a mother screaming as

she searched for her children. By this time, the helicopter had been stood down and the Valiant had returned to Dover. No one in the UK was looking for Charlie, no one came to their rescue.

Around 12.30 pm that day, on 24 November, a French fishing boat sailing approximately nine nautical miles off the coast of Calais found the first of the bodies floating in the water. By the time they asked the French authorities for help in their recovery efforts, they had found between 10 and 15 of the dead passengers. The UK Coastguard was notified at 1 pm, nearly 12 hours after they'd received the first panicked calls for help.

This Inquiry has been able to determine with confidence the identities of 26 people who lost their lives and of four people who are believed to have been on the boat but whose bodies have not been found, the missing. One whose body was found has not been conclusively identified, but we are able to suggest who he was. At this stage, we cannot be certain that there were no other people on board, including children, whose families may never know their fate. We do know that two people survived the sinking of the boat, and of these, Issa Mohamed Omar has provided detailed evidence to the Inquiry and you will, I hope, hear from him

tomorrow. The other survivor provided his account to the media, but has not engaged with the Inquiry.

I will outline the chronology of events that night in great detail later, but at the outset it is, you may think, clear that some important questions arise. How did it come about that the passengers were left in the water for more than 12 hours without rescue after distress calls were made to the UK authorities? Were there further steps which could have been taken to prevent this loss of life? And how can we ensure that this human tragedy is never repeated?

And these questions go a long way, of course, sir, towards explaining why it was that the Inquiry was set up. It may therefore be convenient to turn next to the Inquiry itself and to the work which we have done to date. I would also like to say a word or two about the shape of the full hearings.

The bodies of those who died were recovered to France. Accordingly, as a matter of English law, there was no obligation to conduct an inquest here. However, following the incident, the Marine Accident and Investigation Branch began a safety investigation into the incident and I'll refer to them as "MAIB". The MAIB report on their investigation was published on 8 November 2023, and as you know, in your terms of

reference you are specifically required to consider the MAIB report.

Of course, the Inquiry has a very different role and remit to the MAIB. It was, for example, no part of the MAIB's task to answer questions concerning the deceased, which, as I will explain, are fundamental to your terms of reference. There will no doubt be a good deal of reference to the MAIB report over the course of the hearing. However, for present purposes, let me just say that the Inquiry team have examined the MAIB report with great care and drawn on it again and again during the course of our investigation.

Shortly after the MAIB report was published, on 9 November 2023, the then Secretary of State for Transport, the Right Honourable Mark Harper MP, announced that an independent non-statutory inquiry would be established, and on 11 January 2024, your appointment was made public and the terms of reference were published. Could we have, please, {INQ010493} There are the terms of reference. May I highlight some important features.

First, they focus specifically on the incident on 24 November 2021. The Inquiry has no wider remit to investigate the general and continuing problem of small boat crossings, nor to engage with the many politically

controversial issues to which it has given rise over the years before and since the incident.

Secondly, the terms of reference require you to answer a set of questions at paragraph 2(a) which resemble those in inquests. However, the legal framework in which those questions fall to be answered is obviously different. This is not an inquest and you're not bound by the provisions of the Coroners and Justice Act 2009 or its related rules and regulations.

Next, this is a non-statutory inquiry. You're not bound by the provisions of the Inquiries Act 2005, nor the 2006 rules. All questions as to the conduct of the Inquiry and the nature of its processes and procedures are for you, as Chair, to determine, subject, of course, to applicable principles of law and in particular to the overriding duty of fairness.

And, sir, that serves to underline another key point about the Inquiry. It is an independent Inquiry, independent of government and of the various public bodies whom it has investigated during the course of its work.

The next thing I'd like to stress is that the Inquiry's process is inquisitorial and not adversarial. Although, as I'll explain in a moment, you have accorded some individuals and organisations

Full Participant status, there are no parties to the Inquiry. Nobody has a claim, or case, or defence to advance. Moreover, the Inquiry has no power to determine liability, whether civil or criminal.

The Inquiry's purpose is to find out the truth. It is therefore the role of all of those who engage with us in our investigation to assist us in getting to the truth of what happened that night. And by the same token, the overarching question which has guided all of your decisions concerning the conduct and procedures of the Inquiry is this: what would best and most effectively assist the Inquiry in its work and so enable you to discharge the task conferred on you by the terms of reference.

To that end, you have designated the following as Full Participants and, amongst other things, you've permitted them to be represented at this hearing and to make opening and closing submissions. And they are: a survivor and the families of some of the victims, represented today by Sonali Naik King's Counsel, instructed by Duncan Lewis Solicitors; the Maritime and Coastguard Agency, represented by James Maxwell-Scott King's Counsel and instructed by DWF Law LLP, the Home Office represented today by George Mallet, instructed by the Government Legal Department, and

the Department for Transport, represented by David Blundell King's Counsel, also instructed by the Government Legal Department.

Before turning to the work which has been done over the 14 months since the Inquiry was announced, I would like, first, to thank the Full Participants and their legal representatives and all those who have engaged with us as witnesses, document providers or in any other capacity, for the hard work which they have done in order to assist us to get to the start of these full hearings. The pace has been formidable and it would not have been possible to make the progress that we have without their cooperation and goodwill.

As for the work which we've done, you've given some details in the statements you've made at the start of our two earlier hearings in March and in October last year, the transcripts of which are available on our website. The website also features all of the Inquiry's protocols which set out in the fine print, so far as the Inquiry's processes and procedures are concerned.

However, it may help those listening and watching to have a high level summary of the work we've done to date. We've obtained thousands of pages of material relevant to our investigation from a wide range of individuals and organisations. We've subjected that

material to close analysis and produced a list of issues which shows the topics on which the Inquiry has focused its principal attention. We've disclosed material which we deem relevant to the Full Participants in accordance with our disclosure and redaction protocol. We have requested and received witness statements from over 70 individuals, and wherein appropriate, we have requested further witness statements. All of those statements have been disclosed to the Full Participants.

You have determined, sir, which witnesses you wish to hear from in these hearings. We've produced evidence proposals for each of them in which the topics to be covered by Inquiry Counsel in questioning them, and the documents to which reference may be made, have been set out. Now, I use the term "questioning" rather than "cross-examining" in order to underline again the difference between this inquisitorial hearing and a civil or criminal trial. Witnesses will be asked questions as part of the investigatory work of the Inquiry. They have all co-operated with the Inquiry voluntarily in preparing their statements and will attend to give evidence to you voluntarily. They will do so in order to assist you with your work. They will be questioned so that you have the clearest picture of what happened on the night in question as part of your

quest for the truth.

As for the shape of these hearings, I hope to complete this opening by lunchtime, we'll have a break this morning, as you said, not least for our shorthand writers, and another during the afternoon, and that will be the pattern on each sitting day. This afternoon, you will hear from counsel for the Full Participants and we'll begin the evidence tomorrow morning. Our plan is to sit four days a week, Monday to Thursday, using Fridays only if timetabling difficulties require them.

We'll start tomorrow morning with the evidence of one of the two survivors of the incident and then begin questioning those involved in the rescue effort on the UK side on Wednesday morning. At the end of the hearings, we will again focus our attention on the families of those who died, hearing from them about their loved ones over the two final days of evidence and before the Full Participants make their closing submissions. And in that way I hope we will demonstrate another important feature of the way in which the Inquiry has gone about its work. We have throughout kept very firmly in view the fact that for those who lost their lives on 24 November 2021 and for their friends and families, this was, above all, a terrible human tragedy.

I'd like to mention two further points before turning to the issues on which we'll focus our attention. The first is to note that the hearings represent but one phase, albeit an important one, of the Inquiry's work. The investigation has been underway for over a year and our work will continue after the hearings are over. At that stage, the focus will, of course, be on the preparation of your report, which will be the culmination of the Inquiry's work.

Secondly, I should mention that there is a criminal investigation arising out of this incident which is underway in France and is led by an investigating magistrate. French criminal law imposes a strict confidentiality obligation on all concerned in such an investigation so that the Inquiry has not had access to material generated by or for the purposes of that investigation. We have, however, kept the French prosecutor informed as to the course of our work and about these full hearings.

So, sir, I turn next to deal briefly with the issues on which we'll focus over the coming weeks. And the starting point is of course our list of issues which I have just mentioned. Could we have that, please. That's {INQ010494}. I don't want to spend too much time on these now, but the list of issues sets out, in just

over three pages of text, the specific areas within the terms of reference on which the Inquiry has and will continue to direct its particular attention. It starts, as you see, with inquest type questions, issue I, deals with the legal framework, issue II, before turning to the operational background to the events of the night, and that's issue III, going over the page {INQ010494/2}. Turning on, please, to issue IV, which is page 3 {INQ010494/3} of the document, that deals with the key questions about the night, and then we focus on lesson learning, that's issue V, and end with the question of recommendations, over the page at issue VI.

There is a good deal to get through in this opening, and so to help me and to help the Full Participants, the Inquiry legal team has produced and disclosed to them some written background material, namely: a very detailed chronology of events leading up to the night based on the material we've gathered in; three notes on the UK organisations who were principally involved in what happened, on their operational arrangements and on the relevant roles and responsibilities of individuals within those organisations; a list of acronyms; and, finally, a short note on the legal framework against which the events of the night fall to be considered. Those documents will appear in due course on our website

alongside the transcripts of the days' hearings, the witness statements of those who have given evidence to us and the documents referred to during the evidence. And that written material will allow me to deal briefly, I hope, with the background topics and to spend most of my time on the events of the night and on the issues and questions to which those events give rise. That will be the main focus of the evidence during these hearings.

So of those background topics, sir, the first I'd like to outline at a very high level is the relevant legal framework. This is issue II of our list of issues. First, the relevant international obligations in respect of search and rescue, safety at sea, and in particular search and rescue is addressed in a number of international treaties, including the 1982 United Nations Convention on the Law of the Sea, UNCLOS, the 1974 International Convention on the Safety Of Life At Sea, SOLAS, and the Search and Rescue Convention, 1979, SAR. The UK and France are party to all of those conventions and are bound by the obligations contained in them under international law. The UK and France are also Member States of the International Maritime Organisation, IMO, which is a specialised agency of the United Nations with responsibility for the safety and security of shipping. SOLAS and the 1979 SAR were

adopted under the auspices of the IMO. The IMO and the International Civil Aviation Organisation jointly publish and periodically review and update the International Aeronautical and Maritime Search and Rescue manual, IAMSAR. This is a guide for Member States, set out in three volumes, as to the provision and organisation of a search and rescue service and as to the execution of their responsibilities under the applicable aviation and maritime conventions.

The duty to render assistance to those in peril at sea is a long established norm of the law of sea. It finds its expression in two specific obligations. First, obligations on vessels to render assistance to persons in danger or in distress, and secondly, obligations on coastal states to establish, operate and maintain adequate and effective search and rescue services.

So turning to requirements for vessels to render assistance. Each of UNCLOS, SOLAS and 1979 SAR contains provisions which address the requirements of vessels to render assistance to persons in danger or distress. Article 98(1) of UNCLOS imposes an obligation on states to require that certain action be taken by masters of its flag vessels. SOLAS imposes obligations directly on masters of a ship to provide assistance in response to distress messages. And under both conventions the duty

to provide assistance applies regardless of the legal status of the person in distress. 1979 SAR expressly confirms that assistance is to be provided regardless of the nationality or status of the person in distress.

The requirement for vessels to render assistance in case of distress is incorporated in UK domestic law through the Merchant Shipping Act (Safety of Navigation) Regulations 2020, and they apply to any UK ships, but also to any non-UK ships while they are within UK waters.

Now turning to the obligations of states, the three conventions require states to establish, operate and maintain search and rescue services at sea. The most detailed provisions concerning search and rescue services are found in the 1979 SAR, which establishes a comprehensive international system for search and rescue operations and provides for states to have responsibility for designated search and rescue reasons within which search and rescue services are provided. It also provides for the rescue of persons in distress to be coordinated by a search and rescue organisation and, where necessary, cooperation with neighbouring search and rescue organisations.

In the context of the English Channel, the UK and France have concluded the MANCHEPLAN, chapter 2 of which

is a regional search and rescue agreement within the meaning of the 1979 SAR.

So my next topic concerns the small boats problem. Small boats present particular challenges from a search and rescue perspective, and can we please bring up {INQ010512}. The Channel is an inherently challenging maritime environment. It's a narrow stretch of water between the UK and France. At its narrowest point, only 18 nautical miles wide. The territorial waters of France and the UK are separated by what is known as the "median line", which we can see on the map marked by the crosses. There's a high volume of commercial and recreational marine traffic in the Channel. In order to manage it, the IMO has approved a traffic separation scheme, which again you can see on the map indicated by the series of arrows pointing north-east and south-west. All shipping is required to follow these lanes and a mandatory reporting scheme is in place whereby large vessels are required to contact the Coastguard when they enter and exit the area.

Large vessels in the Dover Strait present particular risks for small boats. Big ships may struggle to see unilluminated small boats, or to detect them by radar. Because of their size, large vessels are unable to change course quickly to avoid small boats, increasing

the likelihood of collision, particularly if a small boat's engine fails and it is left to drift. Big ships create large, turbulent wakes as they travel through the water, which are quite capable of swamping small boats.

The Channel is also dangerous because it's very dark at night, which makes it the more difficult for small boats to be found. In winter months especially, the weather in the Dover Strait can also make crossings more dangerous. Surface temperatures can get very low, presenting a risk of hypothermia. If someone also has wet clothes on because, for example, they had to board the boat in shallow water just off a beach, then this risk is increased. The water itself is also very cold. If someone enters the water, they could suffer what is known as "cold water shock", and I'll return to this later. And, of course, misty or foggy conditions can make it even harder to see small boats.

Next, small boats are inherently unseaworthy. They are made of inappropriate materials. There have been instances of attempted crossings in inflatable paddling pools or rowing boats with makeshift paddles. Their construction itself can be hazardous, involving parts such as sharp wooden or metal floors which can damage the inflatable parts of the boat, and they generally

have no communication, location or navigation systems on board, save, perhaps, for the occupants' mobile phones. They are unable to know precisely where they are in the water or what is around them, to communicate their position, or to draw attention to themselves.

Third, people on small boats very often have no maritime experience. Additionally, in some instances, highly vulnerable people, such as unaccompanied children, pregnant women and people with disabilities are on board. The boats are often overcrowded. People on small boats often have no life-saving equipment, such as life jackets, or the equipment they do have is wholly inappropriate.

Finally, unlike other vessels, small boats are not named and need to be distinguished on the basis of other characteristics, such as their colour or the number of occupants.

Next, a word, if I may, about the small boat problem, the number of small boat crossings over time and the government's response to it. The small boat problem of respect years only began to emerge in the second half of 2018. There's a good deal of detail on this in the pre-incident chronology which I've mentioned, so I'll only highlight the key points this morning. If we could bring up on the screen, please,

the native version of {INQ010670}.

If we can centre it so we can see the whole thing that would be excellent.

This chart shows the number of people arriving in the UK by small boat in each month of 2018. As one can see, during the first half of that year, the number of people who were detected crossing the Channel remained very low, but, from August that year, the number of crossings began to increase, and in the final two months of 2018, there was a surge, whereby some 248 people crossed the Channel in small boats.

As a result of the rise in the number of crossings, by mid-December 2018, Border Force vessels were frequently being called out to assist with rescues and this led the then Home Secretary to declare a major incident on 28 December that year. A Gold Command structure, or "Gold Group", was established within Border Force shortly thereafter, and it was agreed between Border Force Maritime Command and His Majesty's Coastguard that Border Force assets would be available to the Coastguard for search and rescue taskings. This arrangement was later formalised on 15 May the next year, 2019, under the name "Operation DEVERAN", which led Border Force's maritime response to the issue of small boats. Thereafter, the Home Office led

the government's overall policy response to the small boats issue, and that remained the position at the time of the incident, because it was generally considered within government to be an illegal migration issue.

Next can we have {INQ010669}. Again, I think the native version.

This graph shows the number of people arriving by small boat from 2018 to the end of 2021. As we can see from the graph, from May to July 2019, the number of people arriving continued to rise. In documents from July 2019, which the Inquiry has seen, Border Force's small boats strategy was described in terms as "failing". It was suggested, fleetingly, that the issue should perhaps —— and I quote —— "be an MCA/RNLI lead rather than Border Force". It was also recognised that the risk to life posed by small boat crossings was "significant" and that a fatality was "highly likely".

Just a month later, in August 2019, the first fatality related to a small boat crossing was recorded. In the same month, as we can see from the graph, a new record number was reached, with 342 people making the crossing. It was also suggested in that month that a policy known as "Operation BOWTHORPE" should be implemented. That operation had been developed by

Border Force a few months earlier, and was a policy whereby people rescued from small boats would be returned to France, rather than taken to the UK. This suggestion was made by the then director of the Joint Maritime Security Centre, or JMSC, which was a cross—government organisation which provided intelligence on maritime security issues. The director of the JMSC at the time was Dan O'Mahoney who will give evidence on the Inquiry in due course.

So returning to the graph. Over the autumn of 2019 and the early part of the next year, the crossings stayed at a relatively stable level. However, in April 2020, the number of people crossing the Channel by small boat began to increase substantially, as you can see from the graph. Due to movement restrictions associated with the pandemic, small boat crossings became almost the only method of clandestine entry to the United Kingdom.

On 30 April that year, 2020, the Home Office had reiterated its desire to develop a "returns at sea" policy. However, this time, the policy went beyond returning migrants once rescued and instead involved the development of tactics to interdict or turn small boats around at sea to prevent them reaching the UK in the first place. This was referred to as

Operation SOMMEN. The development of this policy was a focus for the Home Office from this point onwards, which is reflected in the volume of communications on this issue between the Home Office, the Department for Transport and the MCA, which the Inquiry has seen.

Now, returning to the graph, we can see how, over the summer of 2020, the incidents of small boat crossings continued to increase. As it was put in a document prepared by the MCA's chief executive at the time, the number of crossings was "unprecedented".

As well as developing tactics to interdict small boats throughout this period, in August 2020, the Home Office established the Clandestine Channel Threat Command, CCTC, within its Immigration Enforcement department. The CCTC was created to lead and unify the government response to small boats providing —— and I quote —— "a whole of route, whole of government" approach, and ultimately render journeys to the UK on small boats —— and I quote —— "unviable". Dan O'Mahoney, the former director of JMSC, who I have mentioned, was appointed to lead this body.

As we can see from the chart, September 2020 saw a new high in terms of crossings when 1,949 people were detected having made the crossing. At the end of that year, on 21 December, the CCTC established

Operation ALTAIR, which covered both the maritime and land—based aspects of the Home Office's strategy, such as reception facilities, communications campaigns upstream in migration routes. And this strategy effectively superseded Operation DEVERAN, although, as we'll see, that operation retained its name in relation to maritime aspects of the CCTC's activity.

Now, could we have one more chart, please, and this is {INQ010671}. Now, this graph shows the total number of people detected arriving by small boat each month, from the start of 2018 to September last year. And one can see how, from the spring of 2021, crossings began to increase again, and the speed of that increase, which is dramatic, can be seen from the graph.

In November 2021, 6,971 people crossed in 209 small boats. And in fact, as you will see from the graph, that total was the third largest monthly total of people ever to cross the Channel in small boats.

One more chart please and this is {INQ010675}. Now, this shows not the number of people, but the number of small boats, which crossed from 2018, again, to September 2024. And in the month with which we're concerned, November '21, 209 boats made the crossing, which, as you can see, is the largest ever number of boats to have crossed in a single month. And we can

also see, as we all know, looking to the right-hand side of the graph, that the problem hasn't gone away. Crossings are continuing in large numbers. It's also right to note that while the number of boats, as we see here, may be fewer, the boats being used are now bigger and carry more people.

So having set out that context, we can now turn to look at some of the organisations and people who were involved in responding to the small boats issue and to the events of 23 November 2021.

So as I have mentioned -- I think we can remove the chart now, please -- we have provided Full Participants with three documents on these topics which set out far greater detail than time allows me this morning, so I'll just deal with some of the key points contained within them and take the opportunity to introduce some of the witnesses from whom you'll hear in the next few weeks.

The small boats problem engaged a number of organisations and government departments. The primary organisations involved in responding to the events with which we're concerned were His Majesty's Coastguard first, which I'll generally call "the Coastguard", who were responsible for coordinating the UK's maritime search and rescue response. In other words, and in

simple terms, they decided which resources to send to help the small boats and when and where to send them.

Next, Border Force, who primarily provided the boats or vessels which were tasked by the Coastguard to rescue people on small boats.

Next, some private companies who provided aeroplanes, helicopters and drones, to try to help the Border Force vessels find the small boats at sea.

Next, the RNLI, a charitable organisation which also made lifeboats available to the Coastguard for search and rescue.

And, finally, the French Coastguard, who were responsible for coordinating search and rescue incidents which took place within French territorial waters, and who worked together with the Coastguard pursuant to the agreement I've mentioned, the MANCHEPLAN, which set out how search and rescue incidents in the Channel should be dealt with by the two countries.

So turning first to the Coastguard. It, as I've said, was responsible for, amongst other things, providing a 24-hour emergency search and rescue service for incidents in the seas and coastal areas around the United Kingdom. It was part of the Maritime and Coastguard Agency, the MCA, which was itself an executive agency linked to the Department for Transport.

The Secretary of State for that department was responsible for establishing a search and rescue system for the UK pursuant to the international treaties to which I've referred. The Coastguard provided the search and rescue service on the ground, as it were, and the MCA provided the Coastguard with corporate leadership and also acted as the link between the Coastguard and the Department for Transport. The Department for Transport remained responsible for the overall policy framework which applied to the MCA and the Coastguard.

In the executive agency relationship, they were known as the agency's "sponsor department". They primarily oversaw the activities of the MCA and the Coastguard through quarterly sponsorship board meetings.

At the time of the incident, small boat related policy issues which were within the Department for Transport's remit were handled by the Maritime Security Division. As the Department point out in their written submissions, illegal migration policy was not a matter falling within this remit. The Maritime Security Division was led by James Driver, who will give evidence later in the hearings. However, as I have set out, at the time of the incident, it was the Home Office which

led the government's overall policy response to the small boats issue, as it was generally considered by government to be an "illegal migration" issue.

So then turning in a little more detail to the national Coastguard network. To provide its search and rescue functions, the Coastguard operated a network of Maritime Rescue Coordination Centres, MRCCs, each of which had its own area of responsibility, and they were located at: Aberdeen, Belfast, Humber, Falmouth, Holyhead, Milford Haven, Shetland, Stornoway, Solent and Dover. They were all coordinated by the Joint Rescue Coordination Centre, or JRCC. Because of the common communication systems and procedures the Coastguard used, the JRCC was able to allocate resources around the network through a process referred to as "zone-flexing" or "network flexing". For example, if there was a shortage of staff at MRCC Holyhead, any search and rescue missions could, if resource allowed, be conducted from MRCC Falmouth.

As well as this network coordinating function, the JRCC contained MRCC Solent, which undertook search and rescue missions in its area of responsibility and assisted other MRCCs through zone-flexing. In fact, the JRCC was the default zone-flexing station for all MRCCs.

It was also home to the Aeronautical Rescue Coordination Centre, or ARCC, which tasked and coordinated planes, helicopters and drones for search and rescue missions. MRCC Dover was responsible for coordinating search and rescue missions in the Dover Strait and was therefore the primary station for coordinating search and rescue missions in relation to small boat crossings. It was also responsible for the vessel traffic service which managed the commercial maritime traffic in the Dover Strait.

So then turning to the provision of search and rescue in practice. The Coastguard provided its search and rescue service by coordinating assets which were declared or contracted to it. It has not had its own fleet of rescue boats since the 1970s. The assets the Coastguard co-ordinates are either "Declared Search And Rescue Facilities" or "Additional Facilities". A declared search and rescue facility is a facility which has been designated as being available for maritime search and rescue according to a specific standard or set criteria, whereas an additional facility is one which may be available from time to time but which is not of a specific standard. The RNLI and the private air asset providers I've mentioned were declared facilities, whereas Border Force was an

additional facility.

Border Force, and specifically Border Force Maritime Command, were in practice responsible for providing the assets, by which I mean principally the vessels used for the majority of small boat search and rescue incidents. As I mentioned earlier, this came to be the case through Operation DEVERAN. The Border Force Maritime Command was the UK's national maritime law enforcement capability and was led by Stephen Whitton, who will give evidence in these hearings. In practice, tasking was managed day-to-day by Border Force officers and higher officers based at the Border Force Maritime Command Centre in Portsmouth. On the night of the incident, these roles were undertaken by Tom Willows and Karen Whitehouse respectively, both of whom will also give evidence.

Border Force Maritime Command Centre would receive asset tasking requests by phone from the Coastguard and contact the commander of the relevant vessel.

In terms of the assets which were available on the night, His Majesty's Cutter HMC Valiant was the only boat tasked to rescue people in small boat. Her commander, Kevin Toy, who was in charge of the vessel that night, is also due to give evidence.

Turning briefly to the private providers, as I've

said, the Coastguard also used aeroplanes, helicopters and drones to try to obtain a recognised maritime picture, in other words to inform them how many small boats were in the water and where, so that rescue boats could be directed more effectively. The Inquiry expects to hear evidence from those involved in providing these services and they include: Christopher Norton, who's company, 2Excel Limited, provided the Coastguard with two types of fixed wing aircraft, however, on the night, they were unable to fly due to bad weather; Graham Hamilton, is a director of Bristow Helicopters Limited, who I will refer to as "Bristow", they provided helicopters to the Coastguard for search and rescue, and on the night, one of their helicopters was deployed, call sign R163; and finally, the Inquiry expects to hear from the Captain of R163, Christopher Trubshaw, later in these hearings.

Now, then turning to the individuals involved from the Coastguard. Please may we bring up {INQ010677}. This document shows the line management structure within the Coastguard and the MCA at the time of the incident. And the Inquiry expects to hear evidence, first, from David Jones, who is at the top of the box, labelled "MRCC Solent", further down the document, please, bottom left, do you see? Yes, thank you. He

was the JRCC Tactical Commander and his role was to oversee the entire Coastguard network. To do this he'd review active search and rescue missions to make sure there were sufficient resources available and that there was a plan in place.

Next, Dominic Golden, just opposite in the circle on the right, under "ARCC". He was the Aviation Tactical Commander, which meant he was responsible for tasking aerial search and rescue assets.

Then, looking at the right-hand side of the graph, we see on MRCC Dover, to the right, at the top, the Small Boat Tactical Commander, George Papadopoulos. This was a role unique to MRCC Dover which had been created to provide leadership in relation to small boats. However, over time, the role developed so that when was on station, the Small Boat Tactical Commander could review ongoing small boat search and rescue missions at Dover, instead of the JRCC Tactical Commander. He could also play a more hands on role, undertaking search and rescue tasks in the operations room, and we'll hear more about this in due course. George Papadopoulos reported to Mike Bill, the Division 2 Commander, whose name appears higher up the chart there, MRCC Humber. He had overall responsibility for both MRCC Dover and MRCC Humber, and

as we can see from the graph, this was a senior non−operational role, reporting directly, up to the top of the chart, to the head of Coastguard operations.

Now, if we can go back to the bottom left, "MRCC Dover" −− sorry, bottom right, we'll see there, towards the middle of the diagram, Neal Gibson and James Crane listed as team leaders. They were the team leaders at MRCC Dover, so far as we're concerned. They were also qualified search and rescue mission controllers, SMCs, which meant they were able to coordinate and lead search and rescue missions, and the MCA has helpfully set out some of the features of their role in their opening submissions.

Staying at this level, but moving back to the left, to the yellow "MRCC Solent" box, we can see Christopher "Tom" Barnett and Richard Cockerill, who were, similarly, team leaders and qualified SMCs at the JRCC. As I've mentioned earlier, SMCs there, at the JRCC, could assist other MRCCs to conduct search and rescue missions remotely. They were also able to act as maritime coordinators, who, the Inquiry understands, performed the same functions as a Maritime Operations Officer within the operations room.

Then turning to that role and back to the bottom left−hand corner of the green box, please, we see

the name Stuart Downs. He was the Maritime Operations Officer there, MOO. They performed search and rescue tasks in the operations room under the direction of the SMC, as you can see from the chart. And again, in relation to their role, the MCA have provided some helpful additional detail in their opening submissions.

So could we clear the chart, please.

So the next and most important topic for this morning is the question of the night's events and the issue how those who died came by their deaths. That really is the key issue for the Inquiry and for these hearings, issue 1c and IV of the list of issues.

In terms of the immediate background to that night, as we have seen, the events that the Inquiry is investigating took place against a background of unprecedented numbers of small boat crossings. I've touched on the question of how the various UK bodies and agencies responded to the problem.

In November 2021, approximately 90% of small boat rescues were undertaken by Border Force. However, its vessels were not designed or equipped for search and rescue. By November '21, at a meeting attended by Coastguard and Border Force, amongst others, it was acknowledged that the situation for Border Force Maritime was critical and non−sustainable without an

increase in asset numbers. The remainder of the rescues were undertaken by the RNLI, the principal provider of lifeboats to the Coastguard. Their volunteer crews were also facing significant pressure from small boat call outs in November '21.

Despite Border Force's major role in small boat search and rescue that month, the Inquiry understands that there was no written agreement or memorandum of understanding which addressed the respective roles and responsibilities of Border Force and the Coastguard. Rather, it appears that working arrangements developed and adapted over time. We will explore the consequences of this in relation to small boat search and rescue, including with regard to Border Force's enforcement role in the coming days.

The sharp rise in small boat activity in 2021 also had inevitable impacts on Dover Coastguard, but the concerns there were long−standing. Coastguard recognised, no later than 2020, that Dover was under strain because of the increase in incident numbers and low staffing levels. Staff welfare concerns were acknowledged again in the summer of 2021, when a debrief on migrant activities noted that the Dover operations team and others were effectively firefighting, unable to take effective breaks, which the debrief said −− and

I quote −− "compounded human factor and welfare risks".

In November 2021, the MCA's Corporate Risk Register was amended to include the risk that HM Coastguard may become overwhelmed resulting in loss of life. So Coastguard was fully on notice of the impact of the long−standing resourcing problems facing Dover, combined with the significant increase in numbers of small boat crossings and also that there were serious risks related to this. Its recruitment exercises had failed to cover the deficit by November '21. On the 19th of that month, it was decided that the maritime zones covered by Dover would be reduced to one, zone 14, the Dover Strait, which is where small boat activity principally took place, and that staff shortages would be dealt with by way of remote coverage from the Joint Rescue Coordination Centre, the JRCC.

Coastguard also altered shift patterns at Dover, requested that staff do overtime and also asked that competent staff from other stations went to Dover for periods of duty. The search and rescue mission controller, the SMC, at Dover, who worked during the night watch of 23 to 24 November, has told the Inquiry that in the weeks leading up to that shift, he had frequently worked six on, two off, instead of the usual two day, two night, four off, shift pattern,

due to lack of staff.

On 22 November, the day before the events in question, it was recognised within Coastguard that staffing at Dover was insufficient for the upcoming night watches. There was a request for volunteers, but this request did not bear fruit, save that one Coastguard officer agreed to go to Dover and start his shift at 5 am on 24 November.

So I now turn to focus specifically on this question of staffing.

As was anticipated, the staffing of the search and rescue team at Dover was one person below its suggested seasonal level during the night shift or "watch" from 23 to 24 November. The watch ran for 12 hours from 7.30 in the evening until 7.30 in the morning. That night, there were two coastguards working on search and rescue. There was also a trainee present. The search and rescue team, as I've said, was led by an SMC. He was in control of the search and rescue activity from Dover that night and he was also the team leader. He supervised a Maritime Operations Officer, who had joined the Coastguard in March '21, and a trainee. And additionally, the team was joined at 5 o'clock in the morning by an SMC from another station, who, as I've said, had agreed to work that day in Dover as a Maritime

Operations Officer.

The Dover Coastguard also ran a maritime traffic monitoring service for the Dover Strait and, due to staffing shortages, the SMC on the night watch also had to provide cover for that team during the early part of the night. He returned to the operations room in the early hours of the morning of 24 November, shortly after the first calls from what became known as "Incident Charlie" were received.

Whilst he was absent, an SMC in the JRCC in Hampshire took over control of search and rescue operations remotely. However, due to the low staffing levels at Dover and the amount of activity during the night, the JRCC remained involved after the Dover SMC had returned.

Also based at the JRCC on the night in question were the Maritime and Aviation Tactical Commanders. The Maritime Tactical Commander was not contacted for any tactical oversight or advice on the night in question and nor did he review any of the distress incidents at Dover.

Additionally, there was a duty Strategic Commander on call during the night in question, but he too was not contacted and so was unaware of the events of the night and took no part in them.

The Small Boats Tactical Commander was not working during the night watch of 23 to 24 November 2021. He did work on the day watch the next day, beginning, as I've said, at 7.30 in the morning, however, due to the volume of work and pressure on MRCC Dover, he undertook an operational role equivalent to an MOO, rather than acting in the tactical role of his job description. He worked under the SMC and team leader on the day watch.

During the night watch, 23 to 24 November, the absence of the Small Boat Tactical Commander and the absence of any input from the Maritime Tactical Commander and the duty Strategic Commander meant that there was no tactical or strategic oversight of the operational search and rescue decisions taken by the SMC at Dover.

Turning then to the question of the assets.

Turning to this question and dealing first with the air assets, throughout the night in question, the Aviation Tactical Commander liaised with the various companies providing air assets to the Coastguard. Primarily, this was through calls with 2Excel, who, as I've said, provided fixed wing assets, and Bristow, who provided the helicopters. He also spoke with the company RVL, who, on the night in question, were

contracted to fly at a high altitude for the Home Office and with Tekever, who were contracted to fly drones for the Coastguard. But that night, it was only 2Excel and Bristow who were anticipated to fly for the Coastguard. When contacting Bristow, the Aviation Tactical Commander spoke primarily to the Captain of the helicopter known as R163, and he later received updated instructions from the SMC at Dover.

The Coastguard in Dover also liaised with the Border Force Maritime Command Centre throughout the night. A Border Force Higher Officer was based in the office in Portsmouth and an Immigration Officer was working remotely. They were primarily responsible for managing and deploying Border Force Maritime assets. As I have said, the Border Force vessel that was identified as the primary responder for the night in question was the cutter, the Valiant.

By contrast with the level of contact that the Coastguard had with Border Force, during the night in question, the SMC at Dover did not task or otherwise liaise with the RNLI. The adequacy of the search and rescue assets tasked on the night is a question that the Inquiry will address.

Next, systems.

In terms of the systems that were used in

November '21 by the Coastguard to record and share information received about small boats, its primary information management was software called "ViSION". The ViSION system enabled the Coastguard to maintain logs for each small boat incident opened. Each incident was attributed a unique alpha numeric reference composed of a number and a phonetic alphabet reference which refreshed to "Alpha" at the start of each watch.

The ViSION system facilitated network or zone-flexing, which, as I've said, is the Coastguard's practice of providing remote coverage from other stations of the JRCC, because the information contained in the logs could be viewed remotely on ViSION. However, at the time of the events in question, the ViSION systems used by the aviation and maritime sections of Coastguard were incompatible.

In addition to the ViSION system, the Coastguard also used an operational support spreadsheet to record and monitor information about small boats known as a "tracker". Border Force and the French Coastguard also had their own trackers, and by the time of these events, the Coastguard had recognised that the multiplicity of trackers was problematic. In August 2021, the absence of -- and I quote -- "a single version of the truth", due to the existence of multiple

trackers owned by difference stakeholders, had been raised as a concern at a high level within the Coastguard. A proposed solution was the creation of a single UK tracker with live access for both the Coastguard and Border Force, and shortly before 23 November, Border Force gained live access to the Coastguard tracker, which was known as the "shared tracker" for this reason.

However, they also -- that's Border Force -- maintained their own separate tracker. This was emailed at early intervals to a large distribution list of Home Office recipients for the most part, but including the Coastguard. The shared tracker and the Border Force tracker recorded much the same information. This included a row for each incident opened by the Coastguard, a series of columns for relevant information about each incident, including position information, the number of persons on board and a description. Importantly, there was also a column for a Border Force reference also known as an "M" number, because it was prefaced by the letter "M". This reference was given to a small boat once it had encountered a UK asset. The M number would be sprayed on the boat itself and recorded by the Coastguard and Border Force. Those M numbers reset each year on

1 January and ran sequentially. On the night in question, the first small boat to be encountered by the Valiant was given the M number 957, the second 958, the third 959. As I've mentioned, the French Coastguard also had its own tracker, similar in style and content to the Coastguard and Border Force trackers.

It's important to note here that in November '21, neither the Coastguard nor Border Force had live access to the French tracker and they relied upon the French sending it across by email. And as we'll see, at the time of and prior to the events with which the Inquiry is concerned, the Coastguard were aware, both that the French sometimes delayed in sending their tracker and also that this impacted negatively on situational awareness.

SIR ROSS CRANSTON: Mr Phillips, I'm wondering if it's appropriate to have a break.

MR PHILLIPS: It's a very convenient moment, sir.

SIR ROSS CRANSTON: Because you're about to start on the narrative, I know, yes.

So we'll have a break for ten or so minutes.

(11.16 am)

(A short break)

(11.29 am)

SIR ROSS CRANSTON: Yes, Mr Phillips.

MR PHILLIPS: Sir, returning to the narrative, on Monday, 22 November, the weather forecast used by Border Force and Coastguard to predict the likelihood of small boat crossings, known as the "Operation DEVERAN Weather Assessment", was amber, meaning crossings were likely on 23 November, and red, meaning crossings were highly likely, on the 24th.

On the 22nd, a "red days meeting" took place. These were held between the Coastguard, Border Force, RNLI and other stakeholders involved in small boat rescue work, in which the forecast and risks to an effective response were discussed. At that meeting, it was said that Border Force intended to provide good coverage. Staffing shortages at MRCC Dover were discussed.

Following the meeting, the representative who had been present on behalf of 2Excel sent an email internally identifying the significant risk for the period, including the night of 23 to 24 November, and advising them to -- and I quote -- "try and cover as much as [they] can". Had the flights taken place as planned, 2Excel would have launched at half past midnight on the 23rd and flown two planes without gaps in coverage until the next morning. However, in the event, they didn't fly their pre-planned surveillance missions due to concerns over poor

visibility and insufficient diversion air fields. As a result, the Coastguard had no situational awareness of small boats crossing the Dover Strait.

By around half past midnight in the very early hours of the 24th, the Aviation and Maritime Tactical Commanders had recorded their significant concern about the dangers of the situation in the ViSION system. They referred to being "effectively blind" in the absence of a surveillance flight and said that "this has the potential to be very dangerous". They cautioned against relaxing and expecting a normal night.

The extent to which this message was understood operationally is a question to be explored in the coming days.

No alternative assets were tasked between half past midnight, which is when the Coastguard was put on notice that 2Excel had postponed its flight, until after 2 o'clock in the morning. The reasons for the delay and its potential significance are also questions to be explored.

Ultimately, the search and rescue helicopter R163 was tasked to undertake a surveillance flight by the Aviation Tactical Commander.

At just before 1 o'clock in the morning, Dover Coastguard received the French tracker for the first

time that night. As a result, for the first time that night, the Coastguard obtained some intelligence as to small boats crossing the Dover Strait. The French tracker recorded four small boats heading towards UK waters. Then, just after 1 o'clock, Dover received its first notification in a telephone call with French Coastguard about the small boat that is the subject of this Inquiry. The French Coastguard told Dover that although the small boat, known by the French as "small boat 7", was not shown on the French tracker, it was in fact closer to UK waters than the other small boats that had been recorded on the tracker. Location co-ordinates and two telephone numbers were provided to Dover Coastguard. The French said that there were 33 people on board, including 13 women and eight children. It was said that 14 of those on board were wearing life jackets.

Around 15 minutes after this call, the MOO at Dover opened a new incident in ViSION, Incident Charlie, to record the information about French boat 7. The information that was entered contained an error, however. Whereas the French had given no information about the state of the small boat 7, it was erroneously recorded in the ViSION logs as being in good condition. This was the first error made in the recording of

information about Incident Charlie, but as we will see, it was not the last.

Around the same time that Incident Charlie was opened, the MOO at Dover called Border Force to let them know about Incident Charlie, which was calculated to be in UK waters by that point. Following this call, shortly before 1.30 in the morning, the Border Force cutter, the Valiant, was tasked. At the point that it was tasked, the Coastguard and Border Force had no knowledge that Incident Charlie was in distress. The MOO at Dover had erroneously recorded it as being in good condition and had told Border Force the same, but in truth, the Coastguard had been provided with no information from the French about the condition of small boat Charlie.

It is likely, in fact, that the small boat was already in distress at this time. Reports in the French media refer to the French Coastguard's failure to inform Dover Coastguard that Charlie was in distress when it first relayed information about small boat 7. And in a call just after 1.30 in the morning, which is likely to be the first connected call between the boat and the Coastguard, the caller told the Coastguard that those on board were "in the water" and that "everything [was] finished".

Around ten minutes after the first likely call from Incident Charlie, at 01:48, the French Coastguard transferred a call which lasted around 20 minutes. The caller was a 16-year-old Iraqi Kurdish boy, Mubin Rizghar Hussein, who has been identified among the victims. He spoke to the SMC at Dover. He repeated that they were "in the water" and were "finished". During this call, he managed to obtain the Coastguard's mobile phone number, and at 2.01, geolocation information was sent to the Coastguard from the mobile phone of another of the victims, Shakar Ali Pirot. An updated position was sent from his mobile phone at 2.21, and at 2.20, from a Turkish mobile phone number that belonged to another of the victims. However, the Coastguard did not see these updated positions until over an hour after they were sent, and the reasons for this will be explored in the hearing.

In the course of the long call with Mubin, it became apparent that those on board the small boat could see another vessel. The SMC believed that this could be a tanker called the Gaschem Shinano, and the Coastguard contacted that vessel. However, the Gaschem Shinano reported that they could see nothing and they were permitted to continue on their way.

Shortly after this call, however, the SMC at Dover

decided to broadcast a Mayday relay. He has told the Inquiry that he had an initial gut feeling after the call that this was a real emergency. Mayday relays are reserved for severe distress situations where there is an imminent and grave risk to life. The Mayday relay, broadcast initially at 2.26, said that the small boat was "taking water and requiring immediate assistance". This was repeated at around 2.45, 3 o'clock and 3.19. The position sent by the mobile phone number I've mentioned at 2.01 was provided, which was near to the Sandettie light vessel, in UK waters on the Sandettie sandbank in the Dover Strait. The Inquiry understands that the Mayday relay broadcast for small boat activity was a highly unusual step.

The SMC at Dover told Border Force on the night in question that he decided to broadcast the Mayday relay in order to get a French vessel used by the French Coastguard, the Flamant, to respond. This was because the Flamant was approximately three nautical miles away from the sinking small boat whereas the Valiant was nine nautical miles away. The SMC has told the Inquiry, however, that he believes he still would have broadcast the Mayday relay had the Flamant not been nearby.

In the event, the Flamant did not respond to the Mayday relay. On the face of it, it appears that by

failing to respond, the Flamant would have breached its obligation to render assistance to persons in distress at sea under the International Convention for the Safety of Life at Sea. However, as I've noted, the response of the Flamant, and indeed the French Coastguard, to this incident is the subject of ongoing criminal proceedings in France, and as I've said, French law on investigative secrecy has prohibited the Inquiry from gaining access to any material from those proceedings.

Whilst the SMC at Dover spoke to the French Guard about the sinking small boat and the Mayday relay, he never directly requested the French to task the Flamant to go to Incident Charlie. That said, it's unclear what the result would have been had he done so, since the UK Coastguard had no power to task or direct the French vessel. We'll investigate this further in the coming days.

Few commercial vessels responded to the Mayday relay. The first three broadcasts of the relay failed to use the correct digital selective calling alert for a distress situation. The MCA's internal review into Incident Charlie concluded that the error made no difference because the substantive content of the message would still have gone to every vessel. This, again, will be explored with the witnesses.

So I now turn back to the Valiant, which, you remember, was tasked shortly after 1.30 in the morning. She took around two hours from tasking to arrive on the scene. Took about 30 minutes to leave her berth, including waiting for an embedded enforcement officer to embark, and then a further 20 minutes to clear the Port of Dover. After leaving the port, the journey to the Mayday relay position took another full hour. The Valiant's commander has told the Inquiry that she travelled at best speed. The adequacy of the overall response time will be examined at the hearings.

On the night in question, Dover Coastguard and Border Force did in fact discuss the sufficiency of the Valiant's tasking. In an important call, at 3.11, they discussed the French tracker which showed four small boats, including Charlie, all in the same area around the Sandettie light vessel.

Could we have, please, the map {INQ010512}.

You can see, I think, there, the Sandettie bank, which is, again, just on the median line between French and UK waters.

Thank you, if that could be removed.

On the call between them, the SMC at Dover calculated that the total numbers of persons on board the vessels would be 110 and acknowledged that this

would be "pushing [their] luck for Valiant", given its maximum survivor capacity was 100 people. But, despite this, he and the Border Force officer decided not to task any further assets. Indeed, the SMC said that he hoped the French couldn't count. They both agreed that this was "the dream" only to task one asset. The views expressed on this call will be explored further during the hearings.

In addition to the Valiant, the search and rescue helicopter R163 was also in the same area from shortly before 4 o'clock in the morning. As I've said, it was initially tasked by the Aviation Tactical Commander shortly before 3 o'clock, with a mission to locate "migrant vessels". When the Aviation Tactical Commander tasked the helicopter, he contrasted what he said he called a "true SAR incident", search and rescue, with the telephone calls that had been coming in that night of, in his words, "sharks with lasers surrounding the boats and were all dying type of thing". Both this language and the dichotomy he set up between a "true" search and rescue incident and a "legal" or theoretical one will be examined with the witnesses.

R163's tasking was later amended by the SMC and search parameters were given. However, he made no reference to the sinking boat Charlie or to

the possibility that there were people in the water. Around an hour after its initial tasking, the helicopter was airborne, but it didn't find the sinking small boat and it was not re-tasked to continue searching after its initial sortie. Questions around the search parameters, the information provided to the helicopter and the reasons for its failure to find the small boat and indeed the decision not to re-task it will all be examined in the hearings.

Returning to the narrative then. There was a further call from the French Coastguard about Incident Charlie at 2.42. The French Coastguard told the SMC at Dover that those on board had said, "Help me, help me, help me. We are in the water". The French Coastguard asked whether the UK was sending a rescue boat, and audibly gasped on being told that the Valiant was still 40 minutes away. Despite this, however, the call ended without a workable solution to the problem having been agreed.

The message relayed to Dover by the French at 2.42, that the people on board the small boat were in the water and needed help, was consistent with the other calls taken by MRCC Dover from those on board. After the long call with Mubin, which I have mentioned, and which had taken place around an hour earlier, there were

a number of further calls. At 2.25, the MOO at Dover took a call which was identified by the Coastguard as being from Charlie and which was consistent with other calls from the sinking small boat. Despite lasting almost five minutes, neither the phone number of the caller nor any updated geolocation information was obtained.

Around five minutes later, at 02:31, the SMC answered a further call from Mubin. Mubin repeated that they were "finished" and that they would "all die". The SMC responded by telling Mubin to stop calling and to await a rescue boat, which he said would arrive in less than half an hour. In the event, the Valiant did not arrive in the Mayday relay position until around an hour after this call. Despite the call lasting around seven minutes, there was no attempt by the SMC to obtain updated geolocation information about the position of the small boat from Mubin. The MOO at Dover has told the Inquiry that he recalls the SMC raising his voice on this call and that, at the time, he told somebody at the JRCC that his supervisor was "having a row with someone called Moomin".

There were also four missed calls to the Coastguard's mobile phone from numbers linked to Incident Charlie. There was also a three-minute call

between the Coastguard mobile phone and a number linked to Charlie, however the Coastguard's mobile was not integrated into the information management system and there is no record of what was said.

Then, finally, at 3.06 and 3.11, there were two calls taken by the MOO at Dover. Both calls were consistent with originating from Incident Charlie in terms of the similar narrative and the high level of distress.

One of the two survivors, Issa Mohamed Omar, says in his statement to the Inquiry that he believes that the last calls before the boat capsized were made by one of the Afghans on board and that "desperate calls were being made right up to the moment [they] capsized". The caller at 3.06 said that the boat was sinking and that "part of [their] body [was] in the sea" before the call cut out. The caller at 3.11, which may be the last call from Incident Charlie, repeatedly said, "help me", and that those on board were "finished". The MOO at Dover asked the question, "Where are you", of the caller some 17 times, despite the caller's clear inability to answer beyond saying that they were in UK waters. The futility of this question is striking, you may think. No attempt was made by the MOO to obtain an updated position. He ended the call by suggesting that

the boat was in French waters if the caller's phone was not able to make a 999 call.

The call lasted just over four minutes, ending around 3.15. Based on all of the evidence which the Inquiry has considered, it seems likely that within about 15 minutes of the end of that last desperate call, all of those on board the sinking small boat fully entered the water.

At 03:33, a message sent from the Coastguard mobile phone to Shakar Ali Pirot's phone did not reach the recipient and another call to his phone failed at 4.16.

The Valiant arrived in the Mayday relay position, that is the 2.01 geolocation position, at around 3.24, before the helicopter was on the scene and during the period in which those on board the sinking small boat likely fully entered the water. The temperature of the seawater was 13 degrees Celsius and it was dark.

Under its terms of reference, the Inquiry must investigate what happened after those on board entered the water, including how those who died came by their deaths. And to this end, we have obtained evidence from Professor Michael Tipton, Professor of Human & Applied Physiology at the University of Portsmouth, who is an expert in cold water survival. The report makes for

difficult reading.

Professor Tipton concludes that whilst some of those on board may have drowned immediately upon entering the water due to cold shock, this was unlikely to be the cause of death for the majority, since they would have been pre-cooled by exposure to an air temperature of between 2 to 5 degrees Celsius and by the cold seawater that had been filling the boat for some time. It is likely, therefore, that the majority died over a longer period.

Professor Tipton considers that some will have died by sunrise at around 7 am and others between sunrise and rescue in the early afternoon of the next day. He concludes that most drowned when they could no longer hold on to the buoyant remains of the small boat as a result of either physical incapacitation due to cooling of their hands, arms and legs, or loss of consciousness, or cardiac arrest due to hypothermia.

Professor Tipton considers that it is likely the majority were still alive when, at around 3.24, the Valiant arrived at the Mayday relay position. Given that the position had been sent at 2.01, however, it was perhaps unsurprising that the Valiant found nothing and continued north because she considered that, if the small boat's engine had failed and it had stopped,

it may have drifted in that direction.

Then, at around 3.34, the Valiant located two small boats, one stopped and one underway. She went towards the stopped vessel and was alongside it at 3.48. The Valiant had embarked the 35 people on board the first small boat by around 4.34. Whilst this was happening, the Valiant was in touch with both Dover Coastguard and Border Force. Border Force provided the M number of M957 for this first boat. And just after 4.20, after obtaining information about the numbers on board, colour, location and any calls made, the SMC at Dover identified M957 as incident "Lima". However, at that time, information about the first small boat continued to be recorded on the Charlie log.

Around an hour later, the SMC at Dover committed his decision that the first small boat found was Incident Lima to writing. He recorded that the small boat Lima had been embarked by the Valiant on the Lima incident log in ViSION and on the Lima row in the shared tracker. However, there was by then an error on the shared tracker which the SMC at Dover did not correct when he entered the information about Lima. At 3.57, the SMC at the JRCC in Hampshire had allocated M957, the M number allocated to Incident Lima, to

Incident Charlie in the shared tracker. The reasons for and impact of this error will be explored in the hearings.

After embarking the 35 people on board the first small boat, the Valiant was tasked by MRCC Dover to go to vessels located by R163. As you will recall, R163 had arrived in the same area as the Valiant shortly after 4 o'clock in the morning, when the Valiant was alongside the first small boat, M957.

By around 5.20, the Valiant was alongside the second small boat and R163 had already informed MRCC Dover that the second small boat was underway and not in distress or in need of immediate assistance. Border Force attributed the number M958 to the second boat. A headcount from this boat was called in by Valiant of 31 adult men. Dover Coastguard asked the Valiant if it had any names for the English speakers, to which Valiant responded negatively, but said that one of them did say that they saw someone make a call.

As with the information for M957, the information about M958 was all entered in the Incident Charlie ViSION log. However, M958 bore no resemblance to what the Coastguard knew of Charlie. Charlie was sinking, in distress and in need of immediate assistance, M958 was not. Charlie was stopped, M958 was underway. Charlie

had men, women and children on board, M958 only had adult men. And those on board Charlie had made multiple distress calls, whereas on M958, one person saw another person making one call.

There is no contemporaneous record that the Coastguard linked M958 to Charlie, but it is the SMC at Dover's evidence to the Inquiry that, consciously or unconsciously, he believed on the night that M958 was Charlie. This will need to be explored at the hearings.

After embarking the second small boat, Dover Coastguard told the Valiant that there was another tasking to the third small boat which was "in the vicinity of 'Southwest Goodwin'". This is a completely different area of the Channel to the Sandettie. The Valiant then left the Sandettie area and was tasked to a different incident, "November", which was the third vessel to be identified by the helicopter R163.

Again, all of the information about the third small boat embarked by the Valiant was recorded in the Charlie ViSION log. It was also recorded in the November ViSION log, and this third boat was given the number M959. The Valiant engaged with November, or M959, at around 6.30, and after embarking a further 32 people, she returned to Dover at capacity. To recap, she had 66

people already on board, 35 from the first boat, 31 from the second boat, to add to the third boat's 32, producing a total of 98. Her capacity, as I've said, was 100.

In the Charlie ViSION log, there are two entries from the MOO at Dover at 06:46 simultaneously tasking Valiant to Incident November and clearing the Valiant from Incident Charlie. By around 6.45 on 24 November, therefore, Dover Coastguard had effectively terminated the search and rescue operation for the sinking small boat Charlie without recording any reasons for this decision.

As I have mentioned, dawn broke at around 7 o'clock on the morning of the 24th. The survivor, Issa Mohamed Omar, has told the Inquiry that when the sun came up, there were around 15 or fewer people left holding on to the deflated boat. He recalls seeing bodies floating all around them. He recalls seeing a Kurdish woman, who was screaming, desperately searching for her children. The horror of what he saw is almost unimaginable. He started swimming after dawn. He says that he swam for many hours before he was rescued. Throughout this time, the Coastguard did not actively search for those people in the water who had been on board Charlie.

When considering the actions of those working on the day watch on 24 November, the extent to which there was any meaningful oversight of the decision-making of the SMC at Dover on the night watch in relation to Incident Charlie will be an important question for the Inquiry to explore. As we've seen, his decision-making was not reviewed on the night watch. And, significantly, particularly so far as the following day watch was concerned, he left no written record of key decisions made in relation to Incident Charlie. It will be for the Inquiry to understand how far the absence of a written record meant that the incoming day watch were unable properly to understand and potentially challenge these decisions and any reasoning that lay behind them.

Moreover, the Inquiry will need to explore the extent to which any challenges faced by the day watch in understanding what had happened in Incident Charlie the previous night were compounded by the existence of misleading or wrong information insofar as information had been recorded in writing. The shared tracker and the Border Force tracker wrongly identified M957 as Charlie, whereas M957 was in fact Lima. The Border Force tracker wrongly identified Charlie as having been embarked by the Valiant, and

the Charlie ViSION log contained information about each small boat encountered by the Valiant during the night watch without actually attributing any of them to Incident Charlie itself.

Was the result that the decision-making from the night watch on Incident Charlie became effectively impenetrable and was thereby insulated from any meaningful oversight? And if so, how was it that the Coastguard systems did not prevent such an outcome?

At just before 1 o'clock on the day watch in the afternoon of 24 November, some nine and a half hours after the likely time that people on board the boat fell into the water, Dover Coastguard received a call from the French Coastguard who reported that a French fishing vessel had encountered around 10 to 15 people in the water who were unconscious, and requested that the Coastguard send an aircraft. The location was in French waters, but close to the median line. This incident was identified in the ViSION logs as "Xray 2" and no connection was made by the day watch to Incident Charlie, which, as we know, was closed a few hours later. The search and rescue response was significant. Three French vessels, the Flamant, and two others, were tasked, as well as a French helicopter. The UK Coastguard sent R163 and an RNLI lifeboat was

also tasked.

As I've said, Issa Mohamed Omar swam for many hours before he was rescued by a French fishing boat and then transferred to the French authorities and hospital in France. There was one other survivor, an Iraqi Kurd. He has not engaged with the Inquiry, but some of the family's statements refer to their contact with him and the information he gave about their loved ones who died. It is said that one of the victims died just half an hour before rescue. The question of whether the loss of life was avoidable is not an academic one in this case.

So then, sir, I would like to turn to identify some of the themes and questions which arise from that narrative. By its terms of reference and in part IV of the list of issues, a central area of investigation for the Inquiry is the adequacy of the search and rescue operation and the extent to which the loss of life was avoidable. This will require exploration of the reasons why the sinking small boat was never found and the foreseeability of the tragic loss of life which ensued.

In respect of the search and rescue response, a number of key themes and questions emerge from the narrative and they will be the subject of our

particular focus with witnesses in the coming days.

First, resources. As I've said, the Coastguard were on notice from at least 2020 that Dover was under significant strain. There was a chronic understaffing problem. Whilst they had put in place a number of measures in response, including a recruitment drive, by November 2021, they had not been able to recruit the numbers required to make up the shortfall. Altered shift patterns for Dover employees and remote coverage from other stations were therefore routinely relied upon.

By November 2021, with the unprecedented numbers of small boat crossings, the risk of overwhelm was real. Staff at Dover were working long hours and some, such as the SMC at Dover on the night watch, were routinely working altered shift patterns, which reduced their time off by a third. The persistent problem of understaffing, in combination with the spike in numbers of small boat crossings in 2021, placed immense pressure on staff at Dover and the evidence shows that the Coastguard were fully on notice.

Additionally, as some of the witnesses have told the Inquiry, calls from those on board small boats were often extremely distressing. The callers were often scared, desperate, panicked, fatigued and they struggled

to communicate. They will often have been at sea in terrible and dangerous conditions for many hours. Responding to such calls, particularly in the working conditions of 2021 which I have described, inevitably took its toll on those at the frontline, who were doing it day in, day out.

Sir, the Inquiry's investigation will focus on the identification, monitoring and assessment of risk by Coastguard and others, including whether the mitigating actions taken were sufficient in terms of the urgency and scale of the response and considering any decision not to declare a major incident. A key question to be explored during the hearings is how, if at all, the resourcing problems which I have mentioned impacted on the search and rescue response to Incident Charlie.

In relation to the impact of remote coverage from the JRCC, Coastguard were alive to certain problems relating to this in the summer of 2021, including challenges to situational awareness. The Inquiry will investigate whether remote coverage from the JRCC impacted on the effectiveness of the search and rescue operation.

In relation to resourcing concerns at Dover, we will also investigate the adequacy of the search and rescue assets that responded to small boat crossings in

November '21. As I have mentioned, around 90% of rescues at that time were undertaken by Border Force, none of whose vessels were designed or equipped for search and rescue. By that month, it was acknowledged that the situation for Border Force Maritime was critical and non-sustainable without an increase in asset numbers. Additionally, RNLI, as I've mentioned, were also facing significant pressure from small boat call outs.

It will be important for the Inquiry to investigate how far, if at all, this situation impacted on the tasking and deployment of maritime assets on the night. In particular, why did the Valiant take two hours from tasking to reach the Mayday relay location? Was this a reasonable response time for a search and rescue mission? Why did the SMC at Dover not task another asset capable of arriving more quickly? Why was the Valiant considered sufficient by Border Force and Dover Coastguard when they had calculated that there were persons in the small boats in excess of Valiant's survivor capacity? Did Border Force make sufficient assets available? And why was RNLI not tasked? And more generally, and perhaps more fundamentally, were the Valiant and the other Border Force assets suited to search and rescue at all?

Secondly and relatedly, cooperation and information sharing with other stakeholders. Border Force, as I've explained, became increasingly involved in search and rescue in the absence of any memorandum of understanding or other written agreement setting out respective roles and responsibilities. Did this create a grey area, a lack of clarity as to Border Force's role? And how did its enforcement role interact with its search and rescue function? Did any of this have an impact on the night in question, noting, for example, that on that night, the Valiant did not depart Dover until an enforcement officer had embarked? And did the Home Office share all the intelligence that it has to likely small boat crossings with the Coastguard? These are questions which the Inquiry will investigate.

And we will also consider the relationship between the Coastguard and its other key partner in small boat search and rescue, the French Coastguard, and the effectiveness of systems for search and rescue coordination and information sharing.

Third, situational awareness and preparedness. There was a failure to obtain a recognised maritime picture on the night in question, both due to a delay in the Coastguard obtaining the French tracker and a result of 2Excel's failure to fly its planned surveillance

mission. Delays in obtaining the French tracker were recognised by the Coastguard as a problem well in advance of the events in question. The frequent delays were raised in meetings between the UK and French Coastguards in late 2020 and again in the summer of 2021. The Inquiry will investigate whether the UK Coastguard did enough to mitigate the effect of these delays, including on the night in question.

And was the fixed wing flight provided by 2Excel a reliable means of obtaining situational awareness in November 2021? What was the plan B for when fixed wing could not fly?

Fourth, communication between the Coastguard and small boats. The Coastguard had a contract with a company providing remote interpretation services, but it was not used on the night and it appears it was rarely used and unsuited to communications with small boats. The Inquiry will investigate the communication problems on the night, and more fundamentally, it will consider whether the interpretation service was fit for purpose when communicating with small boats.

The Inquiry will also need to consider the extent to which Standard Operating Procedures were followed, and if not, to ascertain why. In particular, why was updated geolocation information not sought on calls

identified as being repeats of the same incident? Why were callers from the sinking boat repeatedly asked the question, "Where are you", when it was clear that they could not give a precise report? Why did the Coastguard tell the callers to stop calling? And, finally, why was Mubin told that a rescue boat would be with him within half an hour when, in fact, it was still approximately an hour away from the Mayday relay position?

More generally, were there adequate systems and procedures for identifying repeat calls and providing relevant information, including advice on survivability? And to what extent were the responses of the Coastguard and Border Force officers on the night explicable by reference to what the Inquiry understands to be a widely-held belief that callers from small boats might exaggerate their level of peril in order to accelerate rescue? How widespread was the belief that small boat incidents were not, to use the term employed by the Aviation Tactical Commander, "true" search and rescue incidents?

And what of the Coastguard mobile phone? Why was it not integrated into the information management systems? Why was one call taken, of whose content there is no record, but many others missed? Why was updated

geolocation information missed by the Coastguard for over an hour?

Fifthly, the adequacy of the search and rescue operation itself. A central question for the Inquiry is why the Valiant and the helicopter R163 did not find the sinking small boat. In considering this question, we will need to examine whether they were tasked with the correct search parameters and provided with sufficient information to enable them to conduct an effective search.

And then the Mayday relay. We'll consider the reasons for making the decision to broadcast the relay and the circumstances in which it was terminated. We'll investigate how commonly were Mayday relays used in small boat search and rescue and examine whether Standard Operating Procedures were followed on the night, why the wrong DSC alert was used, and whether this had any effect on the responses of other vessels.

Sixthly, systems, and in particular information management and record keeping. At the time of the events in question, the Coastguard was on notice that there were problems in relation to the recording of information in the ViSION system for a small boat search and rescue. In August 2020, an internal Coastguard review of a small boat incident recognised that there

was insufficient record keeping in the ViSION system. A similar criticism was made in another review in July 2021. How, if at all, had these criticisms been addressed by November '21? The Inquiry will explore the circumstances in which mistakes were made in the recording of information in relation to Incident Charlie. It will seek to understand how this might have impacted on the ability of the incoming day watch to understand the operational detail of the search and rescue response from the previous night. Did any such problems impact the search and rescue response in this incident?

The Coastguard were similarly aware that there were problems surrounding the use of trackers. They were on notice before November 2021 that the existence of numerous trackers used by different stakeholders challenged a "single version of the truth". Whilst it appears that Border Force had obtained live access by the night of 23 November, there is no evidence that any guidance as to its effective use had been created or delivered by that time. The Inquiry will investigate how far, if at all, this contributed to the errors made on the trackers that night. We'll also explore why the shared tracker was not consistently updated during the night watch. And, conversely, why was

the Border Force tracker updated when the shared tracker was not?

The question of the circumstances in which the shared tracker contained errors will also be explored, including entries made by staff in the JRCC and by non-operational staff, and why these errors went uncorrected, including any systems, or the absence of such systems, for quality assurance. The Inquiry will also examine the question of what, if anything, the Border Force tracker added to the Coastguard's understanding of the status of Incident Charlie. Could this have been relevant to the entry marking Charlie as resolved in the shared tracker or to the later entry in the ViSION log that the tracker showed that Charlie had been resolved? Or, if not, what were the reasons for those entries?

And finally, the cessation of the search and rescue response for Incident Charlie. This area of investigation will cover many of the themes addressed so far. When the Coastguard was a notice that the small boat Charlie was sinking and in indeed of immediate assistance, and had broadcast a Mayday relay to that effect, why did the search and rescue response cease after the Valiant had embarked three vessels, none of which was positively identified as Charlie in

the written records from the night?

Of these three small boats, the first and third were identified by Dover Coastguard as "Lima" and "November" respectively. The other, the second boat, was known to Dover Coastguard to be underway and in good condition, contrary to the information the Coastguard had of the sinking small boat Charlie. However, the night watch SMC at Dover has told the Inquiry that he believed that this second small boat, M958, was Charlie. The MCA's internal review into the incident concluded that the decision-making was reasonable.

The Inquiry will need to consider the grounds for and implications of this stated belief that M958 was Charlie. It must investigate why the search and rescue response was effectively terminated on the night shift when the Valiant was re-tasked to Incident November. The Inquiry will question why there was no written record of key decisions that were apparently made on the night watch and it will consider the actions of those present on the incoming day watch. And in the end, the Inquiry must draw its own conclusions as to the reasonableness of the decision to terminate search and rescue for the sinking small boat and of the systems that permitted it.

But, throughout this hearing, and indeed this

Inquiry, what we will and must always keep at the forefront of our minds is, at the time when the Valiant was "cleared" from Incident Charlie, when she returned to Dover and when the helicopter returned to base, when the incident was marked as resolved and closed, at all those times, the human beings who had been on board the sinking small boat were in the water and the vast majority of them were drowning.

So, sir, the final section of my opening concerns post-event lesson learning and the question of recommendations.

Issue VI of the Inquiry's list of issues addresses the theme of recommendations, and that requires us both to look back at the actions that have been taken since November 2021 to prevent or reduce the risk of a similar incident occurring, and also to look forward so as to identify what, if any, other recommendations may be appropriate.

So looking back first, there have been three investigations or reviews of the incident which are of relevance to understanding what steps have already been taken by the organisations involved in search and rescue operations.

First, as I've mentioned, the MAIB report, which came out in November 2023. They made two formal

recommendations.

First, they recommended that the MCA, and I quote:

"[B]uild on existing liaison with French authorities to devise a tracking and identification system that, to the greatest extent possible, removes the possibility of confusion and error when compiling an overview of small boats attempting the crossing."

And, secondly, it recommended that the MCA and Border Force, and I quote:

"[D]evelop procedures for achieving, as far as is practicable, an overview picture of migrant boat activity during periods when aerial surveillance is limited to rotary wing aircraft or is unavailable."

Now, the MCA and the Home Office's responses to the MAIB report outline the measures that have been taken to implement the recommendations and they include: the development of a live internet-based tracker for small boats, the provision of additional surface vessels and additional aerial surveillance platforms, combined with more flying hours. Having considered their responses, the MAIB closed the recommendations as complete.

Secondly, the United States Coastguard were commissioned by the Coastguard to conduct a Search and Rescue Case Study Review into the sinking of small boat

Charlie, and the Case Study Review was submitted on 14 July 2023 and described itself as "akin to a peer review for system improvement". The US Coastguard made 14 recommendations which were directed at the Coastguard's working relationship with the French authorities, organisational processes, resource management and communications.

The MCA provided its response to the Case Study Review on 28 May the next year, 2024. The MCA accepted, in part or in full, and implemented seven of the 14 recommendations. As to the other seven, it either took no action or did not accept the recommendations, because it considered that the recommended actions were already part of the Coastguard's policies and/or procedures before 24 November 2021 or that existing arrangements were adequate.

The third review was the Coastguard's own internal review into the incident, a version of which dated May 2024 and marked as being in draft form, has been provided to the Inquiry. Now, this review made 21 recommendations covering information gathering; ViSION and Coastguard communication; Coastguard procedures; the role of the SMC and Tactical Commander; stakeholder liaison; search planning; post-incident actions; and training and exercise. The MCA has stated that it

accepted the recommendations and has implemented the majority of them.

The picture that emerges from the outcome of these investigations and reviews, as well as from the responses provided to the recommendations that have already been made, is that a significant number of actions have already been taken by the agencies involved with a view to preventing or reducing the risk of an incident similar to the sinking of small boat Charlie from occurring, and it is right and important to acknowledge the progress that has already been made before we look forward.

Looking forward, you'll remember that I identified seven key themes and questions arising from the search and rescue response, which will be the subject of further exploration with witnesses in the coming days. I'd like briefly to return to those themes, this time with a view to analysing the actions that have been taken in each area and to highlight areas of interest to the Inquiry where there may be scope for further recommendations.

So, first, resources. I have already referred to the human resourcing issues at MRCC Dover in November '21 and the below minimum staffing levels on the night watch. The MAIB found the effect of this to

be twofold. First, the SMC was unable effectively to perform his role of managing the overall search effort because of the high volume of calls, the ongoing management of multiple issues, and because staff became involved in other tasks, such as taking emergency calls from small boats. And, secondly, there were insufficient resources to correlate information from emergency calls, from the French, at Gris-Nez, and other sources in real-time, and that's section 2.6.2 of the MAIB report. The Inquiry will welcome evidence about the current position in relation to staffing, including an update as to whether the plan for a migrant operational cell involving an increase of 24 staff at MRCC Dover has been realised.

As to the resourcing of surface and aerial assets, as I've already noted, both the MCA and the Home Office, in their responses to the MAIB recommendations, referred to additional aerial and surface asset capabilities. I note that additional aerial asset capability was achieved in 2022 through Project Ceasar, comprising Schiebel S100 drones and a DA62 fixed wing aircraft, which provided increased flying time of up to 16 hours a day and live video imagery to MRCC Dover. Furthermore, additional surface assets, including four Crew Transfer Vessels, were brought into service by

the Home Office as part of Operation Isotrope between 2022 and 2023. A further three Fast Reconnaissance Vessels were due to be operational from the third quarter of last year.

This increase in aerial and surface assets is of course to be welcomed. Whether those assets are now sufficient in number and have adequate capabilities to perform search and rescue operations is a matter for further exploration with witnesses. In particular, there is a question as to whether the available aerial assets now provide adequate mitigation in circumstances where fixed wing aircraft cannot operate.

In relation to surface assets, the issues to be explored include whether Crew Transfer Vessels are an appropriate type of vessel to conduct search and rescue taskings, in the light of the evidence the Inquiry has received about the restrictions on their safe deployment as the wave height approaches or exceeds 1 metre; whether it would be feasible or practicable for the Coastguard to acquire its own surface assets; and whether vessels could be placed on stand by to undertake search and rescue activities.

Secondly, inter-departmental cooperation. The Inquiry will explore whether there is a need to formalise existing arrangements between the Department

for Transport or the Coastguard on the one hand, and the Home Office/Border Force on the other, as to their respective roles and responsibilities when carrying out search and rescue taskings.

And a related topic is cooperation between all organisations involved in the response to small boat crossings in the Dover Strait and whether cooperation may be improved through more joint training exercises involving all stakeholders. It's right to say that there have been a number of training exercises, and I can give two examples.

First, a multi-agency table-top exercise was held on 2 December '21 in Dover and attended by representatives of the RNLI, the Home Office, Bristow and the MCA. The purpose of the exercise was said to be, amongst other things, to improve pre-planning for small boats crossings and to improve cooperation between responders.

Secondly, a multi-agency workshop was held on 2 December '22 on board the HMC Severn to discuss mass rescue tactics with participation from the RNLI, the Coastguard and maritime operators.

However, the Inquiry understands that there has been, to date, no formal joint exercise between the Coastguard, Border Force and the RNLI.

Improving cooperative working between

the organisations involved in search and rescue in the Dover Strait may also require formalisation of the position in relation to on-scene command. For example, a search and rescue operation may involve the attendance of both Border Force and RNLI assets, which can give rise to uncertainty or confusion regarding where and with whom on-scene command and coordination lies.

There are a number of potential models that might be drawn on from different contexts. In marine emergencies where there is a significant risk of pollution, for example, the representative of the Secretary of State for the Department for Transport exercises ultimate command and is tasked to oversee, control and if necessary intervene in the command of the salvage operation. The Joint Emergency Services Interoperability Principles, reflected, for example, in the Kent Police's Maritime Incident Emergency Plan, which has been disclosed to the Inquiry, provide a set of principals for joint working that are designed to enhance multi-agency command, control and coordination in responding to major incidents. So the Inquiry wishes to understand whether some version of these, or other models, would be of assistance in unifying on-scene command in the multi-agency responses required by search

and rescue operations.

Third, situational awareness. The delays experienced by the Coastguard in November 2021 in obtaining the French tracker have been addressed through the implementation of a live internet-based tracking and identification system prepared by the French Coastguard but made accessible to the UK Coastguard. The practicality of using this live tracker will be the subject of further consideration.

Fourth, communication between the Coastguard and small boats. The Inquiry understands that a new system, known as the ICU system, was introduced in April 2023 to enable better communication between the Coastguard and people on small boats. The system enables text messages sent in English from the Coastguard to be automatically translated to the language used by persons on the small boat once selected, and vice versa. The ICU system has the further benefit of providing positional data automatically for the mobile phone being used. The Inquiry will explore the extent to which the operation of the ICU system has alleviated some of the difficulties in communicating with small boats. The Inquiry will also be interested in an update on the planned roll-out of the Artemis mobile phone system to search and rescue aircraft operating in the Channel,

which will enable communications between the Coastguard and small boats in the UK Search and Rescue Region, even in the absence of a mobile phone signal.

The Inquiry acknowledges that steps have already been taken to update the Standard Operating Procedures, in particular the Standard Operating Procedure on Small Boat Information Gathering, to provide officers with a list of information they should try to obtain when on the telephone with people on small boats and the creation of a new operating procedure relating to the use of WhatsApp when responding to small boat incidents. For example, staff are now instructed to provide the alphanumeric reference number for the small boat incident at the end of every call and ask the caller why use it if they call the emergency services again. As with all new processes and procedures, however, their introduction is only one part of the story. The Inquiry wishes to ascertain the extent to which these new processes and procedures have been embedded through appropriate training and/or exercises.

Fifth, the adequacy of the search and rescue operation. Insofar as the Mayday relay is concerned, the Inquiry notes that the Coastguard had accepted and implemented the recommendation of the US Coastguard in

its Case Study Review by reminding staff to use the appropriate distress alert when making a Mayday broadcast through a "hot topic" notification of existing procedure.

Sixth, information management and record keeping. In the light of the inadequate recording of information in relation to Incident Charlie, the question arises how, if at all, criticisms of insufficient record keeping in ViSION have been addressed.

Seventh, the cessation of the search and rescue response for Incident Charlie, which gives rise to consideration of the procedures for the suspension and termination of search and rescue operations, and record keeping of the rationales for those decisions.

The Inquiry notes that the Coastguard did not accept the US Coastguard's recommendation to develop an affirmative criteria for closing or correlating cases, on the basis that it was already part of existing procedures in November '21.

Sir, in addition to the areas which I've identified, the Inquiry wishes to hear from witnesses about other matters which may be material to the efficacy of search and rescue arrangements in the UK, and therefore potentially capable of reducing the risk of a similar event occurring. These are matters which have emerged

from the evidence gathered, or which have been drawn to the Inquiry's attention, and the list is not exhaustive.

First, diversion airfields. One of the reasons given for the cancellation of 2Excel's flights was the lack of a suitable diversion airfield. 2Excel have explained to the Inquiry that because its diversion airfields requests on the night in question were to support a routine patrol tasking, referred to as a "Category B" tasking, airfields were not compelled to accept it. The Inquiry understands that responding to an emergency would have been a Category A. And so the Inquiry wishes to understand whether it is desirable or necessary for UK airfields that are open to be compelled to accept Category A and Category B search and rescue aircraft diversion airfield requests, if they can safely do so.

Next, Mass Rescue Protocol. The Inquiry will be interested to hear from witnesses about whether there is a need for a mass rescue/mass person in the water rescue policy or protocol, which sets out the procedure for triage, rescue and immediate casualty care. I note that the development of a Mass Rescue Plan was one of the recommendations of the US Coastguard Case Study Review which was not accepted by Coastguard on the grounds that there are already plans in place to

respond to multiple small boat incidents and multiple persons in the water from small boats.

Finally, the question of independent oversight. The Coastguard is an emergency service but, unlike other emergency services, it is not subject to inspectorate oversight. The Inquiry will explore with witnesses whether such independent oversight is required.

The Inquiry does not pre-judge the question whether, and which, further recommendations might be required to be made. What I've sought to do this morning is simply to signpost those areas in which the Inquiry will be assisted by further information and evidence, to enable it to reach informed conclusions in relation to recommendations.

That, sir, concludes all I wish to say in opening.

SIR ROSS CRANSTON: Well, Mr Phillips, thank you very much for that comprehensive opening. I understand you're now going to read the names of the victims, and as a mark of respect, I would ask everyone to stand when Mr Phillips does this.

MR PHILLIPS: Sir, I'm going to start by reading out the names of the dead, first reading out the names of those 26 people, men, women and children, whose identities have been established to the satisfaction of the Inquiry: Kazhal Ahmed Khidir Al-Jammoor; Hadiya

Rizghar Hussain; Mubin Rizghar Hussein; Hasti Rizghar Hussein; Rezhwan Yassin Hassan; Mohammed Qader Abdullahi Awla; Shakar Ali Pirot; Serkawt Pirot Mohammed; Bryar Hamad Abdulrahman; Muslim Ismael Hamad; Afrasia Ahmed Mohamed Akoi; Hasam Mohamed Ali; Bilind Shakir Baker; Maryam Noori Mohammedameen; Mhabad Ali Ahmed; Mohammed Hussein Mohammedie; Sirwan Alipour; Fikiru Shiferaw Tekalegn; Niyat Ferede Yeshiwendim; Meron Hailu Gebrehiwet; Halima Mohammed Shikh; Husain Tanha; Mohammed Naeem Mayar; Shahwali Kochy; Ahmad Didar; Mohamed Ali Mohamed Hassam Elsaey.

And there was, as I've said, another person on the boat whose body was found and whom we believe to have been Le Van Hau.

Then I shall read out the names of the missing, those four men who we believe were on the boat but whose bodies have not been found: Pshtiwan Rasul Farkha Hussein; Twana Mamand Mohammed; Zanyar Mustafa Mina. Gomaa Gaber Mohamed Ahmed Nada.

SIR ROSS CRANSTON: Well, thank you very much.

Well, we'll resume at 2 o'clock with opening statements from the Full Participants. So thank you very much.

(12.45 pm)

(The short adjournment)

(2.00 pm)
SIR ROSS CRANSTON: Yes, well, good afternoon, everyone.
We're now going to have opening statements from the Full Participants and I'm going to call, first of all, on Sonali Naik King's Counsel, who is representing the family and instructed by Duncan Lewis.
Opening statement by MS NAIK
MS NAIK: Thank you very much, sir.
I appear today with Mr Robottom of my counsel team, instructed by Maria Thomas of Duncan Lewis Solicitors on behalf of the bereaved families and one of the two survivors of the fatal incident in late November 2021. We set out the central concerns of those bereaved families and the survivor arising from the tragedy and the issues that they invite the Inquiry to investigate over the coming weeks.
Sir, as you know, the families and the survivor have fought hard to instigate this Inquiry and have waited for over three years for it to begin and they're sincerely grateful to the chair and the team for your industry and dedication in bringing it into fruition.
In the room today, and I know you've just met them, there are Emebet Kefyalew, the wife of the victim Fikiru Shiferaw, and Freweyni Hayiemariam Gitet and Morris Sleshi Tewelde, the mother and brother of

the victim Niyat Ferede Yeshiwendim. Both victims were from Ethiopia. They fled as a result of the brutal war in Tigray, resulting in a full scale humanitarian crisis which killed thousands and displaced millions. And the other family members are of course participating, watching this online from Iraqi Kurdistan, Ethiopia, Somalia and elsewhere in the United Kingdom. And the survivor Issa Mohamed Omar, from whom the Inquiry will hear tomorrow via video-link, is watching from France, and they are all very grateful for the arrangements that the Inquiry was able to put in place to facilitate their participation.
At the outset, we hope that the Inquiry will not only provide some of the answers that the victims' families have been seeking since that tragic night, but also that, Chair, you can make some meaningful recommendations to put right some of the wrongs in the system that enabled it to happen.
Thank you very much to Counsel to the Inquiry Mr Phillips KC, who's just powerfully outlined the incident in his opening that at least 31 people lost their lives, 26 or 27 bodies were later recovered, and it's important to note that three of our clients' family members, Twana, Zanyar and Pshtiwan, were never found. They were all Kurdish. They were from Iraq. All young

people, two just 18 years old, one aged 20. The evidence of the survivor indicates that the official list of the dead and missing may well be an underestimate. The incident that night were men, women and children crammed on to a small boat, there were fathers, mothers, sons, daughters, brothers and sisters, people's loved ones, people's friends and they all made the journey in hope for the future. And the Inquiry will hear directly from our clients, the bereaved of the -- by the events that night, of the profound impact of their loss, and it will also hear from our client, who survived the other deal and suffered over 14 hours in the bitter, freezing waters of the Dover Strait.
As we've heard just a few hours into that journey in the early hours of 24 November 2021, the small boat became swamped, and everyone, the men, women and children, entered the water. They were the clearest indications throughout that the boat was sinking and that lives were in imminent danger. Those on board, as we've heard, made urgent distress calls to the emergency services in the UK, pleading, "They're in the water ... We are dying, where is the [rescue] boat". A Mayday relay was issued, but a nearby French Navy vessel failed to assist. A Border Force cutter was sent to rescue the boat, but abandoned its search having recovered

three other boats, none of which matched the level of distress or desperation heard on the calls made by those on board.
So despite this, we say the UK authorities failed to act with the urgency and coordination required to save lives. Systems were overwhelmed, calls were missed, and assumptions made, and ultimately the search for those people in distress was terminated. How many of those on the boat that had perished by the time of search was abandoned and how many remained alive can never be known, but strikingly, as the expert report from Professor Michael Tipton on survivability suggests that, had they been located, even at that time, some could have been rescued. Such uncertainty magnifies the grief suffered by the bereaved families and the survivor. In the words of from the words of Mohammed Hussein Mohammedie, a 19-year old -- the father of Mohammed Hussein Mohammedie, who's a 19-year-old Kurdish Iraqi:
"Imagine your child gets into trouble in the water, and you are not there and cannot help him. Imagine he stays in the water for 12 hours, and no one comes to his rescue. This is what we are always thinking about. It ... stays in the front of your mind; the effect is always there."
So in the context of this Inquiry, the bereaved

families and the survivor make three overarching submissions. First, that the purpose of the Inquiry should guide the approach taken to the -- to these proceedings and the lessons learned and recommendations to prevent future deaths.

Second, that the evidence shows that prior to the tragedy, it was entirely predictable that a catastrophic event involving mass casualties in the English Channel would occur, and there was a well recognised risk of authorities with responsibility for protecting life at sea being overwhelmed and ill equipped to respond.

And, third, that the litany of systemic and operational failings -- state failings, which contributed to the disaster on the night of the November 2021 and which emerges from the evidence before the Inquiry, leads to the inexorable and crushing conclusion that this tragedy was also preventable.

So, first, as to the purpose of the Inquiry, of course, at its most fundamental, this Inquiry is about giving the deceased and the bereaved families and the survivor a voice. The Inquiry has and will hear repeated reference to Incident Charlie, but this was a search to find and a failure to find people, victims, and of course the Inquiry will not and must not lose

sight of that reality. Our clients enter this process in grief, but with resilience and hope for the truth and justice. In the words of one of the survivors, Issa Mohamed Omar:

"I feel a lot of responsibility to the families of the victims who lost their lives ... I believe that I survived partly to be the voice of these people and to fight to make sure that refugees are not neglected in this way again."

The voices of our clients and the memories of those they loved and lost that night must form the heart of this Inquiry.

Second, this Inquiry has been established to distinguish the UK's duty to investigate the duty -- UK's duty to protect those -- the lives of all those within its jurisdiction. The duty to save life at sea is centuries old, reflective of customary international law. The UK Government has long recognised that it's a moral, as well as legal obligation, and the Human Rights Act refers -- further requires the state to fulfil its obligation to protect life at sea. The right to life under Article 2 requires the Inquiry to undertake the vital task of investigating the circumstances of the victims' deaths, identifying what went wrong and ensuring that lessons are learned

from this tragedy for the future. And those -- the duties which are -- which must be fulfilled without discrimination as to nationality, race or immigration status. Indeed, it's central to the duty to ensure assistance under the Search and Rescue Convention, as Mr Phillips outlined, that it applies to any person in distress at sea. The convention was aimed at developing a procedure so that no matter where an accident occurred, the rescue of persons in distress would be coordinated by a SAR organisation, and, where necessary, with cooperation between neighbouring SAR organisations, regardless of the nationality or status of such a person or the circumstances in which that person was found. It's an obligation to ensure that assistance be provided, it's a duty of result to effect assistance.

The Inquiry lists as one of the issues as to why the -- those who lost their lives undertook such dangerous journeys. Importantly, the witness statement from Nikolai Posner, from Utopia 56, sets out that the conditions in the encampments both in Calais and Dunkirk are dire, there's a lack of adequate food and drinking water, sanitation and healthcare. And since October 2016, there's been a state policy in France of a no settlements point, that is to prevent the development of large encampments. Violent evictions

occur almost daily, and we know that several of the victims were caught up in the major eviction of a camp in Dunkirk on 16 November 2021, just a week before the disaster. So in the absence of safe routes to the UK and given such increasingly hostile and desperate conditions for migrants in Northern France, people continue to undertake potentially deadly journeys across the Channel in their thousands and in increasingly overloaded boats. And people continue to die. The International Organisation for Migration estimates that at least 82 people have died attempting to cross the Channel in 2024. Hence, of course, the Inquiry's mandate to prevent future deaths is of fundamental importance.

Second, we say that the disaster was predictable and the Inquiry will hear that the month of 2020 -- November 2021 saw unprecedented numbers of people crossing the Channel in small boats. But, when viewed in context, it's clear that a catastrophic event, as I said, involving mass casualties was predictable at the time.

First of all, the number of people crossing on 23 November 2021 was not especially high for the period. What had become -- begun in 2018, as we've heard, in response to UK-French increase in securitisation

measures, which started as small self−organised crossings quickly became operations organised by smugglers with 30 or 40 people on board flimsy vessels. From 2021, in the middle of 2021, there was a particularly steep general increase in numbers of individuals arriving in the UK and a pattern had emerged where there was intense crossing activity periods during times of good weather and low wave height, either the frequency of migrant crossings was closely related to the sea state rather than the seasons. And indeed that there had been a spike in numbers in November 2020, when 567 people crossed in six days, and between August and −− 2021 and 23 November 2021, there were 18 occasions when more than 400 people crossed in a single day.

So the evidence shows that the number of people who crossed the Channel on the night of 23/24 November, 757, was not particularly high for the period. And moreover, the trends in crossing made it predictable at that time, and not just with the benefit of hindsight, that the UK's search and rescue function, whose capacity did not substantially change during 2020 and 2021, would be overwhelmed.

Secondly, the risk of overwhelms had been recognised by the relevant public authorities. As early as

December 2018, the Home Secretary declared small boat crossings a major incident. But Her Majesty's Coastguard didn't do so, despite the fact that its major incident plan, published a year before the tragedy, in October 2020, identified the search for or rescue of large numbers of people from small craft in distress simultaneously in the geographic region as a risk type with the potential to constitute a major incident under the Civil Contingencies Act 2004.

As early as September 2020, in a meeting between HM Coastguard and their French counterparts, both had recorded they had insufficient assets to deal with heavy days. By June 2021, a representative of Border Force Maritime Command wrote, given the increasing number of migrant boat crossings across the Channel, "it was only a matter of time" before the authorities would have to deal with what they describe as so−called "non−survivors" and they ask for guidance on matters such as the transfer of bodies ashore given that there was "a lot of public surveillance" of operations in Dover.

By July 2021, officials recorded they were facing a "humanitarian crisis waiting to happen", and that it was "amazing that more people [hadn't] lost their lives already".

By August 2021, senior management within HM Coastguard had decided that the MRCC in Dover needed 24 additional Coastguard officers and a dedicated team to oversee small boat activity. But the recruitment drive had not achieved that objective by November of that year. Despite these concerns and obvious risks involved, it wasn't until November 2021 that the Maritime Coastguard Agency added a new risk to its Corporate Risk Register that HMCG might "become overwhelmed" and that the consequence would be "loss of life".

So these known risks were not failed −− these known risks were failed to be acknowledged or acted upon, major incident planning was not conducted, training was not undertaken, and the reasons for those failings are matters which the Inquiry will be required to examine in oral evidence, ascertaining the causes and impacts of those failings central to the Inquiry fulfilling its terms of reference and the Article 2 requirement.

Third, the Home Office's prioritisation of border and securitisation distracted from the importance of protection of life at sea and materially increased the risk to life in the English Channel. UK Border Force was charged with both carrying out search and rescue functions under HMCG's direction and with

enforcement of immigration at sea, known as Operation DEVERAN. This identified that the safety of life at sea was an overarching priority, but training and resources were directed at enforcement tactics and not search and rescue. The then Home Secretary, Priti Patel, developed a policy of "pushbacks", termed Operation SOMMEN, which was intended that Border Force officers on jet skis would physically force small boats back across the median line and into French waters. The pushback's Standard Operating Procedure of July 2021 itself recognised that the use of the policy "increases the risk to life at sea", and, more importantly, the Maritime Coastguard Agency and HMCG objected on the basis that the policy would endanger life. In their 1 May briefing, the MCA defined all boats crossing the median line to be in distress until assessed as otherwise due to the inherently unsafe nature of the crossings.

In May 2020, as Mr Leat noted in his first witness statement, the Pushbacks Policy was recorded on the Corporate Risk Register as potentially resulting in "very significant" risk to safety of life at sea. The MCA briefing note of the same month concerns the tactics conflicted −− that the tactics conflicted with the UK's legal obligations under the Safety Of Life At Sea and

identified the risks involved with having more than one tasking authority overseeing the response to small boats.

Notwithstanding these concerns, the Home Office continued to pursue the pushback agenda and sought to enlist the MCA's assistance to do so. The then Home Secretary told MCA officials that they needed to do "all ... [they] could to support the Home Office being able to turnaround migrants to France".

Importantly, the Pushbacks Policy had a detrimental impact on the maritime relationship with France at a time when it was obvious that any reduction in French cooperation could manifestly increase the number of migrants making it to the UK. The Pushbacks Policy was due to be rolled out in November 2021, and it was unceremoniously dropped by the previous government following legal challenges by the Public Commercial Services Union, the tactics never having been deployed. Valuable time and resources were wasted on a dangerous plan when they should have been focused on saving lives. The bereaved families and the survivor are heartened by the Inquiry's intention to explore how the Pushbacks Policy impacted the development of plans and the deployment of resources in response to small boat crossings at the time.

Third, we say that the disaster was preventable. So following on from the high level policy failure to focus time and resources on improving search and rescue function in the Dover Strait, there was a chain of systemic and operational failures that contributed to the disaster on 23 and 24 November. And of course the investigation of those failures is central to this Inquiry's task. We have ten key concerns which are highlighted by the bereaved families and the survivors prior to the commencement of the witness evidence. But, in summary, they are, first, that the staffing levels of suitably qualified staff at the MRCC in Dover were patently inadequate. The rescue coordination centres were required to be operational on a 24-hour basis and constantly staffed by trained personnel. Yet, as we've heard, the staffing levels were a constant issue and there was high turnover leading to shortage of personnel. There was a clearly identified need for more fully qualified operators, and operational and senior personnel recognised the insufficiency of qualified staff and the need to increase staffing levels in order to manage the increase in small boat crossings. Indeed, there was evidence of fatal and near fatal incidents that took place in 2021, in circumstances where there was no search and rescue mission coordinator, NSMC,

present at the MRCC in Dover.

In the days prior to 23 and 24 November, there were repeated concerns that amber days were becoming as busy as red days, but resourcing and staff planning did not reflect that concern, including on the night itself. As a result of the low staff levels, operational processes and incident oversight that was faltering, and the "Review, Assess, Guidance" procedure, a key component of the search and rescue oversight and indeed the only mechanism for the contemporaneous review of search and rescue mission coordinators' decision-making was rendered "not practicable", in the words of David Jones, the former MTC at HM Coastguard.

Secondly, the issue of the provision of training for staff was seriously lacking. There was no formal training for HMCG staff on small boat crossings on coordinating multiple distress incidents and managing multi-agency assets. Despite the witnesses referring to unique challenges posed by such operations, staff were not provided with the training needed to help them cope under those considerable pressures of dealing with small boat incidents, and, tragically, that lack of specific training came to the fore on the night.

Third, when turning to surveillance, MRCC was short on eyes, as well as hands. Despite recognition that

aerial surveillance was essential to generating a maritime picture to enable informed decision-making and reconciliation of incidents, contingencies were not put in place for when surveillance aircraft could not fly, which of course occurred on the night due to bad weather.

The SAR convention obliges the "closest practicable co-ordination between maritime and aeronautical services so as to provide the most efficient and effective search and rescue services". But the interests of border enforcement appear to have taken precedence over human safety. As James Crane, the SMC, observed in the aftermath:

"... [t]he lack of air cover proved to be a significant deficit to us as we were not able to maintain an overwatch of targets, nor have a running commentary from ... aircraft."

Fourthly, as to call handling, despite the Coastguard being obliged to ensure it was capable of a 24-hour basis of promptly and reliably receiving distress alerts, crucially, they had no adequate system to identify whether boats had made repeat calls. There was no system for providing practical advice during phone calls to improve survivability in the event of cold water immersion. And despite the obligation to

receive distress alerts, both promptly and reliably, the MRCC Dover missed several calls to the standalone mobile phone number associated with Incident Charlie. The upshot is that crucial opportunities to communicate with and ascertain the position of those on board Charlie were missed. And moreover, as we've heard, the call handler repeatedly asked the desperate caller where he was and the location of the boat, all of which were futile.

Fifth, the SAR convention requires the Coastguard to actively "use its search and rescue units and other available facilities" to provide assistance to persons in distress in the UK Search and Rescue Region by tasking declared assets -- declared facilities, for example, RNLI assets, and additional facilities, for example, Border Force assets. Once in the UK Search and Rescue Region, all small boats were considered in distress -- to be in the distress phase and hence they were, by definition, considered to be in grave and imminent danger, requiring immediate assistance. HMCG were aware that small boats were routinely left unattended by French vessels at the median line and that most would have taken on water by the time they were rescued by HMCG.

Concerns were raised prior to November 2021 about

the availability and suitability of the Border Force vessels and crew and, critically, the Border Force vessels were not declared as SAR assets.

On 23 and 24 November, tasking decisions were impacted by the limited assets available. And at the start of Operation DEVERAN, there were two UK Border Force assets on standby, both of which had a reactive deployment strategy, which, during periods of high activity, were simply not sustainable. The reactive posture adopted by the HMCG meant there was little prospect of SAR assets reaching small boats as they crossed into the UK Search and Rescue Region, despite being classified as being in distress once in UK waters.

And there was an unwillingness even to task a boat prior to -- to task, even prior to a boat entering UK waters, so when the French tracker received details of the five small boat incidents on course to reach the median line, no assets were tasked, as was the case with Incident Charlie and with the tasking of the Valiant.

As to information sharing and cooperation, the SAR convention requires neighbouring states to cooperate and enter into agreements for that purpose, and we've heard about the MANCHEPLAN that had been agreed in 2018

between the UK and France with the intention to strengthen search and rescue coordination covering any maritime event "liable to occur" in the English Channel. Yet the system for information sharing and SAR coordination between the Coastguard and the French was skeletal with limited intelligence being shared. It was practically ineffective because of the failure to use a single message format when communicating, and this, unsurprisingly, led to misunderstandings over which state was allocated responsibility for SAR missions.

HMCG's reactive posture of awaiting the French tracker to share -- awaiting the French to share its tracker led to known issues of delay which meant that crucial times were waiting, and the adequate coordination of UK and French assets on the scene was an issue that had been raised in the months prior to November 2021. Indeed, there's evidence from the NGO Alarm Phone that the French and UK authorities were passing responsibility for conducting search and rescue operations back and forth between them which led them to shirking their respective duties. On the night in November 2021, there were no direct attempts to -- made to secure French assistance for Charlie, even when the French vessel Flamant was closest to its last known position.

There were failures in information sharing and recording with HMCG. Failures to record in person discussions had been recognised as an issue within HMCG prior to November 2021, and on the night, there were examples of poor information sharing throughout the night shift. Mr Gibson didn't inform Mr Downs of the Mayday relay or the basis for it. Mr Downs didn't link the calls he answered to the Incident Charlie. The additional calls from Charlie were not assigned to any incident. When the day shift began, MRCC had limited or no awareness of the Incident Charlie or the possibility that it had not been rescued. These failures were compounded by the inability to adequately record information on the ViSION system, and the result was that HMCG simply had no idea that Charlie had not been rescued.

Turning to the Mayday relay, there were multiple failures relating to the Mayday relay in respect of Charlie. It was broadcast with an urgency alert, which is used when there's no imminent danger or loss of life and immediate assistance is not required or justified. But, most fundamentally, it was terminated prematurely. HMCG was aware, or ought to have been, that the immediate danger and risk to life for the occupants of Incident Charlie persisted long after the final

Mayday relay at 3.20.

As to the Home Office intelligence sharing, the priority of border enforcement over search and rescue functions meant that crucial opportunities to share intelligence were missed by the Home Office. The Home Office's Clandestine Channel Threat Command was established to make small boat crossings unviable through intelligence gathering, detection and deterrence. There was an intelligence report on the afternoon of 23 November that estimated that 120 to 130 people were expected to cross the Channel between 2000 hours and 0600 hours on the 23 and 24 November. This information was circulated internally earlier that evening, but there's no indication that HMCG were made aware of the possibility that up to 130 people may be in grave danger and imminent danger within the UK Search and Rescue Region requiring immediate assistance. Instead HMCG were entirely reliant on the incomplete and delayed information from the French, which wasn't received until many hours later.

So against that background, the poor sharing of even the most basic information between HMCG and UK Border Force fatally hindered the authorities' response. Mr Gibson took a decision to broadcast a Mayday relay due to the "elevated level of shouting and panic"

exhibited by the occupants of Incident Charlie during a phone call. The commander of the Valiant was aware that Incident Charlie was believed to be "taking water", but understood that this was "common" and "did not necessarily mean that a given vessel is sinking". Mr Gibson, having directly spoken with and heard the level of distress of those on board Charlie, had a "gut feeling that this was not a routine call [or] an exaggerated case". But crucially, he didn't relay that information to the Border Force Maritime Command Centre, nor the Valiant. Mr Gibson was made aware that the occupants of Incident Charlie were reportedly "in the water". And, again, this crucial information, likely to impact the on scene search and rescue operation and its urgency, including whether RNLI support was required for a potential mass casualty event with multiple people in the water. But again, the evidence indicates that vital information wasn't relayed to Border Force MCC or the Valiant, notwithstanding they had been tasked to assist the vessel carrying victims of the disaster.

HMCG failed to seek basic identifying information about that vessel. As Mr Toy, a commander in the Border Force explains in his evidence, the Valiant had "no way of determining whether a particular migrant

vessel did or did not correspond to a particular event". This resulted in sheer guesswork to reconcile each rescued vessel with the incidents recorded via the classification system used by HMCG. This was a tragically misplaced assumption that Charlie had been located and migrants embarked which led to the search and rescue operation being terminated prematurely.

The convention requires or obliges HMCG to continue search and rescue operations, where practicable, "until all reasonable hope of rescuing survivors had passed". Terminating a search requires "reliable information" either that an operation has been successful or that the emergency no longer exists. That wasn't the evidence available at the time had it been properly assessed and evaluated.

So, in conclusion, Chair, sir, the bereaved families and the survivors would like to take this opportunity to thank the Inquiry team for their hard work and dedication to date. They've waited over three years to have their voices heard and to hear and understand the truth of what happened on the night of 23 and 24 November. As people continue to make perilous journeys across the English Channel, it's their collective hope that, over the coming weeks, this Inquiry will make findings and recommendations that both

vindicate the memories of those that lost their lives and prevent similar tragedies in the future.

Thank you.

SIR ROSS CRANSTON: Well, thank you very much, Ms Naik. I'm grateful.

I'll now call on Mr Maxwell-Scott King's Counsel who represents the Maritime and Coastguard Agency.

Opening statement by MR MAXWELL-SCOTT

MR MAXWELL-SCOTT: Mr Chairman, I, together with Jack Murphy, represent the Maritime and Coastguard Agency instructed by DWF Solicitors.

As you know, we have submitted a written opening which I anticipate the Inquiry will make public later today. I do not intend in this oral statement to repeat everything we have said in our written opening. Rather, I wish to identify some points which I would encourage you to keep in mind over the next four weeks.

Before doing so, may I take this opportunity to say how important it is that the families and the survivors are kept at the centre of this investigation. The thoughts of those who work and volunteer at the Maritime and Coastguard Agency are with them. It is committed to assisting the Inquiry in its investigation of this tragic incident.

There are five topics which I will address you on in

this opening. My first topic is: the nature and role of the Maritime and Coastguard Agency, which I shall refer to as "the MCA", and His Majesty's Coastguard, which I shall call "HM Coastguard".

HM Coastguard forms part of the MCA, which is an executive agency of the Department for Transport. HM Coastguard's role was laid down in Parliament in the 1992 HM Coastguard Responsibility Statement. It sets out HM Coastguard's responsibilities in relation to events at sea, on the shoreline and on cliffs. Everything which I say in this statement will relate to events at sea.

In relation to such events, there are four points which I wish to make. One, HM Coastguard is an emergency service, the UK's only national emergency service. It works 24 hours a day, 365 days a year.

Two, like other emergency services, it is a responsive service.

Three, its role is to respond to emergencies within a defined area, the UK Search and Rescue Region. This is a large area covering approximately 2 million square miles. To the north, it reaches the same latitude as the Faroe Islands. To the west, it stretches far into the north Atlantic, where its boundary is with Canada's Search and Rescue Region. It also covers approximately

half of the English Channel.

Four, unlike most emergency services, it is not HM Coastguard's staff and volunteers who attend emergencies at sea. HM Coastguard initiates and co-ordinates search and rescue by mobilising, organising and tasking assets operated and staffed by other organisations. HM Coastguard has rescue coordination centres across the UK. The officers who work in them, who I will refer to as coastguards, are connected with each other by a national network. Coastguards receive emergency calls from and about people who are in difficulty at sea. They have the ability to task --

SIR ROSS CRANSTON: Sorry to interrupt. I'm told, could you just speak into the microphone. People online are not hearing.

MR MAXWELL-SCOTT: Certainly.

Coastguards receive emergency calls from and about people who are in difficulty at sea. They have the ability to task assets in a search and rescue operation. Throughout the period under investigation in this Inquiry, HM Coastguard did not own or operate ships, helicopters or planes. Instead, it was able to task lifeboats and Border Force ships. It was also able to task search and rescue helicopters and planes under long-term contracts agreed between the MCA and

specialist providers.

My second topic is: the challenges posed for search and rescue by what I will call migrant small boats. I use that term because such boats pose distinct challenges not posed by small recreational boats or fishing vessels. I will focus on four such challenges.

Challenge number one: they are inherently unsafe. The sea is dangerous, it always has been. Innumerable sources attest to this. One of the earliest works of western literature, The Odyssey, tells the story of a man beset by storms and shipwrecks who takes ten years to complete a voyage. The great author of the sea, Joseph Conrad, wrote that "The sea ... has no generosity" and "has never been friendly to man". In the case of Safi v Greece, the European Court of Human Rights emphasised that:

"... coastguards ... cannot be expected to effect the successful rescue of everyone imperilled at sea ..."

In a witness statement provided to this Inquiry, Dr Berksen states:

"It is because of these inherent dangers involved in dinghy crossings that Search And Rescue operations, even when conducted properly, cannot guarantee that lives will not be lost."

The organisation for which he works, Alarm Phone,

provides information to migrants who are contemplating crossing the Channel. That information expresses the same point more starkly. It says:

"Crossing to the UK is very dangerous."

In a recent Court of Appeal case of R v Ibrahima Bah, the Lady Chief Justice described the migrant small boat as "not safe at all" and "wholly unsuitable and unequipped for the crossing of the Channel". In that case, four people died when the boat collapsed in on itself. The Lady Chief Justice's description would apply equally well to virtually all migrant small boats, including the one involved in this incident.

The reality is that crossing the Channel in a small boat provided by people smugglers is dangerous. Things may go horribly wrong. If they do, there is no guarantee that you will be rescued. In all cases, those ultimately responsible if things go horribly wrong are the smugglers, criminals, who, as Ms Naik King's Counsel says in her written opening, engage in the "exploitation of human beings".

Nowadays, most boats, including small recreational and commercial boats, have safety features to protect their passengers from shipwreck and its consequences. Migrant small boats do not. They are unseaworthy, ill designed, poorly constructed, inflatable dinghies

with an underpowered outboard motor on the back. Poor construction was the very reason for the sinking in this case. The metal floor ripped a fatal hole in the bottom of the boat.

Challenge number two: migrant small boats are difficult to find in an area the size of the Dover Strait, particularly in the dark. Nowadays, mariners carry a wide range of equipment to enable them to communicate their position or draw attention to themselves on the water. They commonly carry some or all of the following: VHF marine radios, GPS devices, chart plotters, personal locator beacons, emergency position indicating radio beacons, distress flares. Sadly, the smugglers who control the cross Channel routes rarely provide even a single one of these items of potentially life-saving equipment, many of which are not expensive. Instead, migrants are invariably wholly reliant on their phones, yet mobile phones are not a recognised form of maritime communication and are dependent on the reliability of networks designed for land, not sea.

Challenge number three: migrant small boat incidents are difficult to reconcile. The boats don't have names, they don't have passenger lists, and they often look almost identical. HM Coastguard's experience is that,

rather than assigning one person on board to be the single point of contact with the emergency services, multiple passengers make multiple calls from the same nameless boat. That obviously adds to the challenge for HM Coastguard, as does the fact that calls disconnect as mobile phone signal is lost, or are difficult to hear or understand because of poor signal strength, poor sound quality, or background noise.

Challenge number four: the lack of reliable information. HM Coastguard will not have up-to-date, independent information about how many migrant small boats have been launched, or when and where they launched from, or about the condition of those boats, or how many are on board, or about the condition of their passengers, or about which of the boats are in greatest need of rescue. The cumulative effect of all of the challenges that I have identified is increased by the number of boats attempting the crossing on any given night. And there was no precedent for the number of crossings that took place in November 2021.

In summer 2021, there were predictions that 60,000 people might make the crossing the following year, and as explained in our written opening, and in the witness statement of Assistant Chief Coastguard Leat, HM Coastguard were taking steps to prepare for that.

What was not predicted was that November 2021 would see more crossings than any previous month, that there would be significantly more crossings in November than in any month that summer, despite the less favourable weather conditions.

My third topic is the legal framework and the importance of events in the French Search and Rescue Region. I can take this topic fairly shortly, because your team have prepared a paper summarising the legal framework and I can say that I agree with it. So I will confine my comments to drawing out some of the implications of the fact that approximately half of the Channel falls within the UK Search and Rescue Region. The other half, of course, falls within France's Search and Rescue Region. A boat launched from the French coast will have to travel a minimum of 9 nautical miles from France's Search and Rescue Region before it reaches the UK's Search and Rescue Region.

The global maritime search and rescue system is underpinned by international conventions. I would like to highlight three important objectives of those conventions.

Firstly, ensuring that the Earth's oceans and seas are divided into clearly defined Search and Rescue Regions.

Secondly, ensuring clarity as to which state is responsible for coordinating search and rescue in each region.

And thirdly, ensuring that necessary arrangements are in place for the coordination of search and rescue in each region.

The UK and France have achieved all three objectives for the Channel. They have achieved the first two by agreeing a document called the MANCHEPLAN, a document which clearly defines the boundaries of each country's Search and Rescue Region and clearly defines responsibility for search and rescue in each of them. They have achieved the third objective by both having search and rescue services that work 24 hours a day, 365 days a year, and which are capable of coordinating search and rescue operations within their respective regions at all times.

By November 2021, there was a well established working practice whereby the French Coastguard would email HM Coastguard a document known as the French tracker. This document listed search and rescue incidents it had opened in relation to migrant small boats in France's Search and Rescue Region. The French tracker provided valuable early notice of crossings and has assisted the rescue of thousands of people. It

would be updated and sent to HM Coastguard a number of times during a shift in which there was migrant small boat activity.

As explained in our written opening, the French Coastguard is responsible for coordinating the search and rescue of boats as they pass through France's Search and Rescue Region. It is only when a transfer of responsibility for an incident has been expressly accepted by HM Coastguard, or when HM Coastguard becomes aware that a boat has entered the UK Search and Rescue Region that responsibility for its search and rescue passes from France to the UK. It is only at this point that HM Coastguard is required to coordinate a search and rescue operation. Until that point, the responsibility for any migrant small boat rested with France.

By November 2021, HM Coastguard was regularly doing two things which we say it was not actually required to do. It was booking planes to fly at times when crossings were considered more likely, but before it knew that any crossings were taking place. The SAR convention did not require it to do that. There is no requirement on a state to task assets to carry out patrols or surveillance in the absence of information that there are persons in distress in its Search and

Rescue Region. HM Coastguard was also proactively tasking helicopters, ships and lifeboats whilst individual migrant small boats were still in France's Search and Rescue Region.

I do wish to make it clear that the MCA had a good working relationship with the French Coastguard at the time, and continues to do so. But there is no sugar-coating the fact that there are very real issues about what happened in the French Search and Rescue Region on the night and what the French Coastguard did and did not do.

The Inquiry's list of issues includes events on 23 November as well as the 24th. Until after midnight on 23 November, the boat we are calling Charlie and its passengers were in France. The evidence is likely to be that they travelled through the French Search and Rescue Region for over four hours and did not enter the UK Search and Rescue Region until approximately 1.30 am on 24 November.

We therefore urge you to investigate the following highly relevant matters. Why wasn't the French tracker that night first emailed to HM Coastguard until 56 minutes past midnight? The French Coastguard had been aware of migrant small boat activity since 9.02 pm. Under the MANCHEPLAN, it was expected to share

information without delay. Why didn't the French warship Flamant respond to the Mayday broadcast by HM Coastguard? And why did the French Coastguard not order it to do so? What was the Flamant doing at 2.42 am that was supposedly so important that it did not go to the rescue of Charlie, despite being much nearer its estimated position than the Border Force ship Valiant? What conversations took place between Charlie and the French Coastguard that night? Those on board did not suddenly switch from speaking to the French Coastguard to speaking to HM Coastguard as the boat entered the UK Search and Rescue Region. They were wholly dependent on how mobile phone networks operate, and, as explained by your expert, that is not how those networks work in the Channel.

The evidence is that some people on board Charlie continued to speak to the French Coastguard while others were speaking to HM Coastguard, and there is evidence that the last conversation between anyone on board and the emergency services was not with HM Coastguard, it was a 17-minute long call with the French Coastguard which started at 3.16 am and ended at 3.33. What was said in that call was not shared with HM Coastguard.

Even on the basis of this limited evidence, it is clear that had the French authorities acted differently,

events would have unfolded in a different way. Had HM Coastguard received information from the French Coastguard when the French Coastguard obtained it, the outcome could have been very different. Had Flamant responded to the Mayday and joined the search for Charlie, we might not be here today.

Topic number four: HM Coastguard's systems. As I have explained, migrant small boats pose particular challenges. Nevertheless, searching for and rescuing migrant small boats remains very much a search and rescue operation. Standard search and rescue principles remain highly relevant. Knowledge, skills and experience gained in the search and rescue of more conventional vessels are all relevant to migrant small boat search and rescue. Many of HM Coastguard's generic Standard Operating Procedures were applicable to migrant small boat search and rescue and much of the material covered in the training programmes for maritime operations officers and search mission coordinators was directly applicable to migrant small boat search and rescue. In addition, by November 2021, HM Coastguard had introduced a number of Standard Operating Procedures that were specific to migrant small boat search and rescue, and earlier that month, HM Coastguard had taken part in a multi-agency simulation training exercise

involving multiple capsized migrant small boats.

My fifth and final topic is the events of 23 and 24 November 2021. This opening statement is not the time to engage in a comprehensive analysis of the events of those two days. At least 12 people who were on duty on one or both of those days will be giving oral evidence about those events over the next four weeks. But I would like to take this opportunity to dispel some myths about those two days by posing and answering the following questions. Did HM Coastguard receive calls from Charlie? Yes. Were those calls taken seriously? Yes. Did HM Coastguard task assets to search for Charlie? Yes, the Border Force ship Valiant and a helicopter. Did they search in the right place? Yes. Did they spot boats? Yes. Did they rescue migrants? Yes. Did HM Coastguard believe that Charlie had been found and those on board rescued? Yes. Did any of the assets tasked by HM Coastguard in fact spot Charlie at any time during their searches? Knowing what we now know, the answer is no.

Elaborating slightly on what I have just said. HM Coastguard's night shift started at 7 pm. The recommended staffing level for the shift was 22 Coastguards across the national network. In fact, 35 Coastguards were on duty. The Incident Charlie log was

opened at 1.19 am. It is likely that at that time Charlie was still in the French Search and Rescue Region. The log was opened because of information received from the French Coastguard. HM Coastguard contacted Border Force Maritime Command. At 1.25 am, Valiant was tasked to co-ordinates linked to Charlie. At 1.48, HM Coastguard received a phone call from a person now known to have been on Charlie. The call lasted 21 minutes. The call was taken so seriously that HM Coastguard broadcast a Mayday relay on the designated radio channel, channel 16. The Mayday gave a position for Charlie, a position someone on board had provided to HM Coastguard through WhatsApp. The Mayday stated that the boat required immediate assistance. It ended: "any vessel that can assist to contact Dover Coastguard". All ships are required to monitor channel 16, therefore all ships in the Dover Strait should have heard the Mayday relay. All were required to render assistance if they could.

Shortly afterwards, Valiant confirmed that it was responding. A specialist search and rescue helicopter, call sign R163, was given initial search instructions at 2.50 am. R163 was airborne by 3.50 and then provided with amended search instructions taking account of WhatsApp positions sent by those on board Charlie.

Some months after this incident, HM Coastguard commissioned the United States Coastguard to carry out an independent review. Their report found that there was a high probability that a disabled vessel that began drifting from the time and location of Charlie's last WhatsApp position would end up in the location where Valiant rescued migrants from a small boat. Analysis carried out after the incident by the Marine Accident Investigation Branch and separately by HM Coastguard concluded that the search area covered by R163 would have encompassed the likely position of Charlie.

Returning to the events of 24 November, R163 spotted several small boats and directed Valiant to two of them. In total, Valiant rescued 98 migrants from three boats and also saw one other migrant small boat which was making way under engine power. That boat was not Charlie. Both Valiant and R163 were equipped with specialist technology that stood some of the best chances of spotting a migrant small boat or persons in the water, but, sadly, neither of them did. By the time that Valiant and R163 completed their missions, there would have been no further calls from Charlie to HM Coastguard for several hours and no relevant sightings. HM Coastguard believed that Charlie had been found and there was no new information to cause a change

of mind until its occupants were found by a French fishing boat in the French Search and Rescue Region after midday on 24 November.

It has been suggested that this tragedy was preventable. At the outset of the evidence, I would urge you to treat that proposition with caution and not to be swayed by hindsight. At sea, safety is never guaranteed, nor is rescue.

Mr Chairman, that brings me to the end of this opening statement. Nothing that I have said in it is intended in any way to detract from the fact that what happened on 24 November 2021 was, above all, a human tragedy. We offer our profound sympathies to each and every bereaved person and to the survivors. The MCA is committed to assisting your Inquiry and hopes that it will answer questions that the families and survivors have.

SIR ROSS CRANSTON: Well, thank you, Mr Maxwell-Scott.

Now, Mr Mallet for the Home Office, I understand that your leading counsel isn't here today, but you are going to present the Home Office opening statement.

Opening statement by MR MALLET

MR MALLET: Thank you, Mr Chairman.

I appear for the Home Office with Freya Foster. As you mention, we're led by Prashant Popat King's Counsel,

who's not able to attend today due to a pre-booked engagement. He wishes to emphasise that no discourtesy is intended to you, the Inquiry team or any of the participants by his absence. We're instructed by the Government Legal Department.

First and foremost, the Home Office wishes to take this opportunity to again express its profound and sincere sorrow at the events that unfolded in the Channel during the early hours of 24 November 2021. It is now known that at least 27 people tragically lost their lives in desperate circumstances whilst attempting to cross from France. The Home Office has been involved at all levels of the organisation in the preparation for this Inquiry, and anyone who has considered the moving written testimony of those so tragically affected can but offer their deepest condolences for the heart-breaking events that unfolded over that night. These condolences are echoed by the minister for border security and asylum, who expresses her personal sadness and sympathies for those who lost their lives, or loved ones, in the Channel in such horrific circumstances. I make it clear that nothing said or done by the Home Office in the course of this Inquiry is intended in any way to belittle the tragedy or the devastating losses it has led to.

The Home Office is extremely grateful to the Inquiry team for taking on the task of examining the circumstances surrounding this tragic incident. It hopes that this Inquiry brings some degree of resolution to the survivors and the friends and families of those who died. In particular, it particularly hopes that the evidence the Inquiry will hear serves to address the concerns expressed in some of the statements of the survivor and the families of the victims, that there were no efforts to come to their rescue.

The Home Office has been and continues to be committed to supporting the Inquiry in its investigation. It welcomes the exercise that the Inquiry will conduct in identifying any further lessons to be learned from the events of that night, and will consider carefully any relevant recommendations that emerge, as it did with regards to the Marine Accident Investigation Branch investigation and report into the tragedy.

The Home Office has the status of Full Participant in this Inquiry. Within the Home Office, UK Border Force has responsibility for securing the UK's borders, and carrying out immigration and customs controls for people and goods entering the country. Border Force Maritime Command operates within UK

Border Force and is responsible for maritime borders. It maintains vessels to discharge that function. In addition, the Home Office supports other governmental departments in the performance of search and rescue at sea. Since 2018, the Home Office's at sea functions have increasingly been deployed to address the challenges posed by migrants' use of small boats to cross the Channel, with the number of such crossings having been made increasing exponentially since then.

It is important to make clear at the opening of this Inquiry that the Home Office's overall response to the small boat arrivals has always been guided by the aim to preserve life, whether by deploying its law enforcement vessels to aid in search and rescue operations when requested to do so by His Majesty's Coastguard, or by working with colleagues in the UK and abroad to break the criminal organisations who profit from and prey upon those who want to come to this country.

The dramatic increase in crossings in the lead up to this tragedy required the Home Office to deploy additional resources and hone its expertise in responding to the new, unique and evolving challenges posed by small boats. It has also required Home Office staff to take significant personal risks, including

those presented by the disembarking of migrants from totally unsuitable and often overloaded small boats in challenging maritime conditions, often at night and at times in inclement weather. They do so professionally and with great courage, and it is of critical importance to the Home Office's that this Inquiry understands that the terrible loss of life which occurred in the early hours of the 24 November 2021 was a tragedy, and devastating to the Home Office, whose staff all take justified pride in the performance of their professional duties.

The Home Office would also like me to express its firm hope that, in addition to bringing some degree of solace to the survivors and families of the victims, this Inquiry's review of the events of the night of 24 November 2021 will also draw attention to the terrible jeopardy that people smugglers place people in. The Home Office has no doubt that this will be made clear by the evidence.

May I conclude by reiterating the Home Office's deepest sympathies to the survivors, the families of the victims, and all those who have been affected by what happened on 24 November 2021. It is hoped that this Inquiry will assist the UK authorities in ensuring that such a tragedy will never happen again.

Sir, I thank you for the opportunity to make this statement.

SIR ROSS CRANSTON: Thank you very much, Mr Mallet.

The Department for Transport is represented by David Blundell King's Counsel.

Opening statement by MR BLUNDELL

MR BLUNDELL: Thank you, sir.

As you have indicated, I'm making this statement today on behalf of the Department for Transport, and I appear today on behalf of the Department with Mr Grandison and Ms Wakeman.

At the outset of these public hearings, the Department wishes to express its deepest sympathies to the bereaved, the survivors and to all others who have been affected by the events that took place on 24 November 2021, when at least 27 people tragically lost their lives crossing the Channel.

The Department recognises that a number of those affected by this tragedy will be taking part in the Inquiry and that their experiences will rightly be at the heart of the Inquiry's work. Their voices will be heard. They set the context for everything the Inquiry is doing. The Department recognises, therefore, the very real importance of this Inquiry and the public interest in seeking to understand both what

happened on 24 November 2021 and what can be learned from it.

The Department has worked hard over the past year to assist the Inquiry with its investigations through the provision of a comprehensive and detailed witness statement from Mr James Driver, the Head of the Maritime Security Division at the Department, as well as disclosing in excess of 1,000 documents. The Department has sought, and will continue to seek, to cooperate fully with all requests from the Inquiry.

The intention of this opening statement is not to rehearse the contents of Mr Driver's evidence, but rather to provide the Inquiry with what is hoped to be a helpful summary of three things: first of all, the Department's role and responsibilities in relation to small boats; secondly, the developing small boat situation in 2021 prior to this incident; and thirdly, key changes to the response to small boat crossings made since the incident.

So, sir, may I first turn to deal with the first of those topics: the Department's role and responsibilities. Now, the Department's role in relation to small boats attempting to cross the Channel is twofold. First of all, it's largely defined through its work with the Maritime and

Coastguard Agency, the MCA, who you've already heard from, an executive agency of the Department, and, by extension, His Majesty's Coastguard, HMCG, which forms part of the MCA. And, secondly, in interacting with other government departments, in advocating on behalf of HMCG, and highlighting the UK's obligations from a search and rescue, or SAR, perspective.

The Secretary of State for Transport has responsibility for establishing, operating and maintaining an adequate and effective civil maritime and aeronautical SAR service. Whilst the Department does not itself have any operational functions in relation to small boats, the Secretary of State discharges her responsibility through the MCA, HMCG and Aviation Airspace Division. Through HMCG, the Secretary of State discharges her statutory responsibility to initiate and coordinate the operational SAR response within the UK's SAR Search and Rescue Region. HMCG provides a national 24-hour maritime SAR service that can operate throughout the UK, at sea and internationally.

Within the Department, there are two teams that engage on issues relating to small boats and their search and rescue. First of all, there is the Maritime Security Division, of which Mr James Driver is the head, which primarily engages on issues relating to small

boats. Secondly, then, there is the MCA Sponsorship Team, which provides a core part of the Department's oversight of the MCA, who, in turn, oversee SAR operations through HMCG. The Department is responsible for the policy framework within which the MCA operates and for agreeing its strategic objectives, and it is the MCA Sponsorship Board, which is attended by the MCA Sponsorship Team and others from the Department, which oversees the overall performance of the MCA.

In terms of its cross-government interactions, I just want to make two points at this stage. First of all, the Department's main role is to contribute to the proposed policies of other government departments and other cross-government initiatives. The Department is not responsible for developing policy to counter illegal migration; that, of course, is a matter for the Home Office. The Department's role in all these interactions is to ensure that there is no impact on the UK's obligations to safeguard lives at sea, by liaising with search and rescue experts within HMCG and advocating on their behalf.

Secondly, the Department also plays a role in internal incident reporting and cross-government communication, such as media and Parliamentary handling. It regularly engages with HMCG on small boats

specifically and, on some occasions, liaises with HMCG about the details of specific operations on a fact-finding basis.

Now I'm going to move to the second of those three topics: the developing small boat situation in 2021 prior to the incident.

From autumn 2018, migrant numbers arriving by small boats across the English Channel started to rise very substantially, and you've already seen those figures this morning. This led to an increased focus across Government on the issue of small boats. The number of small boat crossings significantly increased in 2021 to 28,526 over the course of the year compared to 8,466 crossings in 2020. In November 2021 specifically, a record number of 6,971 people crossed the Channel by small boats, a significant increase from 2,701 the previous month.

This rapid and significant increase presented a unique challenge for Government. Whilst work was taking place to understand the nature and extent of the challenge and to respond effectively, the sharp rise in small boat crossings placed a considerable strain on both surface and aerial assets. Notwithstanding this increase, the Department's position in November 2021 and prior to this incident was that HMCG was able to meet

its SAR responsibilities, albeit that difficulties might arise if the high volume of small boat crossings were to continue in the longer term.

Now I'm going to move to the third of the three topics that I highlighted at the outset, that's: key changes to the responses to small boat crossings following the incident.

Work was already underway in autumn 2021 as a result of growing crossing numbers and projections for 2022. There was recognition that maritime assets were under pressure from the then recent increase in migrant crossings, and that, based on the projections for 2022, there might be an adverse impact on the availability of resources to respond.

Ministers were informed in a submission dated 26 November 2021 that the current high number of small boats crossing the Channel were expected to continue, and that if they did, that would place pressure on HMCG operational staff and Border Force and RNLI maritime surface assets. The submission also noted that work was underway to address this challenge. Thereafter, a further ministerial submission, dated 14 December 2021, was jointly prepared by the Department and HMCG. This noted that the increase in small boat crossings was stretching maritime assets to the limit

and that if the numbers continued to increase it would be considered unsustainable. Accordingly, Ministers were asked to agree to a number of proposals, including that HMCG should explore increasing additional maritime surface SAR assets and HMCG should explore developing enhanced situational capabilities.

The submission made reference to a work strand, which was already in train from October 2021, to develop enhanced situational awareness through an increase in the number of unmanned aerial vehicles, via Project Ceasar. Project Ceasar involved a £35 million investment over a three-year period to enable the procurement of S-100 unmanned aerial vehicles to increase aerial surveillance over the Channel. The project was formally endorsed by the Department and HM Treasury in member 2022 and it was mobilised in March 2022. The objective of Project Ceasar was to assist HMCG in discharging its SAR obligations in relation to small boats by improving its ability to locate and determine the status of the small boats that were crossing, and by prioritising its response.

At the end of December 2021, through what was called "Operation Isotrope", the Prime Minister asked the Ministry of Defence, the MoD, to assume primacy over all aspects of the Government's operational response to

illegal migration by small boats. The Department worked with MoD and Home Office to ensure that the UK's SOLAS obligations and HMCG's responsibilities for SAR were understood and reflected in the terms of that operation. During Operation Isotrope, HMCG continued to work at an operational level with Border Force and the Royal Navy to provide an effective SAR response irrespective of the change in ultimate responsibility for the response to illegal migration by small boats in the Channel. Additional funding was provided through Operation Isotrope which enabled an uplift in maritime surface assets, including the procurement of five Crew Transfer Vessels. Following these changes, HMCG reported to the MCA's Sponsorship Board on 20 October 2022 that it was satisfied that it was ensuring "adequate and proportionate provision of Search and Rescue in the Channel, which met its domestic and legal obligations".

In addition to the extra resources which were implemented through Project Ceasar, and the changes made through Operation Isotrope, the Department was also aware that HMCG were developing and improving their handling of small boat operations in the period immediately following the incident by increasing staffing numbers, developing training, and improving

their ability to identify the location of small boats in distress through improved communications with the French authorities.

Sir, in conclusion, following this serious and tragic incident, it is of course important to identify any lessons that can be learned to ensure that history does not repeat itself. In that regard, the Department fully co-operated with the Marine Accident Investigation Branch's safety investigation into this incident, and the Department understands that both of the recommendations to MCA made by the Marine Accident Investigation Branch have been implemented and closed.

The Department welcomes the opening of these public hearings, which will form a key part of the Inquiry's investigation. Throughout the hearings, the Department continues to stand ready to provide the Inquiry with any and all assistance it may require in discharging the terms of reference. Sir, thank you very much for the opportunity to --

SIR ROSS CRANSTON: Thanks very much, Mr Blundell. And I want to thank all the Full Participants for their opening statements this afternoon.

I don't think there's anything further today, so we'll meet again tomorrow morning at 10 o'clock and we'll hear our first witness. So thanks very much.

(3.18 pm)

(The hearing adjourned until 10.00 am on Tuesday, 4 March 2025)

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