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**WITNESS STATEMENT OF MARY ATKINSON**

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I, Mary Atkinson, Campaigns and Networks Manager at the Joint Council for the Welfare of Immigrants ("JCWI") at 441 Caledonian Rd, London N7 9BG, will say as follows:

1. I make this statement in order to provide relevant information to the ongoing Cranston Inquiry, which is examining the events of, leading up to and following 24 November 2021, based on my knowledge and understanding of the context and circumstances of the events under scrutiny.
2. I am currently Campaigns and Networks Manager at JCWI. At the time of the events in question, I was Campaigns Officer at JCWI. This role included drafting and supporting with the drafting of briefings for Parliamentarians, helping to prepare content for traditional and social media, liaising with allies and grassroots campaigners, helping to organise events focusing on our campaign issues, creating digital campaigns tools to mobilise members of the public, and other work related to pushing forward our priority campaigns.
3. I am authorised to make this statement on behalf of JCWI, with contributions from members of the Crossborder Forum, a network of civil society organisations working in the Belgium-France-UK cross-border region, which is hosted at JCWI.
4. The matters set out in this statement are within my knowledge unless otherwise stated. The documents referred to in this statement have been shown to me and are exhibited to this statement.
5. This statement was prepared with the assistance of legal representatives for the families at Duncan Lewis solicitors who I understand represent a survivor and several of the victims of the incident in November 2021, which is the subject matter of the Cranston Inquiry. I intend for this statement to assist the Inquiry, in particular with Part VI. of the list of issues (Recommendations).

**Background to JCWI**

6. JCWI was founded in 1967 to ensure that the rule of law and human rights were respected in the immigration system. It is the UK's leading immigration charity covering all aspects of immigration, asylum, and nationality law. Our clients comprise mainly migrants from racialised backgrounds, including people seeking asylum in the

UK, people seeking family reunion in the UK, and people applying for leave to enter or remain on the basis of their family or private life.

7. Our charitable mission is to support immigrants in the UK to have fulfilling lives, to challenge racist and discriminatory policies and rhetoric on immigration, and to educate our communities to create systemic change and improve the lives of people who move, whether they move by force or by choice. We do this through our four core work streams, which are:
  - a. Legal advocacy: JCWI has a long-standing history of undertaking selective litigation and targeted interventions to assist the courts. Some of JCWI's experience is listed in the annex to this statement. The value of JCWI's contributions have been welcomed by the courts on numerous occasions. For example: "...JCWI, have provided an erudite analysis of the status of the Refugee Convention" (*F v M* at [20], per Hayden J); JCWI were recognised for taking "a leading role in the appeal" (*Alvi* at [23], per Lord Hope); "clear and focussed submissions" (*Chapti* at [9], per Beatson J, where JCWI intervened at the Administrative Court level and beyond to the Supreme Court).
  - b. Advisory and policy work: we are experts in our field and regularly provide submissions to parliamentary committees in order to advise decision-makers and ensure that migrants to the UK receive fair treatment in line with their human rights. These include: the Covid-19 Inquiry; the Joint Committee on Human Rights; the Women and Equalities Committee; and the Home Affairs Committee.
  - c. Legal representation: we employ nine solicitors, one paralegal and one support worker, and we represent people in all areas of asylum and immigration law, acting at application stage, in statutory appeals and judicial reviews. We focus on complex cases, including human rights and family reunion claims falling outside of the Immigration Rules. Representation is generally provided under our Legal Aid contract. We provide advice and representation at Yarl's Wood Immigration Removal Centre. We also provide one off advice via our Irregular Migrant Helpline and at a surgery with clients of the Red Cross destitution service.
  - d. Grassroots campaigning: all of our campaigns are designed to help bring about a fairer, more efficient and humane migration system; to combat migrant and refugee destitution; and to increase access to justice and legal representation. Our campaigns are established by people with lived experience of the immigration process and have recently included campaigns for: changing the immigration system to stop people falling out of status on long routes to settlement; ensuring that everyone has the right to work safely, regardless of what papers they hold; and ensuring that people who move because of climate breakdown can do so safely and

with dignity. We also frequently campaign on issues relating to the UK's asylum system, for example providing evidence and briefings on the Rwanda Plan.

### Relevant Expertise

8. As above, JCWI has a remit to work with people on the move, including people already in the UK seeking to assert their rights to protection here, and in some cases people who have not yet been able to travel to the UK to seek protection. We also work with people navigating the immigration system (as opposed to the asylum system), including people seeking to stay in the UK on the basis of their private or family life, migrant workers and others.
9. Many of our asylum-seeking clients crossed the English Channel in order to reach the UK and claim asylum. As such, we have a keen understanding of the issues facing people who cross the Channel, their need to do so, and their circumstances before and after arrival.
10. We have also carried out a series of visits to Calais and other locations in northern France and Belgium. We made two trips to Calais, in October and December 2023, visiting a project established by the Refugee Legal Service. We met asylum-seekers who were in France but intending to travel to the UK, and they explained some of their history and what had brought them to attempt the crossing.
11. We have also prepared multiple pieces of research and evidence submissions on the topic of Channel crossings, and the challenges facing people who seek sanctuary in the UK. These will be referenced below.
12. On the basis of our expertise in this area, JCWI currently hosts the [Crossborder Forum](#), an independent network of civil society organisations and activists working on the shared border between the UK, France and Belgium. The Crossborder Forum was established to provide the civil-society space and infrastructure for transnational dialogue and solidarity to build a shared vision of the border and better understand and resist state policies on cross-border migration. It currently comprises over 50 organisations based in the UK, Belgium, France and internationally. The network meets regularly to share practical information about the situation at the shared border and political intelligence about the circumstances within each relevant country, as well as organising joint action seeking to shed light on the difficulties facing people transiting through this shared border space.

## Events of 24 November 2021 and their aftermath

13. We became aware at around 16:00 on 24 November 2021 that there had been an incident resulting in multiple deaths of people attempting to cross the English Channel. As the scale of the disaster began to become apparent, we prepared statements for [social](#) media (MA1/EX-1; INQ008237), published an opinion piece in The Independent (MA1/EX-2; INQ008238) and appeared in broadcast interviews to explain the context of the tragedy, including on [Channel 4](#) and [the BBC](#).
14. The following day, we prepared a briefing for Members of Parliament, who debated the disaster in the House of Commons at 10:30am (MA1/EX-3; INQ008249). This briefing was sent to all Members of Parliament, and shared with our supporters for them to send to their MP. The briefing highlighted the lack of safe routes available to people seeking asylum in the UK (explored in further detail below), and gave concrete recommendations to MPs regarding relevant amendments to the Nationality and Borders Bill that was passing through the House of Commons at the time. It further recommended the immediate opening of resettlement schemes and humanitarian visa routes for the UK, in order to prevent further loss of life.
15. Later that day, we helped to organise a protest outside the Home Office (MA1/EX-4; INQ008261).
16. On 29 November 2021 we became aware that survivors of the disaster, as well as relatives of those who died, had released testimony alleging that the British coastguard has been contacted by passengers seeking assistance when their boat was in British waters, but had not been attended to (MA1/EX-5; INQ008272). In response, we drafted a letter to Tom Pursglove MP, who was serving as Minister for Immigration under the Home Office at that time. We requested clarification as to whether the Maritime and Coastguard Agency, Border Force, or any other relevant UK authority, was made aware of a vessel in distress in the Channel on Wednesday 24 November 2021 (MA1/EX-6; INQ008280). This letter was sent to Tom Pursglove MP by Bambos Charalambous MP. As far as we are aware, no response was received.
17. We also submitted a Written Parliamentary Question, tabled by Martyn Day MP on 29 November 2021, requesting clarification as to whether the Maritime and Coastguard Agency (MCA) had received a call for help from any individual onboard the boat that sank on 24 November 2021. This question was responded to on 2 December 2021 by Robert Courts MP (MA1/EX-7; INQ008281). The response stated that the MCA had received over 90 alerts on the day in question, and had launched a search and rescue operation in response to *“calls received in the early hours of Wednesday 24 November 2021.”*



18. I submitted a Freedom of Information request to the MCA on 29 November 2011 (MA1/EX-8; INQ008282). The request was for the release of the MCA's call log covering the entirety of Wednesday 24 November 2021, including the time of each call, as well as the identity and geographical location of each caller.
19. This request received a response on 23 December 2021 from Mary Thomas, head of HMCG HQ Business Unit at the MCA. This response comprised a written response prepared by Ms Sarah Walker of the MCA (Exhibit MA1/EX-9; INQ008283), as well as an annexed spreadsheet that logged all calls received by the MCN on the period in question (MA1/EX-10; INQ008227).<sup>1</sup> This did not include the identity and location of all callers. The MCA explained the decision not to disclose this data citing S40(3)(a) of the Freedom of Information Act 2000 S40(3)(a), which states "[t]he disclosure of this information to the public otherwise than under this Act would contravene any of the data protection principles."
20. I queried this decision on 4 January 2022, on the basis that the relevant section of the Freedom of Information Act relates to personal data. According to my understanding of the Act, the identity of callers would constitute personal information, and was correctly excluded from the information disclosure, but the location from which the calls were made would not fall under this exemption. I received a response from **Name** **Name** also of the HMCG Business Unit, on 17 January 2022 stating that *"I am working to tease out all the details regarding your information request ID3825 so that I can address your request as fully as possible. That said, the surrounding and developing legal situation does make this a more awkward task than it might otherwise be, though necessarily so. I am looking to ensure I capture all the raw information relevant, and that the information we can provide is explained such that it can be understood by someone who does not routinely work in a Coastguard operations room."* (MA1/EX-11; INQ008228)
21. A substantive response to the follow-up request for information about the location from which calls were made on 24 November 2021 was never received.
22. I shared the call log as received from the MCA with Utopia56, an organisation based in France that had launched legal action (MA1/EX-12; INQ008229) against both the French and British coastguards in relation to the disaster, on 19 January 2021. I also shared the call log with Duncan Lewis solicitors, as I was made aware that they had been instructed by the families of several of the victims who were considering legal action.

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<sup>1</sup> Accessible here:

[https://www.whatdotheyknow.com/request/calls\\_received\\_by\\_mca\\_on\\_24\\_nove/response/1942080/attach/html/9/Incoming%20calls%2020211124%20ID3825.xlsx.html](https://www.whatdotheyknow.com/request/calls_received_by_mca_on_24_nove/response/1942080/attach/html/9/Incoming%20calls%2020211124%20ID3825.xlsx.html)

### Further context to the events of 24 November 2021

23. It is my firm belief that, by failing to heed repeated warnings from experts (MA1/EX-13; INQ008230; MA1/EX-14; INQ008231; MA1/EX-15; INQ008232), and by failing to put in place real, usable and adequately efficient routes for people to reach the UK safely in order to claim asylum, the UK Government directly created the conditions for this disaster to come about. In a debate in the House of Commons the day after the disaster, then-Home Secretary Priti Patel MP said the deaths were “*a dreadful shock,*” but “*not a surprise.*” (MA1/EX-16; INQ008233) My view is that they will not have come as a surprise because civil servants and government ministers are well aware that a policy of deterrence at the border essentially means using death as a deterrent; the theory being that if journeys to the UK are made so dangerous as to be potentially lethal, people will stop attempting them. Indeed, the Foreign Affairs Committee stated in November 2019 – when Priti Patel MP was a committee member – that: “*A policy that focuses exclusively on closing borders will drive migrants to take more dangerous routes, and push them into the hands of criminal groups. The case of 39 people found dead in a lorry container in October...is a horrific illustration of these dangers. It should serve as a wake-up call for...Government...to reassess its approach to irregular migration.*” (MA1/EX-17; INQ008234) That wake-up call was not heeded and, just over two years later, we saw the consequences: more mass deaths of people seeking to reach the UK.

24. JCWI has, along with many other organisations and people with experience of crossing the English Channel to seek asylum, warned that the lack of safe routes to the UK makes dangerous journeys – and injury and death arising from them – inevitable. We have made this position clear by way of multiple evidence submissions, both written and oral, briefings and reports (MA1/EX-18; INQ008235; MA1/EX-19; INQ008236; MA1/EX-20; INQ008239).

### People’s reasons for wanting to settle in the UK

25. We have also made clear our position as to why we believe people travel to the UK, including via countries like France, to claim asylum (Exhibit MA1/EX-21; INQ008240). This includes because they have family and community ties here, because they speak the language, or have cultural ties to the UK due to the UK’s colonial history throughout much of the globe. For people needing to seek safety, it is natural that those with community and family links already established in the UK will feel safer trying to settle here than elsewhere.

26. The vast majority of people on the move do not travel to the UK at all.<sup>2</sup> As the JCWI's then Policy Adviser Zoe Gardner observed at an oral evidence session of the Nationality and Borders Bill Committee session on 21 September 2021 (MA1/EX-22; INQ008241) *"the vast majority of people who seek asylum worldwide—86% of refugees and displaced people worldwide—remain in the country neighbouring the one they have fled."* She also laid out the UK's asylum responsibilities in the context of the global protection system, stating that *"There are people who have legitimate ties to the UK and there is no good reason why they should have their claims assessed in France if they do not wish to. It does not really work for us to say to the French, "Given that we are geographically located slightly to the west of you, none of these refugees is our responsibility. They are all on you," because France could say the same thing. Then Italy could say the same thing and the entire international refugee protection system will crumble."*
27. The majority of people seeking asylum we met in Calais were from Sudan. Sudan has no established safe route to the UK, but has strong historical and cultural links to the UK due to the UK's colonial history in Sudan. This means that many of those we met spoke some English and had connections in the UK, though usually outside of the nuclear family.
28. The accounts we have been told by asylum seekers and those recorded by other civil society organisations in Calais mirror those of asylum-seekers we have worked with in the UK. They expressed their fear of the crossing to come but considered it essential in order to gain a durable place of refuge. The danger of the UK crossing was well appreciated as many had already crossed the Mediterranean, a longer route. Some had lost people on that journey. Many had experienced torture and trafficking in Libya.
29. Those who are seeking to come to the UK have often already been travelling for a long time, often risking their lives already, and so there is very little that could be done or said to deter people in this situation from making the final step of the journey from France to the UK. The Home Office's own research has shown that dissuasion policies are by definition ineffective because asylum-seeking decision making is more closely linked to *"whether they had relatives or friends here; their belief that the UK is a safe, tolerant and democratic country; previous links between their own country and the UK including colonialism; and their ability to speak English or desire to learn it"* than to the immigration or welfare policies of a theoretical destination country (MA1/EX-23; INQ008242). As Marta Lotto explains: *"This fantasy about the United Kingdom is a common theme in the*

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<sup>2</sup> The UK is 18th among European countries when considering asylum seeker arrivals compared to the national population (<https://migrationobservatory.ox.ac.uk/resources/briefings/migration-to-the-uk-asylum/>) but the vast majority of refugees stay in neighbouring countries in the developing world (<https://www.unhcr.org/uk/asylum-uk>)



*testimonies and is used as a motivation to prevent migrants from falling into despair and to help them cope with the living conditions that we will describe later. The people we identify in this category have put everything into the UK.” (MA1/EX-24; INQ008243)<sup>3</sup>*

30. In addition to language, community and family functioning as reasons why people may seek to travel to the UK in order to seek protection, many spoke of the treatment they faced at the hands of the French police, which had added a further reason to make the journey to the UK. This treatment by the French police was contrasted with the UK’s reputation for protecting human rights. There were many children among those we spoke with in Calais. There were many more men than there were women. However, many of the men we spoke to were married and had travelled with their wives for part of the journey, but separated at some point so that the most dangerous parts of the journey could be undertaken by the men, with their wives seeking entry later on the basis of their relationship.
  
31. We have observed that police violence along the French coast acts as a motivator for people to reach the UK, rather than deterring them. Crossing to the UK seems like a better option if you are being violently evicted by French police every few days. (MA1/EX-24; INQ008243)<sup>4</sup> Since the ‘Jungle’ was dismantled in 2016, people attempting to reach the UK from France and Belgium have been left to rely on temporary accommodation offered by local charities or to camp in informal sites such as fields, under bridges, and other public spaces. This has made them subject to routine violent eviction operations by French police every 24 to 48 hours. During these evictions, people’s possessions, including sleeping bags, tents, medication, and personal documents, are seized or destroyed. Police are often physically and verbally violent. In response to this systematic police violence, Human Rights Observers, a current member of the Crossborder Forum, was set up to monitor police operations, including evictions, arrests, and identity checks, keep record of them, and gather evidence and testimony of police violence from people on the move<sup>5</sup>. (MA1/EX-25; INQ008244)
  
32. We have found that people also seek to travel to the UK as a result of difficulties that they have faced accessing the asylum system in France and failures in European asylum systems more generally. It has been reported by civil society organisations and journalists working in France that there are vast issues with access to asylum procedures and reception facilities in France. For instance, almost half of the asylum-seeking population in France are not provided with accommodation (MA1/EX-26; INQ008245). The AIDA 2022 report states that the CAO/CAES centres where people

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<sup>3</sup> Marta Lotto p.53

<sup>4</sup> Marta Lotto, p.53

<sup>5</sup> [HRO: Human Rights Observers – Reports](#)



on the move are sent are usually ineffective as they rarely provide legal advice, social care or even basic bedding (MA1/EX-27; **INQ008246**). Practically speaking it has become more and more difficult to even claim asylum in France. A particular issue for those in Calais is that the office where people can claim asylum was transferred from Calais to Lille in 2021 (MA1/EX-28; **INQ008247**).

33. We have observed that there is a strong perception that the UK is safer and more tolerant than France or other transit countries. This may stem from popular media, from family or friends in the UK, or even from smugglers. It is clear that people often have limited understanding of what British immigration policy is and how repressive it really is. There is a prolific belief amongst people on the move that the UK will be different from the other countries in the European Union, such as France, Italy, and Greece where they have already been exposed to racism or suffered violence. This fantasy about the UK is further strengthened as people experience more and more difficulties on their journeys across Europe, turning the UK into the final option largely by default and in opposition to the rest.
34. We highlight here several case studies on the difficulties faced by individuals settling in Europe and on individuals wanting to reach the UK. These case studies are from ‘On the Border: Life in Transit at the French-British Border’ by Marta Lotto (2022) (MA1/EX-24; **INQ008243**) (as opposed to direct conversation undertaken by either JCWI or CBF), however we wish to highlight these examples to the Inquiry<sup>6</sup>:

A. Souleymane (Lotto, p.52)

*“A Sudanese minor, Souleymane, who wants to get to England because it has colonised his country”*

B. 16- and 17-year-old Sudanese boys (Lotto, p. 53)

*“England gives papers, in England you don’t sleep outside and the police in England are good, they are not like in France!”*

C. Faris, from Sudan (Lotto, p. 56)

*“Faris, who faced abuse in Libya and Malta. He blames Europe and its migration policies with desperation: ‘Before we left Sudan, we imagined that Europe was safe: our dreams were shattered.’ After his imprisonment in Malta, he was sent to Germany. In Germany, he considered settling down to work and get papers, but after a year and a half his*

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<sup>6</sup> More qualitative interviews of people can be found throughout this report, in particular Chapter 3 which is focused on why people want to go to the UK

*application was rejected. He asked the interpreter to explain why it was rejected: she replied that it was the German system that was wrong, not his situation. He has thought about applying for papers in France, but he is afraid of rejection and he thinks that because of what happened in Germany, all the doors to Europe are closed. He is therefore forced to try England; he does not want to return to Sudan after these 4 years and having lived through all this. He left his family, he wants to study, his family is relying on him."*

### **Lack of Safe Routes**

35. The paucity of resettlement and other safe routes for people seeking protection in the UK has been well documented, by ourselves (MA1/EX-29; **INQ008248**) and by others (MA1/EX-30; **INQ008250**). It should be noted that above and beyond this, due to the UK's geography and multiple international legal frameworks, it is extremely difficult for people to claim asylum in the UK without recourse to dangerous routes.

- A. Under the Refugee Convention 1951, a refugee is someone "**outside the country of his nationality**" due to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.<sup>7</sup> As such, in order to be recognised as refugees, people must be outside their country of origin, and there is currently no system for people fleeing persecution or generalised violence to seek travel documents enabling them to travel safely to seek protection in another state.
- B. People intending to seek asylum in countries further afield from their countries of origin are for the most part unable to travel by plane. This is because airlines, coach companies, ferry operators and other transportation companies are responsible for checking that individuals they carry have leave to enter the destination country, and face financial sanctions if they fail to do so. In the UK, this is enshrined in Section 40 of the Immigration and Asylum Act 1999.
- C. People from states that are known to produce large numbers of asylum-seekers face an immense struggle to be granted any kind of visa to the UK, whether that be a tourist visa, a student visa or otherwise (MA1/EX-31; **INQ008251**). Furthermore, the rules around which states' nationals need a visa in order to travel to the UK are frequently changed if people do travel – entirely legally – to the UK without a visa and then claim asylum once they have arrived. For example, on 19 July 2023 the Home Office imposed visa restrictions on nationals of Honduras and Namibia. The explanatory memorandum to this statement of changes stated that: "*For Honduras and*

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<sup>7</sup> Article 1, a)2) of the Refugee Convention 1951

*Namibia, there has been a sustained and significant increase in the number of UK asylum applications being made by these nationals, who have abused the provision to visit the UK for a limited period as non-visa nationals in order to claim asylum. As such, Namibians and Hondurans rank first amongst non-visa nationals for asylum claims. These high numbers are unsustainable, contributing significantly to operational pressures which have resulted in frontline resource being diverted from other operational priorities.” (MA1/EX-32; INQ008252)* The decision to change the rules because people had been legitimately – and safely – travelling to the UK visa-free and then claiming asylum, as well as the language accusing such people of abusing the immigration rules, make clear the difficulty of travelling to the UK safely in order to claim asylum.

D. Further, due to the UK’s geographical position as an island nation, individuals seeking to claim asylum in the UK have no choice but to cross the English Channel in order to get to an area of British jurisdiction and register their claim.

36. Given this, people seeking to claim asylum in the UK face a choice either between a dangerous journey to reach the UK, or the existing safe routes. Below, I will lay out the various safe routes to resettlement or protection that existed at the time of the disaster, and issues relating to their accessibility and usefulness.

a. Family reunion: As above, many of those who travel to the UK to seek asylum in the UK have existing family ties here. However, I believe it is disingenuous to state, as the Home Office frequently does (MA1/EX-33; INQ008254), that family reunion is a form of safe route. The family reunion system exists to ensure that refugees recognised as such in the United Kingdom are able to be reunited with their family members – it does not speak to any level of risk encountered by the family member. A person at risk and in need of asylum or humanitarian protection cannot seek access this ‘safe and legal route’ unless they have a close family member already living in the UK and recognised as a refugee. It is worth noting that, as far as I am aware, none of the people who lost their lives in the disaster being investigated here would have been able to rely on family reunion in order to travel safely to the UK.

Our legal department very frequently act in refugee family reunion applications and proceedings and it is very clear from the complexity and timescales involved that it has not been set up as a way to protect people from imminent harm. As such, I do not believe that refugee family reunion can be classed as one of the ‘safe and legal routes’ to the UK, as the application is based solely on the relationship



between the individuals in question, rather than the need for protection of the non UK-based person or persons.

The eligibility criteria for refugee family reunion are extremely stringent, based on Western understandings of what constitutes a family unit, and exclude large numbers of people. Currently, only a pre-flight partner or children under the age of 18 are eligible to apply for refugee family reunion. In addition, long waiting times and administrative hurdles – for example, difficulties enrolling biometrics in many locations, particularly those with ongoing conflict or instability - mean that even for those who are eligible based on their relationship with the UK-based sponsor, refugee family reunion may not be a feasible option for travel. In July 2023, the Independent newspaper obtained figures from the Home Office showing that, of the 11,189 refugees waiting for their family members' reunion applications to be granted, the majority had waited over 6 months, and nearly 1,800 had been waiting over a year (MA1/EX-34; INQ008255).

Issues with long waiting times for decisions are compounded by the fact that family reunion applications are not in scope for legal aid applications in England and Wales, despite it being a complex application. Lawyers would need to make an application for Exceptional Case Funding in order for the application to be covered by legal aid, adding an extra bureaucratic hurdle and further waiting times for people at risk. In one ongoing case being handled by JCWI's lawyers, for instance, for refugee family reunion for a family from Syria, the Legal Aid Agency took 4 months to grant Exceptional Case Funding, despite the application being marked as urgent (with the LAA aiming to respond to urgent applications within 10 working days).

- b. Afghan Citizens Resettlement Scheme: Following the Taliban takeover of Afghanistan in August 2021, the UK announced that it would be opening a new resettlement scheme for Afghan nationals (MA1/EX-35; INQ008256). It was announced that this would resettle more than 5,000 people in the first year, and up to 20,000 in future years. However, Victoria Atkins – then the Minister responsible for the scheme – confirmed to Parliament on 22 November, just 2 days before the disaster, that the scheme had not yet been opened (MA1/EX-36; INQ008257). In fact, it would not open until 6 January 2022 (MA1/EX-37; INQ008258). The scheme comprises three separate pathways. The first of these is arguably not a legitimate safe route, as it is open only to Afghan nationals who had already been evacuated to the UK during Operation Pitting in August 2021, or those who had been given notice that they were eligible for evacuation, but were not able to board flights. As such, Pathway 1 is more properly to be considered an extension of the evacuation scheme, rather than a safe route. Pathway 2 is for people referred for resettlement



by UNHCR, while Pathway 3 is “a route to resettlement for those at risk who supported the UK and international community effort in Afghanistan, as well as those who are particularly vulnerable, such as women and girls at risk and members of minority groups.” (MA1/EX-37; **INQ008258**) The first stage of this pathway is available only for British Council contractors, GardaWorld contractors, Chevening alumni and their families. It is of concern that the number of people so far resettled under the ACRS remains extremely low – according to the most recent available data, covering the period from the opening of the route to Quarter 1 of 2024, just 1870 people have been resettled under the second two Pathways of the ACRS (MA1/EX-39; **INQ008260**). A higher number, 9703, have been resettled under Pathway 1 of the ACRS – however, as above this will include people already evacuated to the UK during Operation Pitting, or who should have been evacuated, and therefore cannot be considered a true resettlement route. The unsuitability and inaccessibility of the Afghan Citizens Resettlement Scheme to people in need of protection has had a material and extremely tangible impact. Four Afghan nationals were among those who lost their lives in the Channel in November 2021 and to date, Afghans remain consistently one of the largest cohorts reaching the UK by small boat. From Quarter 4 of 2021, when the ACRS opened, to Quarter 1 of 2024, the most recent data available, the UK has granted asylum, humanitarian protection or temporary refugee permission to 12,942 Afghan nationals (MA1/EX-39; **INQ008260**)<sup>8</sup> – casting doubt on the Government’s assertion that a resettlement system can replace the asylum system, and do away with the need for people to travel to the UK to seek protection.

- c. Afghan Relocations and Assistance Policy: The Afghan Relocations and Assistance Policy (ARAP) is for people who worked for or with the UK Government in Afghanistan in exposed or meaningful roles. It is jointly run by the Ministry of Defence, which is responsible for determining eligibility, and the Home Office. The eligibility requirements are narrow, and in fact were further narrowed in December 2021 – when, as above, the other resettlement scheme for Afghans at risk had not yet opened – to exclude anyone other than people who had furthered the UK’s military and national security objectives (MA1/EX-40; **INQ008262**). A February 2024 report by the Independent Chief Inspector of Borders and Immigration notes concerns about the narrowness of the eligibility criteria for ARAP (MA1/EX-41; **INQ008263**). There have also been significant operational challenges – for example, in late November 2022, the Home Office stopped issuing entry clearance to eligible applicants to both ARAP and ACRS, due to a lack of accommodation in the UK. This pause was not communicated, including to the ICIBI, until March 2023 (MA1/EX-41; **INQ008263**). The operation of this unpublished policy is potentially

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<sup>8</sup> <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-march-2024/how-many-people-do-we-grant-protection-to>

unlawful. Regardless of this pause, people report waiting many months after they apply to receive a reply from the UK Government, with many spending that time in hiding, in fear for their lives. From Quarter 2 of 2021 to Quarter 2 of 2024, the most recent quarter for which data is available at the time of writing, 16,835 people have been granted Indefinite Leave to Remain under ARAP<sup>9</sup>. Our legal department has worked with Afghan refugees over many years, including those who fled in fear of the Taliban before the capture of Kabul in the summer of 2021. There are large numbers of Afghans who are at risk as a result of genuine or perceived opposition to the Taliban, living in Afghan villages, with no knowledge of or access to the rehabilitation schemes and no proof of having been involved with work linked to the coalition's activities in the country. Such refugees have continued to arrive in the UK to claim asylum, due to a lack of legal routes and difficulties accessing the resettlement schemes.

- d. UK Resettlement Scheme: The UK Resettlement Scheme is for people referred by UNHCR, based on need and vulnerability. This scheme consolidated and replaced most other resettlement schemes, after the closure of the Syrian Vulnerable Persons Resettlement Scheme. People began arriving in the UK under this scheme in March 2021. From then until the end of Q2 of 2024, 2666 have arrived in the UK under this scheme<sup>10</sup>. This should be seen in contrast with the total number of people arriving and claiming asylum, which stands at 183,179 for the period from the start of Q2 of 2021 to the end of Q1 of 2024.
- e. Community Sponsorship: Community Sponsorship allows people to be sponsored to come to the UK by a community group, which is responsible for ensuring the person or persons being sponsored are provided with casework support. According to Home Office data, 548 people were resettled under this route from Q2 of 2021 to Q4 of 2023, the last period for which data is available at the time of writing<sup>11</sup>
- f. Mandate Scheme: The Mandate Scheme is an extremely limited route allowing people to be resettled in the UK if they have a close family member who is able to

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<sup>9</sup> [Afghan Resettlement Programme: operational data - GOV.UK \(www.gov.uk\) ;](https://assets.publishing.service.gov.uk/media/66bf0e163effd5b79ba491bc/resettlement-local-authority-datasets-jun-24.xlsx)

<https://assets.publishing.service.gov.uk/media/66bf0e163effd5b79ba491bc/resettlement-local-authority-datasets-jun-24.xlsx> [in sheet Res\_D01]

<sup>10</sup> <https://assets.publishing.service.gov.uk/media/66bf0e163effd5b79ba491bc/resettlement-local-authority-datasets-jun-24.xlsx> [in sheet Res-D01]

<sup>11</sup> <https://assets.publishing.service.gov.uk/media/66bf0e163effd5b79ba491bc/resettlement-local-authority-datasets-jun-24.xlsx> [in sheet Res\_D01]

accommodate them. From Q4 of 2021 to Q2 of 2024, 41 people have been resettled in the UK under this route<sup>12</sup>.

37. As above, many of the permanent, non-country specific resettlement routes to the UK are very limited in number. The Home Office states on its website that *“between 2015 and 2022, we have offered places to...481,804 people seeking safety.”* (MA1/EX-42; INQ008264) This includes the general resettlement schemes, the former Syrian persons resettlement scheme, the Afghan resettlement schemes, family reunion and the Ukraine and Hong Kong resettlement schemes. The bulk of resettlement granted within that total was under these last two: 233,770 under the Ukraine Scheme, to the end of 2022, and 153,708 under the British National (Overseas) route. As such, a total of 387,478 grants were made under these two schemes, making up over 80% of the UK’s total resettlement from 2015 to 2022. There are countless situations of conflict and circumstances leading to persecution of certain individuals that are recognised by the Home Office as creating a need for refugee protection when making asylum decisions, but for which no specific resettlement scheme exists. For example, the three Ethiopian nationals who died in the Channel disaster were fleeing the conflict in Tigray. At the time of the incidents in question, Ethiopian nationals had a grant rate of 54%, rising to 78.5% by Q1 of 2024.<sup>13</sup> There is no specific resettlement scheme for people fleeing the conflict in Tigray, and only a very small number of people identified as extremely vulnerable by UNHCR would have a chance of being resettled in the UK under non-country specific routes, often after living for years in unsettled and often violent conditions in refugee camps bordering the area they fled.

38. As set out above, it is my belief that the UK Government’s failure to implement genuinely accessible safe and legal routes for people who are seeking sanctuary in the UK, which offer protection in a timely manner and afford people fleeing all manner of individual and generalised persecution and threat an opportunity to apply for protection without the need to cross borders clandestinely, is a key contributor to the deaths under investigation here. Further, in response to the deaths in question here, the Government was urged by multiple parties, including JCWI, to introduce safe routes as a way to prevent further deaths. These recommendations have not been taken on board, and tragically, we have seen the number and frequency of deaths in the Channel increase since.

39. As set out above, Government officials, including people who would later become directly responsible for immigration policy at the highest levels, have acknowledged

<sup>12</sup> <https://assets.publishing.service.gov.uk/media/66bf0e163effd5b79ba491bc/resettlement-local-authority-datasets-jun-24.xlsx> [in sheet Res\_D01]

<sup>13</sup> Asylum applications, decisions and resettlement statistics, available here:

<https://www.gov.uk/government/statistical-data-sets/immigration-system-statistics-data-tables#asylum-and-resettlement>



that a deterrence-only approach to border policy increases the risk of loss of life at the border. Despite acknowledging this, the Government has pursued a deterrence-only approach.

### **Bilateral agreements at the UK-France Border**

40. Since the 1980s, Britain and France have established a series of bilateral agreements defining how migration is controlled between the two countries. There have also been additional multilateral agreements between Britain and other countries including Belgium and the Netherlands. Since 1998, nearly 1.3 billion € (£1.1 billion) has been officially spent by the British government on the UK-France-Belgium border – although this amount is likely to be much higher in reality due to the number of unpublished private contracts relating to border security (MA1/EX-43; INQ008265).<sup>14</sup> This money has been spent on a wide range of security, military and police equipment ranging from helicopters and infrared readers to horse riding boots and microwaves (MA1/EX-44; INQ008266). Funding from these agreements also goes towards the salaries of police stationed along the northern French coast (MA1/EX-45; INQ008267). These bilateral agreements are purportedly intended to prevent and dissuade irregular migration across the Channel. However, it is clear that they have not achieved this stated aim: in 2022, the Government found that France had been able to intercept just over 40% of boat crossings (MA1/EX-46; INQ008268; MA1/EX-47; INQ008269).

41. The most important agreements from this period are:

**Treaty of Canterbury in 1986**, which created the system of juxtaposed border controls and the **Sangatte Protocol of 1991**, which introduces “the permanent assignment by each State of liaison officers to the authorities of the other State” and for France and Britain to extend their border controls in the other state. (MA1/EX-43; INQ008265)<sup>15</sup>

**Additional Sangatte Protocol of 2001**, which extends the juxtaposed border controls to cover fixed stops on the Eurostar line between London and Paris.

**Touquet agreement, 2003**: provides for the exercise of border controls in the maritime ports of the Channel and North Sea whilst simultaneously preventing people from being able to make an asylum claim at the border point (MA1/EX-48; INQ008270), and has been described as transforming France into

<sup>14</sup> Pierre Bonnevalle, “30 years of creating the deterrence policy”, 2023, p. 251

<sup>15</sup> Pierre Bonnevalle, “30 years of creating the deterrence policy”, 2023, p. 36.



the ‘police arm’ of the UK and circumventing the right to asylum (MA1/EX-42; INQ008264).<sup>16</sup>

**Sandhurst Treaty, 2021:** reinforcing the border infrastructure and surveillance and security tools, with additional funding and more police on the ground (MA1/EX-42; INQ008264)<sup>17</sup>

42. These agreements have effectively exported UK border and policing controls onto French territory where it is able to wield extraterritorial jurisdiction on certain fronts, without the corresponding legal accountability that, under international law, would be expected to come with it including the ability for individuals to make an asylum claim to authorities at a border control point. This has resulted in the northern French coast becoming a bottleneck where displaced people hoping to seek safety in the UK are forced to take the journey irregularly to reach UK soil, rather than place their asylum claims at the effective border (MA1/EX-48; INQ008270).
43. Since the Sangatte Protocol of 1991, there has been a persistent increase in spending on surveillance, militarisation, policing and equipment through agreements between France and the UK in their attempts to manage migratory flows (MA1/EX-43; INQ008265).<sup>18</sup> The UK government has produced a timeline of UK-French cooperation from 2014 to 2022 with a cost breakdown to demonstrate the amount spent on border control and how this approach has developed over time (MA1/EX-45; INQ008267).
44. In addition to these bilateral agreements, both French and UK immigration policy has become more repressive, curtailing on basic rights like access to public funds in the UK and a broader degradation of the right to asylum.
45. In northern France, the work of civil society organisations, charities, volunteers, and local communities working to support people on the move is made more difficult and dangerous due to increasingly restrictive regulations on charity services as well as heavy-handed police operations. Repressive legislation and police practices have made illegal survival methods and tactics of people on the move: for example banning people from sleeping in tents under bridges and by the river (MA1/EX-49; INQ008271; MA1/EX-50; INQ008273; Exhibit MA1/EX-51; INQ008274). The whole architecture of border towns like Calais and Dunkirk have been transformed into a hostile living environment through giant rocks and boulders being placed in parks where people sleep, wooded areas being cut down to prevent people from seeking shelter, and barbed wire being put up across the towns. Meanwhile, local and municipal

<sup>16</sup> Pierre Bonnevalle, “30 years of creating the deterrence policy”, 2023, p. 60

<sup>17</sup> Pierre Bonnevalle, “30 years of creating the deterrence policy”, 2023, p. 248

<sup>18</sup> Pierre Bonnevalle, “30 years of creating the deterrence policy”, 2023, p.64-65

governments along the northern French coast have refused to uphold the right to shelter, food, health, and water (MA1/EX-20; INQ008239; MA1/EX-53; INQ008276; MA1/EX-54; INQ008277; MA1/EX-55; INQ008278; MA1/EX-56; INQ008279).

46. These bilateral agreements and the huge sums of money poured into the Channel border by the UK Government have only increased the deadliness of crossing the border as people resort to more and more dangerous methods to reach Britain. This was predicted by the UK Parliament's own Foreign Affairs Select Committee in 2019, which found that *"a policy that focuses exclusively on closing borders will drive migrants to take more dangerous routes, and push them into the hands of criminal groups."* (MA1/EX-17; INQ008234) The recent most shocking examples of this were the deaths of 39 Vietnamese migrants in Essex in October 2019 and the deaths of over 27 people in November 2021, which the Cranston Inquiry is investigating.

### Conclusions and Recommendations

47. It is due to the lack of safe routes and the increased militarisation of the border that the role of smugglers in facilitating border crossings is so dominant. Smuggling is a direct result of a restrictive immigration policy that has placed severe limitations on safe route options for people seeking safety. Methods for crossing the Channel have become increasingly dangerous as a result of the exponential growth in militarised surveillance along the French/UK border, funded through bilateral agreements.
48. As such, people seeking sanctuary in the UK – because they speak the language, or have family or community ties here, for example – have a choice between relying on inadequate resettlement schemes and putting themselves in the hands of people smugglers. It is my firm belief, based on the evidence set out above, that the UK Government bears responsibility for a failure to provide viable alternatives to dangerous Channel crossings.
49. As outlined above, while some safe and legal routes do exist, these are severely deficient, and do not meet the needs of people with an urgent need to flee. The vast majority of grants of resettlement (without the need to cross borders clandestinely to submit an asylum application) have been under two country-specific schemes: the Hong Kong scheme and the Ukraine scheme. People fleeing other situations in which their lives are in danger, for which the UK has no country-specific resettlement scheme, would have to rely on resettlement schemes that accept vanishingly small numbers of people, and which often entail a wait of many years.
50. In order to prevent further future loss of life and injury to people seeking sanctuary, the Government must heed warnings from people who have crossed the Channel, and those they work with, and finally introduce viable alternatives. This must include

ensuring existing resettlement schemes are properly functional, strengthening and expanding family reunification, and introducing a system whereby people applying for protection in the UK can travel to the UK safely in order to have their claim heard here. Without these systems in place, people will continue to be forced to make dangerous and sometimes deadly journeys in order to seek protection.

51. Finally, the increased militarisation of the French-UK border as a result of bilateral agreements between the two governments has consistently increased the danger of people's journeys across the Channel. Whilst these bilateral agreements remain in place, the risk to loss of life in the Channel cannot be meaningfully minimised. We recommend ending bilateral agreements which prioritise militarisation and surveillance ahead of protection of individuals and fostering an effective asylum system. Instead of investing in costly and ineffective surveillance infrastructure at the border, the focus should turn to investing in structures to accommodate and provide information and support to people on the move in northern France.

## STATEMENT OF TRUTH

I confirm that the contents are true to the best of my knowledge and belief. I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Name: Mary Atkinson

Signed: Personal Data

Date: 25/10/2024

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## ANNEX

- a. Osagiede v UK 228/20, Otite v UK 183339/19, MA v UK 35194/20, MM v UK 32953/20, JCWI is intervening in linked cases in which the ECtHR ask “Having regard to the Court’s case-law (see, for example, Boultif v. Switzerland, no. 54273/00, ECHR 2001 IX and Üner v. the Netherlands [GC], no. 46410/99, ECHR 2006 XII), would the applicant’s deportation to [country] constitute a disproportionate interference with the right to respect for his family life enshrined in Article 8 of the Convention?”
- b. Kakar and Ors v SSHD C4/2019/2480 In a case before the Court of Appeal, JCWI intervened to make submissions under Article 8 ECHR in a challenge to the lawfulness of paragraph 309A of the Immigration Rules when applied to applications for family reunion under paragraph 352D for adopted children of refugees. The Court of Appeal heavily indicated (in obiter statements) that rule 309A of the Immigration Rules, relating to de facto adopted children of refugees is unlawful.
- c. NB & Ors v Secretary of State for the Home Department [2021] EWHC 1489 (Admin)) (JCWI intervening. Housing of asylum seekers in a former military barracks did not meet the “minimum standards” for reception of asylum seekers set out in section 96 IAA 1999 read with Directive 2013/9/EC; related policy was unlawful).
- d. Unuane v. the United Kingdom, no. 80343/17, 2020 JCWI represented a deportee resisting deportation following a five and a half year sentence. The Upper Tribunal had found that the deportation of the Appellant’s partner (and therefore his children) would breach Article 8 but that there were no exceptional circumstances in the case of the Appellant who was deported. The judgment was overturned by the ECtHR however before the Appellant could return to the UK he passed away.
- e. R (Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department [2020] EWCA Civ 542 (the Government’s ‘right to rent’ scheme does result in landlords discriminating against tenants without British passports on the basis of their actual or perceived nationality but the discrimination is justified).
- f. Secretary of State for the Home Department v R (K a child) and JCWI C1/2018/2085 (an appeal by the Secretary of State against the declaration of incompatibility regarding the paternity provisions in s50(9A) British Nationality Act 1981).
- g. F v M and another (Joint Council for the Welfare of Immigrants intervening) [2017] EWHC 949 (Fam), [2018] 2 W.L.R 178 (a case relating to the interplay between a grant of asylum and any order by the Family Court seeking to affect the return of a child to another jurisdiction).



- h. R (MM (Lebanon) and Others) v Secretary of State for the Home Department (Office of the Children's Commissioner and Joint Council for the Welfare of Immigrants intervening) [2017] UKSC 10 [2017] 1 W.L.R 771 (a joint intervention with the OCC in a challenge to the minimum income requirement contained in the immigration rules).
- i. R (Alvi) v Secretary of State for the Home Department (Joint Council for the Welfare of Immigrants intervening) [2012] UKSC 33 [2012] 1 W.L.R. 2208 (concerning the application of the word "rule" under section 3(2) of the Immigration Act 1971).
- j. R (Chapti, Ali, and Bibi) v Secretary of State for the Home Department (Liberty, Joint Council for the Welfare of Immigrants as interested parties) [2011] EWHC 3370 (Admin) and (at the Supreme Court [2012] 1 AC 621) (a challenge to the requirement for spouse applying for visas under the immigration rules to pass an English language test).
- k. Quila and others v Secretary of State for the Home Department [2011] UKSC 45 JCWI represented Quila. The Supreme Court ruled that paragraph 277 of the Immigration Rules, banning settlement for foreign spouses unless both parties were aged 21 or over was an unlawful infringement with Article 8 ECHR.
- l. R (Baiai and another) v Secretary of State for the Home Department (Nos 1 and 2), R (Bigoku and another) v SSHD, R (Tilki) v Secretary of State for the Home Department (Joint Council for the Welfare of Immigrants and another intervening) [2008] UKHL 5; [2009] 1 A.C. 287 (a Home Office appeal against the declaration of incompatibility to a scheme under which certain persons subject to immigration control required the Secretary of State's permission to marry).
- m. R (Q) v Secretary of State for the Home Department [2003] EWCA Civ 364 JCWI and Liberty intervened in a challenge to the removal of all support from asylum seekers who failed to claim 'as soon as reasonably practicable'. This was defined by the Home Office as 'at the port', and by the courts as 'taking into account the practical opportunity and personal circumstances of the claimant, the earliest possible opportunity'.
- n. Joint Council for the Welfare of Immigrants & Anor, (R. oao) v Secretary of State for Social Security [1996] EWCA Civ 1293 (the Court of Appeal quashed regulations that left asylum seekers in an "intolerable dilemma" of abandoning their asylum claim or remaining in "utter destitution").